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### **Extract from the IHF report**

#### ***Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2005 (Events of 2004)***

#### **France<sup>1</sup>**

**IHF FOCUS: freedom of expression and the media; judicial system and right to a fair trial; conditions in prisons; freedom of religion and religious intolerance; racism, intolerance and xenophobia; migrants and asylum seekers.**

In the course of 2004, several intergovernmental organizations commented on the human rights situation in France. On 23 February 2005, the 66<sup>th</sup> session of the UN Committee on Elimination of Racial Discrimination (CERD) considered France's report on its implementation of the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination and raised, *inter alia*, issues concerning France's non-recognition of minorities; racist and anti-Semitic activities; the status of the Berber and Roma minorities and the prohibition of religious symbols in schools.<sup>2</sup> In its final conclusions and recommendations, the CERD expressed concern, for example, about discrimination against immigrants and their descendants in the field of employment and education and about racially motivated abuse by members of the security forces.<sup>3</sup>

The European Commission against Racism and Intolerance (ECRI) adopted its Third Report on France on 25 June 2004 and made the findings public on 15 February 2005.<sup>4</sup> ECRI recommended that the French authorities take further action in a number of fields, including signing and ratifying Protocol No. 12 to the European Convention on Human Rights (ECHR), which sets out a general prohibition of discrimination; reinforcing the legal framework in civil and administrative law aimed at combating racial discrimination; and raising awareness of members of the judicial service to the problem of racial discrimination and the difficulty of legally proving its existence. ECRI, too, voiced concern about the status of minority groups, immigrants, and asylum seekers. It also recommended, *inter alia*, intensifying the fight against anti-Semitism, and developing a stronger response to the problem of the exploitation of racism in politics.

A bill, known as the "Perben II Law," aimed at adapting the justice system to better deal with the developments of crime, was promulgated on 9 March 2004. It was severely criticized by civil groups for undermining the fundamental principles of the judicial system. The new law was also considered a

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<sup>1</sup> As reported by Human Rights Without Frontiers, March 2005.

<sup>2</sup> UN Press Release, *Committee on Elimination of Racial Discrimination considers report on France*, 23 February 2005. France submitted its 15<sup>th</sup> and 16<sup>th</sup> periodic reports in one document CERD/C/430/Add.4 dated 13 May 2004.

<sup>3</sup> UN Press Release, 11 March 2005.

<sup>4</sup> ECRI, *Third Periodic report on France*, CRI (2005)3, [http://www.coe.int/T/E/human\\_rights/Ecri/1-ECRI/2-Country-by-country\\_approach/France/France\\_CBC\\_3.asp#TopOfPage](http://www.coe.int/T/E/human_rights/Ecri/1-ECRI/2-Country-by-country_approach/France/France_CBC_3.asp#TopOfPage).

major setback for freedom of the media, in particular regarding the confidentiality of journalists' sources.

A controversial bill banning conspicuous religious symbols was promulgated on 15 March and came into effect on 2 September with the beginning of the new academic year. By the end of 2004, 47 students were expelled from public schools and 550 other cases were resolved by means of dialogue.

At its 36<sup>th</sup> session in June, the UN Committee on the Rights of the Child considered France's report and issued its conclusions and recommendations on the country's efforts to comply with the Convention on the Rights of the Child. The committee raised, for example, the 15 March law on religious symbols, the need for the government to guarantee individual rights, and the necessity to ensure that children are not excluded or marginalized from the school system.

In March, the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) made public the report on its visit to France in June 2003. In December, an additional CPT delegation carried out a one week visit to the administrative district of Reunion to assess the situation in the prisons there.

### **Freedom of Expression and the Media**

A law from 1881 regulates freedom of speech and of the press and has generally been respected. While in its 2003 recommendation on "Freedom of expression in the media in Europe"<sup>5</sup> the Parliamentary Assembly of the Council of Europe (PACE) had found France's media legislation to be outdated and containing several restrictive provisions, no amendments to the law were adopted by the end of 2004. Moreover, new laws relevant to other areas such as security, intolerance and racism had led to new regulations, which might impose further restrictions on freedom of expression and of the media.

The "Perben Law," which aimed at adapting the justice system to better deal with the development of crime, was considered a step backward in terms of media freedoms, particularly as regards the issue of revealing journalists' sources. The law endows judicial police, state prosecutors and examining magistrates with more powers when it comes to requisitions. Media outlets must hand over documents to authorities only when they agree to do so, however, individual journalists are not allowed to protect their sources when the information is kept at their homes: they are obliged to hand over any documents kept at their homes considered relevant to the investigation and refusal to do so entails a fine of EUR 3,750.<sup>6</sup>

On the other hand, the Perben Law repealed the offence of "insulting a foreign head of state," bringing French legislation in line with the jurisprudence of the European Court of Human Rights (ECtHR).<sup>7</sup>

- In March, the ECtHR held that there was no violation of article 10 (freedom of expression) of the ECHR in the case of *Radio France v. France*.<sup>8</sup> On 31 January and 1 February 1997, about sixty news flashes and bulletin broadcasts on France Info, a channel controlled by Radio France, mentioned an article published in the weekly magazine *Le Point*, which alleged that Michel Junot, deputy prefect of Pithiviers in 1942-43, had supervised the deportation of one thousand Jews. In connection with the broadcasts, a ruling by the Paris Criminal Court found

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<sup>5</sup> PACE Recommendation 1589 (2003) on "Freedom of expression in the media in Europe", PACE Recommendation 1589, adopted on 28 January 2003,

<http://assembly.coe.int/Main.asp?link=http://assembly.coe.int/Documents/AdoptedText/ta03/EREC1589.htm>.

<sup>6</sup> Reporters Without Borders, "Perben law finally adopted: Journalists' right to protect their sources remain under threat," 12 February 2004.

<sup>7</sup> Ibid.

<sup>8</sup> Chamber Judgement in the case of *Radio France v. France*, application no. 53984:00, 30 March 2004, <http://cmiskp.echr.coe.int/tkp197/portal.asp?sessionId=1560489&skin=hudoc-en&action=request>.

the company's editorial director and a journalist of France Info liable for the offence of public defamation of a civil servant and fined them. The company was ordered to broadcast an announcement reporting on the judgement on France Info every two hours during a 24-hour period. The applicants complained of a violation of their right to "impart information" as a result of the sanctions and measures imposed on them by domestic courts. The ECtHR found that the reasons given by the domestic courts in sentencing the applicants were "relevant and sufficient."<sup>9</sup>

- In May, the ECtHR held that there had been no violation of article 10 of the ECHR on account of the injunction prohibiting distribution of the book *Le Grand Secret* issued as an interim measure by the urgent applications judge. The book was written by a journalist and Claude Gubler, a medical doctor, who had been the private physician of President Mitterand for a number of years. In January 1996 ten days after the book's publication, the urgent applications judge issued an injunction prohibiting its distribution as an interim measure, and the decision was upheld by the Court of Appeal. However, the ECtHR found that article 10 was violated with regard to maintaining the prohibition of the distribution in force after 23 October 1996.<sup>10</sup> On that day, the high instance tribunal of Paris held that the author and the publishing house had committed a wrongful act by disclosing information covered by the rules of medical confidentiality and ordered the ban on the publication to remain in force.

## Judicial System and Right to a Fair Trial

### *Double Jeopardy*

Despite changes to the law, "double jeopardy" remained a concern in France in 2004. A reform was launched in 2003 following the arrest of Cherif Bouchelag, an Algerian father of six children, who was subjected to an expulsion order one week after his release from prison. The case triggered a political debate leading to a decision by the interior minister to create an inter-ministerial commission to prepare a report on the issue. As a result, the 1945 act relating to the conditions of entry and residence of aliens in France was amended to abolish the "double jeopardy" provision. The new law came into force on 1 December 2003.<sup>11</sup>

The law as amended protects from expulsion foreigners who have resided in France for more than twenty years and foreigners who have been in France for more than ten years and have French children of minor age residing in France or who have been married to a French national for at least three years. The law specifies, however, that expulsion can be ordered in cases of "absolute urgency" or danger to the security and public order of the country.

Abrogation demands for deportation orders issued before the law was promulgated were to be submitted by 31 December 2004. Throughout the year, a total of 1,458 demands were submitted, out of which only 421 were considered. A total of 319 abrogations were granted, while 102 demands were refused.<sup>12</sup> One year after the law came into effect, non-governmental organizations found the results disappointing. For instance, Cimade (an NGO providing legal and administrative assistance to foreigners and asylum seekers) had lodged 40 demands in April and only nine of them had been resolved favorably. The organization Lorraine against Double Jeopardy had a positive response to only one third of demands it had filed.

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<sup>9</sup> Ibid.

<sup>10</sup> Chamber Judgment in the case of *Plon (société) v. France*, application no. 58148/00, 18 May 2004, <http://cmiskp.echr.coe.int/tkp197/portal.asp?sessionId=1560506&skin=hudoc-en&action=request>.

<sup>11</sup> Law No. 2003-1119 of 26 November 2003 on Issues of Immigration, Foreigners' Stay in France, and Nationality; published in *Official Journal*, No. 274, 27 November 2004, <http://www.legifrance.gouv.fr>.

<sup>12</sup> *Le Monde*, 21 January 2005.

An estimated 5,000-10,000 people, subjected to the “double jeopardy” provision, were expelled from the country before the reform. The new law made it possible for them to return to France after receiving an entry visa. The level of demands was low throughout the year, with the lack of information being considered as one of the major reasons.

### *Law on the Judicial System*

The “Perben II law” was adopted by the Senate on first reading on 11 February 2004. The Constitutional Council issued its decision on 2 March and the law was promulgated on 9 March.<sup>13</sup> Discussions on the law had commenced in April 2003, when the justice minister had submitted a draft to the Council of Ministers with the stated purpose of “adapting the law to the development of crime.”<sup>14</sup>

The law, which was to provide the judicial framework for the implementation of the Internal Security Law (LSI)<sup>15</sup>, modified as many as 350 articles of the Code of Criminal Procedure and 70 articles of the Criminal Code. Its main premise was to empower the justice system to combat organized crime by reinforcing the powers of police, making it easier, for example, to infiltrate mafia networks and to intercept telephone conversations and electronic mail. The most controversial provisions of the law were those undercutting the principle of presumption of innocence. The newly installed “pleading guilty” procedure allows prosecutors to propose a sentence without a court hearing, on the basis of a preliminary acknowledgement of guilt.

Civil society groups severely criticized the new provisions for undermining the fundamental principles of the judicial system. Several hundred lawyers and magistrates demonstrated to protest the law, which is viewed as an infringement on several fundamental rights. The former socialist Minister of Justice Elizabeth Guigou also denounced the law.<sup>16</sup>

### **Conditions in Prisons and Detention Facilities**

In March, the CPT made public the report on its June 2003 visit to France.<sup>17</sup> The CPT delegation visited the Loos Remand Prison, the Toulon Remand Prison, the Clairvaux Prison, and the reception and judicial investigation departments of the 9<sup>th</sup> and 16<sup>th</sup> districts of Paris in order to assess the prison system regarding overcrowding and the regimes offered to prisoners serving long sentences. The main focus was on the basic safeguards offered to persons in police custody and the implementation of the CPT’s recommendations concerning access to a lawyer from the outset of custody.

Overcrowding continued to be the primary factor for the deteriorating conditions in French prisons. The CPT report highlighted several facts corroborating generally expressed concerns. In the period 1996-2001, the numbers of prisoners had decreased, but since then, the tendency reversed. In 2003, when the CPT delegation visited France, there were 60,963 prisoners for 48,603 operational places. For instance, the official capacity of the Loos Remand Prison was 461 but it accommodated 1,103 (998 male and 105 female) prisoners and Toulon Remand Prison had 145 places but housed 348 male

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<sup>13</sup> *Loi portant adaptation de la justice aux évolutions de la criminalité*, 2004-204 of 9 March 2004, published in *Official Journal*, No. 59, 10 March 2004.

<sup>14</sup> *Projet de loi portant adaptation de la justice aux évolutions de la criminalité*, adopted with modifications no. 208, <http://www.assemblee-nat.fr/12/dossiers/criminalite.asp>.

<sup>15</sup> See, *Human Rights in the OSCE Region: Europe, Central Asia and North America*, IHF Report 2004 (Events of 2003), [http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=3860](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=3860).

<sup>16</sup> *Le Monde*, “Vers l’adoption définitive du projet de loi Perben II mercredi à l’Assemblée,” 6 February 2004

<sup>17</sup> Council of Europe, *Rapport au Gouvernement de la République française relatif à la visite effectuée en France par le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT)* du 11 au 17 juin 2003, CPT/Inf (2004) 6, 31 March 2004, <http://www.cpt.coe.int/documents/fra/2004-06-inf-fra.htm>.

prisoners. The government approved a prison reform bill, under which 30 new prisons with 13,200 more places are to be constructed by 2007.<sup>18</sup>

The increase of suicides in prison was an alarming tendency. According to the CPT report, there had been 20 suicides per 10,000 prisoners over a number of years.

In December 2004, a CPT delegation undertook a new fact-finding mission to France, visiting the administrative region (*département*) of Reunion in order to assess the situation of prisons there.

## **Freedom of Religion and Religious Tolerance**

### *State and Religion*

The management of religious issues in France is based on the principle of separation of state and church, or *laïcité*, as enshrined in a 1905 law. In July 2003, president Chirac established a commission presided over by Bernard Stasi, “to reflect upon the application of the principle of *laïcité*.” The commission recommended, among other things, the drafting of a law on laicism with a special provision banning the wearing of conspicuous religious symbols such as crosses, headscarves (*hijab*), Sikh turbans and skullcaps in public schools. President Chirac endorsed the proposals in a speech in December 2003.

On 10 February 2004, the National Assembly passed the bill by a large majority.<sup>19</sup> It was then approved by the Senate and promulgated on 15 March.<sup>20</sup> As recommended by the “Stasi Commission,” the bill bans the wearing of conspicuous religious symbols in public schools and contains a provision for review of the ban after being in effect for one year. The chairman of the Law Committee, Pascal Clément, was entrusted with the task of writing a report on the contentious issues by the end of 2005.

Commenting on the law prior to its adoption, the IHF criticized the law for violating international standards on freedom of religion and expressed concern that a ban on wearing a headscarf would serve to mistakenly stigmatize all veiled Muslim women and girls as fundamentalists, thereby reinforcing existing prejudices.<sup>21</sup>

The law came into effect on 2 September with the beginning of the new academic year. On the first day, 72 girls across France refused to take off their headscarves, which was less than initially expected. At the end of the year, a total of 47 students were expelled from public schools.

- Among them three Sikh students aged 14, 17, and 18 were expelled from Elysée Louise Michel in Bobigny, north-east of Paris, for wearing “under turbans”. The students appealed to an administrative court, which was cautious not to set a precedent for further appeals and referred the case back to the school.

An additional 550 cases were resolved by means of dialogue.

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<sup>18</sup> Plans for the construction of new prisons raised some criticism. The International Observatory of Prisons (OIP) commented that such plans “create the illusion of prisons as panacea for social problems.” In its 2003 report, *Conditions of Detentions in France*, the OIP criticized the preference of the judicial system for imprisonment rather than for alternative punishments.

<sup>19</sup> Projet de loi encadrant, en application du principe de laïcité, le port de signes ou de tenues manifestant une appartenance religieuse dans les écoles, collèges et lycées publics, <http://www.assemblee-nat.fr>.

<sup>20</sup> Loi 2004-208 encadrant, en application du principe de laïcité, le port de signes ou de tenues manifestant une appartenance religieuse dans les écoles, collèges et lycées publics, promulgated on 15 March 2004, published in *Journal Officiel*, 17 March 2004.

<sup>21</sup> IHF, “A French Ban on Religious Symbols Would Violate International Protections of Freedom of Religion,” 17 December 2003, [http://www.ihf-hr.org/viewbinary/viewhtml.php?doc\\_id=5259](http://www.ihf-hr.org/viewbinary/viewhtml.php?doc_id=5259).

In its recommendations issued in June, the UN Committee on the Rights of the Child advised the government to evaluate the legislation and consider alternative means, including mediation, to ensure the secular character of public schools, while guaranteeing that individual rights are not infringed upon and that children are not excluded or marginalized from the school system as a result of such legislation.<sup>22</sup>

### *Minority Religions*

The “About-Picard Law” that came into force in May 2001 remained effective, though it was widely criticized for placing severe restrictions on the formation of associations and granting courts inadequate powers to dissolve religious associations.<sup>23</sup>

The Inter-ministerial Mission of Vigilance and Fight against Sectarian Deviation (MIVILUDES), which in 2002 replaced the Interministerial Mission of Fight against Sects (MILS), provided the institutional framework for the government monitoring of so-called sects. The first MIVILUDES annual report was published in January 2004, with the focus having shifted from sects to sectarian deviation of solely new religious movements (NRM): “healing movements, pseudo-evangelical groups, and apocalyptic and eastern movements.” Jehovah’s Witnesses, the Church of Scientology, Raelians and groups of psychological well-being were also targeted.

On 5 October, the Court of Cassation confirmed the measure taken by the Internal Revenue to impose a retroactive 60% tax on offerings received by the Association of Jehovah's Witnesses (ATJ) during the years 1993-1996. The amount to be paid was EUR 23 million for which property has already been mortgaged. In 1996, the Parliamentary Enquiry Commission on Sects included Jehovah’s Witnesses on a list of “dangerous sects” and made a general recommendation for tax authorities to check the accounting and financing of the so-called sects through tax audits. The tax authorities initiated an audit against the ATJ and recognized the non-profit nature of the ATJ but applied to it law designed to prevent individuals from circumventing inheritance tax and which had never been used against associations. The decision will be appealed at the ECtHR.

### **Racism, Intolerance and Xenophobia**

On 30 December, the parliament adopted a bill to create an independent administrative authority to combat all discriminatory, racist and homophobic conduct.<sup>24</sup> In June 2003, Bernard Stasi in his capacity as ombudsman at the time was mandated by the prime minister to preside over a preparatory mission charged with the task of evaluating and proposing the potential mandate and institutional form of this administrative authority. The Stasi report was submitted to the prime minister on 16 February 2004. A government bill was introduced in the National Assembly in July and was finally adopted by the Senate on 22 December. On 4 March 2005, President Jacques Chirac appointed Louis Schweitzer to preside over the new body, the High Authority against Discrimination and for Equality (HALDE).

HALDE is composed of eleven members appointed by a presidential decree after being designated by the Senate president, the National Assembly president, prime minister, State Council vice-president,

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<sup>22</sup> UN Committee on the Rights of the Child, *Concluding observations: France. 30/06/2004. CRC/C/15/Add.240. (Concluding Observations/Comments)*, 30 June 2004, [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/f77a0c288462b9efc1256f33003c8c0a?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/f77a0c288462b9efc1256f33003c8c0a?Opendocument).

<sup>23</sup> In 2002, a resolution by the Parliamentary Assembly of the Council of Europe (PACE) criticized the law and noted that it would be up to the ECtHR alone to determine whether this law was in violation of the ECHR; “Freedom of religion and religious minorities in France,” *Council of Europe*, Resolution 1309/2002, <http://assembly.coe.int>.

<sup>24</sup> Loi No. 2004-1486 portant création de la haute autorité contre les discriminations et pour l’égalité, 30 December 2004, *Journal Officiel No. 304*, 31 December 2004

Court of Cassation, and the president of the Economic and Social Council. It is mandated to provide assistance to victims of discrimination, investigate and mediate in claims of alleged victims, transmit claims to judicial and disciplinary authorities, conduct independent studies concerning discrimination, and make recommendations to the government.

In April 2004, the National Consultative Commission on Human Rights (CNCDH), a body instituted by the prime minister and composed of governmental and non-governmental representatives, presented its annual report on the fight against racism and xenophobia.<sup>25</sup> The report covered three subjects; racism, xenophobia and anti-Semitism; intolerance and violence with regard to Islam in the French society; and the CNCDH's national and international activities.

The commission reached several conclusions. First, acts of racism and anti-Semitism were on the decline compared with previous years, but were still higher in relation to the 1990s. Second, anti-Maghrebian racism stood at a high level. Though numbers had declined from 2002 to 2003, more than 80% of cases of violence were targeted at people from the Maghreb countries. Third, though anti-Semitic threats and violence had diminished in 2003 compared with 2002, they still prevailed over other forms of racism. Finally, the commission concluded that acts of racism and anti-Semitism were on the rise at schools.<sup>26</sup>

In May 2004, France submitted its 15<sup>th</sup> and 16<sup>th</sup> periodic reports incorporated in one document to the UN Committee on the Elimination of Racial Discrimination (CERD). During discussions on the reports in the course of the 66<sup>th</sup> session of the UN committee, the UN special rapporteur on racism and committee experts noted the lack of available data on cases of discrimination with regard to the immigrant population. Several experts raised questions pertaining to France's non-recognition of minorities by citing the existence of Berbers, Roma, and immigrant communities. While France recognizes the existence of such communities, the law does not recognize their status as minorities. In its final conclusions, the CERD recommended that France take the necessary preventive measures to stop racist incidents involving members of the security forces.

ECRI's third periodic report on France expressed concerns with developments regarding racism and intolerance in public opinion and highlighted several indicators of a possible risk of escalation. The first indicator noted by the ECRI was the rise of anti-Semitism in schools, and even in primary schools. A second indicator was the proliferation of racist attitudes toward Roma and Travellers. Thirdly the report pointed to the public's attitude toward Muslims, also the victims of racism and intolerance. The ECRI report noted that there had been a shift in anti-immigrant and anti-Arab/North African racism toward racism directed at Muslims.<sup>27</sup>

While the Act of 29 July 1881 on freedom of press guarantees freedom of expression and opinion, the legislature has amended it by adding a number of criminal offences in order to combat the expression of racism and xenophobia. Article 24(5) of the 1881 act, as amended in 1972, imposes correctional penalties on those who incite to hatred or violence against a person or a group of persons.

- In June, the former actress Brigitte Bardot was convicted of inciting racial hatred in her latest book *Un cri dans le silence* (A Scream in the Silence), which takes up issues such as the inter-ethnic relations, immigration, the role of women in politics, and Islam. Bardot was sentenced to a fine of EUR 4,500. She had also been previously convicted on charges of racism.

The defense of crimes against humanity is also incorporated as a criminal offence in the 1881 Act on the freedom of expression, by the Act of 31 December 1987. A further amendment of the 1881 Act by the Act of 13 July 1990 qualifies negationism as a criminal offence.

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<sup>25</sup> CNCDH, *Remise du Rapport 2003 au Premier ministre*, [www.commission-droits-homme.fr](http://www.commission-droits-homme.fr).

<sup>26</sup> Ibid.

<sup>27</sup> ECRI, *Third Periodic report on France*, CRI (2005)3, [http://www.coe.int/T/E/human\\_rights/Ecri/1-ECRI/2-Country-by-country\\_approach/France/France\\_CBC\\_3.asp#TopOfPage](http://www.coe.int/T/E/human_rights/Ecri/1-ECRI/2-Country-by-country_approach/France/France_CBC_3.asp#TopOfPage).

- In October, at a press conference held in Lyon Bruno Gollnisch, deputy chairman of the extreme right National Front and a lecturer at the University of Jean-Moulin Lyon III, questioned the existence of gas chambers and the death toll. A disciplinary commission at the University of Jean-Moulin Lyon III studied the case. The decision to suspend the university activities of Gollnisch for the next five years was taken on 3 March 2005 but no judicial proceedings were initiated.

The dissemination of racist views via Internet and satellite television was also an alarming tendency with a number of Internet sites circulating xenophobic, anti-Semitic and anti-Muslim ideas. On 21 June, a law was adopted granting authorities access to servers of Internet service providers and site hosts and obliging providers to cooperate with authorities to combat incitement to racial hatred.<sup>28</sup> Under the law, a judge's decision can lead to the closure of Internet sites or by default, to cessation of access.

Another law, adopted on 9 July, makes it possible to prevent radio and TV channels from broadcasting if they are found to be inciting to violence or racial hatred.<sup>29</sup>

- On 13 December, the Council of State issued an order to the satellite operator Eutelsat to cease, within 48 hours, the transmission of the Hezbollah channel Al Manar. In November 2003, the channel broadcast a program propagating anti-Semitic views. In July 2004, the Audio-Visual Council (CSA) demanded the Council of State to order the termination of the channel transmission over the territory of France under the newly adopted law. The CSA and the channel signed an agreement on 19 November, whereby the latter committed itself to refrain from inciting to hatred, violence and discrimination. Several days later, however, the channel again distributed anti-Semitic views and the CSA started a procedure against it which led to its closure. The organization Reporters Without Borders challenged the decision.<sup>30</sup>

### *Anti-Semitism*

France is home to 600,000 Jews, making it the world's third-largest Jewish community after Israel and the United States. In April 2004, the Anti-Defamation League published a report examining attitudes towards Jews, Israel and the Palestinian-Israeli conflict in ten European countries.<sup>31</sup> With regard to France, the study registered a decline in the numbers of those holding certain traditional anti-Semitic stereotypes from 35% in 2002 to 25% in 2004.

Despite these statistics, incidences of anti-Semitic attacks were a major concern. The Interior Ministry registered 510 attacks on or threats against Jews in the first six months of 2004, compared with 593 during the whole of 2003. In the last three months of 2004, anti-Semitic violence appeared to be on the decline. Offences included firebombing of synagogues and verbal abuse in schools as well as regular instances of desecration of cemeteries and swastika graffiti painted on Jewish property.

According to the Anti-Defamation League study, some 82% of French respondents strongly agreed that it was important for their government to take a role in combating anti-Semitism in the country. The government demonstrated strong mobilization and a readiness to fight against the upsurge of anti-Semitic violence, building policies launched in previous years. An inter-ministerial committee on racism and anti-Semitism was established by decree in December 2003. In 2004, the committee met four times under the chairmanship of the prime minister and with the participation of the ministers of

<sup>28</sup> Loi 2004-575 pour la confiance dans l'économie numérique, 21 June 2004, [www.legifrance.gouv.fr](http://www.legifrance.gouv.fr).

<sup>29</sup> Loi 2004-669 relative aux communications électroniques et aux services de communication audiovisuelle, 9 July 2004, [www.legifrance.gouv.fr](http://www.legifrance.gouv.fr).

<sup>30</sup> Reporters without Borders, "Lebanese satellite TV banned from Eutelsat," 14 December 2004.

<sup>31</sup> Anti-Defamation League, *Attitudes towards Jews, Israel and the Palestinian-Israeli Conflict in Ten European Countries*, April 2004, [www.adl.org](http://www.adl.org).

the interior, justice, foreign affairs, social affairs, education, as well as a representative of the president. Some of the topics discussed were the reinforced protection of cemeteries, the role of the judiciary, and the involvement of cultural institutions.

According to the CNCDH report, schools accounted for one fifth of all acts of anti-Semitism, particularly in areas around Jewish schools and against Jewish students. The role of education in countering the phenomenon was widely discussed. On 13 September, a circular on the combat of racism and anti-Semitism was sent out to schools and educational establishments calling on them to alert the police and the judiciary to cases of threats and violence, to take care of victims, and to introduce policies of prevention and education.<sup>32</sup>

On 29 June, the interior minister commissioned Jean-Christophe Rufin, a writer, doctor and director of humanitarian aid organizations, to study the upsurge of racism and anti-Semitism and to propose measures to combat it. The report was submitted to the interior minister on 19 October, acknowledging that racism and anti-Semitism constituted a threat to the democratic system. Some recommendations were put forward such as the adoption of new legislative texts to curb the expression of racism and anti-Semitism; improved methods of collecting data; and a better penal response.<sup>33</sup>

### *Islamophobia*

The Muslim community in France represents about 7% of the country's 60 million people and is the largest in Europe. In October 2004, the Collective against Islamophobia in France (CCIF), established in 2003 to monitor acts of intolerance and discrimination against Muslims, released a report drawn up by its fifteen members covering the period from October 2003 to August 2004. The organization registered 26 cases of verbal and physical assault on Muslims, 28 cases of vandalism and attempted arson targeting mosques, and 11 cases of desecration of Muslim graves. Four of the attacks on individual Muslims were considered grave, and over 70% were targeted at women wearing the headscarf.<sup>34</sup>

- In April, a series of attacks on Muslim institutions and property was carried out in Strasbourg. In a joint statement, representatives of the Catholic, Protestant and Jewish religions in Alsace expressed indignation over the escalation in aggressive acts against the Muslim community in Strasbourg and expressed their solidarity with the Muslim leaders of the region.<sup>35</sup>

According to the annual report of the CNCDH, 81% of acts of violence were directed against people of Maghrebian origin. An increase of acts implying hostility towards Islam had become a disturbing tendency. The report reached the conclusion that there was confusion between hostility towards immigrants from the Maghreb countries, which was predominant in the 1990s, and hostility towards Islam and towards Muslims, which tends to coalesce with some sensitive issues such as fundamentalism and terrorism.<sup>36</sup>

- On 2 April, Jean-Marie Le Pen, the president of the National Front was sentenced to a penalty of EUR 10,000 by the Correctional Tribunal of Paris for inciting racial hatred with a controversial statement made about Muslims in France in an interview for *Le Monde* in April 2003. In February, the public prosecutor had pleaded for a sentence of two months' suspended imprisonment, one year of ineligibility, and a penalty of EUR 8,000. Le Pen was also ordered to pay EUR 5,000 to the League for Human Rights, which acted as a civil party. On 24

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<sup>32</sup> Circulaire No. 2004-163, 13 September 2004, [www.education.gouv.fr](http://www.education.gouv.fr).

<sup>33</sup> Ibid.

<sup>34</sup> Collective against Islamophobia in France (CCIF), *Rapport d'étape du CCIF sur l'Islamophobie en France 2003/2004*.

<sup>35</sup> AFP, "Violence anti-musulmane à Strasbourg: Juifs et Chrétiens indignés," 30 April 2004.

<sup>36</sup> Posted at [www.commission-droits-homme.fr](http://www.commission-droits-homme.fr).

February 2005, the Paris Appeals Court upheld the decision of the Correctional Tribunal of Paris.

## **Migrants and Asylum Seekers**

According to a study by the UN High Commissioner for Refugees, in 2004 France was the primary receiving country with an estimated 61,600 asylum seekers, or an increase of 3% in comparison with preceding years. During the period 2000-2004, France received 279,200 asylum claims.<sup>37</sup>

The reform of the right of asylum came into effect on 1 January, following the adoption of a new bill in December 2003, which amended the 1952 asylum law. The reform shortened the delays in the asylum procedure and speeded up deportation to countries of origin.

In addition to the conventional type of asylum, defined in the 1951 Geneva Convention relating to the Status of Refugees, for which the French authorities use a restrictive interpretation, France offered territorial asylum. The so-called "RESEDA Law" of 11 May 1998 created the territorial asylum procedure, provided by the Interior Ministry. Unlike conventional asylum, persons applying for territorial asylum do not benefit from social aid and public housing.

The reform established a single procedure for processing applications for conventional asylum and for territorial asylum. Territorial asylum, which had been previously dealt with by the Interior Ministry, came under the French Office for Protection of Refugees and Stateless Persons (OFPRA). OFPRA became the sole authority responsible for processing and deciding on asylum applications, while the Refugee Appeals Committee became the single monitoring jurisdiction.

The French Red Cross and the Interior Ministry have an agreement for a humanitarian assistance mission to deal with foreigners held in transit centers while waiting for a decision on their status (*zone d'attente*).<sup>38</sup> This concerns foreigners in transit who cannot reach their country of destination, people who are not admitted to enter France due to a lack of documents, and asylum seekers at the border. The agreement conferred on the Red Cross the right of permanent access to foreigners in transit centers enabling the organization to extend humanitarian assistance as well as psychological and judicial support.

On 5 March, the Interior Ministry signed an agreement with the Association for Assistance to Foreigners at Borders (ANAFE) allowing it to have access, over a trial period of six months, to foreigners that are not admitted to enter France and are placed in a special area known as *zone d'attente* at the airport Roissy Charles de Gaulle. In November, ANAFE published its report summarizing the conclusions of its six-month mission.<sup>39</sup> The number of asylum seekers placed at Roissy had diminished from 500 in 2002 to 100 in 2004. Nevertheless, the foreigners suffered from a sense of insecurity and psychological distress stemming from their legally uncertain status and the fear of *refoulement*.

Allegations of violence committed by border police and law enforcement officials had been a recurring concern over the years and ANAFE collected testimonies about similar incidents during the period of its access to the *zone d'attente*.<sup>40</sup> There were complaints of physical and verbal violence towards asylum seekers when arriving in France. Most of the registered cases of violence, however,

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<sup>37</sup> UNHCR, "Asylum levels and trends in industrialized countries, 2004," 1 March 2005, [www.unhcr.ch/statistics](http://www.unhcr.ch/statistics).

<sup>38</sup> The agreement was signed on 6 October 2003 for a period of six months.

<sup>39</sup> Association for Assistance to Foreigners at Borders (ANAFE), *La frontière et le droit: la zone d'attente de Roissy sous le regard de l'Anafé – Bilan de six mois d'observation associative (avril – octobre 2004)*, <http://www.anafe.org>.

<sup>40</sup> *Ibid*, pp. 46-50.

occurred when foreigners were taken to the plane to be expelled. ANAFE concluded that those cases were not isolated but were rather indicative of existing structural deficiencies in the expulsion procedure. The cases of forced expulsion were entrusted to a specialized brigade, which had often ignored the foreigners' rights and the specific situation of each individual that was due to leave the country.

A persistent concern was the detention of accompanied and unaccompanied minors. In June, the League for Human Rights presented to the UN Committee of the Rights of the Child an alternative report to the report submitted by the French government. A considerable part of the report focused on child refugees.<sup>41</sup> In November, ANAFE published a report analyzing the situation of minor asylum seekers.<sup>42</sup> In 2003, 514 minors had demanded asylum compared to 628 in 2002 and 1,067 in 2001. In 2004, there was a sequence of several cases when minors were sent back to their country of origin.

- On 27 May, a 12-year-old girl from Haiti was sent to Paris by her father. She spent three days at the *zone d'attente* in the Roissy airport before being returned to Haiti, while her mother was waiting for her at airport.
- On 29 June, a 14-year-old boy from Congo came to join his mother. His passport and visa were in order. In three days, he was sent back to his country.
- On 4 July, a seven-year-old boy from Congo came to join his mother who was herself an asylum-seeker. He was sent back within hours of his arrival.

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<sup>41</sup> Ligue des droits de l'Homme, *Rapport alternatif au rapport présenté par le gouvernement français: Comité des Droits de l'Enfant – juin 2004*.

<sup>42</sup> ANAFE, *La zone des enfants perdus – Mineurs isolés en zone d'attente de Roissy – Analyse de l'Anafé du 1<sup>er</sup> janvier 2004 au 30 septembre 2004*, <http://www.anafe.org>.