

**IHF FOCUS: freedom of expression and the media; anti-terrorism measures; torture, ill-treatment and police misconduct; conditions in prisons and detention facilities; freedom of religion and religious tolerance; racism and xenophobia; migrants, asylum seekers and refugees.**

In October-November, France was affected by the worst civil unrest in decades as a series of riots took place in impoverished suburbs mainly inhabited by people of immigrant origin. The riots were triggered by an incident on 27 October, in which two teenagers of immigrant origin and Muslim descent were electrocuted when trying to hide from police in a power substation in the Paris suburb of Clichy-sous-Bois. In subsequent mass protests, young French of immigrant background and Muslim tradition armed with bricks, baseball bats and Molotov cocktails, clashed with police in Paris and other cities across the country. Within a few weeks, thousands of cars were torched, and businesses, shops, schools, bus stations, police stations and other official buildings were set on fire. In an attempt to stem the violence, the government introduced a state of emergency that authorized police searches without a warrant and allowed local authorities to impose curfews. The events stimulated discussion about a number of pertinent issues, such as lack of equal opportunities for young people of immigrant background in France and ineffectiveness of the French model of integration.

Council of Europe Commissioner for Human Rights Alvaro Gil-Robles conducted a fact-finding mission to France in September. During his mission, the commissioner visited *inter alia* police stations, detention facilities and reception centers for foreigners in different parts of the country.

His report about the visit, which was presented to the Committee of Ministers on 15 February 2006,<sup>1</sup> highlighted the fact that although France generally provided a high level of human rights protection,

there were certain persistent problems such as a gap between law and practice in many areas, work overload of courts, limited access to counsel in police custody, overcrowding and lack of adequate rehabilitation policies in prisons and police brutality, including during the removal of foreigners from the country. The report also noted that many cases brought against France to the European Court of Human Rights (ECtHR) reflected long-standing human rights problems in the country, e.g. the excessive length of legal proceedings.<sup>2</sup>

In February, the European Commission against Racism and Intolerance (ECRI) made public its third periodic report on France, which was adopted in June 2004.<sup>3</sup> ECRI made a number of recommendations to the French authorities, including to sign and ratify Protocol No. 12 to the European Convention on Human Rights (ECHR), which sets out a general prohibition against discrimination; to reinforce the legal framework in civil and administrative law aimed at combating racial discrimination; and to raise awareness among members of the judicial system of such discrimination. ECRI also voiced concern about the status of minority groups, immigrants, and asylum seekers in France and recommended measures to intensify the fight against anti-Semitism and to develop a stronger response to the problem of the exploitation of racism in politics.

In November, the UN Committee against Torture (CAT) adopted concluding observations and recommendations concerning the third periodic report of France under the UN Convention against Torture and Other, Cruel, Inhuman or Degrading Treatment or Punishment.<sup>4</sup> CAT called on France to incorporate into its penal legisla-

\* As reported by Human Rights Without Frontiers (IHF cooperating organization).

tion a definition of torture conforming to article 1 of the UN Convention against Torture, which distinguishes between acts of torture inflicted by, instigated by or committed with the consent of public officials or other persons acting in an official capacity, on one the one hand, and acts of violence perpetrated by any other person, on the other hand.

### Freedom of Expression and Free Media

Freedom of speech and of the press continued to be regulated by the Freedom of the Press Act of 29 July 1881. The provisions of this law remained unchanged despite a 2003 recommendation by the Parliamentary Assembly of the Council of Europe (PACE),<sup>5</sup> which concluded that French media legislation was outdated and contained unduly restrictive provisions.

Moreover, new laws recently adopted in other areas than the media field have imposed further restrictions on freedom of expression and the media. For example, the 2004 Perben law aimed at enhancing the capacity of the judicial system to deal with crime granted police, state prosecutors and examining magistrates wider powers to obtain information from journalists and was considered a major setback in terms of the confidentiality of journalists' sources.<sup>6</sup> In its 2005 annual report, Reporters without Borders observed that the confidentiality of sources was under attack in France because of formal questioning of journalists, legal summonses and raids on journalists' homes and offices,<sup>7</sup> and the organization's 2005 "Worldwide Press Freedom Index" ranked France 30<sup>th</sup> for similar reasons.<sup>8</sup>

◆ In May, three plain-clothes police officers from the Orléans gendarmerie visited the Issoudun bureau of the daily newspaper *Le Berry Républicain* to interrogate several journalists about the sources they had used to report about a murder inves-

tigation. Police also interrogated the person in charge of the newspaper's crime section in his home in Bourges, where the main office of *Le Berry Républicain* is located.<sup>9</sup> No further information about the case was available at the time of writing.

◆ On 12 and 13 October, an examining magistrate in the Paris suburb of Nanterre placed five journalists – three from the weekly *Le Point* and two from the sports daily *L'Equipe* – under investigation in a case concerning alleged violation of the confidentiality of a criminal investigation. The case was opened by the Nanterre prosecutor's office in 2004 after *Le Point* published detailed transcripts from tapped telephone conversations ordered by a judge in an investigation into a doping scandal involving the Cofidis cycle team and *L'Equipe* published lengthy extracts of interrogations with several Cofidis bikers. The offices of the two newspapers were searched in January 2005.<sup>10</sup>

◆ On 17 November, journalist Roberto Cristofoli from the daily *Le Parisien* was placed under investigation for "misuse of an object owned by a public authority for the purposes of work" and for "collusion in violation of professional confidentiality." He was subsequently released from custody but put on probation. A police officer, who had allegedly provided the journalist with a device used by security forces to listen to encrypted police radio frequencies, was also taken into custody.<sup>11</sup> At the end of the year, the outcome of the case was unclear.

### Anti-Terrorism Measures

In late 2005, a new anti-terrorism bill was adopted in an urgent procedure. The National Assembly passed the bill in its first reading in November and the Senate gave it its final backing in December.<sup>12</sup> The new law provided for increased video surveillance of public places, including airports and places of worship; granted po-

lice broader powers to question terrorist suspects and access internet and telephone records; and obliged internet providers and internet cafes to store and make available to police connection records of their customers.

The bill was criticized by both public institutions and civil society groups. When Interior Minister Nicolas Sarkozy presented the draft to the Council of Ministers in October, the National Commission of Information and Freedoms (CNIL), an independent administrative agency, demanded that implementation of the measures envisioned in it be limited to a period of three years and that they be precisely formulated to guarantee respect for individual freedoms.<sup>15</sup> Moreover, in a report submitted to the prime minister on 15 December, the National Consultative Committee on Human Rights (CNCDH), a public institution established in 1947, expressed concern with those provisions of the bill that were related to surveillance and retention of personal data and criticized the fact that the bill expanded the powers of the authorities to intrude into the private life of individuals.<sup>14</sup>

At a joint press conference organized on 21 November, the League for Human Rights (LDH), the Magistrate Syndicate (SM), the Syndicate of Lawyers in France (SAF), the Association of Rights and Freedoms in an Information Society (DELIS) and other NGOs denounced the draft. The organizations noted that the bill was the last of a number of anti-terrorism measures adopted since 2001 that have served to restrict human rights and judicial guarantees and expressed concern that the proposed measures were not commensurate to the objectives pursued.

### **Torture, Ill-Treatment and Police Misconduct**

In a positive step, France signed the Optional Protocol to the UN Convention

against Torture on 16 September. This protocol envisages regular inspections of places of detention within a two-tier system of control on both international and national levels.

In his report on his September visit to France, the Council of Europe Commissioner for Human Rights Gil-Robles pointed to an increase in cases of police brutality, and mentioned as examples cases of violence and rape involving police officers from the Saint Denis police station.<sup>15</sup>

The concluding observations and recommendations on the third periodic report of France adopted by CAT also dealt at length with the issue of torture and violence perpetrated by people in their official capacity.<sup>16</sup> CAT expressed concern about legislative changes introduced by the 2004 Perben law, which provide that access to a lawyer is only allowed as of the 72<sup>nd</sup> hour of arrest in cases that fall under a special procedure related to organized crime.<sup>17</sup> CAT noted that detainees are at particular risk of torture and ill-treatment during the first hours after arrest and recommended that detainees be granted immediate access to a lawyer from the outset of their arrest.<sup>18</sup>

In an alternative report submitted to CAT, *Action des Chrétien pour l'abolition de la torture* (Acat) France criticized attempts of the government to downplay the seriousness of acts of torture and ill-treatment committed by law enforcement officials. It also argued that deficiencies in legislation and practice were major reasons behind the occurrence of abuse. It highlighted, *inter alia*, legislative provisions that allow for prolonged periods of detention in police custody (*garde à vue*), inadequate training of law enforcement officials, lack of effective control over places of detention and malfunctioning of institutions charged with preventing torture and ill-treatment such as magistrates, prefects, doctors and inspectors. It further emphasized that there

was a lack of mechanisms to investigate allegations of torture and ill-treatment quickly and effectively, which resulted in impunity for law enforcement officials.<sup>19</sup>

In its annual report published in April, the National Commission on Police Ethics (CNDS), an independent administrative agency, reported an increase in the number of cases where people of foreign origin were the targets of arbitrary identity checks, ill-treatment and abuse of power on the part of police and law enforcement officials.<sup>20</sup>

A book published in September by Alex Ursulet, a lawyer from Martinique who was reportedly subject to arbitrary arrest and abuse by police at the beginning of the year,<sup>21</sup> highlighted that victims of ill-treatment by law enforcement officials were often not aware of their rights and therefore did not file complaints about such treatment. The book also noted that, on average, seven out of ten complaints were rejected as unfounded.<sup>22</sup>

### Conditions in Prisons and Detention Facilities

During his September visit to France, the Council of Europe commissioner for human rights visited seven prisons across the country.<sup>23</sup> In his mission report, the Commissioner discussed the country's prison system at length, and emphasized that overcrowding and lack of sufficient operating resources were the main problems.<sup>24</sup>

In December, the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment (CPT) made public a report about its December 2004 fact-finding mission to France, during which it visited the administrative region (*département*) of La Réunion.<sup>25</sup> The CPT undertook the mission in response to reports about overcrowding and other problems in the prisons of the region. However, during the course of the visit, the CPT also examined the treat-

ment of persons placed in police custody in La Réunion, paying particular attention to the implementation of ministry of interior instructions on safeguarding the dignity and rights of persons placed in police custody. The CPT report recommended the French government, *inter alia*, to introduce a strategy aimed at reducing overcrowding in prisons and to take steps to stem the occurrence of violence among inmates. NGOs later expressed concern that no effective measures were taken in response to the criticism voiced by the CPT.<sup>26</sup>

As of 1 December, 59, 241 people were incarcerated in the country, which represented 115.7% of the detention capacity. In the wake of the suburban riots of October-November, the number of minors held in prisons and detention centers increased – from 637 on 1 November to 808 in mid-December. At the end of the year, minors represented 1.4% of those incarcerated.<sup>27</sup>

◆ In January, the ECtHR found France in violation of ECHR in the case of *Ramirez Sanchez v. France*. The applicant, better known as “Carlos the Jackal”, was held in solitary confinement for a total period of eight years and two months. The authorities sought to justify his prolonged period of detention in solitary confinement by referring to his dangerousness, the need to maintain order and security in the prison where he was detained and the risk that he may abscond. They also argued that medical examinations had been carried out to determine his fitness for solitary confinement on each occasion that the detention period was extended. The applicant alleged that his prolonged solitary confinement violated article 3 (prohibition of inhuman and degrading treatment) of the ECHR. He also alleged that the authorities did not follow the correct procedure for extending his solitary confinement, in breach of convention article 13 (right to an

effective remedy). In its judgment of 27 January 2005, the court held by four votes to three that there had been no violation of article 3 and unanimously held that there had been a violation of article 13 of the convention.<sup>28</sup> The applicant requested that the case be referred to the Grand Chamber under ECHR article 43 (referral to the Grand Chamber) and on 6 June 2005 the panel of the Grand Chamber accepted that request.<sup>29</sup> The Grand Chamber hearing was held on 25 January 2006, but as of this writing its judgement was still pending.

### 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.

The controversial law banning the wearing of conspicuous religious symbols in public schools, which entered into force as of September 2004, was implemented for the second school year.<sup>30</sup> In September 2005, the Ministry of Education reported that only 12 students showed up with distinctive religious signs in the first week of classes, compared to 639 in the preceding year. A number of students opted for distance-learning classes.

The law contains a provision requiring that the ban be reviewed after being in effect for one year. The chairman of the parliamentary law committee was entrusted with the task of writing a report on this issue by the end of 2005. However, as of this writing, no evaluation had been made public.

A July report prepared by the general inspector of the Ministry of Education<sup>31</sup> concluded that the law on conspicuous religious symbols had eased tensions at state schools and reconfirmed the separation of church and state as a fundamental

rule. This positive assessment of the law was challenged by the pro-veil group *Une école pour tous* ("One school for all"). On the basis of extrapolation, this group estimated that about 800 students had chosen not to show up in school rather than to remove their religious clothing after the entry into force of the new law.<sup>32</sup>

In a statement issued following her September visit to France, the UN Special Rapporteur on Freedom of Religion or Belief Asma Jahangir expressed the opinion that the law on conspicuous religious symbols had a positive element in that it could protect female children from gender-based discrimination. She expressed concern, however, that the law violated the rights of those teenagers who had freely chosen to wear a religious symbol as part of their religious beliefs. She also expressed concerns about the lack of an adequate analysis of the direct and indirect long-term consequences of the law.<sup>33</sup>

◆ In April, an administrative court in Melun in the outskirts of Paris upheld a decision by a school to expel three Sikh boys for wearing turbans (*keshis*) to school. In the autumn of 2004, the boys, aged 15-18, were separated from the rest of their class after refusing to remove their turbans. They appealed against the segregation, but a French administrative court referred the matter back to the school for further mediation. The failure to reach a compromise with school authorities resulted in the boys' expulsion from the school.<sup>34</sup>

◆ In January, the ECtHR declared inadmissible a case brought under article 9 (freedom of thought, conscience and religion) of the ECHR. The complaint was filed by a practicing Sikh, who was obliged to remove his turban when going through the security screen at the Strasbourg - Entzheim Airport. The court held that the measure had the legitimate aim of ensuring "public safety" and that the arrange-

ments for achieving this aim fell within the state's margin of appreciation.<sup>35</sup>

### Minority Religions

The About-Picard Law,<sup>36</sup> which entered into force in June 2001 and has been repeatedly criticized by international organizations,<sup>37</sup> remained effective. Likewise, the Inter-Ministerial Mission of Vigilance and Fight against Sectarian Deviations (MIVILUDES) remained in place and continued to carry out monitoring work. On 27 May 2005, the then prime minister, Jean-Pierre Raffarin, issued a circular condemning the practice of blacklisting religious movements, a move that complemented a previous court decision declaring the list of "sects" included in a 1996 parliamentary report to be without legal value.

Summarizing her impressions from her September visit to France, the UN Special Rapporteur on Freedom of Religion or Belief Asma Jahangir noted that the different measures that were taken to combat sects during the second half of the 1990s, including the parliamentary list and efforts to raise awareness about sects, had undermined the right to freedom of religion or belief. She welcomed measures taken to redress the situation, in particular the May 2005 circular mentioned above, and commended the balanced approach adopted by MIVILUDES.<sup>38</sup>

In an unexpected move, a member of the MIVILUDES Council of Advisors – Nathalie Lucca – resigned in December. Lucca, researcher at the Centre for Interdisciplinary Studies of Religious Issues of the School of Advanced Studies in Social Science in Paris, was the only member of the council with academic expertise on new religious movements. In a letter of 16 November, she explained her decision to resign from the post with her refusal to be associated with "a foreseeable hardening of the position of MIVILUDES."<sup>39</sup>

◆ In December, the ECtHR unanimously held that there had been a violation of ar-

ticle 10 of the ECHR (freedom of expression) in the case of *Paturel v. France*.<sup>40</sup> In 1996 a book written by the applicant, entitled *Sectes, Religions et Libertés Publiques* ("Sects, Religions and Public Freedoms"), was published at his own expense by the company "*La pensée universelle*." The book criticized the practices of private anti-sect movements that received public funding, in particular the *Union nationale des associations de défense de la famille et de l'individu* ("the UNADFI", the 'National Union of Associations for the Protection of the Family and the Individual'). The UNADFI subsequently lodged a complaint about defamation against the applicant and his publisher, and in a judgment of 25 March 1997, the Paris Criminal Court found both of them guilty of defamation. This judgment was upheld by the Paris Court of Appeal and the Court of Cassation. The applicant brought the case to the ECtHR alleging that his criminal conviction had entailed breaches of articles 9 (freedom of thought, conscience and religion) and 10 of the convention. The court, however, examined the case solely under article 10.

There were a total of one million Protestants in France, and about one third of these were Evangelical. Throughout the year, Evangelical churches were the targets of harassment by local authorities.

◆ In February, the mayor of Montreuil (Seine-Saint-Denis/Paris) interrupted a religious service of the Evangelical Le Rocher congregation, most of whose members are of African origin, for about half an hour. The service was attended by about 250 people. The official reason for the interruption was to check the fire system of the building and to investigate complaints about noise made by neighbors. At a press conference, the president of the Protestant Federation of France (PFF), pastor Jean Arnold de Clermont, described the event as "extremely serious."<sup>41</sup>

## Racism, Xenophobia and Anti-Semitism

### Legislation and Overall Trends

The 1990 Gaysot Law criminalized acts of racism, anti-Semitism and xenophobia,<sup>42</sup> while the 2003 Lellouche law increased penalties for such offences.<sup>43</sup> There were several public institutions charged with tasks related to the prevention or combat of discrimination, and a new one was created during the year. Thus, in February, the Center for Studies on Discrimination, Racism and Anti-Semitism (CEDRA) was established with the purpose of serving as a national focal point for the European Monitoring Centre on Racism and Xenophobia (EUMC) and other EU institutions working on these issues. The High Authority to Fight Discrimination and Promote Equality (HALDE), which was established in 2004, continued to receive and investigate complaints about discrimination. From April to December 2005, HALDE received 900 complaints, half of which concerned discrimination.<sup>44</sup>

On 21 March, the National Consultative Commission on Human Rights (CNCDH), a body established by the prime minister that is composed of governmental and non-governmental representatives, presented its annual report on acts of racism and anti-Semitism in 2004. According to the report, a total of 1,565 racist and anti-Semitic were reported in 2004, compared to 833 in 2003 and 1,313 in 2002. The report outlined several disturbing tendencies such as a rise in racist and anti-Semitic violence targeted at both people and property, growing problems of racism and anti-Semitism at schools, new cases of profanation of religious sites and cemeteries as well as increased involvement of the extreme right in racist and anti-Semitic attacks.<sup>45</sup>

According to figures released by the National Police (DGPN), a total of 974 racist and anti-Semitic acts were recorded

by the police in France in 2005, more than one third less than in 2004. Above all, anti-Semitic violence had declined from the previous year: 504 such incidents were registered compared to 974 in 2004.<sup>46</sup> Moreover, justice ministry statistics published in March 2006 indicated that the number of convictions handed down for racist and anti-Semitic offences increased by 30% from 2004 to 2005, or from 303 to 434. Justice Minister Pascal Clément argued that this development reflected an improvement in the capacity of the judicial system to deal with such offences. Out of a total of 3,683 complaints about racist and anti-religious offences filed in 2005, 354 cases resulted in prosecution and another 53 in judicial inquiries, while alternative measures were taken in 320 cases.<sup>47</sup>

In its third periodic report on France, ECRI expressed concern about racism and intolerance in public places and highlighted several indicators of a possible risk of escalation. The first indicator noted by ECRI was the rise of anti-Semitism in schools, including in primary schools. A second indicator was the proliferation of racist attitudes towards Roma and Travelers. Thirdly, the report pointed to negative public attitudes towards Muslims.

In July, SOS-Racism carried out so-called testing in over 80 night clubs in 20 cities across the country over a period of several successive nights. More than 40 of the targeted clubs were found to discriminate against people of African and Maghrebian origin, while racial verbal harassment occurred at one of the clubs.

◆ On 29 September, the Correctional Tribunal of Lyon fined Aubin Bakala and Jean Félix Vercesi EUR 800 and EUR 1,500 respectively. Both worked at a night club as "face controllers." On 15 August 2004, the two men refused access to two young people on grounds of their origin. The court ordered that its judgment be displayed on the club's front door for one month.



Racially motivated discrimination was particularly widespread in the area of housing, but no systematic measures were taken to address this problem.

◆ On 4 July, the director of a real estate agency based in Toulouse was given a eight month suspended prison term and ordered to pay EUR 8,000 for complying with the request of 250 of his clients to only rent their houses to “PE” (*“pas d’étrangers”, “no foreigners”*). The real estate agency was also temporarily closed down on order by the court.

The year saw a series of fires in hotels and hostels, where families of immigrant origin lived in precarious housing conditions. Twenty-four Africans died in a fire at the Opera hotel in Paris on 28 April.

### **Anti-Semitism**

France was home to 600,000 Jews, the world’s third largest Jewish community after the ones in Israel and the United States.

In May, the Anti-Defamation League published a report examining attitudes towards Jews in 12 European countries. With regard to France, 38% of the respondents indicated that they held negative attitudes toward Jews.<sup>48</sup>

In its 2004 report, CNCDDH outlined several disturbing tendencies related to anti-Semitism. First, the acts of anti-Semitism were on the rise. Second, anti-Semitic acts constituted the majority of all racist acts registered in 2004, although Jews constitute only 1% of the entire population. Third, acts of anti-Semitism were often characterized by severe violence.<sup>49</sup>

According to the government, a number of measures taken to combat anti-Semitism in 2004 – including the allocation of EUR 3 million to reinforce security in a number of religious sites and the expulsion of 21 imams who had engaged in anti-Semitic rhetoric<sup>50</sup> – contributed to a decrease in anti-Semitic acts in 2005 (see

the section above). However, the International League against Racism and Anti-Semitism (LICRA) questioned the claims of the government that there had been a considerable decrease in anti-Semitism.<sup>51</sup>

◆ In March, two homemade bombs were thrown at a Jewish-owned pastry shop in the Paris suburb of Sarcelles. The explosion caused limited damage. No further information about the case is available.

◆ On 14 July, the French national holiday, a Molotov cocktail was thrown at the entrance of a synagogue in Stains, near Paris. The attack coincided with other disturbances in the Paris area.<sup>52</sup> It is not known whether any perpetrator was found.

In December, LICRA established a new commission to offer psychological help to victims of racism and anti-Semitism. This commission will help victims find therapies corresponding to their needs.<sup>53</sup>

### **Negative Sentiments toward Roma, Sinti and Travelers**

A report on the situation of Roma, Sinti and Travelers in Europe published by Council of Europe Commissioner for Human Rights Alvaro Gil-Robles in 2005 covered France among other countries.<sup>54</sup> The report drew attention to cases of violent evictions of Roma families under the 2003 law on internal security, which allows evictions to be carried out without a court decision.<sup>55</sup> The same law establishes a punishment of six months’ imprisonment and a fine of EUR 3,750, as well as confiscation of the vehicle and suspension of the driving license, for illegal parking or encampment. The commissioner found the level of sanctions “disproportionately high,” especially in view of the fact that most municipalities have failed to fulfill their obligation under a 2000 law to provide camping sites for Travelers.<sup>56</sup>

At the end of the year, the European Roma Rights Centre (ERRC) released a



comprehensive report on the situation of Gypsies, Travelers and Romani migrants in France.<sup>57</sup> The ERRC research indicated that Gypsies, Travelers and Roma residing in France frequently were discriminated against and experienced violations of their fundamental rights. According to the report, members of these communities typically lived in slum like conditions, were highly vulnerable to eviction, and were forced to frequently change place of residence. The report also noted that Gypsies, Travelers and Roma were subjected to various forms of violence and abuse.

Expressions of anti-Roma sentiments were a regular and widespread feature of French public life, and such statements were often made by French politicians and local officials.

### *Islamophobia*

The Muslim community of France represented 7% of the country's 60 million inhabitants and was the largest Muslim community in Europe.

ECRI's third periodic report on France noted that xenophobia targeted against Muslims was on the rise,<sup>58</sup> and CNCDH pointed out that 81% of all violent racist acts that were reported in 2004 were targeted at people of Maghrebian or Muslim origin.<sup>59</sup>

◆ On 11 November, two Molotov cocktails were thrown into the mosque of Carpentras causing fire and damages. The Muslim community in Carpentras, a town of 30,000 inhabitants, originates mainly from Morocco. The president, prime minister and interior minister immediately condemned the act.

◆ On 24 February, the Paris Appeals Court upheld a 2004 ruling of the Correctional Tribunal of Paris, which imposed a penalty of EUR 10,000 on extreme-right National Front President Jean-Marie Le Pen for inciting racial hatred. In April 2003, Le Pen made a controversial statement about

Muslims in France in an interview for *Le Monde*. Le Pen was also ordered to pay EUR 5,000 to the League for Human Rights, which acted as civil party.

### *Hate Speech*

Article 245 (2) of the Act on Freedom of the Press provides for penalties for those who incite hatred or violence against a person or a group of persons in media and article 24a of the 1990 Gaysot law prohibits the expression in public of opinions denying crimes against humanity and qualifies negation as a criminal offence.

◆ In September, a trial against Bruno Gollnisch, secretary general of the National Front and member of the European Parliament, began at the Correctional Tribunal of Lyon. He faced charges under article 24a of the 1990 Law. In October 2004, in his capacity as lecturer at the University of Jean-Moulin Lyon III in Lyon, Gollnisch questioned the existence of gas chambers and the death toll of the Holocaust. The proceedings against Gollnisch were facilitated by a decision of the European Parliament not to defend the immunity and privileges of Gollnisch as a member of the assembly.<sup>60</sup> The court proceedings, in which the NGO SOS-Racism acted as a civil party, were ongoing at the end of the year. Already in March a university disciplinary commission suspended Gollnisch's university activities for a period of five years

◆ In January, National Front president Jean Marie Le Pen made statements in the extreme-right journal *Rivarol* downplaying the Nazi occupation of France during World War II. His comments, which were made at a time when the country was commemorating the liberation of the concentration camps of the Nazi regime, caused indignant reactions from civil organizations and Jewish groups. Justice Minister Dominique Perben asked prosecutors

to open a preliminary inquiry into the comments. At the end of the year, no further information about this investigation was available.

The dissemination of racist views via internet and satellite television has been a growing problem in the last few years. A law adopted in 2004 granted authorities access to servers of internet providers and site hosts and obliged providers to cooperate with authorities to combat incitement to racial hatred.<sup>61</sup> Under the law, a judge can order the closure of internet sites containing racist material or prevent access to such sites.

◆ In July, on the order of a judge, access to the internet site "Aaargh" was blocked because it disseminated anti-Semitic material.

◆ In July, the Correctional Tribunal of Vannes sentenced a 21-year-old manager of an internet site to six months suspended imprisonment with a probation period of three years for inciting hatred and racial discrimination through the distribution of the music of a neo-Nazi group. A second person was found to have acted as accomplice and was ordered to pay a penalty of EUR 800. In addition, both defendants were ordered to pay a total of EUR 1,800 to the NGOs the League for Human Rights, MRAP, ACPEA and SOS-Racism, which acted as civil parties in the case.

## Migrants, Asylum Seekers and Refugees

### *Immigration and Integration Policies*

The suburban riots in October-November attracted attention to problems experienced by people of immigration background in France. Lack of equal opportunities, widespread unemployment and discrimination were considered to be primary root causes of the violent protests. While the unemployment among people of French origin was 9%, it was 14% among

those of foreign origin, and as high as 27% among university graduates of North African origin.

In the aftermath of the disturbances, Interior Minister Nicolas Sarkozy launched the idea of positive discrimination established by law.<sup>62</sup> The idea was, however, rejected by the High Council for Integration, an independent body composed of 16 people representing different professions who had been entrusted with advising the prime minister on issues related to the integration of foreigners residing in France as well as of citizens of foreign origin.<sup>63</sup> In a report submitted to Prime Minister Dominique de Villepin on 24 November, the High Council spoke out against ethnically and community-based (*communautariste*) strategies to combat inequality, thus implicitly criticizing the interior minister's idea.<sup>64</sup> The report recommended the creation of a special institution in charge of integration policies.

At a press conference in December, Prime Minister Dominique de Villepin announced plans to make equal opportunities "a grand national cause" in 2006, and singled out employment and education as priority areas for efforts to combat discrimination.<sup>65</sup> He also outlined concrete actions, notably legalization of so-called testing as a mechanism for proving the occurrence or non-occurrence of discrimination. Moreover, in early January 2006, a draft law on equal opportunities was submitted to the National Assembly. Major proposals of the draft included creating favorable conditions for employment of young residents of "sensitive" urban areas ("*zones urbaines sensibles*"), establishing a National Agency for Social Cohesion and Equal Opportunities, empowering HALDE to impose administrative sanctions and enhancing efforts to fight discrimination in media.<sup>66</sup>

Already prior to the riots, the NGO SOS-Racism launched a campaign to call on private enterprises as well as the Natio-

nal Agency for Employment (ANPE) to introduce anonymous CVs in the process of recruitment, thereby preventing discrimination on the basis of origin.

In June, Azouz Begag, a well-known writer of Algerian immigrant origin with a distinguished career as a novelist, sociologist, screenplay writer and political commentator, was appointed minister for equal opportunities in the government.

During the year, discussions about ways of controlling and restricting immigration also gained momentum. Measures were *inter alia* considered to restrict family reunification and to change current practice so that spouses of residents who had married abroad would no longer have an automatic right to obtain temporary residence permits. A draft immigration law put forward by the interior minister in December introduced the concept of "selective immigration," according to which immigration of persons meeting certain requirements – e.g. in terms of education – would be given priority.

### *Asylum Seekers*

New asylum regulations that entered into force in 2004 shortened the asylum procedure and established a single procedure for processing different forms of applications. The French Office for Protection of Refugees and Stateless Persons (OFPRA) was entrusted with processing and determining asylum applications, while the Refugee Appeals Committee was granted powers to review such decisions. The pro-

cess of deporting rejected asylum seekers to their countries of origin was speeded up.

In its concluding observations on the third periodic submitted by France, CAT expressed concern about the procedure in which decisions on non-admission and expulsion are made.

◆ On 18 September, border police sought to place Guy Effeye, a 19-year-old student without official documents, on a plane that would take him back to Cameroon, his country of origin. Effeye, however, refused to board the plane and was arrested and placed in custody. Students and teachers signed petitions to call for his release as well as a reversal of the decision to expel him, and on 19 September, the tribunal of Bobigny of Seine-Saint-Denis ordered his release and annulled the expulsion order on humanitarian grounds.<sup>67</sup>

◆ In October, the *préfecture* of Paris cancelled an order to expel a 24-year-old handicapped Cameroon athlete, Joseph, after the case was largely debated in the media. Joseph, who has been paralyzed in his legs since the age of six, arrived in France in the year 2000 and resided in the country on the basis of a temporary residence permit, which was not renewed after its expiry in January 2005. He had competed with success in his field in France – he became French vice-champion in 2002 and champion in 2003 – and was supported by the French Handisport Federation.

### Endnotes

<sup>1</sup> Report by Mr Alvaro Gil-Robles, Council of Europe Commissioner for Human Rights, on the effective respect for human rights in France, CommDH(2006)2, 15 February 2006, at [www.coe.int/t/E/Commissioner\\_H.R/Communication\\_Unit/CommDH%282006%291\\_E.doc](http://www.coe.int/t/E/Commissioner_H.R/Communication_Unit/CommDH%282006%291_E.doc).

<sup>2</sup> The most recent cases in which the ECtHR has criticized lengthy legal proceedings in France are: the Kress judgment 7/6/2001 (application no. 39594/98), the Zannouti

- judgment 31/7/2001 (application no. 42211/98), the Malve judgment 31/7/2001 (application no. 46051/99), the Laidin judgment (No. 2) 7/1/2003 (application no. 39282/98), and the Benmeziene judgment 3/6/2003 (application no. 51803/99).
- <sup>3</sup> ECRI, *Third Periodic Report on France*, CRI (2005)3, at [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).
  - <sup>4</sup> *France's Third Periodic Report* (CAT/C/34/Add.19); Committee against Torture, *Concluding Observations and Recommendations on France's Third Periodic Report*, CAT/C/FRA/CO/3/CRP.1, 24 November 2005, at [www.ohchr.org/english/bodies/cat/docs/CAT\\_C\\_FRA\\_CO\\_3\\_CRP.1.doc](http://www.ohchr.org/english/bodies/cat/docs/CAT_C_FRA_CO_3_CRP.1.doc).
  - <sup>5</sup> PACE Recommendation 1589 (2003) on "Freedom of expression in the media in Europe," adopted on 28 January 2003, at <http://assembly.coe.int/Main.asp?link=http://assembly.coe.int/Documents/AdoptedText/ta03/EREC1589.htm>.
  - <sup>6</sup> For more information about this law see the chapter on France in IHF, *Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2005 (Events of 2004)*, at [www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4057](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4057).
  - <sup>7</sup> Reporters Without Borders (RSF), *Annual Report 2005*, at [www.rsfor.org](http://www.rsfor.org).
  - <sup>8</sup> RSF, "Western democracies lose ground: the US falls more than 20 places, Worldwide Press Freedom Index 2005."
  - <sup>9</sup> RSF, "Police challenge to confidentiality of sources on World Press Freedom Day," 4 May 2005.
  - <sup>10</sup> RSF, "Police searches at Le Point and l'Equipe are a new violation of protection of sources," 14 January 2005; "Alarm as five journalists put under investigation in cycle team doping case," 13 October 2005.
  - <sup>11</sup> RSF, "Le Parisien journalist released but under investigation," 18 November 2005.
  - <sup>12</sup> *Projet de loi relative à la lutte contre le terrorisme et pourtant dispositions diverses relatives à la sécurité et aux contrôle frontaliers*, at [www.assemblee-nationale.fr/12/ta/ta0526.asp](http://www.assemblee-nationale.fr/12/ta/ta0526.asp).
  - <sup>13</sup> Commission Nationale de l'informatique et des libertés (CNIL) was established by law No. 78-17 of 6 January 1978 on information, data files and freedoms. For more information, see [www.cnil.fr](http://www.cnil.fr).
  - <sup>14</sup> CNCDH (Commission Nationale Consultative des Droits de l'Homme), *Note sur le projet de loi relative à la lutte contre le terrorisme et pourtant dispositions diverses relatives à la sécurité et aux contrôle frontaliers*, 15 December 2005, at [www.commission-droits-homme.fr/binInfoGeneFr/affichageDepeche.cfm?ildDepeche=193](http://www.commission-droits-homme.fr/binInfoGeneFr/affichageDepeche.cfm?ildDepeche=193).
  - <sup>15</sup> *Report by Mr Alvaro Gil-Robles, Council of Europe Commissioner for Human Rights, on the effective respect for human rights in France*, CommDH(2006)2, 15 February 2006, p. 45, at [www.coe.int/t/E/Commissioner\\_H.R/Communication\\_Unit/CommDH%282006%291\\_E.doc](http://www.coe.int/t/E/Commissioner_H.R/Communication_Unit/CommDH%282006%291_E.doc).
  - <sup>16</sup> Committee against Torture, *Concluding Observations and Recommendations on France's Third Periodic Report*, CAT/C/FRA/CO/3/CRP.1, 24 November 2005, at [www.ohchr.org/english/bodies/cat/docs/CAT\\_C\\_FRA\\_CO\\_3\\_CRP.1.doc](http://www.ohchr.org/english/bodies/cat/docs/CAT_C_FRA_CO_3_CRP.1.doc).
  - <sup>17</sup> Section 3, *Loi no. 2004-204 portant adaptation de la justice aux évolution de la criminalité*, 9 March 2004.
  - <sup>18</sup> Committee against Torture, *Concluding Observations and Recommendations on France's Third Periodic Report*, CAT/C/FRA/CO/3/CRP.1, paragraph 16, 24 November 2005, at [www.ohchr.org/english/bodies/cat/docs/CAT\\_C\\_FRA\\_CO\\_3\\_CRP.1.doc](http://www.ohchr.org/english/bodies/cat/docs/CAT_C_FRA_CO_3_CRP.1.doc).
  - <sup>19</sup> ACAT, *Alternative Report*, posted at [http://prison.eu.org/article.php3?id\\_article=7374](http://prison.eu.org/article.php3?id_article=7374).
  - <sup>20</sup> Commission Nationale de Déontologie de la Sécurité (CNDS), *Annual Report*, at

- www.cnds.fr. The commission, which was established by Law 2000-494 of 6 June 2000, has been charged with monitoring adherence to the professional code of ethics by police and other law enforcement officials.
- <sup>21</sup> The case is included in the Amnesty International report *France: The search for justice*, AI Index: EUR 21/001/2005, April 2005, at [www.amnesty.org](http://www.amnesty.org).
- <sup>22</sup> Alex Ursulet, *Pourquoi me tutoyez-vous?*, Flammarion, 2005.
- <sup>23</sup> He visited the following institutions: Les Baumettes in Marseille, Le Pontet in Avignon, La Santé short stay prison (*maison d'arrêt*) in Paris, Fleury-Mérogis short stay prison in the Paris region, Lannemezan prison in the Hautes-Pyrénées, Casabianda prison in Corsica and Elsau short stay prison in Strasbourg.
- <sup>24</sup> *Report by Mr Alvaro Gil-Robles, Council of Europe Commissioner for Human Rights, on the effective respect for human rights in France*, CommDH(2006)2, 15 February 2006, pp. 20-41, at [www.coe.int/t/E/Commissioner\\_H.R/Communication\\_Unit/CommDH%282006%291\\_E.doc](http://www.coe.int/t/E/Commissioner_H.R/Communication_Unit/CommDH%282006%291_E.doc).
- <sup>25</sup> CPT's report and the French government response are available at [www.cpt.coe.int/en/states/fra.htm](http://www.cpt.coe.int/en/states/fra.htm).
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- <sup>27</sup> Statistics published by Ban Public at [http://prison.eu.org/article.php3?id\\_article=7513](http://prison.eu.org/article.php3?id_article=7513).
- <sup>28</sup> Information about *Ramirez Sanchez v. France* (No. 59450/00), included in Information Note No. 71 on the case-law of the ECtHR, January 2005.
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- <sup>30</sup> Loi 2004-208, published in *Journal Officiel*, 17 March 2004.
- <sup>31</sup> *Application de la loi du 14 mars 2004*, report by Hanifa Chérifi to the Minister of Education, July 2005. The text can be found at [www.communautarisme.net](http://www.communautarisme.net).
- <sup>32</sup> *Reuters*, 15 March 2005.
- <sup>33</sup> *United Nations*, press release, 29 September 2005.
- <sup>34</sup> BBC News, "Sikh schoolboys lose French case," 20 April 2005, at <http://news.bbc.co.uk/2/hi/europe/4461905.stm>.
- <sup>35</sup> Information on the case of *Phull v. France* (No. 35753/03) included in Information Note No. 71 on the case-law of the ECtHR, January 2005.
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- <sup>37</sup> See, for example, Parliamentary Assembly of the Council of Europe, *Resolution 1309/2002*, at <http://assembly.coe.int>.
- <sup>38</sup> *United Nations*, press release, 29 September 2005.
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- <sup>42</sup> *Loi No. 90-615 tendant à réprimer tout acte raciste, antisémite ou xenophobe* (Law 90-615 on the suppression of all acts of racism, anti-Semitism and xenophobia), text at [www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=JUSX9010223L](http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=JUSX9010223L).
- <sup>43</sup> *Loi No. 2003-88 visant à aggraver les peines punissant les infractions à caractère raciste, antisémite ou xénophobe* (Law 2003-88 on the strengthening of the punishment

- of offences of racist, anti-Semitic and xenophobic nature), at [www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=JUSX0206165L](http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=JUSX0206165L).
- <sup>44</sup> Figures posted at the government's official site, [www.premier-ministre.gouv.fr/chantiers/racisme-antisemitisme\\_623/](http://www.premier-ministre.gouv.fr/chantiers/racisme-antisemitisme_623/).
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- <sup>49</sup> CNCDH (Commission Nationale Consultative des Droits de l'Homme), *Note sur le projet de loi relative à la lutte contre le terrorisme et pourtant dispositions diverses relatives à la sécurité et aux contrôle frontaliers*, 15 December 2005, at [www.commission-droits-homme.fr/binInfoGeneFr/affichageDepeche.cfm?ildDepeche=193](http://www.commission-droits-homme.fr/binInfoGeneFr/affichageDepeche.cfm?ildDepeche=193).
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- <sup>56</sup> Law No. 2000-614 of 5 July 2000.
- <sup>57</sup> European Roma Rights Centre, "Always Somewhere Else: Anti-Gypsyism in France", at [www.errc.Countryrep\\_index.php](http://www.errc.Countryrep_index.php).
- <sup>58</sup> ECRI, *Third Periodic report on France*, CRI (2005)3, at [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).
- <sup>59</sup> CNCDH (Commission Nationale Consultative des Droits de l'Homme), *Note sur le projet de loi relative à la lutte contre le terrorisme et pourtant dispositions diverses relatives à la sécurité et aux contrôle frontaliers*, 15 December 2005, at [www.commission-droits-homme.fr/binInfoGeneFr/affichageDepeche.cfm?ildDepeche=193](http://www.commission-droits-homme.fr/binInfoGeneFr/affichageDepeche.cfm?ildDepeche=193).
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- <sup>61</sup> *Loi 2004-575 pour la confiance dans l'économie numérique*, 21 June 2004, [www.legifrance.gouv.fr](http://www.legifrance.gouv.fr).

- <sup>62</sup> Nicolas Sarkozy, "L'égalité réelle des chances passé par la discrimination positive," *Le Figaro*, 25 November 2005.
- <sup>63</sup> More information about the Haut Conseil à l'intégration can be found at [www.premier-ministre.gouv.fr/acteurs/premier\\_ministre/les\\_services\\_premier\\_ministre\\_195/haut\\_conseil\\_integration\\_286/haut\\_conseil\\_integration\\_50458.html](http://www.premier-ministre.gouv.fr/acteurs/premier_ministre/les_services_premier_ministre_195/haut_conseil_integration_286/haut_conseil_integration_50458.html).
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