



International Covenant on Civil and Political Rights

Distr.: General
30 April 2015
English
Original: French
English, French and Spanish only

Human Rights Committee

114th session

29 June–24 July 2015

Item 5 of the provisional agenda

**Consideration of reports submitted by States parties
under article 40 of the Covenant**

List of issues in relation to the fifth periodic report of France

Addendum

Replies of France to the list of issues* **

[Date received: 18 April 2015]

Reply to paragraph 1 of the list of issues (CCPR/C/FRA/Q/5)

Measures taken to review its interpretative declaration concerning article 14, paragraph 5, of the Covenant and article 13 of the Covenant

1. France has amended its declaration concerning article 14, paragraph 5, of the Covenant, as follows: “The Government of the Republic interprets article 14, paragraph 5, as stating a general principle to which the law may make limited exceptions; for example, in the case of certain offences subject to the initial and final adjudication of a police court. (...)”. The Government has thus reduced the scope of its statement. Henceforth, criminal offences are no longer covered. The declaration is limited to offences falling under the jurisdiction of a police court, which are subject to applications for judicial review (cassation).
2. France, during the universal periodic review procedure in 2008, invoked the possibility of amending the declaration relating to article 13, concerning expulsion. Having considered the possibility, though, France does not intend to change its declaration.
3. Article 13 requires that an adversary procedure be followed prior to the expulsion of an alien, “except where compelling reasons of national security otherwise require”. This

* The present document is being issued without formal editing.

** Annexes can be consulted in the files of the secretariat.



requirement is not fully compatible with French law, which allows expulsion orders to be issued without an adversary procedure, “in cases of absolute urgency”.

4. Any expulsion decisions, however, may be subject to effective judicial review by the administrative courts. Furthermore, the French expulsion procedure is fully in line with the requirements set out in article 1 of Protocol No. 7 to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Please also indicate whether the State party intends to withdraw other reservations and interpretative declarations made concerning the Covenant

5. France does not plan to withdraw the other interpretative declarations and reservations that it has lodged concerning other articles of the Covenant.

Please indicate the procedures for putting into practice the Committee’s views regarding the Optional Protocol

6. While there is no specific procedure to give binding effect to the views adopted by the Committee, France seeks to draw all possible lessons from them.

Reply to paragraph 2 of the list of issues

Counter-terrorism investigation procedures and laws and the right to a fair trial

7. With the adoption of the Act of 9 September 1986,¹ France obtained a specific set of legal tools. Judicial magistrates, who work within the framework of the Criminal Code and the Code of Criminal Procedure, are the ones responsible for prosecuting, investigating and ruling on terrorism cases.

8. The Act of 22 July 1996² makes participation in a group or a conspiracy established for the purpose of preparing one of the acts of terrorism described in article 42-1 of the Criminal Code a crime under that law if it is associated with one or more criminal acts. The penalty for this offence is 10 years’ imprisonment and a fine of 225,000 euros.

9. Since 1996, the jurisprudence of the Criminal Court in Paris has set out the components of this offence. Thus:

- There must be a group of persons or a conspiracy among persons who have decided to act together;
- The objective must be the preparation of terrorist acts; and
- All the members of the group must have joined in full knowledge of the facts and with the will to assist in achieving the objective.

10. In addition, the definition of the offence is examined during both the investigative stage, led by an independent magistrate of the judiciary, and the ruling, where it is discussed before an independent and impartial court composed of judicial magistrates. After the investigation and the ruling, a conviction is handed down only if the criminal association is “characterized by one or more criminal acts”. Accordingly, in recent years there have been many acquittals and decisions to discharge or dismiss cases.

11. With regard to police custody for acts of terrorism, the same guarantees are in place.

¹ Act No. 86-1020 on counter-terrorism.

² Act No. 96-647 strengthened provisions against terrorism and against assaults on persons vested with public authority or with a public service mandate. It includes provisions relating to the judicial police.

12. Since the adoption of the Act of 14 April 2011,³ individuals in police custody for terrorism have the right to communicate with a relative and a doctor and the right to remain silent.

13. However, police custody for terrorism is distinct in two ways:

- Access to a lawyer may be postponed for up to 72 hours upon the decision of a judge (see paragraph 18 ff., below);
- The maximum duration of custody may be extended from 48 to 96 hours, including for minors over the age of 16, who are involved as “perpetrators or accomplices in the commission of the offence”. Exceptionally, custody can be extended to 144 hours where there is a serious risk of an imminent terrorist act in France or abroad or where the requirements of international cooperation make it mandatory (Code of Criminal Procedure, art. 706-88-1). This exceptional procedure has been invoked only on two occasions.

Evidence relating to terrorism obtained from other countries

14. In legal proceedings initiated in France for acts of terrorism, prosecutors and investigating judges of the counter-terrorist division in Paris may have to consult the judicial authorities of other countries in the context of applications for international mutual assistance in criminal matters.

15. Such requests for joint cooperation systematically involve visits if they include hearings of witnesses or other persons involved in the case. In order to guarantee proper conditions for the taking of statements, a French judicial officer is regularly present at such hearings. Furthermore, French investigators too may make a request to foreign authorities to conduct hearings on their territory (Code of Criminal Procedure, art. 18, para. 5). The Act of 13 December 2011⁴ extended such authority also to prosecutors and investigating judges.

Restrictions on the right of access to a lawyer for suspects posing a high security risk

16. While up until the entry into force of the Act of 14 April 2011 French law provided that persons held in police custody for acts of terrorism were able to be assisted by a lawyer only after 72 hours, they are now entitled to that assistance from the outset.

17. However, in the case of such offences, the intervention of a lawyer may be delayed for up to 72 hours. Such deferment is nevertheless subject to strict conditions. Firstly, it must be justified by compelling reasons related to the particular circumstances of the inquiry or investigation. Secondly, it must be decided, in the context of police custody, by the investigating judge, or in the event of an expedited or preliminary investigation, by the public prosecutor assigned to the case or on the request of an officer of the judicial police. Access to counsel is delayed only on an exceptional basis.

18. Lastly, the Act of 14 April 2011 introduced article 706-88-2 into the Code of Criminal Procedure, limiting the choice of lawyers for persons held in police custody for acts of terrorism. However, by decision of 17 February 2012,⁵ the Constitutional Council ruled this article unconstitutional on the grounds that the parliament had not set out the conditions and procedures for such an infringement of the right to a defence.

³ Act No. 2011-392 on police custody.

⁴ Act No. 2011-1862 on the distribution of litigation cases and on streamlining certain legal procedures.

⁵ QPC No. 2011-223.

Reply to paragraph 3 of the list of issues

Representation of women in parliament

19. In order to strengthen women's representation in parliament,⁶ the law has been amended. It is now mandatory to ensure gender parity in all elections.

20. Women's participation in elections to the Senate has increased since 2011. The percentage of female senators has risen to 22.1 per cent. While this rate remains insufficient, it reflects a four-fold increase since the late 1990s. The increase is a result of the fact that the Act of 2 August 2013⁷ amended the voting procedure by lowering the threshold for the election of senators by proportional representation, which is more conducive to gender parity.

21. Moreover, the aim of the Act of 4 August 2014⁸ is to double the penalty for political parties that do not respect the gender parity rule in legislative elections.

22. Lastly, the Act of 14 February 2014⁹ prohibits officials from performing local executive functions if they hold a European or national parliamentary mandate. Beginning in 2017, this will facilitate an increase in women's representation in positions of responsibility in local and national elections at all levels.

Representation of women in the judiciary

23. Women represented 63.23 per cent of members of the judiciary as at 1 January 2015.

24. They represent 63.38 per cent of the serving magistrates as at 1 January 2015. In the courts, they occupied 39.86 per cent of the highest ranking (ungraded) judicial posts, 62.22 per cent of first grade posts and 77.07 per cent of second grade posts.

25. Detailed information is contained in annex 1.

Reply to paragraph 4 of the list of issues

Information on the impact of the measures taken to promote equality between men and women in the labour market, including an update of the data and statistics provided in the fifth periodic report

26. Updated statistics from the fifth report are contained in annex 2.

Please indicate the measures taken to promote gender equality in the workplace and equal wages for women and men, especially in enterprises with fewer than 50 employees

27. The Act of 9 May 2001¹⁰ promoted measures to redress identified inequalities, particularly with regard to access to employment, promotion and conditions of work and employment. It sets out the obligation to negotiate at the enterprise and sectoral levels and

⁶ According to the report of the European Commission on progress on equality between women and men in 2013, the percentage of women in the national parliament stands at 26 per cent, which is comparable to the average in the States of the European Union (27 per cent).

⁷ Act No. 2013-702 on the election of senators.

⁸ Act No. 2014-873 on de facto equality between women and men.

⁹ Act No. 2014-126 prohibiting the combination of local executive functions with the function of representative to the European Parliament.

¹⁰ Act No. 2001-397 on equality in the workplace between women and men.

reaffirms the obligation of enterprises to issue comparative status reports, with statistical indicators.

28. This Act was strengthened by the Act of 23 March 2006, which calls for negotiations with a view to eliminating the wage gap.¹¹

29. The Act of 9 November 2010¹² extended that obligation to the context of mandatory collective bargaining on wages. It provides for financial penalties in the case of failure to engage in negotiations on equality in the workplace or to define a plan of action aimed at ensuring equality between women and men in enterprises with more than 50 employees.

30. The Act of 4 August 2014 merged the negotiations concerning equality in the workplace and equal pay into a single annual negotiation on the objectives of occupational and wage equality between women and men in enterprises. The negotiations will also cover two new areas: career development and gender balance in jobs.

31. The Act of 27 January 2011¹³ requires listed and unlisted companies employing at least 500 permanent employees and with a turnover or accounts of at least 50 million euros to observe minimum quotas for both sexes.

32. Implementation is to take place in two phases, with rates of 20 per cent set for 2014 and 40 per cent for 2017. The penalties provided by the Act include invalidation of appointments not in conformity with the set quotas and suspension of the payment of attendance fees in the event of improper composition of the board.

33. Following the first nationwide social conference on employment (held on 7 and 8 July 2014), a comprehensive strategy was formulated to ensure that the labour inspectorate could issue warnings and penalties against enterprises that did not comply with the laws on equality in the workplace.

34. Since 2012, equality in the workplace has been enforceable. Between December 2012 and March 2014, penalties were imposed on 10 enterprises, warnings were issued to 700 enterprises and 5,000 occupational equality agreements or plans were sent.

35. Small and medium-sized enterprises with fewer than 50 employees are obliged to “take into account the objectives of gender equality and take measures to achieve them”.

36. In the public service, an agreement on equality in the workplace was concluded on 8 March 2013, and the procedure for the appointment of women to management positions was made transparent.

Reply to paragraph 5 of the list of issues

Access to education

37. The term “Roma” refers to a notion of ethnicity that is without any legal effect under French law. In accordance with the Constitution, the State’s approach to persons from the Roma community does not take into account their ethnic origin; it is based on their status either as itinerant Travellers holding movement permits, or as migrants, for nationals of European Union countries living in camps. These two groups present different issues, which are addressed through different public policies.

38. The State thus makes the following distinction:

¹¹ Act No. 2006-346 on equal pay for women and men.

¹² Act No. 2010-1330 on pension reform.

¹³ Act No. 2011-103 on the balanced representation of women and men on management and supervisory boards and on equality in the workplace.

- Itinerant or semi-itinerant Travellers (320,000 persons held movement permits in January 2013), who are often French citizens and are covered by government policies accommodating their mobility. Their children are covered by circular No. 2012-142, of 2 October 2012;
- Migrant groups living in camps, who may be of any ethnic origin (90 per cent are Bulgarian or Romanian nationals). Since August 2012, they have received support providing access to health care. This group is covered by circular No. 2012-141.

39. By law, no distinction may be made between French and foreign school pupils with respect to access to public education. Education is compulsory for children aged 6 to 16 years, whether they are French or foreign nationals, as long as they reside in French territory.

40. At the level of the regional education administrations, the directors of the national education services, with support from the academic centres for the education of new arrivals and Travellers' children whose first language is not French (CASNAVs), ensure compliance at school with compulsory education policies. The aim is to ensure the enrolment of migrant children, especially those living in unauthorized camps, the disbanding of which might disrupt their schooling.

41. The CASNAV network promotes active cooperation between academic services and the departmental and communal administrations, the social services and organizations working against non-enrolment and absenteeism. Their purpose is to simplify the administrative procedures for attendance in class and enrolment.

42. Mechanisms to support early childhood programmes (enrolment of children under 3 years of age in priority education zones and isolated rural areas) are in place for the most disadvantaged children. They also benefit from a bolstering of priority education efforts (through the REP+ network).

43. Units have been set up at the primary, middle and high school levels for newcomers whose first language is not French, providing students with personalized attention along with their attendance in mainstream classes.

44. Furthermore, the Directorate-General of School Education and the interministerial task force on accommodation and access to housing (DIHAL) provide daily reports on school attendance and drop-out. Their work has made it possible for children living in camps to be enrolled in school without delay and for prompt action to be taken in response to urgent problems.

Access to health

45. The circular of 26 August 2012 provides for a medical assessment of each family or individual present in the camps, carried out by State, local or regional authorities or an organization.

46. The regional health agencies are responsible for promoting access to rights, prevention measures and health, paying particular attention to access to vaccination and maternal and child health. They act as a link with organizations active in this area.

47. Furthermore, a health-care advocacy programme for vulnerable groups, piloted in 2011 and 2012, has been established by the Directorate-General for Health. The programme was continued with the signing of a four-year agreement for 2013–2016 with the Welcome Travellers Association, which is responsible for coordinating it at the national level. Currently, approximately 10 advocates are working to facilitate access to rights and health for these groups and to refer children and pregnant women to maternal and child health-care facilities.

Access to housing

48. In 2013, DIHAL funded 44 projects, providing housing to 395 persons and temporary accommodation to 639 persons.

49. In 2014 further funding was requested for 33 of these projects, which are based on a comprehensive approach to housing, schooling for children, entry into the labour market, access to accommodation and/or health-care advocacy. By 1 October 2014, 395 persons supported by these projects had found housing.

50. Some of these projects are notable for their innovation. Some function as intermediaries in the rental market and others tap the housing stocks of social housing agencies or organizations.

51. In 2014 the Government instructed the semi-public limited company and national housing integration agency, Adoma, to undertake a project aimed at reducing the number of people living in slums. Adoma is charged with updating individuals' social assessments and providing housing and/or accommodation solutions nationwide, using its own housing stock and other sources. By 23 January 2015, of the 693 persons whose situations had been assessed, accommodation had been found for 273. Of the children placed in accommodation, 93 per cent were enrolled in school and 67 per cent had access to medical care.

Access to other temporary facilities

52. In order to provide sufficient accommodation and to respond swiftly to the emergencies that people face, organizations and state agencies provide temporary, modular accommodation.

53. On 5 March 2015, DIHAL organized a workshop for representatives of six projects that were under way. On-site field trips were conducted, and feedback sheets were completed and distributed to agencies likely to implement such solutions.

54. Furthermore, in March 2015 an architecture competition was launched for students at French-speaking architecture and engineering schools. The objective is to devise a private, free-standing, modular, mobile and affordable housing unit able to be used in various circumstances, such as for homeless individuals or for households in slums, with or without children.

Steps taken to stop the practice of evicting the Roma from their settlements without providing them with any alternatives or making decent, long-term housing available to them, and update on the circular of 26 August 2012

55. DIHAL has circulated to local authorities a guide to carrying out individual social assessments and has made funding for that purpose available to prefects.¹⁴ In the Île-de-France region, of the 7,486 persons living in unauthorized camps, 5,760 have been individually assessed.

Steps taken to prevent mass repatriations and ensure full respect for human dignity when expulsions take place

56. No mass expulsions are conducted. The group flights chartered to transport citizens of the European Union cannot be viewed as mass expulsions. Such group repatriations are justified for flight security and budgetary reasons. Furthermore, the administration individually examines each situation, under the supervision of the administrative courts.

¹⁴ A budget of 4 million euros was allocated to social assessment and housing support projects by DIHAL. The budget was renewed in 2015.

Conditions for questioning are also monitored by the public prosecutor's office and the liberties and detention judge.

Reply to paragraph 6 of the list of issues

Equal treatment in respect of freedom of movement and the right to vote

57. In a decision dated 5 October 2012,¹⁵ the Constitutional Council overturned two provisions of the Act of 3 January 1969, one relating to travel permits for persons without a regular income and the other to the requirement to be formally connected with a commune for an unbroken period of three years in order to be placed on the electoral roll. It reduced that period to the ordinary legal period of six months.

58. Through a decision of 19 November 2014,¹⁶ the Council of State ruled that, in view of the intended objective, the provisions of the Decree of 31 July 1970 that fined persons with a regular income travelling without a permit and those who could not prove that they were in possession of such a permit were a disproportionate violation of freedom of movement. The Council of State instructed the administration to repeal those provisions.

Equal treatment in respect of education

59. Travellers' children are included in mainstream classes, and they at the same time also receive an adapted education (see paragraphs 38 to 45). For several years there has been a partnership with the National Distance Learning Centre to provide middle schools with various distance learning tools.

Reply to paragraph 7 of the list of issues

Please describe specific measures aimed at combating domestic violence, in particular against women and children, such as awareness-raising campaigns or training activities

60. To reduce domestic violence, the State has strengthened the relevant preventive and punitive instruments.

61. To prevent domestic violence, an interministerial task force was set up by a decree adopted on 3 January 2013.¹⁷

62. The task force is responsible for setting the interministerial training plan for professionals working with victims, such as doctors and other health-care personnel, law enforcement officials, lawyers, judges, social workers and teaching staff.

63. Furthermore, in cooperation with the Ministries of Justice and the Interior, the unit has been working to develop, implement and put into use two mechanisms.

64. First, there is a mobile telephone alert system for women in serious danger. Women victims of rape or at risk of violence from a current or former partner are provided with a mobile telephone equipped with an emergency call button. The button puts them through to hotline service, which then reports the problem to the relevant law enforcement agency.

¹⁵ Decision No. 2012-279 QPC of 5 October 2012.

¹⁶ No. 359.223.

¹⁷ Decree No. 2013-7 of 3 January 2013 setting up an Interministerial Task Force to Protect Women against Violence and to Combat Human Trafficking.

65. Secondly, there is the national protocol on the processing of police registers and legal information reports. This protocol sets the conditions in which such documents can be invoked, drawn up, used and forwarded to the judicial authorities, as well as the assistance that must be offered to victims. Thus, any person filing a complaint of partner violence with the police is put in contact with a local organization or association dealing with social issues.

66. As for punitive efforts to stamp out domestic violence, the Act of 9 July 2010¹⁸ introduced a protection order for victims of violence. Family court judges can thus issue a ruling immediately, without having to wait for a complaint to be filed, to evict a violent partner, to issue a restraining order or to award use of the marital home.

67. As to sexual harassment, the definition of that offence was broadened by the Act of 6 August 2012,¹⁹ which also increased the corresponding maximum sentences.

68. Lastly, the Act of 4 August 2014²⁰ sets out a framework and establishes limits for the use of victim-offender mediation in cases of conjugal violence. Such mediation may only be instigated at the express request of the victim and must be backed up by an official warning to the offender. It cannot be used in cases of recidivism. The Act introduces articles 221-5-5 and 222-48-2 into the Criminal Code, under which the trial court must rule on the complete or partial withdrawal of parental authority when it convicts a parent of the wilful endangerment of the life or health of another person, rape, sexual assault or harassment and the victim is the child or the other parent.

Please provide information on the number of complaints received, the inquiries conducted, the types of sentences passed, compensation granted to victims, the number of households involved and the allocation of any other resources to help victims of domestic violence

69. A study by the National Crime Observatory containing the information requested has been provided (see annex 3).

70. There were 3,285 convictions for child abuse in 2009, 3,023 in 2010, 2,854 in 2011, 2,827 in 2012 and 2,742 in 2013. There were 20,714 convictions for partner violence in 2009, 19,550 in 2010, 19,442 in 2011, 20,622 in 2012 and 21,650 in 2013.²¹

Reply to paragraph 8 of the list of issues

Number of complaints of ill-treatment committed by law enforcement agents and share of complaints lodged by foreign nationals

71. In 2014, the Inspectorate-General of the National Police launched 368 judicial inquiries into acts of deliberate violence committed by on-duty members of the police. Of those, 249 were passed on to the judicial authorities, which dismissed 86 of them. In total, 27 per cent of the complainants were foreign nationals.

¹⁸ Act No. 2010-769 on violence specifically against women, intimate partner violence and the consequences of such violence for children.

¹⁹ Act No. 2012-954 of 6 August 2012 on sexual harassment.

²⁰ Act No. 2014-873 of 4 August 2014 on substantive gender equality.

²¹ The number of offences does not correspond to the number of criminal convictions. One conviction can cover one or more offences. Furthermore, the same perpetrator may have been convicted on several occasions for separate offences of the same kind.

72. Of 34 investigations into acts of violence committed in administrative detention centres, 30 were sent on to the judicial authorities; 76 per cent were dismissed and 24 per cent were transmitted to the public prosecutor.

73. In 2014, disciplinary board sanctions were imposed on 29 members of the police.

74. The following sanctions were handed down:

- 3 warnings;
- 10 reprimands;
- 1 compulsory transfer;
- 13 temporary suspensions (7 lasting 1 to 15 days and 6 lasting 3 months to 2 years);
- 1 dismissal;
- 1 compulsory retirement.

75. Furthermore, the 29 officials in question were either criminally prosecuted or subjected to alternative measures:

- 1 official was acquitted;
- 5 are currently being prosecuted;
- 1 was given an official warning;
- 2 were ordered to compensate the victims;
- 19 were sentenced to terms of imprisonment and/or fines.

Investigations conducted

Criminal procedure

76. Within the national police and the national gendarmerie, there are two services which are competent to carry out judicial inquiries: the Office of the Inspector-General of the National Police and the Office of the Inspector-General of the National Gendarmerie.

77. To facilitate the transmission of complaints relating to misconduct by the police or gendarmes, the two Offices in question have set up a reporting platform accessible through the websites of the national police and the national gendarmerie. Such reports are dealt with through administrative or judicial procedures.

78. Complaints and reports of potentially criminal conduct on the part of law enforcement officials are transmitted to the public prosecutor, who decides how best to follow them up.

79. Lastly, anyone claiming to be the victim of a crime or an offence committed by a law enforcement officer can also bring a claim for damages in the criminal proceedings before the investigating judge.

Administrative procedure

80. Misconduct by members of the police and gendarmes, both on and off duty, may lead to an administrative investigation which may, in turn, give rise to disciplinary proceedings (National Security Code, R.434-27).

81. Administrative investigations are composed of a number of elements, including hearings, statements and face-to-face confrontation with other parties. Such investigations may result in the dismissal of the case or the initiation of a disciplinary procedure.

Disciplinary procedure initiated by the judicial authorities

82. The State Prosecutor has the power of oversight over judicial police officers (Code of Criminal Procedure, R.15-2 and R.15-6). In addition to that disciplinary procedure, the administrative authorities too can launch a number of other disciplinary procedures.

83. The investigating chamber too can exercise oversight over the activities of judicial police officers and staff. Cases may be referred to the chamber either by the State Prosecutor, by the chamber's president or on its own initiative. The chamber can open an investigation during which it hears the State Prosecutor and the judicial police officer or staff member in question.

Types of penalties imposed

84. As to criminal sanctions, members of the police and gendarmes found guilty of a crime or a lesser offence face the full range of penalties for the corresponding violation, and their status as persons in a position of public authority is considered an aggravating circumstance.

85. The trial court can hand down complementary sentences temporarily or definitively prohibiting them from carrying out duties related to the offence in question, holding a public sector post or possessing or carrying a firearm. The trial court also decides whether the conviction is to be recorded in section No. 2 of the criminal record of the person in question.

86. As to disciplinary sanctions, the State Prosecutor can suspend or revoke the authority of any judicial police officer accused of professional misconduct or of dishonourable or dishonest conduct that undermines that person's ability to carry out his or her function. The judicial police officer in question must first be heard and be granted access to his or her case file and to counsel.

87. The investigating chamber can, without prejudice to any disciplinary penalties imposed by the administrative authorities, issue comments to the judicial police officer or staff member in question, or suspend the person.

Compensation granted to victims

88. In cases where the trial court finds a law enforcement officer guilty of a criminal offence, it is free to issue a final decision on the amount of compensation to be awarded, if need be after requesting an expert assessment. Compensation is thus set according to the level of prejudice suffered by the victim and the court's estimate of the amount that should be granted.

Systems in place to monitor practices and prevent violations of the rights of foreign nationals

89. The Act of 26 May 2014 strengthened the powers of the Inspector-General of Places of Deprivation of Liberty. The Inspector-General can access reports drawn up when people are held in police custody, detained for the verification of their right to residence or detained by customs officials, but not reports prepared during cases of detention relating to hearings. Furthermore, the Inspector-General oversees "the implementation by the authorities of removal orders for foreign nationals, up until the moment they are handed over to the authorities of the country of destination".

90. Lastly, the new code of ethics of the national police and national gendarmerie devotes nine articles to "Relations with the public", one of which requires law enforcement officials to perform their duties in a completely impartial manner and to refrain from carrying out acts or making remarks of a discriminatory nature.

Reply to paragraph 9 of the list of issues

91. Under article 689-11 of the Code of Criminal Procedure, French courts have near-universal jurisdiction, despite the fact that the Rome Statute of the International Criminal Court does not contain any provisions authorizing the States parties to introduce such a measure. This is the first instance of such a jurisdiction being established in the absence of a corresponding article in an international treaty.²²

92. France has established many criteria giving it competence to prosecute crimes against humanity and war crimes. This includes competence for acts committed in France or of which one of the constituent elements took place in French territory (Criminal Code, art. 113-2), competence by virtue of the perpetrator (acts committed by a French national, Criminal Code, art. 113-6) or the victim (acts committed against a French national, Criminal Code, art. 113-7), acts committed by a person residing in France who is not facing extradition (Criminal Code, art. 113-8-1), acts of torture, acts of barbarity (Code of Criminal Procedure, art. 689-2), enforced disappearance (Code of Criminal Procedure, art. 689-13), and acts formally denounced by another State.

93. Consequently, only those acts whose constituent elements have all been committed abroad by a foreign national, none of whose victims are French, that are not the subject of any extradition request, official denunciation or prosecution by the International Criminal Court and that do not fall into any of the categories for near-universal jurisdiction (torture, cruel, inhuman or degrading treatment or enforced disappearance) would be covered by article 689-11 of the Code of Criminal Procedure.

94. In any case, France can denounce such crimes to the International Criminal Court (Rome Statute, art. 14) and arrest and turn over to that Court any of the perpetrators present in its territory (Code of Criminal Procedure, arts. 627-4 to 627-15).

95. Lastly, the International Criminal Court is invariably better positioned to investigate such acts and judge such crimes, which only give rise to a very small number of cases in France. Thanks to its international nature and independent status, the Court enjoys unquestionable legitimacy and impartiality.

Reply to paragraph 10 of the list of issues

96. The director of the facility in question is responsible for deciding what degree of escort is required, based on the information available and the background of the detainee (as described in the detainee's personal file). The level of escort may be altered during the period of detention, as new elements appear. Any escort provided must be tailored to the circumstances of each specific hospital transfer.

97. In all cases, the health of detainees is taken into account, and staff must ensure that they do not increase suffering when employing handcuffs and restraints. In any event, the

²² In general, France only implements near-universal jurisdiction mechanisms when they are provided for by an international treaty (see arts. 689-2 to 689-10 of the Code of Criminal Procedure). Unlike the various international treaties referred to in those articles, the Rome Statute does not contain any articles enabling States parties to set up such a mechanism. When universal jurisdiction is explicitly called for in an international treaty, its applicability to nationals of States not party to that treaty remains a controversial issue. Thus, in respect of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted in New York on 10 December 1984, the application of such a mechanism under article 689-2 of the Code of Criminal Procedure in the case of a Congolese national was challenged before the International Court of Justice of the Hague (see *Republic of the Congo v. France*).

official in charge of the escort is responsible for ensuring that no security measures breach the confidentiality of the medical examination.

98. Staffing levels and organizational considerations permitting, women detainees are escorted by female staff, and it is mandatory for pregnant detainees approaching term to be escorted by female staff (Prisons Act, art. 52). It is forbidden to handcuff pregnant women in the delivery room or during labour. Lastly, unless they pose a proven threat to others, after the sixth month, pregnant women cannot be handcuffed and placed in restraints at the same time, including during transfers between detention and medical facilities.

99. Furthermore, unless they pose a proven threat to others, minors and persons over the age of 70 years are never handcuffed. Restraints are never employed in the case of persons with disabilities.

Reply to paragraph 11 of the list of issues

Number and share of asylum applications submitted under the fast-track procedure in 2012 and 2013

100. This information is contained in annex 4.

Number of appeals against removal orders on grounds of a risk of torture

101. The statistical tools employed by the various administrative jurisdictions, do not make it possible to calculate the number of appeals in which claimants state that they are at risk of torture. Consequently, no reply can be provided.

Measures taken to introduce a suspensive appeal for asylum applications under the fast-track procedure and to ensure that thorough assessments of the risk of torture are carried out

102. Fast-tracked appeals lodged before the National Court on the Right of Asylum against decisions of the French Office for the Protection of Refugees and Stateless Persons do not currently have suspensive effect. However, that does not mean that foreign nationals whose appeals are being considered by the National Court on the Right of Asylum are unable to appeal against any orders for their removal to a country where they claim their lives, freedom or physical integrity would be at risk.

103. Furthermore, article 14 of the bill on asylum reform, whose adoption is expected some time before the summer, provides that appeals lodged before the National Court on the Right of Asylum will have suspensive effect, regardless of whether the application is considered under the standard or fast-track procedure.

Reply to paragraph 12 of the list of issues

Please clarify measures taken by the State party to assess the impact of French nuclear tests on local populations, particularly in French Polynesia

104. In terms of the economic impact, each year the global economic development appropriation is transferred to the budget for the territory of French Polynesia.

105. As for the environmental impact, an initial study was carried out prior to the beginning of the nuclear tests. Follow-up geological and radiological surveys of the islands and atolls of French Polynesia are carried out each year. The atolls are monitored by the Department for the Monitoring of Nuclear Test Centres and the rest of French Polynesia by the Institute for Radiological Protection and Nuclear Safety. In addition, supplementary

independent assessments may also be carried out, such as the study by the Commission for Independent Research and Information on Radiation.

106. As for health issues, an interministerial follow-up committee was set up in January 2004. In the light of that body's recommendations, a medical monitoring centre was established. Since 2007, staff of that centre have carried out visits to the atolls twice a year to monitor the local population and former workers. The centre also helps nuclear test victims make their cases to claim compensation.

107. The Department for the Monitoring of Nuclear Test Centres funds a large number of studies on outbreaks of various illnesses in French Polynesia (thyroid conditions, ciguatera poisoning, etc.). The General Secretariat for Administration has also funded studies by an independent laboratory on morbidity and mortality among former nuclear test site workers. Lastly, during the third meeting of the Advisory Commission on the Monitoring of the Consequences of the Nuclear Tests, the Government decided to carry out an epidemiological study on the impact of the nuclear tests on the health of the population in Polynesia.

Please indicate steps taken to address the shortcomings in enforcing the Act of 5 January 2010 on recognition and compensation of victims of French nuclear tests identified in a September 2013 fact-finding report, which stated that 98.7 per cent of the cases filed with the Nuclear Test Victims Compensation Committee were dismissed

108. Following the adoption of the Act of 5 January 2010²³ and its implementing decree, several measures were taken:

- The Nuclear Test Victims Compensation Committee was made into an independent administrative authority empowered to award or deny applications for compensation;
- The Committee is mainly made up of doctors, including one appointed by the associations representing nuclear test victims;
- The geographical area within which those seeking compensation must have lived or been temporarily resident has been extended to cover all of the territory of French Polynesia;
- Persons seeking compensation can choose to present their cases before the Committee themselves or can appoint a representative to do so on their behalf.

109. Annex 5 contains the number of cases received, the decisions taken by the Ministry of Defence and the amounts of compensation granted to the nuclear test victims or their successors. In January 2015, the administrative judge ruled that several nuclear test victims must be paid compensation.

Reply to paragraph 13 of the list of issues

Progress achieved in preventing trafficking in persons

110. Article 225-4-1 of the Criminal Code establishes a specific offence of human trafficking. Article 225-468 provides for the prosecution of such acts when they are committed abroad by French nationals.

²³ Act No. 2010-2 on recognition and compensation of victims of French nuclear tests.

111. The Interministerial Task Force to Protect Women against Violence and to Combat Human Trafficking has prepared a national action plan for 2014–2016, which focuses on three main priorities:

- Victim identification, in order to improve protection measures;
- The dismantling of networks, in particular through strengthened international cooperation;
- The establishment of a full-fledged public policy to combat human trafficking.

112. Moreover, a circular dated 22 January 2015 calls for the criminal provisions on the various forms of exploitation of persons to be strengthened.

Up-to-date statistics disaggregated by gender, age and ethnic origin and the number of prosecutions brought, convictions obtained and penalties imposed against persons implicated in human trafficking

113. This information is provided in annex 6.

Availability of adequate shelter facilities

114. There is a general network of State-funded associations providing victims of human trafficking with assistance. Those associations ensure that victims are provided with shelter and psychological support, information on their rights, help in dealing with administrative procedures, legal aid and compensation.

115. In addition to such assistance, specific mechanisms have been set up to help certain categories of vulnerable persons. Three associations that specifically address servitude – and slavery-related trafficking stand out in particular: the Committee against Modern Slavery, the International Organization against Modern Slavery and the Association Ruelle (Association of Urban Support Centres Combating Exploitation).

116. Ac.Sé, also known as the National Network for the Assistance and Protection of Human Trafficking Victims, is coordinated by the ALC social assistance association. The network offers victims of human trafficking secure shelter, accommodation, protection and a full range of services to help them to regain their independence.

117. In the light of the risks they face, victims of human trafficking can have a 30-day period during which they can reflect on whether or not they wish to cooperate with the authorities. They are not subject to removal orders during that period.

Reply to paragraph 14 of the list of issues

118. Post-sentence preventive detention has not yet been repealed.

119. A commission was established on 31 March 2014 to comprehensively review sentencing law. Although the Act of 15 August 2014²⁴ set out a new approach to sentencing, it did not address the issues surrounding long sentences, nor did it undertake a technical and legal overhaul of sentence enforcement law. The commission will therefore have to re-examine the validity of recidivism prevention measures and the respective functions of sentenced social and judicial supervision, judicial supervision during parole and security supervision imposed after a sentence has been served.

²⁴ Act No. 2014-896 on individualizing sentences and enhancing the effectiveness of criminal penalties.

Reply to paragraph 15 of the list of issues

120. On 20 February 2013, the members of the Consensus Conference on the Prevention of Recidivism submitted their report, which focused on four main areas: punishment in a democratic society, rethinking the concept of recidivism, making time spent in detention useful, and better coordination of research.

121. Among their recommendations was the elimination of automatic sentences, the establishment of probationary sentences and the adoption of provisions that promote the reintegration of convicts, and recidivists in particular.

122. The Act of 15 August 2014 did away with minimum sentences in order to address the fact that the use of imprisonment had only led to increased overcrowding in prisons. It also did away with the automatic revocation of suspended sentences and the automatic sequential revocation of suspended sentences with probation.

123. Moreover, the Act established a sentence called “criminal constraint”, which is pronounced in lieu of short prison terms for persons requiring sustained socioeducational support. The sentence consists in meeting obligations set by the court or by the enforcement judge. It entails adaptable, strengthened and multidisciplinary supervision of the convicted person. Introduction of this measure also involved the recruitment of more staff for the Correctional Service for Integration and Probation.

124. Lastly, the Act established a sentence called “parole with restrictions” for custodial sentences less than or equal to 5 years, and a compulsory review of the conditional release of detainees serving sentences of more than 5 years. At the same time, it repealed electronic surveillance for persons nearing the end of their sentences, as well as the simplified procedure for adjusting sentences, both of which had been introduced under the Prisons Act of 24 November 2009.²⁵

Reply to paragraph 16 of the list of issues

125. Article 89 of the Act of 24 November 2009 provides for a personality assessment to be drawn up on the basis of observation by prison guards, administrators, integration and probation officers, health staff and national education personnel, etc. The use of various viewpoints is meant to ensure that as faithful a picture as possible is formed of the individual, particularly in order to adapt support to meet the person’s needs and capacities, with a view to preparing the detainee for release. This multidisciplinary assessment is an essential prerequisite to offering individualized support.

126. In addition, the prison director and the head of the Correctional Service for Integration and Probation involve detainees in the drawing up of their detention plan, which is also monitored by the enforcement judge, who is tenured and independent. Detainees may also file complaints with the administrative courts.

Reply to paragraph 17 of the list of issues

127. Under Decision No. 315.622 of 14 November 2008, the Conseil d’Etat ruled that prison authorities must demonstrate, on a case by case basis, that there are legitimate grounds to justify full-body searches.

²⁵ Act No. 2009-1436 on prisons.

128. Following this decision, article 57 of the Act of 24 November 2009 set out that full-body searches “must be subordinate to pat-down searches and the use of electronic detection methods”.

129. Accordingly, an urgent applications judge ruled that it was a serious and manifestly illegal violation of a fundamental freedom to practice daily full-body searches on a detainee who behaved peacefully and properly, who sought to be imprisoned in the disciplinary block and serve his sentence in isolation and whose actions in no way justified his being subjected to such a regime (Conseil d’Etat, 20 May 2010, No. 339.259; Conseil d’Etat, 9 September 2011, No. 352.372).

130. Also, if the behaviour of a detainee justifies a regime of full-body searches and the maintenance of such a regime after transfer to a new facility, it is the responsibility of the facility’s director to reconsider the validity of such measures, both promptly and on a regular basis, to assess whether the detainee’s behaviour and personality justify continuation of such an extreme regime (Conseil d’Etat, 6 June 2013, No. 368.875).

131. Lastly, conditions of detention compromising human dignity may inherently reflect errors by the public administration, which may make it liable (Conseil d’Etat, 6 December 2013, No. 363.290).

Use of electronic detection methods

132. French prisons have systems that detect objects unlawfully concealed by detainees. In 2013, 400 magnetometers were purchased and 155 walk-through metal detectors were set up in visiting areas, exercise yards and workshops. Security in these areas continued to be strengthened in 2014 with the purchase of 137 new walk-through metal detectors for 76 prisons.

133. Furthermore, prisons and so-called high-security prisons have been equipped with walk-through millimetre wave scanners.

Reply to paragraph 18 of the list of issues

134. The reply to paragraph 15 provides information on the follow-up to the report of the Commission on Constitutional Laws, Legislation and General Administration.

135. As at 1 December 2014, the 14 overseas prisons had a capacity of 3,896, and 3,836 prisoners were detained at such facilities.

136. There is an investment policy to improve and modernize prison facilities in all overseas departments and territories. Annex 7 charts all large-scale operations that have been carried out or are in the process of being carried out on infrastructure property at these establishments, as well as the commitments to new programmes for the period 2015–2017, and investments made as part of the maintenance and renovation of prisons.

137. In addition, while sentences are rarely adjusted in the overseas departments and territories, it is a priority for the prison authorities to increase the use of such measures by strengthening the correctional services for integration and probation.

Reply to paragraph 19 of the list of issues

138. An infrastructure programme has been in place since 2012 to repair dilapidated detention facilities and adapt them to current requirements for offering support to detainees.

139. The key aspects of the new programme focus on ensuring the following:

- Individual cells;
- Areas of sufficient size to allow each detainee to participate in several activities every day;
- Improved common areas;
- Detention blocks built to a human scale;
- Introduction of family life areas and/or family visiting rooms to help maintain family ties.

140. The modernization of the prison buildings will increase capacity to 65,000 spaces from the year 2018. A budget of 262 million euros is expected as from 2015, allowing for an extra 3,200 spaces, which will bring the capacity to 66,000.

Reply to paragraph 20 of the list of issues

Follow-up to the recommendations made by the Defender of Rights in his report of April 2013

141. A structure has been set up to coordinate work with asylum seekers (minors and adults).

142. Moreover, on 1 November 2014, the State set up a branch of the French Immigration and Integration Office in Mayotte. The branch funds financial assistance disbursed by an association for the return of unaccompanied foreign minors.

143. The State also allocated 786,000 euros to two agencies responsible for providing food assistance to unaccompanied minors in 2013–2014, and it also funded the establishment by two agencies of day-care facilities for unaccompanied minors. Lastly, a medical and educational institute with 71 places available and the SPOMI, piloted by the Prefect of Mayotte, have been set up.

Clarification of the manner in which certain unaccompanied foreign minors are removed from administrative detention centres in Mayotte

144. Mayotte, a French department since 31 March 2011, acquired the status of an outermost region of the European Union on 1 January 2014. This change justified the application beginning on 26 May 2014 of general rules regarding removal from a territory.

145. Accordingly, foreign minors do not qualify for an exemption scheme in Mayotte. Thus, no foreign minor, when unaccompanied by his or her family members, can be subjected to detention measures (Code on the Entry and Residence of Foreigners and the Right of Asylum, art. L.511-4).

146. However, this provision does not exclude the possibility that the forced removal of a foreigner in an irregular situation, accompanied by a minor child for whom he or she is responsible, may legally result in the forced removal of minor children accompanying the person in question and may require their placement in detention.

147. If such detention takes place, the authorities are made aware of their obligation to verify the exact identity of the minor, the precise nature of the ties between the child and the adult he or she is accompanying, and the conditions of his or her care in the destination country, all of which is carried out under the supervision of the administrative judge.

148. In 2013, 3,915 minors accompanying other persons left Mayotte.

Reply to paragraph 21 of the list of issues

149. In its judgement of 19 January 2012 in the case of *Popov v. France*, the European Court of Human Rights did not rule against the principle of detaining minors. It highlighted the inadequacy of the conditions imposed on parents accompanied by their children.

150. Following this judgement, a circular was issued on 6 July 2012 with instructions to:

- Give priority to the use of house arrest;
- Use administrative detention as a last resort when foreigners try to avoid their return, after the implementation of house arrest;
- In all cases, take into consideration the specific needs of minors, in particular by placing them in suitably equipped centres.

151. In Decree No. 385.173, issued on 25 October 2014, the Conseil d'Etat, noted that the procedure for the return of minors "accompanying" other persons was henceforth clearly addressed by the law, without any lacunae.

152. The number of minors accompanying other persons who were placed in detention fell from 98 in 2012 to 41 in 2013 (a decrease of 58 per cent). There are 113 places reserved for families. Furthermore, the average occupancy rate of places reserved for families fell from 12.1 per cent in 2011 to 3.4 per cent in 2013 and 2.7 per cent in 2014.

153. Thus, in 2014, only 22 families with 42 minors were placed in detention, for a total of 50 hours (2.1 days), in comparison with the detention totalling 15 days in the *Popov* case.

Reply to paragraph 22 of the list of issues

154. The Act of 16 June 2011²⁶ reformed contentious proceedings in the event of administrative detention, in particular by reversing the order of participation of the administrative and judicial branches of the courts. This measure was upheld by the Constitutional Council on 9 June 2011.²⁷

155. Following this reform, foreigners have been entitled, within 48 hours of being placed in administrative detention or under house arrest, to appeal with suspensive effect against the obligation to leave French territory and, within the same time frame, to contest the detention or house arrest as well as the denial of a deadline for voluntary departure, a decision establishing the country of return and, where applicable, a decision to prohibit a return to French territory. This appeal is considered within 72 hours by the administrative judge.

156. After the fifth day, a judge of the judicial branch may extend the detention. He or she can also end such an extension at any time.

Reply to paragraph 23 of the list of issues

157. On 19 January 2014, a French television channel broadcast a report on cases of abuse of children with disabilities in a medical and educational institution.

158. This facility had been placed under the authority of a temporary administrator in December 2013 following an inspection mission by the Regional Health Agency, which in its report had highlighted confirmed cases of "institutional abuse". The Agency pointed to

²⁶ Act No. 2011-672 on immigration, integration and nationality.

²⁷ Decision No. 2011-631 DC.

the dilapidation of the premises, strapping and cage beds used on children during the night, and alarms that would wake the children up systematically through the night “as a form of toilet training”.

159. The measures taken by the temporary administrator are presently being followed up by the Government. The oldest wing, housing 47 of the 83 residents, has been closed for repair. Moreover, the quality of accommodation, the privacy of residents and the running of the building itself will be reviewed.

160. The report also drew attention to the situation in another facility, where several employees have been dismissed, received disciplinary suspensions or been criminally prosecuted.

161. More generally, all establishments set up before 2002 must be assessed by an independent body by 2015. Any establishment that is not assessed over the course of this year will not have its permit renewed.

162. The Regional Health Agencies must also conduct unannounced spot checks, with priority given to facilities where assessments have detected problems.

Reply to paragraph 24 of the list of issues

163. “Packing” is a method used for the treatment of children with autism or other pervasive developmental disorders, which involves wrapping the child in cold, wet sheets, followed by hot sheets. This method is recommended only in the most severe cases.²⁸

164. In order to measure the effectiveness of this procedure a hospital clinical research project was authorized to issue an opinion on the ethics of such research. After consent was received from their parents, 58 patients underwent two sessions of “packing” per week. The scientific results and publication should be available at the end of spring 2015.

165. In 2009, the High Council on Public Health was called upon to pass judgement on the “risks associated with the practice of ‘packing’ for minors with severe and pervasive developmental disorders”. In February 2010, it issued a notice concluding, based on current knowledge, that the technique did not involve sufficient risks to justify banning it. However, it noted that psychological risks could not be excluded and that they must be taken into consideration when analysing this method. The High Council also said that research into this practice should continue.

166. On the other hand, the National Authority for Health and the National Agency for the Assessment and Quality of Social and Medico-Social Services and Institutions issued a recommendation in March 2012²⁹ that opposed the use of this practice outside of authorized research respecting the conditions set out by the High Council on Public Health.

167. The Government does not currently support this practice.

²⁸ It is only used in cases of self-harm, aggressive seizures, extreme agitation or catatonia (a form of schizophrenia characterized by periods of passivity and negativity alternating with sudden bursts of energy).

²⁹ Recommendation on “autism and other pervasive developmental disorders: coordinated educational and therapeutic action for children and teenagers”.

Reply to paragraph 25 of the list of issues

Information on the procedure for verifying civil registration documents by the local authorities, introduced in 2003 and 2006

168. The reforms of article 47 of the Civil Code introduced in 2003 and 2006 have allowed diplomatic or consular officials, when presented with a visa application or a transcript of a civil status certificate, to legalize or verify any foreign civil status certificate if doubts arise concerning its authenticity. These reforms have not constituted in themselves an obstacle to family reunification since, before these reforms, diplomatic and consular authorities were able to discount those certificates that were not “drawn up in forms in common use in that country”.

169. The real obstacle lay in obliging foreigners to present authentic civil status certificates and provide proof of family ties. In the period under consideration, 5.2 per cent of visa applications were turned down. However, the Act of 20 November 2007³⁰ took into account the exceptional situation of persons under international protection and allowed for the identification of members of their family by referring to all the elements proving the actual family relationship (Civil Code, art. 311-1).

Information on the average length of the procedure and the share of visa applications that are turned down compared with the number of applications for family reunification during the period under consideration

170. The average time taken for family reunification was between 6 months (for the 80 per cent of applications that do not require verification of civil status) and 15 months, on account of an investigation procedure that started in France and then continued abroad. The elimination in 2009 of the part of the procedure in France and simplification measures have reduced the wait by 1 to 3 months for 80 per cent of visa applications and by 4 to 8 months for applications requiring verification of civil status.

171. A bill on asylum reform introduces for the first time a right to family reunification for those who have been granted asylum. Up until now, entitlement has been based solely on administrative decisions.

172. Insofar as such persons are in an exceptional situation and the prompt reunification of their family unit is justified, the bill waives the conditions for housing, resources and prior length of stay that are normally required of foreigners seeking family reunification.

173. In order to facilitate the process of proving a person’s identity and family ties, the bill permits the authorities to invoke the elements proving the actual family relationship or to refer to documents established or authenticated by the French Office for the Protection of Refugees and Stateless Persons.

Reply to paragraph 26 of the list of issues

174. On 27 November 1989³¹ the Conseil d’Etat issued a notice, emphasizing that under the principle of secularism, public education must be provided with respect for neutrality in the teaching curricula and for the freedom of conscience of pupils. It specified that the religious freedom of pupils includes the right to express and demonstrate their beliefs at school, subject to respect for pluralism and the freedom of others, and without undermining teaching, the content of the curricula and the obligation for regular school attendance. It

³⁰ Act No. 2007-1631 on immigration control, integration and asylum.

³¹ Notice No. 346.893.

concluded that the fact that pupils wore religious symbols at schools was not in itself incompatible with the principle of secularism, adding, however, that this freedom did not, allow students to display symbols of religious affiliation which, collectively or through their ostentatious nature or as a form of protest, would constitute an act of pressure, provocation, proselytism or propaganda, and which would violate the freedom of pupils or other members of the educational community, compromise their health or safety or disrupt the flow of teaching and the educational role of teachers.

175. The Act of 15 March 2004³² provided rules for the wearing of symbols and clothing manifesting religious affiliation at public primary, middle and high schools (Education Code, art. L.141-5-1) as “symbols [...] which are immediately recognizable as being worn to show religious affiliation, such as the Islamic veil, under any name, the yarmulke, or crosses of clearly excessive size” (circular of 18 May 2004). An appeal against this circular was brought before the Conseil d’Etat, which judged that the circular did not disproportionately infringe upon the principle of secularism (8 October 2004, No. 269.077).

Reply to paragraph 27 of the list of issues

176. Although the number of attacks against Muslims dropped significantly in 2014 (there was a decrease of 41 per cent in comparison with 2013), there has been a sharp rise in such cases since the terrorist attacks of 7–9 January 2015, with 176 such incidents registered in January 2015, compared with 14 in January 2014, and 42 acts reported, which is more than 10 times the number recorded in January 2014. In addition, 134 threats were reported, which is more than 13 times the number of threats registered in January 2014.

177. In January 2015 there was also a significant increase in attacks on Muslim places of worship (33 mosques or prayer rooms and 1 war memorial were desecrated, as opposed to 6 in January 2014). According to initial data for February and March 2015, the number of incidents has once again declined to lower levels.

178. France is equally committed to combating acts of anti-Semitism, which have increased tenfold since 2000. In 2014, 851 such acts were registered, which is double the number of 2013. A sharp increase was recorded in January 2015 (168), in comparison with January 2014 (87).

Racial profiling

179. The Constitutional Council highlighted in its decision of 13 August 1993³³ that identity checks should be carried out “solely on the basis of objective criteria, excluding, with strict respect for constitutional principles and rules, any discrimination of any kind between persons”.

180. Several measures have been taken to combat “racial profiling” and to take into consideration a report of the Defender of Rights:

- A code of ethics for the police and gendarmerie prohibits physical characteristics from being taken into account consideration identity checks and regulates frisk searches;
- Police officers wear a registration number on their uniform or armband denoting their identity and unit, visible to the public;

³² Act No. 2004-228 of 15 March 2004 which, in conformity with the principle of secularism, covers the wearing of symbols and clothing manifesting religious affiliation in public primary, middle and high schools.

³³ DC No. 93-325.

- Identity checks conducted at the request of the public prosecutor, will be recorded and mapped to ascertain whether they correspond to areas and hours of high crime;
- The number of hours of training on how to conduct identity checks and frisk searches has doubled;
- The use of bodycams is aimed at ensuring peaceful relations between law enforcement officials and the public.

Measures taken to combat racially or religiously motivated offences and measures promoting freedom of religion and respect for diversity

181. After the attacks of January 2015, the Government deployed 10,500 members of the military to improve security at sensitive sites.

182. Moreover, on 12 January 2015, the Minister of the Interior appointed a prefect responsible for coordinating the protection of religious sites, working with national religious leaders and other prefects.

183. The Government will soon present its three-year action plan to combat racism and anti-Semitism, which will be built around four key areas:

- (1) A national mobilization of the public authorities and civil society;
- (2) The use of criminal penalties that are more effective and educational;
- (3) Curbing the dissemination of hatred on the Internet and protecting users from it;
- (4) Educating about and transmitting the values of the French Republic.

184. To meet these needs, the Government increased the means made available to the Interministerial Delegation to combat racism and anti-Semitism. In November 2014 it appointed a new member of the Delegation responsible for boosting the fight against racism, anti-Semitism and xenophobia. It also attached the Delegation to the Prime Minister's Office and assigned new members of its team.

Reply to paragraph 28 of the list of issues

185. When individuals, regardless of whether they are politicians, make xenophobic, racist or homophobic remarks, penalties can be imposed by judges. A review of such convictions will be presented annually. In this regard, special mention can be made of the following cases:

- In January 2014, the mayor of Cholet was convicted and fined 3,000 euros for defending crimes against humanity in comments he made regarding the Roma in July 2013;
- Dieudonné M'Bala M'Bala was convicted for defending crimes against humanity, inciting racial hatred, defaming persons based on race, disputing crimes against humanity and even defending offences and crimes of collaboration with the enemy.

186. Furthermore, at the end of April, the Government will present a three-year action plan to curb the spread of hate speech on the Internet and social networks. The plan will increase funds allocated to the unlawful content alarm system (Pharos), which is managed by the Ministry of the Interior, as well as increase awareness of this service. An information campaign against prejudice and racism will aim to combat hate speech.

187. The number of convictions for incitement of discrimination, national, racial or religious hatred or racist insults stood at 662 in 2009, 625 in 2010, 528 in 2011, 550 in

2012 and 483 in 2013.³⁴ The Government does not have any data on the number of investigations conducted.

Reply to paragraph 29 of the list of issues

188. All street demonstrations must be declared before the competent police authority at least 3 to 15 clear days before the date of the demonstration, under penalty of criminal sanctions (Internal Security Code art. L.211-1).

189. The police can accordingly assess the risks to the security of persons and property posed by the demonstration. On the grounds of public order, the police may propose a change to the route, place or time of the demonstration, and may even prohibit it.

190. Demonstrations are rarely prohibited. In Paris, in 2013, 27 of 3,410 demonstrations were prohibited. In 2014, 5 of 2,046 were prohibited.

191. Of the 300 pro-Palestinian demonstrations that took place in July 2014, only 5 were prohibited. In a decision issued on 26 July 2014, the Conseil d'Etat found that a prohibition was based on the fact that demonstrations previously held by the same organizers had, despite a significant deployment of security forces, resulted in violent clashes, as well as attacks on property and places of worship. It therefore concluded that prohibition of the demonstration did not constitute a manifestly illegal violation of the freedom to demonstrate.

Reply to paragraph 30 of the list of issues

192. The website of the Ministry of Foreign Affairs contains a section on human rights, where existing international instruments are listed, including the Covenant, as well as links to the website of the United Nations. The presentation of individual communications before the Committee is also mentioned.

193. In addition to this official information, specialized associations assist the public in presenting communications before the Committee.

194. Lastly, it should be noted that Government reports are communicated to the National Consultative Commission for Human Rights which may, on such an occasion, make comments and participate in the drafting of reports submitted to the Committee (Decree No. 2007-1137 of 26 July 2007, art. 1).

³⁴ The number of offences does not correspond to the number of cases brought before the criminal courts each year, as one conviction can encompass several offences.