



**International Covenant on  
Civil and Political Rights**

Distr.: General  
25 August 2010  
English  
Original: French

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**Human Rights Committee**

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

**France**

**Information provided by the Government of France on the follow-up to  
the concluding observations of the Human Rights Committee  
(CCPR/C/FRA/CO/4)\*, \*\***

[9 July 2010]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

\*\* The annexes attached to this document by the Government of France can be consulted in the files of the secretariat.

## Introduction

The Human Rights Committee considered the fourth periodic report of France on 9 and 10 July 2008. In its concluding observations (CCPR/C/FRA/CO/4), dated 31 July 2008, the Committee requested France to provide, within one year, relevant information on its implementation of recommendations 12, 18 and 20.

On 20 July 2009, France transmitted the requested information to the Human Rights Committee (CCPR/C/FRA/CO/4/Add.1). As can be seen from the note verbale of the Special Rapporteur for follow-up to concluding observations, dated 11 January 2010, the Committee examined this information at its ninety-seventh session, held in October 2009. It found that the information provided in respect of recommendation 12 was “largely satisfactory”, but that the information on paragraphs 18 and 20 was “not specific enough”. The Special Rapporteur therefore requested the following additional information:

“(a) The data and information thus far recorded by the Committee to Measure Diversity and Evaluate Discrimination (COMEDD) (para. 12);

“(b) Review of the detention policy in regard to unaccompanied minors, and in particular the function and tasks of the ministerial working group established in May 2009; specific measures to reduce overcrowding and improve living conditions in holding centres, especially those in the Overseas Departments and Territories (para. 18);

“(c) Automatic suspension of deportation in cases where ‘national security considerations are involved’; deportations under the so-called ‘priority procedure’; implementation of the legal provisions concerning the rights of undocumented persons and asylum-seekers; the possibility for asylum-seekers to have access to translators and a guaranteed right of appeal with suspensive effect for individuals subject to deportation orders; the bill proposing to extend the time limit for appeals by asylum-seekers to 72 hours (para. 20).”

In response to this request, the Committee is invited to refer to the following information.

### **(a) Data and information recorded by COMEDD**

1. The attention of the Committee is drawn to the attached report of COMEDD, dated 5 February 2010, as submitted to the Commissioner for Diversity and Equal Opportunities.

### **(b) Holding conditions**

2. In addition to the information transmitted to the Committee on 20 July 2009, the Special Rapporteur is invited to refer to the following additional information.

#### **Unaccompanied foreign minors**

3. The working group set up by the Minister for Immigration, Integration, National Identity and Development Solidarity on 11 May 2009 brought together the various stakeholders concerned by the problem of unaccompanied foreign minors: Ministries (Immigration, Interior, Justice, Labour): national and international institutions (Children’s

Ombudsman, Ombudsman of the Republic, OFPRA,<sup>1</sup> OFII,<sup>2</sup> UNHCR, UNICEF France) and associations (Anafé (National Association for Assistance to Foreigners at the Borders), Red Cross, Enfants du Monde, Forum Réfugiés, France Terre d'Asile, etc.).

4. The aim of this working group was to analyse the situation and propose improvements to the arrangements in force for unaccompanied foreign minors (over and above matters related exclusively to the placement of such minors in waiting zones), with a view to providing all necessary guarantees for examining the situation of these young foreigners, having due regard for the “best interests of the child”.

5. The group held five meetings, and on 16 November 2009 submitted its final report, which reflects all contributions by the various participants.

6. On the basis of this report, the Minister for Immigration, Integration, National Identity and Development Solidarity has selected a series of proposals, some of which can be implemented in the short term, such as:

- Establishment of an information system permitting improved monitoring of unaccompanied foreign minors by all stakeholders
- Construction of a dedicated reception section for foreign minors in the Roissy waiting zone (tenders have been invited for the construction of a minors' section in the waiting zone, where children under the age of 16 would be given round-the-clock support in appropriate premises by members of the Red Cross, while 16–18 year olds would have a wing reserved for them close to the Red Cross premises
- Launching of a pilot scheme for the introduction of a permanent service of special administrators responsible for assisting unaccompanied minors at the border
- Increasing the numbers and enhancing the training of special administrators

7. Other proposals, which require additional study and weighing of options, were made by the working group, for example concerning the situation of young adults following training in France.

8. As regards the reception of foreign minors, the working group stressed the potential value, in certain particular situations, of establishing support and follow-up arrangements for the initial reception of unaccompanied foreign minors and their subsequent orientation towards the national child welfare services.<sup>3</sup>

9. Lastly, the proceedings of the working group also highlighted the need to uphold certain fundamental principles. They include the prohibition on applying a removal order to foreign minors who are unlawfully present in French territory (which means, as indicated in the previous reply to the Committee, that an unaccompanied minor can in no circumstances be placed in a holding centre or facility), and also the possibility of placing unaccompanied minors who do not meet the conditions for entry into France in a waiting zone, pending review of their situation. While it is important that this review should enjoy all necessary guarantees, it would be dangerous, in terms both of migration and of the interests of children exposed to the risk of trafficking and exploitation, to grant such minors an automatic right of entry to French territory.

<sup>1</sup> Office for the Protection of Refugees and Stateless Persons.

<sup>2</sup> French Immigration and Integration Office.

<sup>3</sup> This is a matter within the competence of departments, given their legal responsibilities for child welfare.

**Improvement of living conditions in holding centres**

10. We can provide the following information, which was also recently transmitted to the Committee against Torture, in connection with the consideration of France's latest report.

11. In 2010, over 30 million euros have been allotted to accommodation facilities in the holding centres, while an additional amount of 24 million euros has been earmarked for investment in the same year. Since 2007 several important construction or renovation projects have been carried out, in particular at the administrative holding centres of Nîmes, Rennes, Metz, Coquelles and Palaiseau.

12. Several more major projects should be implemented shortly, such as the new buildings at the Mesnil-Amelot holding centres (2 and 3). It is also planned to establish two holding centres at Vincennes, each providing 60 places; the temporary extension opened in December 2009 would be closed at the same time.

13. As pledged by the French authorities, a new administrative holding centre will also be constructed in Mayotte. The building programme has been approved, and construction should be completed by the end of 2011. The centre will comprise small units for 12–24 persons, each including lounges, television rooms, public areas and covered outside areas, as well as several restaurants. It will also include a unit for women and families, with playrooms for children.

**(c) Removal procedures and exercise of the right of asylum**

14. The notion of “deportations under the so-called ‘priority’ procedure” referred to by the Special Rapporteur arises from confusion between the “priority” procedure applicable to the examination of certain asylum applications, on the one hand, and removal orders, on the other, and therefore calls for the following clarifications.

15. As indicated in paragraph 57 of the French Government's earlier reply (CCPR/C/FRA/CO/4/Add.1), it is true that, in a number of exceptional cases clearly specified by law, some asylum applications can be subject to a “priority” procedure which, while accompanied by all necessary guarantees, enables OFPRA to process the application more quickly and by virtue of which, in a departure from the general principle, a possible appeal to the National Court on the Right of Asylum does not have suspensive effect.

16. However, it is important to emphasize that a negative decision by OFPRA in such a case does not in itself involve removal from the country. A removal decision is a separate one, taken by the prefectural authorities, and is itself subject to appeal to the administrative court.

17. As indicated in paragraph 66 of the reply (CCPR/C/FRA/CO/4/Add.1), the administrative court is responsible for verifying that the administrative removal order conforms to international conventions and can therefore overturn a removal decision that would expose the person concerned to the risk of ill-treatment in the event of return to the country of origin. If the removal order involves an obligation to leave French territory or a decision to escort the person to the border as an unlawful resident (the most frequent cases), the appeal has full suspensive effect.

18. This means that the foreigner cannot be removed before the deadline for appeal expires and, if the matter has been referred to a court, before the court has ruled on the appeal. Lastly, if the removal order involves deportation on serious public-order grounds (a rare occurrence), the decision can be the subject of an urgent application for the protection of a fundamental freedom or for a stay of execution which, if granted by the judge, suspends the enforcement of the removal measure.

19. With regard to the assistance of a translator or interpreter under asylum procedures, all necessary information was given under paragraphs 53 and 54 (asylum procedures at the border), 56 (asylum applications made within French territory) and 62 (the specific situation of asylum applications made from within holding centres) of the previous reply. On the latter point, it might however be noted that a foreigner who makes an application from within a holding centre is systematically heard by OFPRA, save in exceptional cases involving multiple requests for review, and for that purpose is given an interpreter whenever necessary. It is on the basis of this interview, which is an essential element of the procedure and permits the asylum-seeker to express his fears, that the decision on his application is taken.

20. Lastly, with regard to the time limit for appeals against a decision to deny entry to asylum-seekers, the Government can inform the Special Rapporteur that the bill extending the time limit for appeals from 48 to 72 hours was adopted in first reading by the Senate on 6 May 2009, but has not yet been discussed by the National Assembly. In any event, it should be emphasized that the 48-hour time limit laid down by the Act of 20 November 2007, which was approved by the Constitutional Council, is designed, as indicated in paragraph 55 of the earlier reply, to reconcile the right to appeal against decisions to deny entry to asylum-seekers and the restrictions on the maximum stay in the waiting zone, which is one of the shortest in Europe (20 days extendable by a few days only in the event of an application for asylum and appeal).

21. In this connection, the various legal guarantees associated with this appeal (lack of formalities in the submission of the application, hearing in the presence of the foreigner, presence of a lawyer appointed by the court where necessary, assistance of an interpreter, impossibility of carrying out the removal measure during the time allowed for appeal and until the court has delivered a ruling) make it an effective and efficient remedy.

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