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Committee on the Elimination of Racial Discrimination
Sixty-sixth session

Summary record of the 1676th meeting
Held at the Palais Wilson, Geneva, on Wednesday, 23 February 2005, at 10 a.m.

Chairperson: Mr. Yutzis

Contents

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The meeting was called to order at 10.20 a.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (agenda item 4) (*continued*)

Fifteenth and sixteenth periodic reports of France (CERD/C/430/Add.4)

At the invitation of the Chairperson, the delegation of France took places at the Committee table.

1. **The Chairperson** invited the members of the Committee to resume the questioning of the French delegation that they had begun the previous day.

2. **Mr. Pillai** thanked the French delegation for France's very comprehensive report and for its detailed oral presentation updating the information contained in the report and giving a precise account of the application of the legislation, policies and programmes relating to the International Convention on the Elimination of All Forms of Racial Discrimination. Where the vital question of demographic structure was concerned, he wished to uphold the position taken by the Committee. On the previous day the French delegation had explained that France's understanding of cultural diversity derived from the republican model, which rejected distinctions based on membership of an ethnic group, social class, religion, etc. and regarded the common desire to live together as the only basis for society. That approach led to policies that favoured integration into the society of the host country and recognized cultural differences, without seeking to promote them. It was also characterized by a reluctance to use the categories "minority groups" and "communities" where French citizens were concerned. Although the French delegation had mentioned the "too inflexible" concept of identifying minorities, it had also spoken of an "increase in communities of diverse ethnic origins", and that seemed to indicate that the time was not far off when France would recognize ethnic specificity as a component of group identity.

3. In its report on France, the European Commission against Racism and Intolerance (ECRI) had considered that the lack of statistics broken down by ethnic origin was proving, in every area, an obstacle to the accurate representation of the impact of racial discrimination in France. Within the context of the United Nations, the Committee on Human Rights had made a similar observation. In 2000, the ECRI had noted that the Higher Council for the Audiovisual Sector was examining those questions and had expressed the hope that measures would soon be taken to ensure that the true role of minorities in French society was better reflected in the French media. It would be useful to receive news of the progress made by the Higher Council for the Audiovisual Sector in that respect.

4. He recalled that 23 years before, in 2002, France had been the sixth country to make the declaration mentioned in article 14 of the Convention and believed that only one communication submitted under that article had been considered by the Committee. He wondered whether the fact that that provision of the Convention was so little used might not be the consequence of a lack of awareness-raising and said he would welcome any effort by the French national human rights institution or some other competent body to make it more widely known.

5. **Ms. Dah** noted that the report lacked information on the population broken down in accordance with the Committee's specifications. It would also have been useful if France's report had included information on the implementation of the Declaration and Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, in which France had actively participated.

6. She observed that since submitting its previous report in 2000 France had made notable progress, as reflected in a series of legislative, institutional and practical measures

stemming both from its national choices and from its membership of the European Union. One example was the project to extend the offence of disputing crimes against humanity beyond crimes committed during the Second World War. Among the institutional innovations of the last few years, she considered that the next report should mention the decisions and measures adopted by the High Authority against Discrimination and for Equality.

7. With regard to the anti-Semitic and Islamophobic acts recently committed in France, she noted that the country had always been vigorous in repressing such acts. She also praised the way in which France had observed the sixtieth anniversary of the liberation of the concentration camps. That laudable commemorative effort had certainly attracted considerable attention in Europe.

8. She wished to know how France intended to treat the recent outbursts of Mr. Jean-Marie Le Pen and Mr. Dieudonné M'bala M'bala concerning that commemoration. She regretted the fact that the report failed to mention any of the rulings of the courts in cases in which those two individuals had previously been involved.

9. Concerning the consequences of France's membership of the European Union and, in particular, the application of the Schengen Agreement, she observed that the claims of generosity towards students wishing to obtain training that would be of use to their country were unfounded as far as helping those students to get to France was concerned. Because it was becoming ever more difficult to obtain visas for France, the quotas established for the various countries concerned were not always being filled. In that connection, with regard to the processing of visa applicants in French consulates abroad, especially in French-speaking West Africa, it was regrettable that a country with a worldwide reputation for its courtesy and its devotion to human rights could inflict such humiliating treatment on nationals of sovereign countries seeking a visa in its consulates. She thought that the application of testing in those consulates would make clear what was going on.

10. In relation to the implementation of the Convention, France had set certain limits, in particular inasmuch as it did not share the Committee's view on the definition of the notion of a minority. French civil society and the political community were currently engaged in a great debate on those issues, and she was waiting with interest to see what would emerge from that debate as far as the implementation of the Convention was concerned.

11. **Mr. Cali Tzay** said that, according to some NGOs, the new article 2 of the Constitution, which stipulated that the language of the Republic was French, even though the Congress had concluded that that article would not be used against the regional languages, had recently been cited on several occasions by the Council of State and the Constitutional Council in justification of their refusal to extend legal recognition to regional and minority tongues. He wondered whether that might not amount to discrimination based on language – a fundamental and a cultural right – in violation of article 1, paragraph 1 of the Convention.

12. The members of the Committee had also heard from travellers who complained that the statutory camping grounds set up for their use were located close to rubbish dumps and chemical reprocessing sites. Those people felt discriminated against because they were no longer able to enjoy their customary way of life and complained of the problems created for them by the measures pertaining to their personal documents.

13. In addition, he wished to know what progress had been made in connection with what was said in paragraph 321 of the report concerning the ongoing inter-ministerial discussions on what action to take in response to the rulings mentioned in paragraphs 318, 319, 320 and 321 of the report.

14. **Mr. Shahi** noted that the French idea of the State inherited from the Revolution of 1789, namely, that of an indivisible and democratic State founded on liberty, equality and fraternity, was still present in the way in which France interpreted the rights of minorities, immigrants, asylum-seekers and other minority groups. He believed that that heritage explained why the concept of minority rights was "alien to French law". It also explained the inflexibility of French policy with regard to manifestations of religious identity in public institutions and schools. He understood France's desire to remain true to its principles, but pointed out that in his country, Pakistan, women in any profession, such as banking, the civil service, the diplomatic service, public institutions, and so on, were free to choose to wear the veil or cover themselves without that posing a problem or creating friction.

15. Perhaps that freedom was psychologically important for immigrant communities who had left their society of origin for a strange new country with a culture that in many respects was different from their own. This meant that they suffered from an identity complex, which the ability to express their religious affiliation, for example, might help them to overcome. The problem was one faced not only by Muslim immigrants but also by members of other religions, such as Sikhs.

16. He paid tribute to the approach taken by France which, although inspired by a civilization whose origins went back to the medieval era, was opposed to the European Union's notion of Judaeo-Christian identity. That was an approach calculated to facilitate the integration of minorities of different origins into French society and to create a European identity. He also welcomed the legislative and administrative measures taken by France to combat racial discrimination and promote the rights of immigrants to education, employment and housing, in particular through the renovation of the housing estates on which those people lived. The measures taken to integrate 100,000 immigrants and the harsher penalties for xenophobia were another reason for satisfaction. Nevertheless, it was regrettable that anti-Semitism and Islamophobia should be increasing in France, even though the authorities had adopted effective measures and policies to combat those phenomena.

17. Concerning the use of the Internet to incite racial hatred, he wished to know more about the precise nature of the measures taken to counteract such use of that new medium, which was just as much subject to international law and the law of human rights as were the traditional media.

18. Moreover, he endorsed the comments made by other members of the Committee concerning the difficulties experienced by the Roma and nomadic communities, which were not being offered adequate services and had no access to means of redress. He also expressed a wish to be informed of the number of asylum-seekers and the number of applications that had been accepted, were being processed or had been rejected.

19. **Mr. Boyd** wondered whether France had any laws or regulations which, though apparently neutral with regard to race, ethnic origin or religion, had in practice harmful or disproportionate effects on certain ethnic, racial or religious minorities. That was of particular concern where there was serious reason to believe that those disproportionate or harmful effects on certain minorities were known or had resulted from a manifest intention at the time the regulation or law was adopted. He understood that, for example, there was a law that required "habitual travellers", that was to say, people without a fixed abode or living in vehicles, trailers, portable shelters, etc., to be in possession of travel documents. That requirement meant, or in practice facilitated, a higher degree of police surveillance, together with the imposition of criminal sanctions if the persons concerned did not have the documents in question. Although that law appeared to be neutral, in France it almost exclusively affected Gypsies and travellers. He wished to know whether there were any

statistics on the number of prosecutions under that law for not possessing the documents in question, and above all what was the ethnic background of the individuals prosecuted.

20. It was his understanding that when the law had been debated in Parliament, explicit reference had been made to Gypsies and travellers. If that were so, he would like to know the possible consequences, legal or constitutional, of such a direct expression of racial intent if the law were to be challenged in the French courts. He asked whether that would undermine the validity of the law in relation to the Constitution or in some other way. Finally, if reference had been made to Gypsies and travellers during the parliamentary debate, was that consistent with articles 2 and 5 of the Convention, or indeed with the French Constitution.

21. He was worried about the law prohibiting the wearing of conspicuous religious symbols in public educational institutions which, he felt, infringed the principle of freedom of religion, particularly for Muslims, who were not authorized to wear the veil at school, and for Sikhs, who could be anathematized if seen not wearing their turban in public.

22. He understood that, in the interest of equality for all, the French authorities might be unwilling to take a census of the population based on ethnic and religious criteria but stressed the necessity, in those circumstances, of ensuring effective protection for victims of acts of violence and crimes motivated by racial hatred. In that connection, he said he would like to know the number of acts of discrimination perpetrated against Gypsies, Roma migrants and travellers and their frequency, as well as the number of people convicted for acts of that kind.

23. **Ms. January-Bardill**, while welcoming the accuracy of the State party's report, regretted that it did not contain more information about the main obstacles that France believed it faced in its anti-discrimination campaign. Like Mr. Boyd, she deplored the fact that the French authorities did not collect statistics broken down by racial or religious group, asserting that in Europe it was more common for the members of minorities to be associated with the group to which they belonged than to be viewed as individuals with their own identity. Finding themselves de facto on the fringes of society, those people turned inevitably to the group from which they came in order to satisfy their desire to belong.

24. She welcomed the establishment of a specific framework for combating discrimination in the civil service and said she would appreciate it if, in its next periodic report, the State party were to give an account of the successes achieved in implementing that framework and thought it would be useful to reflect on how it might also be employed elsewhere.

25. She wished to know what measures the French Government had adopted to ensure equal opportunity in the area of employment, where there were three times as many unemployed from countries outside the European Union as French unemployed, and, in particular, whether public and private sector enterprises were obliged to offer minorities the same opportunities as the rest of the population. She also wished to know whether the measures taken by the Government to ensure equal treatment for all had borne fruit and whether the identity checks to which the members of racial minorities were regularly subjected were being monitored to prevent abuse. Finally, observing that the State party's report did not provide sufficient information about the situation of women from minority groups, she invited the French delegation to refer to the Committee's General Recommendation No. XXV on gender-related dimensions of racial discrimination.

26. **Mr. Doucin** (France) said that, to prevent overlapping of the activities of the numerous bodies responsible for combating racial discrimination and promoting integration, in 2004 the French Government had decided to concentrate mainly on two of them, namely, the Inter-Ministerial Committee to Fight Racism and Anti-Semitism and the

Inter-Ministerial Committee on Integration, which were chaired by the Prime Minister to ensure greater consistency of policy-making in those fields.

27. Moreover, the State was doing everything in its power to listen to the voice of civil society and, to that end, had established the High Council on Integration and the High Authority against Discrimination and for Equality. The latter should shortly be equipped to deal with complaints from associations and individuals who considered themselves to have been victims of discrimination, and it would then remain to be determined what its legal status should be and what place it should be assigned within the judicial system.

28. The National Consultative Commission on Human Rights was a body composed of one hundred or so representatives of civil society, members of United Nations bodies established under international human rights treaties, and eminent law professors. The Commission was responsible for expressing opinions on all matters relating to human rights which it thought fit to consider, opinions at which it arrived after consulting, in particular, specialists from the civil service, whom it was authorized to summon to appear before it. If the State rarely replied to the opinions it received from the Commission on matters relating to human rights, it was because the subjects broached were of broad interest, which made it necessary to consult various ministries, thereby slowing down the process. However, the Prime Minister regularly reminded members of the public services of their duty to take part in the Commission's activities.

29. The French State refused to use ethnic or religious criteria to subdivide the population into groups – and was therefore not in a position to provide disaggregated demographic statistics based on such criteria – because it viewed the human person as a whole and left everyone free to practise his or her religion or follow his or her cultural traditions privately, as he or she thought fit. This, however, did not prevent greater attention being paid to vulnerable groups, discrimination being fought and integration encouraged, or action at international level to foster the recognition of cultural diversity.

30. France had made it a principle not to cite in official reports or before international bodies the names of politicians or people in public life convicted of infringing the laws of the Republic and, in particular, of making remarks calculated to incite racial hatred or tending to deny the holocaust. However, it should be noted that those individuals were not sheltered from further prosecution if they re-offended.

31. The fact that the Committee on the Elimination of Racial Discrimination had not received any complaint under article 14 of the Convention effectively showed that the French courts were giving the victims of racial discrimination satisfaction and punishing the perpetrators of acts of that description. However, it would be desirable for the population to become better acquainted with that remedy. Accordingly, the home page on the web site of the Ministry of Foreign Affairs was currently being reorganized and would very soon include France's reports under the International Convention on the Elimination of All Forms of Racial Discrimination, as well as the remedies available to victims of discrimination.

32. Finally, he noted that the measures adopted by the French Government to fight racial discrimination were very similar to those recommended by the Durban Action Plan and assured the members of the Committee that the Government would see to it that all the provisions adopted in that connection would be grouped together with a view to the formal adoption of a corresponding national action plan.

33. **Mr. Amegadjie** (France) said that the Ministry of Justice's European and International Affairs Service regularly organized training at the request of the public prosecutors' offices, in particular to acquaint members of the legal service with the mechanisms for the protection of human rights and the decisions of the European Court of Human Rights. Moreover, the National Legal Service Academy organized specific training

courses during which experts described the latest measures for combating racism, anti-Semitism, xenophobia and discrimination, together with the relevant international instruments. Finally, the Ministry of Justice had prepared a guide to the anti-racist legislation, a guide to the criminal law on the press and a guide to dealing with cybercrime.

34. The aim of the draft European framework decision on combating racism and xenophobia was to approximate the national legislations by devising a common definition of racist and xenophobic conduct and strengthening judicial cooperation. The acts that could give rise to charges of negationism were those involving crimes of genocide, crimes against humanity and war crimes as defined in articles 6, 7 and 8 of the Rome Statute of the International Criminal Court, as well as the crimes defined in article 6 of the Charter of the International Military Tribunal appended to the London Agreement of 8 April 1945. France had been a driving force behind the drafting of the Additional Protocol to the Convention on Cybercrime, concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems. The bill authorizing the approval of the Additional Protocol was currently before the Senate.

35. Where the implementation of the racial discrimination legislation was concerned, he provided the Committee with statistics from the national criminal records office giving the number of convictions based on the provisions repressing acts of a racist and anti-Semitic nature. Moreover, he confirmed that legal persons could be prosecuted and punished for crimes against humanity under article 211 of the Code of Criminal Procedure, although that provision had never been applied. The new aggravating circumstance of racist, xenophobic or anti-Semitic motivation, established by the Lellouche Act of 3 February 2003, had already been employed in several cases, in particular the case of the attacks on people from the Maghreb for which Clandestini Corsi had claimed responsibility.

36. The Court of Cassation had effectively accepted situation testing as evidence but like all evidence its probative value remained subject to the final decision of the trial courts. Moreover, situation testing had been used before several courts without constituting proof of discrimination.

37. With regard to the scope of the provisions concerning discrimination, discrimination based on origin, sex, family situation, disability, sexual orientation, political opinions or membership of an ethnic group, race or religion was subject to criminal penalties when it involved refusing goods or services, preventing the normal exercise of an economic activity or refusing to hire someone. The provisions went well beyond the sphere of employment. Article 19 of the Act of 30 December 2004 establishing the High Authority against Discrimination and for Equality lightened the burden of proof in relation to social protection, health, education and access to employment and stipulated that everyone was entitled to equal treatment in all those areas, whatever his or her national origin, race or ethnicity.

38. On the subject of aid for victims, it should be noted that the decree nominating the Secretary of State for the Rights of Victims referred explicitly to the victims of discrimination. The Secretariat had set up a hotline for receiving calls from victims and directing them to the anti-discrimination association closest to where they lived. Moreover, article 2, paragraph 2 of the Code of Criminal Procedure allowed any association duly registered for at least five years at the time of the incident to assist a victim of discrimination. Finally, every court of appeal had contact officers responsible for providing anti-discrimination associations with information about cases of potential interest, subject to the principle of confidentiality of the investigative process.

39. **Mr. Hartmann** (France) said that France had recently adopted provisions that facilitated the repression of racist and anti-Semitic remarks posted online: on the one hand, the Act of 9 March 2004 had increased the limitation period to one year from the date of

appearance of the discriminatory or racially provocative language on the Internet; on the other hand, the Trust in the Digital Economy Act of 22 June 2004 made it mandatory for access providers, firstly, to make arrangements for surfers to report illegal content and, secondly, to bring that content to the attention of the authorities.

40. The Act of 26 November 2003 on the entry and sojourn of aliens, which had set at 32 days the maximum holding period for aliens found to have entered France illegally, was intended to facilitate the processing of deportation cases. France had aligned itself on the rest of the European Union, since the holding period was 28 days in Denmark, 40 days in Spain and 18 months in Germany. Parliament wanted holding to be controlled and transparent, since its extension was decided by the ordinary courts, which could at any point make an order for house arrest or release. Recent statistics showed that holding did not last for more than 10 days or so. The public prosecutor or liberties judge could, at any time, inspect the holding centres or holding areas. Moreover, the Act had established a national committee to monitor holding centres and holding areas. When first detained, aliens were notified of the possibility of requesting the assistance of an interpreter, an adviser or a doctor and told that they could communicate with the person of their choice. The concern for transparency was also reflected in the presence, in the holding centres, of associations able to intervene whenever necessary to draw the attention of the authorities to a particular problem and take action if they witnessed any abuse on the part of officials responsible for holding or escorting aliens. Moreover, the French Government was sparing no effort to improve the reception and housing of foreign detainees. The Decree of 19 March 2001 specified the standards of comfort, hygiene and legal and material assistance that had to be met by holding facilities. There were still a few holding centres that were run-down or offered unsuitable accommodation, but nearly €37 million would be spent on building, equipping and renovating holding facilities in 2005.

41. Police officers were receiving both initial and on-the-job training in dealing with discrimination. The Ministry of the Interior was engaged in promoting republican values and national police ethics among all police officers of every rank. For example, police constables received 20 hours of initial training in human rights, while superintendents took a more intensive course involving, in particular, a study of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. The training modules were also intended to make police officers more aware of the social, cultural and religious particularities of the foreign communities living in France and to acquaint them with main religions practised in France, with account for the principle of secularism.

42. To facilitate the prosecution of racist, anti-Semitic and xenophobic offences, the Ministry of the Interior had prepared a guide for the police on how to receive complaints and commence effective court proceedings. That guide was available online on the Ministry of the Interior's web site.

43. **Ms. Hugot** (France) pointed out that under French law aliens could be made the subject of a removal measure on various grounds. Expulsion, an administrative measure, was reserved for aliens whose presence on French territory constituted a serious threat to public order. Exclusion from French territory was a court order applied to an alien guilty of a serious offence. Deportation orders were issued against illegal immigrants. In every case, the removal measures had to maintain a proper balance between the requirements of public order and respect for the universal right to a private and family life. The ordinance of 2 November 1945 governing the entry and sojourn of aliens protected from expulsion foreigners having close links with France, whether because of the length of their stay or because of their family situation. That protection had been strengthened by the Act of 26 November 2003, which had established a second layer of protection by prohibiting the expulsion of persons who had developed particularly strong private and family ties in France, no matter how serious the offence or how long the sentence and how large the fine.

Thus, it was now no longer possible to remove aliens who had lived in France since the age of 13, aliens who had lived lawfully in France for more than 10 years and had been married for at least three years to a French national or an alien ordinarily resident in France, the foreign mothers or fathers of a French child who had lawfully resided in France for more than 10 years, and aliens who had resided in France for more than 20 years. Those aliens lost the benefit of the protection afforded by the Act only in exceptional cases, namely, if their conduct was prejudicial to the fundamental interests of the State or linked with terrorist activities. Those legislative developments were fully in keeping with the requirements of the European Court of Human Rights, and before a removal measure could be ordered the administrative authority individually reviewed each case in order to assess the impact of the measure on the private and family situation and to ensure compliance with article 8 of the European Convention on Human Rights.

44. Article 14 of the 1881 Freedom of the Press Act allowed the Ministry of the Interior to ban the circulation, distribution and offering for sale of publications in a foreign language. That provision had been found to be contrary to article 10 of the European Convention on Human Rights by the European Court of Human Rights in a judgement dated 17 July 2001, and the French authorities had decided to repeal it. Where identity checks were concerned, the procedure was applicable to anyone on French territory without discrimination and was carried out under the supervision of the judicial authorities for objective reasons linked with the conduct of the individual or a threat to public order. The ordinance of 2 November 1945 stipulated that aliens must be able to produce the documents authorizing their sojourn in France. The controls thus carried out had to be based on objective evidence unrelated to the appearance of the person being checked. The courts were scrupulous in ensuring compliance with the latter provision.

45. **Ms. Brochard** (France) pointed out that applications for asylum had to be made out in French, since under the Constitution French was the only working language of the French public services. However, the lodging of an asylum application was only the first step in a process that always required an interview during which the applicant could be assisted by an interpreter. State-subsidized associations were also charged with helping asylum-seekers to translate asylum applications.

46. Regarding the need for asylum-seekers to produce proof of a fixed address when renewing the acknowledgement of their request for a residence permit, she explained that the formal requirements were very simple, since they could take the form of an accommodation certificate made out by a third party or an association. Moreover, that requirement was applied flexibly as prefectures had been instructed not to require proof of a fixed address from an asylum-seeker who might be in an extremely precarious or unstable situation.

47. In 2004, the statistics had revealed a reduction in initial applications for asylum but an increase in applications for review. On the other hand, the overall rate of admission to State protection had remained steady in 2003 and 2004.

48. With regard to the treatment received in consulates, the French authorities were aware of the difficulties that existed in some parts of the world. Instructions had been given and funds had been provided to improve consular services. Where fraud had been established, repressive measures had been taken and prosecutions commenced.

49. There had been a sharp increase in the number of foreign students since 1995–1996. In 2003–2004, some 14.2 per cent of France's foreign students had come from the European Union and 51.7 per cent from Africa.

50. **Mr. Guardiola** (France), in reply to a question from Mr. Sicilianos (Rapporteur for France), explained that, in 2003, the Administrative Court of Papeete, in Polynesia, had set aside a resolution of the Assembly of French Polynesia relating to the French Polynesian

Code of Civil Procedure which, in certain cases, provided for the exclusive use of the Polynesian languages in judicial proceedings. The Administrative Court had held that the use of French was mandatory in civil proceedings and that, although the Polynesian languages could be used, only the French version was authentic. That judgement was consistent with the rule laid down in article 2 of the French Constitution, which stated that "French is the language of the French Republic". Moreover, in a decision dated 15 June 1999, the Constitutional Council had ruled that the provisions recognizing the right to use a language other than French in relations with the courts and the administrative authorities were unconstitutional.

51. In French Polynesia, as in the other autonomous overseas communities, the State remained competent for criminal law and criminal procedure, which precluded the exclusive use of one of the languages of French Polynesia in the criminal courts. On the other hand, under the Organization Act of February 2004 on the autonomous status of French Polynesia, natural and legal persons of private law could use Tahitian freely in their legal instruments and agreements and those instruments were not liable to be rendered void by the fact that they were not drawn up in the official language, namely, French. Moreover, article 6 of the new Polynesian Code of Civil Procedure stated that no party could be judged without having been heard or given notice to appear and that parties might request the assistance of a sworn interpreter, free of charge, if they were not fluent in French.

52. He went on to explain that since the constitutional revision of March 2003 France had four overseas departments (Guadeloupe, French Guiana, Martinique and Réunion) and six overseas communities (St-Pierre-et-Miquelon, Mayotte, French Polynesia, the Wallis and Futuna Islands, New Caledonia, and the French Southern and Antarctic Territories). Law enforcement in the overseas departments and communities was governed by the principles of legislative assimilation and adaptation. Laws and regulations were applicable *ipso jure*, as they were in Metropolitan France. However, the legislative regime and administrative organization of those departments could form the subject of adaptation measures made necessary by their particular characteristics or constraints. Since the Constitutional Act of 28 March 2003, the overseas departments and regions could be authorized under the Act to make their own decisions on adaptations in matters that fell within their sphere of competence, under the conditions laid down in an organization act. With the exception of Réunion, those departments could also be authorized under the Act to establish for themselves the rules applicable on their territory in a limited number of cases that could be deemed to fall within the scope of the Act, under the conditions and subject to the reservations laid down in an organization act. However, those authorizations would not be available if the essential conditions of exercise of a fundamental freedom or constitutionally guaranteed right were at issue.

53. The overseas collectivities of Mayotte, the Wallis and Futuna Islands and French Polynesia were governed by the principle of "special legislative status", which meant that metropolitan laws were not automatically applicable there and had to contain an express reference to their applicability or be the subject of subsequent provisions making them generally applicable. That principle made it possible to take specific local conditions into account.

54. These special rules governing the overseas territories meant that due consideration could be given to the situation of particular ethnic communities. Moreover, on 23 June 2004, at the Élysée, President Jacques Chirac had given a reception in honour of the Amerindian peoples, at which he had said, among other things, that the unity of the Republic and the unity of the French people had been strengthened by the recognition of indigenous cultures. Finally, article 33 of the Overseas Act of 13 December 2000 required the State and local authorities to respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles. That

provision echoed the terms of article 8, subparagraph (j) of the Convention on Biological Diversity.

55. The statutory provisions applicable to aliens in the overseas departments and communities were essentially the same as those that applied to them in Metropolitan France subject, like all laws and regulations, to various adaptations. Thus, for example, those provisions of the Code on the entry and sojourn of aliens and the right of asylum that made direct reference to the 1990 Schengen Convention were not applicable overseas, like the Convention itself. In French Guiana and the Island of Saint-Martin, appeal to the administrative court against deportation orders was not suspensory and the alien could accompany his appeal with a request for stay of execution.

56. The rules on asylum applied in the overseas communities (Mayotte, French Polynesia and Wallis and Futuna) in the same way as they did in Metropolitan France and the overseas departments. Each of those communities had its own ordinance establishing the rules on the entry and sojourn and the deportation of aliens. The main differences as compared with the legislation applicable in Metropolitan France and the overseas departments was that appeals against deportation orders were not suspensory and that the periods for which a person could be held in a holding area or in administrative detention were not as long as in Metropolitan France, with respect to the extension of the holding period by the liberties and custody judge. In 2004, the number of deportations recorded for the communities of French Guiana and Mayotte alone accounted for 45 per cent of the national total.

57. **Mr. Amiel** (France) said that in November 2001 the foreign ex-servicemen's associations had lodged an appeal with the Council of State against the 1959 Act applicable to ex-servicemen of foreign nationality, following which new rules had been laid down concerning their retirement. Thus, when their pension rights were calculated, foreign ex-servicemen resident in France were entitled to the same amount as their French comrades in arms. If they were living abroad at the time, they were entitled to parity of purchasing power in their country of residence. Unfortunately, in November 2004 the ex-servicemen's associations had lodged a further appeal with the Council of State, which still had to rule on the case.

58. Illegal immigrants had access to health care. A foreigner who had resided in France for at least three months could request State medical assistance that provided 100 per cent health care coverage. If the person concerned had lived in France for less than three years, the public hospitals were obliged to provide treatment if the care required was urgent and life-saving.

59. Moreover, France was endeavouring to combat discrimination in hiring and to promote the vocational advancement of immigrants and persons from an immigrant background. That long-term process called for widespread awareness on the part of employers, workers and socio-economic actors of the need for a change in mentality. Appropriate measures had been taken by national employment agencies and temporary staffing agencies, and there had recently been signs of an increase in corporate initiatives to combat discrimination in hiring, such as the Diversity Charter signed by large national industrial groups, which had pledged to recruit people of foreign origin or living in sensitive areas.

60. Moreover, on 3 February 2005, the Prime Minister had convened a National Conference on Equal Opportunities, which had brought together the social partners, unions and employers, in support of proposals to promote access to employment for persons living in sensitive areas or from an immigrant background. In particular, the conference had put forward the idea of introducing anonymous curricula vitae, which would make it easier to

obtain an initial job interview and prevent recruiters from being influenced by the applicant's surname.

61. **Mr. Lefeuvre** (France) said that some of France's Roma or Gypsies were French and some were of foreign origin, and those of foreign origin might simultaneously be asylum-seekers. Travellers could be divided into three groups of equal size, namely, itinerant, semi-sedentary and sedentary. French Gypsies had full access to social rights.

62. The National Consultative Commission on Travellers had been set up in 1999 to study the problems of members of that group and to make proposals to improve their integration into the national community. It provided a forum at national level for direct dialogue between the travellers' representatives, representatives of the elected bodies, experts and public services. In particular, the Commission had taken an interest in the travellers' traditional vocations and had carried out a study to examine possible ways of enabling persons in unstable situations to become self-employed. Moreover, an agreement would shortly be being signed to encourage microcredit initiatives. That Commission, in which representatives of social affairs and housing now participated, had done important work in every area of concern to travellers, particularly in connection with reception, housing, the economy and citizenship. It had also made proposals to the Government for a series of measures designed to improve the integration of travellers into French society.

63. Recently, 5,000 pitches for travellers had been created in reception areas. The local authorities had undertaken preliminary studies with a view to establishing additional reception areas over the next three years. The circular of December 2003 on family plots provided for local authorities to be granted public funds for establishing those plots, as well as for the exclusive and permanent settlement of travellers on land rented from the local authorities. In addition, in the Council of Europe, France had supported, together with Finland, the creation of the European Roma and Travellers Forum. Inaugurated in December 2004, that forum enjoyed the status of an international non-governmental organization and its mandate was to represent all of Europe's Roma communities.

64. **Mr. Sicilianos** (Rapporteur for France) said he was gratified that the debate with the French delegation had proved so rewarding. The Government's replies, both written and oral, would be taken into account in the Committee's conclusions to ensure that they duly reflected the notable developments recorded by the State party. The range of the replies provided bore witness to the interest of the French Government in the subject matter of the Committee's mandate.

65. **The Chairperson** said that the Committee had thus concluded its consideration of the fifteenth and sixteenth periodic reports of France.

66. *The French delegation withdrew.*

The meeting rose at 1.05 p.m.