

NATIONAL LEGAL MEASURES TO COMBAT RACISM AND INTOLERANCE IN THE MEMBER STATES OF THE COUNCIL OF EUROPE

FRANCE, Situation as of 1 December 1997

General Overview

Preliminary Note: this table is accompanied by an explanatory note.

COUNTRY:	Constitutional provisions	Specific legislation	Criminal law	Civil and administrative law
FRANCE				
Norms concerning discrimination in general	Yes, Article 2.	Yes, Act of 12 July 1990.	Yes, Article 225-1 of the new Criminal Code.	Yes
Norms concerning racism	Yes	Yes, Act of 1 July 1972 and Act of 13 July 1990.	Yes, Articles 211-1, 212-1, 225-1, 225-2, 432-7 and R 625-7 of the new Criminal Code and the Press Act (Sections 24, 24bis, 32, 33) etc.	Yes, Decree of 30 January 1984, Memorandum 86-120 of 13 March 1986, Besson Act of 31 May 1990.
Relevant jurisprudence	Yes	Yes	Yes	Yes, action for damages

EXPLANATORY NOTE

FRANCE / GENERAL OVERVIEW

The Act of 13 July 1990

In French law, an Act of 1 July 1972 underscored the determination to make racial discrimination an offence. This Act was incorporated into the Criminal Code (refusal to supply goods and services, refusal to recruit) and the 1881 Press Act (defamation, racial abuse, incitement to discrimination, etc., were made offences). Then, over the years, the Criminal Code was supplemented by other texts which likewise made further grounds of discrimination an offence (sex, customs, origin, family situation and disability) and covered new forms of discrimination, such as an economic boycott or hampering the normal exercise of an economic activity (Articles 187-2 and 416-1 of the previous Criminal Code). The Act of 13 July 1990 (combined with that of 12 July on the protection of persons against personal discrimination because of their state of health or disability) completed the whole. This Act, which was prompted by "anti-revisionist" thinking, has had a considerable impact, as it amended some provisions of the Criminal Code and supplemented the Press Act of 29 July 1881 and the Act of 29 July 1982 on audiovisual communication. The legislator's intention was forcefully stated in the principle, set forth in Section 1, that all discrimination based on the membership or non-membership of an ethnic group, nation, race or religion is prohibited. It introduced three main innovations by:

- strengthening the panoply of penalties, especially additional penalties;
- creating a new offence of disputing crimes against humanity, Section 24bis of the Press Act of July 1881;
- introducing new rights for associations, extending the list of associations entitled to act and introducing a right of reply for them.

Constitutional Law: France

Preliminary Note: this table is accompanied by an explanatory note.

Constitutional provision	Scope	Relevant jurisprudence	Remarks
Article 2 Equality before the law	France guarantees the equality of all citizens before the law, without distinction of origin, race or religion. It respects all beliefs.	Constitutional Council, decision of 22 January 1990: wide interpretation of this clause to afford foreigners protection against discrimination. Constitutional Council, Decision of 9 May 1991: reaffirms that the French people is a single, indivisible entity, without	The Constitutional Council nevertheless acknowledges the legislator's right to establish rules applying only to foreigners, such as rules on entry to and residence in French territory. The Constitutional Council has always firmly abided by the principle that the French

<p>differentiation according to origin, race or religion. State Council, decision of 22 November 1992 and decision of 14 March 1994: school regulations forbidding the wearing of signs of religious faith were criticised on the basis of the constitutional principle of equality in the eyes of the law.</p>	<p>constitutional order is based on the primacy of the individual citizen and that France does not recognise minority groups.</p>
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EXPLANATORY NOTE

FRANCE / CONSTITUTIONAL LAW

General Comments

Most of the French Constitution deals with the structure of the government and the relationship between authorities. As it does not contain a list of basic principles, the main domestic law source of fundamental rights and freedoms in France is to be found in the preamble to the 1958 Constitution, which refers back to the preamble to the 1946 Constitution which, in turn, mentions the Declaration of Human Rights of 1789.

The principle of equality

Since 1973, when it first referred to the principle of equality, the Constitutional Court has linked it to the first Article of the 1789 declaration, "men are born and remain free and equal in law", to the 1946 preamble or to Articles 2 and 3 of the 1958 Constitution.

Article 2 states that France (...)

"shall ensure the equality of all citizens before the law, without distinction of origin, race or religion. It shall respect all beliefs."

In its decision of 22 January 1990, the Constitutional Council applied this principle of equality to foreigners, holding that any person residing in the territory of the French Republic was entitled to fundamental constitutional rights and freedoms.

In its decision of 13 August 1993 on the Aliens Act of 24 August 1993, the Constitutional Court once again argued that the legislator might demand the detention of foreigners and the carrying and production of documents attesting to the lawfulness of their entry to and residence in France, but that when checks were carried out,

constitutional principles and rules had to be strictly adhered to and there was to be no discrimination of any kind between persons.

Criminal law: France

Preliminary Note: this table is accompanied by an explanatory note.

Offence	Source	Scope	Sanction	Relevant jurisprudence	Remarks
General criminal liability of legal persons	NEW CRIMINAL CODE Article 121-2 of the new Criminal Code together with Article 213-3.	Criminal liability, as specified by the law, of organs or representatives acting for a legal person.			Came into force on 1 March 1994. The liability of legal persons does not preclude that of natural persons.
Genocide	Article 211-1 of the new Criminal Code.	Definition of the term "genocide": total or partial destruction of a national, ethnic, racial or religious group in accordance with a concerted plan, or the submitting of a group to living conditions such as to entail the total or partial destruction of the group, measures to prevent births, forced transfer of children.	Life imprisonment.		Came into force on 1 March 1994. This definition has been freed from its historical context (Second World War) and applies to crimes committed after 1 March 1994.
Other crimes against humanity.	Article 212-1 of the new Criminal Code.	Concerns the deportation, enslavement, summary execution, abduction, etc. of persons, for political,	Life imprisonment. Provision is also made for additional penalties such as disqualification		Came into force on 1 March 1994. This definition has been freed from its historical context

		philosophical, religious or racial reasons.	from civic, civil and family rights, disqualification from holding public office, prohibition from residing in or entering a certain area, etc.	(Second World War) and applies to crimes committed after 1 March 1994.
Aggravated war crimes.	Article 212-2 of the new Criminal Code.	The same acts as those referred to in Article 212-1, but committed during a war.	Life imprisonment. Provision is also made for additional penalties.	Came into force on 1 March 1994. This definition has been freed from its historical context (Second World War) and applies to crimes committed after 1 March 1994.
Association with a view to committing the aforementioned crimes.	Article 212-3 of the new Criminal Code.	The aim is to punish participation in a group or association conspiring to commit these crimes.	Life imprisonment. Provision is likewise made for additional penalties. See above.	Came into force on 1 March 1994. This definition has been freed from its historical context (Second World War).
Crimes described as crimes against humanity committed during the Second World War on behalf of a European Axis power.	Article 6 of the Charter of the International Military Tribunal of Nuremberg.		Penalty attached to crimes described as crimes against humanity: life imprisonment. Additional penalty: deprivation of civic rights.	
Discrimination	Article 225-1 of the new	Here the Criminal Code		This article also covers the

	Criminal Code.	provides a definition of "discrimination": any distinction resting on origin or the membership (or non-membership) of a particular ethnic group, nation, race or religion.			punishment of discrimination against legal persons for the same reasons.
Discriminatory behaviour.	Article 225-2 of the new Criminal Code.	This covers the refusal to supply goods, services or accommodation, hindering the normal exercise of an economic activity, refusal to recruit, dismissal or making the supply of goods, services or jobs subject to a discriminatory condition.	Provision made for imprisonment for up to 2 years, fine and additional penalty in Article 225-19: deprivation of civic rights, permanent or 5-years closure of the convicted person's firm, displaying of the judgment, etc.	Douai, 25 June 1974: hotel room refused to a married couple, the husband of whom was black. Paris, 12 November 1974, refusal to rent a flat to Africans. Strasbourg regional court, 21 November 1974, refusal to serve beer to two Arabs who were not inebriated or causing a public disturbance. Criminal Division of the Court of Cassation, 14 October 1986, judgment against an employer who had dismissed an employee because he was of foreign	These cases were dealt with under Article 416 of the old Criminal Code. This article does not apply when the acts in question are in conformity with government instructions issued as part of its economic policy, or adopted in pursuance of its international commitments. In order for this crime to exist, the plaintiff must prove that it was racially motivated. In fact these reasons are very rarely explicitly stated.

				nationality. <i>Case-law established under Article 416 of the old Criminal Code.</i>	
Criminal liability of legal persons for discriminatory behaviour.	Article 225-4 of the new Criminal Code.	The behaviour referred to in Article 225-2 is liable to prosecution.	Fine, winding-up, placement under court supervision, permanent closure, displaying of judgment, etc., see Article 131-9 of the new Criminal Code.		
Desecration of graves	Article 225-18 of the new Criminal Code.	The new code strengthens legislation against this offence (which already existed in the old Criminal Code) and takes into consideration racist motives when they are the main reason for the offence.	Imprisonment for up to 3 years and fine.	12 May 1993, Sarreguemines Juvenile Court sentenced two minors (aged 17 and 16) for the desecration of graves and incitement to racial hatred.	The old offence of desecrating a grave had been aggravated in this case.
Suppression of existing associations or groups which instigate discrimination or racial hatred.	Act of 10 January 1936, as amended by the Act of 1 July 1972.	Dissolution of any militant group of which it may be said that it constitutes a group or militia within the meaning of Section 1 of the Act of 1936, that it brings together former collaborators and glorifies collaboration or	Dissolution of the group at issue.	Dissolution by decree of the Council of Ministers, of 2 September 1993, of the neo-nazi group " <i>Heimattreue Vereinigung Elsass</i> " (HVE) on the grounds that it constituted a militant group bringing	

		that it whips up racial hatred and violence.		together former collaborators and that it instigated racial hatred and violence.
Liability of legal persons	Article 226-24 of the new Criminal Code.		Fine and additional penalty, as laid down in Article 131-39.	
Participation in militant groups likely to disturb the peace.	Article 431-14 of the new Criminal Code.	Covers militant groups of persons who are armed or who have access to arms and which have a hierarchical organisation.	Imprisonment for up to 3 years and fine.	
Perpetuation or reconstitution of a disbanded militant group or movement (1936 Act).	Article 431-15.	Punishes participation in, or the perpetuation or reconstitution of, an association or group disbanded under the Act of 10 January 1936 on militant groups.	Imprisonment for up to 3 years and fine. Article 431-21 provides for additional penalties: confiscation of the reconstituted movement's movable and immovable property and of the uniforms and insignia used by it.	
Liability of legal persons.	Article 431-20.	Legal persons may also be declared liable for the offences of militant groups.	Fine, the penalties laid down in Article 131-9 (see above) and the additional penalties provided for in	

			Article 431-21.	
Discrimination by a person exercising public authority	Article 432-7 of the new Criminal Code.	This offence covers denial of a right granted by the law and hindering the normal exercise of an economic activity of any kind.	Imprisonment for up to 3 years and fine. Additional penalties are provided for in Article 432-17 and include deprivation of civic rights, prohibition to engage in a particular occupation and confiscation of the subject-matter of or proceeds from the offence.	This article does not apply when the acts in question are in conformity with government instructions issued as part of its economic policy or adopted in pursuance of its international commitments.
Non-public incitement to discrimination, hatred or racial violence.	Article R 625-7 of the new Criminal Code.	This covers incitement in a letter missive, for example.	Fine and the following additional penalties: prohibition from bearing arms, confiscation of the material used to commit the offence, community service.	
Wearing of uniforms and/or emblems reminiscent of those of persons responsible for crimes against humanity.	Article R 645-1 of the new Criminal Code.	This refers to the uniforms worn by the members of an organisation declared criminal under Article 9 of the Charter of the International Military Tribunal, appended to the London	Fine. Additional penalties: prohibition from bearing arms, confiscation of the article used to commit the crime, community service.	See also memorandum N° 88-6-F 1 of 25 March 1988. Wearing authorised for historical reconstructions, films or plays.

		Agreement of 8 August 1945, or by a person found guilty of crimes against humanity by a French or international court.			
Recording of data on race.	Act of 6 January 1978 on information and freedom; Article 226-19 of the new Criminal Code.		Imprisonment for up to 5 years and fine.	The establishment by the Department of the Secretary of State for repatriated persons from North Africa of a file which showed racial origins and religious opinions, was censured by a decision of the Litigation Section of the State Council of 5 June 1987.	
Placing on sale, distribution or reproduction of banned foreign publications.	Press act Section 14 of the Act of 29 July 1881.	Section 14 applies to books as well as to other non-periodical written works.	Fine and imprisonment of 6 days to one year. Confiscation of copies and reproductions.	Administrative Court of Paris, 18 October 1989: if a magazine called " <i>Demain l'Algérie</i> " (Algeria Tomorrow) criticises the Algerian Government in terms which do not overstep the bounds of normal political	The minister's opinion concerning the prejudice to public order from banned works is not open to debate by the administrative courts. In 1993, the sale of 6 racist, anti-semitic or pro-Nazi foreign publications was banned in France. Moreover, 13

				debate, it is plainly wrong to ban its sale. Sale and translation of a Russian anti-semitic work called "The reports of the wise men" were prohibited by the Ministerial Order of 25 May 1990.	foreign works were not allowed into French territory.
Defence of crimes against humanity.	Section 24(3) of the Act of 29 July 1881, as amended by the Act of 31 December 1987.	Definition of "defence" by the courts: publication or publicly expressed opinion encouraging those to whom it is addressed to pass a favourable moral judgment on one or more crimes against humanity and tending to justify these crimes (including collaboration) or vindicate their perpetrators.	Fine and imprisonment of one year to 5 years. Confiscation of material in question.	Criminal Division of the Court of Cassation, 14 January 1971: the publication of an article likely to encourage the reader to pass a favourable judgment on the leaders of the Nazi party, who had been convicted as war criminals and which was an attempted justification, constituted a defence of war crimes.	"Crimes against humanity" are the crimes defined in Article 6 of the Charter of the International Military Tribunal of Nuremberg. Sole historical point of reference: the only crimes concerned are those carried out during the Second World War.
Incitement to racial discrimination, hatred or violence because of origin or membership of a race or religion.	Section 24(6) of the Act of 29 July 1881 on the freedom of the press, as amended by the Act of 1 July 1972.	The aim of this incitement is to persuade those to whom it is addressed to adopt towards protected victims discriminatory behaviour which	Fine and imprisonment of one month to one year. Additional penalty: prohibition from standing for election or from holding	The editor of a periodical who, in an editorial on the immigration of foreign workers to France, tried to persuade	Section 24 does not constitute a breach of the freedom of thought and expression protected by Articles 9(1) and 10(1) of the European

		<p>is an offence under Articles 225-2 <i>et seq.</i> of the new Criminal Code. The purpose of the incitement may likewise be to provoke hostile reactions among the public to the racial groups in question.</p>	<p>judicial office for a maximum of five years, Article 131-26 (2) and (3) of the new Criminal Code.</p>	<p>readers that these swarms of workers with dubious vocational qualifications will in the long run harm economic development, was found guilty of incitement to racial hatred, Paris 17 June 1974. Convictions in similar cases in December 1992 and May 1993.</p>	<p>Convention on Human Rights, as these texts endorse the restrictions prescribed by law when they are necessary in a democratic society in the interests of public safety, for the prevention of disorder, for the protection of morals and the rights and freedoms of others. Criminal Division, 13 March 1989.</p>
<p>Disputing crimes against humanity</p>	<p>Section 24bis of the Act of 29 July 1881, as amended by the Act of 13 July 1990.</p>	<p>The public denial of crimes against humanity, the existence of which has been recognised by a French or international court, is punished. The main purpose of this section is to condemn the denial of the Nazi holocaust.</p>	<p>Fine and imprisonment of one month to one year. Additional penalty: public notice of the decision, publication of the decision, inclusion of a communiqué, etc.</p>	<p>The article entitled "<i>Le mythe de l'extermination des Juifs</i>" (the myth about the extermination of the Jews) published in a revisionist historical magazine, which tried to deny the genocide of the Jews, was found to be an offence under these provisions, Paris, 31 October 1990. Several cases in 1993 as well, including the</p>	<p>Historical reference to the Second World War.</p>

				sentencing of two young persons on 4 May 1993 to 60 hours of community service by the Paris regional court for putting up posters saying "Hitler was right".	
Racial defamation	Section 32 (2) of the Act of 29 July 1881.	Defamation arises from any precise, false allegation or insinuation casting a slur on the honour or reputation of a person or group of persons because of their race, religion, nationality or membership of an ethnic group.	Fine and imprisonment of one month to one year. Additional penalty: Article R 625-7 of the new Criminal Code: prohibition from bearing arms, confiscation of arms, community service, confiscation of the article or material used to commit the offence.	Two interesting cases in which it was held that insulting words had been used and racial defamation had occurred: 10 June 1993 ("Y, the swarthy, podgy Jewess bulging out of her clothes...") and 12 December 1992 (LICRA described as "an association of notorious Jewish lawbreakers".)	The offence of defamation exists only if the offensive allegations have been publicised by one of the means referred to in the 1881 Act.
Racial abuse.	Section 33 (3) of the Act of 29 July 1881, as amended by the Act of 1 July 1972.	Public abuse arises from the use of any contemptuous term or offensive expression. Abuse does not include any specific allegation.	Fine and/or imprisonment of 5 days to 3 months.	Criminal Division of the Court of Cassation, 20 November 1978: it was found that racial abuse was contained in published remarks about Algerians,	The offence of abuse exists only if the offensive allegations have been publicised by one of the means referred to in the 1881 Act.

				<p>which criticised immigration policy and justified racist reactions. Criminal Division of the Court of Cassation, 6 May 1986: it was found that no racial abuse existed when the remarks referred to a category of persons such as "foreigners" or "immigrants".</p>
<p>Making available to minors or exposing or publicising works which are banned from sale or display to minors.</p>	<p>Section 14 of the 1949 Act on publications intended for young persons.</p>	<p>Fine and imprisonment of one month to one year. Confiscation of the publications.</p>		<p>An order banning the sale to minors of "<i>La framajuiif a-t-elle tué mon père?</i>" (Did Jewish masonry kill my father?) was issued under this Section.</p>
<p>Memorandum from the Ministry of Justice on measures against racism, of 16 December 1992.</p>		<p>Addressed to public prosecutors. It asks them to step up measures against racism by keeping a closer watch on the sections of the press which act as a mouthpiece for racist arguments, keeping the distribution of</p>		

tracts under surveillance and making use of Article 187-1 and 2 of the Criminal Code whenever possible. Public prosecutors' departments must also work more closely with associations to combat racism, etc.

Act of 10 July 1991 on legal aid.

It gives the public (above all, foreigners who are lawfully domiciled in France) wider access to the courts. Legal aid covers all courts, procedures and acts in pursuance of decisions and all civil, administrative, criminal and disciplinary proceedings.

EXPLANATORY NOTE

FRANCE / CRIMINAL LAW

General comments

France is well equipped with antiracist laws. The Act of 1 July 1972, which was passed in the wake of France's ratification of the New York Convention, formed the basis of this body of law. This Act is contained both within the Criminal Law (repression of discriminatory acts: article 416) and in the Act of 29 July 1881 on the freedom of the press. It was added to by further Acts adopted in 1975, 1977, 1983, 1985 and 1987. Finally, the Act of 13 July 1990 has completed the body of law by creating the offence of disputing crimes against humanity. This text, Section 24a of the new Press Act, has attempted to determine the substantive element of the offence in a very precise manner, by expressly referring to the definition of crimes against

humanity given in Article 6 of the Charter of the International Military Tribunal, appended to the London Agreement of 8 August 1945. In order to parry any criticisms of this text, the Ministry of Justice has pointed out that *"it is not the function of the criminal courts to recount history or uphold a dogma. Their role is to punish violations of the criminal statutes enacted by the legislator, while respecting the nullum crime rule and the principle that penalties must be lawful. This important constitutional principle meant that the scope of Section 24 a of the 1881 Act had to be precisely delimited"*¹. It was therefore necessary to refer to the legal definition of crimes against humanity to be found in Article 6 of the Charter of the International Military Tribunal, the only definition which forms part of French positive law. Disputing only those crimes against humanity whose perpetrators had been convicted by a French or international court was to be punished. Thus the courts do not have to act as historians. That is why, for example, the definition of the offence excludes from its scope the Armenian genocide of 1915, which has never formed the subject of a court judgment.

The new Criminal Code, which came into force on 1 March 1994, amends, supplements and even creates a number of provisions on racism. On the whole, more stringent penalties for racist offences have been introduced.

1. The law applicable on 1 March 1994

1.1. New provisions: liability of legal persons: Article 121-2 of the new Criminal Code

Under the new Criminal Code, legal persons (firms and associations) may now be declared criminally liable, in the cases specified by laws and regulations, for offences committed on their behalf by their organs or representatives, without this precluding the liability of natural persons who have carried out or been accessories to the same acts (Article 212-2 last paragraph). In particular, legal persons may be convicted of crimes against humanity (Article 213-3), racial discrimination (Article 225-4), infringement of human rights through the keeping of files and the processing of information (Article 226-24), perpetuating militant groups and movements or reconstituting them after they have been dissolved (Article 431-21). A number of penalties (winding-up, closure, temporary prohibition, confiscation, supervision by the courts, etc.) prescribed in Article 131-39 make it possible to punish the guilty legal person.

1.2. Discrimination, Articles 225-1 to 225-4 of the new Criminal Code

Definition

The new Criminal Code redefines discrimination based on origin or the real or presumed membership (or non-membership) of a particular ethnic group, nation, race or religion.

Article 225-1 states:

"Any distinction made between natural persons because of their origin, sex, family situation, state of health, disability, customs, political opinions, trade union activities,

or real or presumed membership or non-membership of a particular ethnic group, nation, race or religion, shall constitute discrimination.

Any distinction made between legal persons because of the origin, sex, family situation, state of health, disability, customs, political opinions, trade union activities or real or presumed membership or non-membership of a particular ethnic group, nation, race or religion of the members or some of the members of these legal persons, shall likewise constitute discrimination."

Discriminatory behaviour is punishable under Article 225-2 when it consists in:

- refusing to supply goods and services;
- hindering the normal exercise of an economic activity;
- penalising, dismissing or refusing to take on a person;
- making the supply of goods and services subject to a discriminatory condition;
- making the offer of employment subject to a discriminatory condition.

Heavier penalties are attached to these acts, compared with earlier legislation: two years' imprisonment and a maximum fine of FF 200,000. The additional penalties of earlier legislation - deprivation of rights, displaying of the decision and publication of the latter - have been retained and the convicted person is also liable to have their firm or establishment closed (Article 225-19).

Discrimination by a person exercising public authority or holding public office is defined by Article 225-1. The maximum penalty for offenders has been increased to three years' imprisonment and a fine of FF 300,000.

Case-law

This new legislation is a much-amended version of the old Article 416 of the Criminal Code. The case-law established under that article may accordingly be added to any arising from the new Criminal Code.

In an order² concerning the refusal to rent a flat to two Senegalese, the term "goods and services" was defined by the court in the following words: "they must be understood to mean *all* things which may form the subject of a right, have a pecuniary value or represent a benefit." The same order makes it clear that the offence under Article 416 is completed *the moment* the supply of goods or services is refused, no matter what form the refusal takes.

Mention may likewise be made of a case involving a hotel-keeper and two clients³. The hotelier, after receiving a visit from a French woman who had asked him for a double room, then refused to let it to her when she returned accompanied by a black man (a Frenchman from Djibouti) who was her husband. The hotel-keeper was found guilty of the offence of discrimination and refusing to supply goods and services and was fined. This is one of the first known cases of the effective application of the provisions of Article 416.

Similarly, an appeal court found⁴ the manager of a travel company, who had refused to sell reduced-price air tickets on African routes to black persons, guilty of refusing to supply services on the basis on membership of an ethnic group or race.

As far as recruitment is concerned, judicial doctrine establishes that Article 416-3 was mainly directed against any discrimination resting on considerations of race or nationality not only when an employee with an employment contract was dismissed, but also when he or she was recruited for a job which would not become permanent until a trial period had been served. An appeal court convicted an employer who, during a trial period, had dismissed an employee for the express reason that he was of foreign nationality⁵. The acts of a senior welfare worker (an official of a local authority) who took the initiative, in a note on the hiring of home helps, of recommending that the social welfare offices concerned "avoid coloured staff" were also an offence under Article 416.

1.3. Crimes against humanity, Articles 211-1 to 213-5 of the new Criminal Code

The specific offence of crimes against humanity has been created in order to punish extremely serious crimes and serve as a new frame of reference for the offence of defending crimes against humanity and the summary offence of wearing or exhibiting unlawful insignia.

The new Criminal Code creates four offences described as crimes against humanity irrespective of any historical context: genocide, other crimes against humanity, aggravated war crimes and participation in a group or association conspiring to commit these crimes. Only the perpetrators (natural *or legal* persons) of crimes committed *after 1 March 1994* can be prosecuted for these crimes, which are not subject to limitation. The punishment of acts carried out before the new Code applied is subject to the old legal rules. The new Criminal Code penalises crimes against humanity by life imprisonment and provides for a number of additional penalties (Article 213-1 to 213-3).

It must be noted that the perpetrator of, or accessory to, a crime against humanity, as defined by the new Criminal Code, *may not be exempted* from his or her criminal liability merely because he or she carried out an act prescribed or authorised by laws or regulations or ordered by a legitimate authority. Nevertheless, the court takes these circumstances into account when determining the penalty and establishing the amount.

Legislative measures to combat racism have therefore been strengthened.

1.4. Desecration of a grave, Article 225-17 and 215-18 of the new Criminal Code

The offence of desecrating a grave has been amended. The new Criminal Code introduces tougher measures taking racist motives into consideration when they are the chief reason for committing the offence. Under the Code, the maximum penalty for desecrating a dead body or a tomb is one year's imprisonment and a fine of FF 100,000. The law now treats monuments to commemorate the dead in the same way as graves. When the desecration of a grave is accompanied by the disinterment of the

body, the penalty is lengthened to two years' imprisonment. Heavier penalties are incurred when these offences are racially motivated.

2. Act of 29 July 1881

The new Criminal Code does not amend the offences defined by the Act of 29 July 1881 on the freedom of the press, which therefore remains in force. On the other hand, a summary offence has been created (Article 625-7) to counter non-public incitement to racial discrimination, hatred or violence, which was not punished by Section 24 of the 1881 Act.

The above-mentioned Act contains measures which make it an offence to defend or dispute crimes against humanity, instigate discrimination, hatred or violence or engage in the defamation or abuse of a race, ethnic group, nation or religion. People who write racist graffiti and inscriptions on public or private buildings are liable to prosecution not only for wilful damage or desecration of graves, but also for racist offences, when these are proven.

2.1. Specific features of the 1881 Act

The notion of publicity

In order for one of the above-mentioned offences to exist, the acts must have been *brought to the attention of the public* by one of the means of publicity referred to in Section 23 of the 1881 Act: printed matter, drawings, engravings, paintings, emblems, images or any other written, oral or visual medium, sold or distributed, placed on sale or exposed to public view, as well as any audiovisual means of communication.

The offender

The Act punishes not only the offender, but also persons who, through their capacity or function, have contributed to the manifestation of the offence, even if they did not directly take part in committing it. For example, the following people are punishable under Section 42: publishers or editors, in the absence of the authors; printers, in the absence of the authors; distributors, vendors and bill-stickers, in the absence of printers. As far as audiovisual communications are concerned, the Act of 13 December 1985, which supplements an Act of 29 July 1982, systematises the criminal liability of these kinds of offenders in the same way (Section 93-3).

Special rules governing the bringing of proceedings

In the 1881 Act, the legislator laid down a three-month deadline for bringing proceedings, which ran as from the day the written material or remarks were brought to the public's attention. The public prosecutor may *ex officio* initiate proceedings against a person who has committed a racist offence, without a prior application from the victim(s).

2.2. Some cases

The following leading cases are all taken partly from the 1993 report "1993. The fight against racism and xenophobia. Exclusion and human rights" of the National Advisory Committee on Human Rights⁶.

Section 24

"Those who, by the means listed in Section 23, have instigated hatred of or discrimination or violence against a person or group of persons because of their origin or their membership or non-membership of a particular ethnic group, nation, race or religion, shall be punished by one year's imprisonment and a fine of FF 300,000 or only one of these penalties."

An interview with a public figure (whose name is not disclosed) published in a magazine in 1989 and entitled "Our ecological identity is one of the foundations of our national identity" led to an indictment for incitement to racial discrimination, hatred or violence. On 8 October 1990, the European Parliament refused to waive the parliamentary immunity of the interviewee and so only the publisher of the magazine could be prosecuted. The article in question made out that the massive population movements of North Africans constituted an imminent danger and described them as "predators" on whom the French social system exerted an "irresistible attraction". The defendant was first acquitted by the Paris Regional Court on the grounds that it was not the responsibility of the court to settle a speculative debate about immigration. But on 12 May 1993, the Paris Appeal Court fined him FF 20,000 for incitement to discrimination against or hatred of these persons because of their membership of a particular ethnic group or nation and held that, on the whole, the terms in question went beyond the bounds of the right of freedom to criticise. This sentence is not final, as the publisher has entered an appeal to the Court of Cassation.

Mention may likewise be made of the case of Mr O. Devalez, the publisher of the magazine "*L'Empire invisible*", who was prosecuted in December 1992 for having stated in that magazine that the Jewish community threatened the survival of the white race, thus overtly expounding a view of society based solely on the predominance of the white race. The Paris Regional Court sentenced him to six months' imprisonment for incitement to racial hatred, violence and discrimination. This decision is final. The severity of the order is noteworthy, as courts very rarely punish a press offence with imprisonment.

Mention should also be made of the conviction of a comedian for telling a joke portraying Muslims as thieves during the television programme "*Les Grosses Têtes*", should likewise be mentioned. While recognising the right to humour, the Court of Appeal⁷ held that the words complained of displayed harmful intent, and were aggravated by the pre-recorded nature of the programme, which had been professionally edited.

Section 24bis

"Anyone who has disputed (...) the existence of one or more crimes against humanity, as defined in Article 6 of the Charter of the International Military Tribunal, appended to the London Agreement of 8 August 1945, (...) shall be punished (...)."

A number of cases pertaining to the disputing of crimes against humanity have led to the conviction of the person who has made the assertions. For example, on 10 June 1993, the Paris Regional Court fined an engineer who had written an article which concluded that the gassing process perfected at the Struthof camp was "improbable".

On 1 February 1993, the Ministry of Education lodged a complaint of forgery with the Paris public prosecutor against the unknown authors of spurious memoranda asking history teachers to take account of "negationist" arguments. These fake rules, sent out on paper imitating official documents from the Ministry of Education, asserted that the "negationists sometimes use scientific arguments which we cannot ignore without discrediting ourselves". The inquiry did not produce any results.

We would also like to mention an earlier case (but there are others concerning the same subject and person). In an interview published in the September 1990 issue of the magazine *"Le choc du mois"* and relating to the Jewish community, R. Faurisson presented "the myth of the gas chambers" as a "bit of knavery which can be laid at the door of the victors of Nuremberg and the French Government". On 18 April 1991, the Paris Regional Criminal Court found Mr Faurisson and Mr Boizeau, the publisher, guilty on the count of respectively disputing crimes against humanity and of collusion in this offence. It fined them and ordered them to publish in four daily newspapers, at their own expense, an official statement recapitulating the decision and to pay damages to the parties claiming them. On 9 December 1992, the Paris Appeal Court upheld the findings of the Paris Regional Criminal Court as to the guilt of Mr Faurisson and Mr Boizeau, but modified the penalties (lower fines).

Relationship between Section 24 and the freedom of thought

According to two decisions of the Court of Cassation, dated 13 March 1989 and 13 June 1995⁸, the last paragraph of Section 24 did not constitute an infringement of the freedom of thought and expression protected by Articles 9 (1) and 10 (1) of the European Convention on Human Rights, as these texts authorised restrictions prescribed by the law when, in a democratic society, they were necessary in the interests of public safety, for the prevention of disorder, for the protection of morals and the rights and freedoms of others.

2.3. Defamation and racial abuse, Sections 29 and 33

On 8 July 1993, the Dinan Regional Criminal Court sentenced a lorry driver to 240 hours of community service and a fine of FF 200 and banned him from driving for six months for racial abuse, drunken driving and obstructing an officer in the execution of his duty. The racial abuse was directed at a West Indian policeman.

On 6 January 1994, the Versailles Court of Appeal handed down a suspended prison sentence of 18 months to X for destruction of property, defamation and racial insult. X had defaced the fence of the neighbouring house, and had said to Z, a Jew, in front of witnesses: "If you're alive, it's because you were the orchestra conductor for people like your father and mother who were going to the ovens, everyone knows that" and "I always say "tu" to burks".⁹

On 30 March 1995¹⁰, the Paris Court of Appeal confirmed the conviction for racial insult of a person who had called another a "dirty yid".

3. Protected victims and their grounds of defence/procedure

The victims of racist offences are either one named person or a group of persons who are recognisable on account of their origin or membership of an ethnic group, nation, race or religion. This list makes it possible to protect not only coloured people or religious believers, but also persons who are identified by their nationality (anti-French "racism", for example) or their membership of a particular provincial group (the Basques or Corsicans).

3.1. Ordinary grounds of defence

The victims may institute proceedings by:

- direct summons (Article 551 of the Code of Criminal Procedure, referred to hereinafter as the CCP): this enables the matter to be referred directly to the criminal courts, without previous investigations, notice being served on the identified offender by a bailiff;
- direct lodging of a complaint with the public prosecutor or at a police station, which will forward the complaint to the public prosecutor, Article 40 of the CCP;
- claiming damages in criminal proceedings;
- claiming damages and lodging a complaint with the investigating judge, Article 85 of the CCP.

3.2. The role of anti-racist associations

Section 48-1 of the Act of 29 July 1881 authorises associations which, according to their regulations, set out "to combat racism", to exercise the rights of persons claiming damages. The Act of 13 July 1990 extended this power to associations, the purpose of which is "to assist victims of discrimination on grounds of their racial, religious, ethnic or national origin". The creation of Section 24bis of the Act of 1881 (disputing crimes against humanity) entailed the creation of a Section 48-2, which enables "any association which has been properly registered for at least five years before the date of the offences and which, according to its regulations, intends to defend the moral interests and the honour of the resistance or displaced persons" to exercise the rights of parties claiming damages. Under Article 2-1 of the CCP, any association which has been properly registered for at least five years before the date of the offences may therefore exercise the rights of parties claiming damages for discriminatory behaviour (Articles 221-1 to 221-4 *et seq.* of the new Criminal Code) and incitement to racial hatred and discrimination.

3.3. Analysis of legislation and judicial doctrine

Most racist offences, apart from the refusal to supply services, are offences against the legislation on the press. They are therefore governed by narrow procedural rules, with

a time limit of three months and rigorous formalities - a situation which is deplored by anti-racist organisations. An offence of incitement to racial discrimination, defamation, racial abuse or disputing crimes against humanity is irrevocably statute-barred and can not form the subject of criminal proceedings after three months from the time it was committed. The underlying thinking behind this stems from the principle of absolute respect for freedom of expression and greatly impedes the action of public prosecutors' departments and associations to curb racism. The three-month time limit is to be reviewed in the near future.

Furthermore, in cases concerning defamation, abuse or incitement to hatred, the victims have to employ the correct legal definition of the activities they report, because if the indictment is wrong, the court cannot find as to the existence of a different offence, as it may in ordinary criminal cases. Another big obstacle is that the victim must furnish evidence and the racism encountered in everyday life is very often hard to prove. All this makes it difficult to institute proceedings when racist offences are concerned¹¹.

Moreover, although the courts are indeed showing greater severity (in most cases fines and generally a suspended prison sentence), very often it is the same people representing the same sections of the press who appear before the bench. This situation raises the question of whether press law is suited to dealing with offences involving racist propaganda. The offences defined under press law do not fully reflect the whole gamut of actual racist propaganda and the punishments prescribed are not therefore able to eradicate racist activity. Some legal writers¹² therefore recommend the reform of legislation against racist propaganda and would like two sets of legislation: "legislation such as that which already exists for violent verbal expressions of racism, which should form part of press law, but also new supplementary laws outside the framework of press law, which would make it possible permanently to thwart formal or informal racist organisations, irrespective of whether they were the product of conspiracies or concerted action¹³."

In 1996, the Minister of Justice tabled a government Bill to tighten up the law on the dissemination of racist and xenophobic messages. The Bill sets out both to separate anti-racism provisions from press law, and to widen the definition of the offence¹⁴.

4. Various forms of action by ministries

1) The Ministry of Justice has always been worried by manifestations of intolerance. Between 1972 and 1993, this department sent no fewer than ten memoranda to public prosecutors and attorneys general, who were reminded that they should be on their guard for and deal firmly with racist offences, inter alia in a memorandum from the Directorate for Criminal Cases and Pardons of 22 December 1992 (appended).

In 1993, a memorandum of 12 March 1993 was sent to the directors of public prosecutions by the Directorate for Criminal Cases with a view to setting up more departmental units to co-ordinate measures against racism, xenophobia and antisemitism.

At the beginning of November 1990, the Prime Minister decided to experiment by setting up departmental units to combat racism in the three departments of Bouches-du-Rhône, Bas-Rhin and Nord. The strong points of these units were that:

- they forged links between a wide range of partners: local elected representatives, antiracist associations and barristers;
- they had a specific purpose: to observe signs of racism and sound warnings, gather information about the implementation of legal texts and the local application of crime policy, evaluate drives to combat racism, promote local projects to prevent this kind of crime and related training schemes and encourage communication between the administrative authorities concerned, local associations and the national unit for co-ordinating measures against racism.

Units have been established in over 70 departments so far.

2) The Ministry of the Interior concentrates on training police officers to counter racism. This training is not a specific curriculum subject, but, in a desire for effectiveness, is treated as a cross-curricular matter¹⁵. A code of ethics for the national police force was adopted in an Order of 18 March 1986. This code is closely studied, especially during initial training. Article 7 (3) reminds officials of their duties.

"A police official shall have absolute respect for persons no matter what their nationality or origin, social status or political, religious or philosophical convictions."

Furthermore, as part of their general duty to protect persons and property, the police services pay particular attention to racist or discriminatory acts. A memorandum of 21 March 1991 issued precise instructions to prefects on how to step up the battle against all forms of intolerance. Specific steps were taken to this end, such as the introduction of stationary or mobile units to guard:

- natural persons who are likely to be threatened owing to their nationality or religion;
- sites (consulates or homes, synagogues, mosques, schools, hostels, etc.);
- legal persons (airlines and firms);
- socio-cultural, religious or economic events (ceremonies to mark El Kebir and Yom Kippur, trade fairs). In 1992, 77,612 man-hours were spent on temporarily guarding religious buildings alone, or the equivalent of 49 police officers employed full-time all the year round¹⁶. In addition there are regular contacts between the police and the communities in question so as to improve mutual knowledge and dissipate tensions.

In 1993, the Ministry of the Interior carried out a substantial investigation into the means by which racist ideas were transmitted. This culminated in the dissolution of a neo-Nazi group, the closure of an extreme right-wing shop and a ban on the circulation, distribution and sale of six foreign publications, while thirteen foreign publications were abolished from French territory. It likewise introduced a number of schemes to prevent racist crime among young people: opening of recreation centres

for young people in underprivileged suburban areas (which make for more friendly relations between the youngsters and the police) and providing the young people with sports instructors who teach them how to ride motorbikes, for example. A point to note is that these training courses are held in problem suburbs and that the instructors are none other than members of the state security police force. The whole purpose of such initiatives is to prevent racist acts and crime.

5. Statistics

We quote the statistics published in the 1996 report of the National Advisory Committee on Human Rights. These statistics will be supplied with the final report.

Statistics from the Ministry of the Interior

Radical racism, which was relatively limited until 1982, has grown in line with a revival of xenophobia and the emergence of extreme right-wing parties. For example, the Ministry of the Interior recorded 68 racist acts in 1983, 70 in 1985 and 64 in 1988.

The trend was reversed between 1989 and 1991 (51 acts in 1990, 50 in 1991 and 32 in 1992). Racist acts were fewer in number and less serious. This reduction might be explained by the chronic disorganisation of activist movements, the greater number of street detentions, etc.

However, in 1993 a larger number of more serious incidents was recorded than in the previous year: 32 racist acts in 1992 with 17 people injured, 37 racist acts with 33 people injured and 19 violent acts of antisemitism in 1993. This was caused by a resurgence of activist movements and the spread of xenophobia. The trend in racist threats is similar: 141 in 1992 and 307 in 1993, 104 antisemitic threats in 1992 and 283 in 1993.

Since 1993, there has been a marked decrease in racist violence in France: 36 instances in 1994, 19 in 1995 and 9 in 1996. Anti-semitic violence has even become a marginal phenomenon.

As far as geographical distribution is concerned, most of the racist and anti-semitic acts recorded were concentrated in the Ile-de-France.

Statistics of the Ministry of Justice

Court statistics show the next stages in the suppression of racist crime and the outcome of complaints to the courts. The most recent statistics relate to 1994.

6. Mediation

An Act of 1973 set up a new central institution in France: the parliamentary commissioner. In 1976, representatives of the ombudsman were appointed in every department. According to the 1973 Act, the parliamentary commissioner has no coercive power. He rules on complaints concerning "the functioning of the administrative authorities of the government, territorial public authorities, public establishments and any other body supplying a public service." He may not deal with

a request concerning a matter which is *sub judice*. Complaints are referred indirectly through a member of parliament. A private individual may not refer a matter to the ombudsman directly. According to one legal writer¹⁷, a perusal of the parliamentary commissioner's reports discloses that this institution receives few complaints pertaining to the infringement of freedoms, abuses by the police or victimisation.

Civil and administrative law: France

Preliminary Note: this table is accompanied by an explanatory note.

Provision	Scope	Consequences of breach	Relevant jurisprudence	Remarks
Act of 13 July 1990	Anti-racist law designed to prevent any racist, anti-semitic or xenophobic acts.	Prosecution.	See table on criminal law.	The Act enabled more associations to exert the rights of parties claiming damages and introduced a right of reply with the consent of the person in question.
Decree of 30 January 1984.	Establishment of the Advisory Committee on Human Rights.			The anti-racist Act of 12 July 1990 makes it responsible for writing an annual report on questions connected with racism.
Right to education: Memorandum 84-246 of 16 July 1984 of the Minister for Education.	"The residence permits of the parents or persons responsible for the minor must not be asked for when he or she is enrolled at school. The existing rules on the admission of French children	Prosecution for racial discrimination on the basis of the old Article 187-1 of the Criminal Code: racial discrimination by a person exercising public authority.	On 13 November 1991, the Grenoble Court of Appeal upheld the decision of the Grenoble Regional Criminal Court which had ordered the mayor of	Particularly in Paris, the rules are used to refuse enrolment. A survey conducted by the GISTI (Groupe d'information et de soutien des travailleurs immigrés) in

	to nursery schools must be applied, without restriction, to foreign children."		Beaucaire to pay damages on the basis of Article 187-1 of the Criminal Code, for refusing to enrol some thirty children from the Maghreb in the schools and canteens of his town because they were foreign.	1990 revealed that 16 out of 20 districts in Paris demanded a residence permit for the enrolment of children at school.
Right to education: Memorandum 86-120 of 13 March 1986 of the Minister for Education.	"The obligation to accept children in schools applies equally to foreign and French pupils."	Prosecution for racial discrimination on the basis of the old Article 187-1 of the Criminal Code: racial discrimination by a person exercising public authority.		
Right to work Article L 122-45 of the Labour Code	Prohibition of all racial discrimination in recruitment and employment and ban on dismissal on racial grounds.	Prosecution for racial discrimination under Article 225-1 of the new Criminal Code.	In addition to the case-law on dismissal referred to in the table on criminal law, it must likewise be pointed out here that the well-established case-law of appeal courts considers that insulting words or racist attitudes at work constitute grounds for an employee to	An employer can be obliged to reinstate a worker who has been unjustly dismissed as compensation for discrimination, or to pay damages.

		hand in their notice. Paris Appeal Court, Société moderne d'électronique, judgment of 30 October 1986; Dijon Court of Appeal: Ben Lataief, judgment of 3 October 1986, Poitiers Appeal Court: Min-Got, judgment of 2 June 1986, etc.	
Right to work Article 133-5 (10)	Collective agreements which are likely to be applied more widely must include a clause ensuring equal treatment of French and foreign employees in matters of employment.		This legal obligation is rarely met. Few widely applied collective agreements include a reference to the principle of non-discrimination between employees and very often, as far as the definition is concerned, the clauses in question merely refer to the Labour Code without any special further explanations.
Right to accommodation, Besson Act of 31 May 1990.	"Guaranteeing the right to accommodation constitutes a duty of		

	<p>solidarity for the whole nation. Any person or family experiencing particular difficulties (...) is entitled to the community's assistance in order to obtain a decent, separate dwelling where they can stay."</p>	
<p>Same Act, Section 28 specifically concerns travellers.</p>	<p>"Any commune with more than 5,000 inhabitants must offer temporary and permanent facilities for the travellers in its territory, by setting aside land with amenities for this purpose."</p>	<p>The Act is rarely complied with.</p>

EXPLANATORY NOTE

FRANCE / CIVIL AND ADMINISTRATIVE LAW

1. The Advisory Committee on Human Rights

The purpose of the Advisory Committee on Human Rights, which was set up as an independent body by decree in 1984, is to assist the Prime Minister by advising him on all national and international matters relating to human rights.

Originally, the committee was founded to advise the Minister for Foreign Relations on all aspects of French action to promote and protect human rights throughout the world. In 1986, the committee (which then had 40 members) was attached to the Prime Minister's office. A decree issued in 1989 subsequently made it directly answerable to the Prime Minister and raised the number of its members to 70. A Decree of 11 September 1996 broadened its remit to include humanitarian action.

On the one hand, they consist of representatives of civil society:

- national associations to protect human rights, e.g. *La Fondation France Libertés*, *Danielle Mitterrand*, *France Plus - mouvement national des droits civiques*, *le Groupe*

d'information et de soutien des travailleurs immigrés (GISTI), la Ligue internationale contre le racisme et l'antisémitisme (LICRA), le Mouvement contre le racisme et pour l'amitié entre les peuples (MRAP), le Mouvement ATD-Quart Monde, SOS Racisme, etc.;

- trade union organisations: CGT, CFDT, CFTC, etc.;

- various eminent persons, including religious leaders and French experts who are members of international human rights bodies;

and on the other hand, of representatives of the government: representatives of the Prime Minister and the ministries concerned: Justice, Interior, Social Affairs, Education and the Parliamentary Commissioner.

The Prime Minister or members of the Government may ask the Committee for opinions or studies. As it has been able to examine questions on its own initiative since 1989, it may call the public authorities' attention to measures which it thinks might help to protect and promote human rights.

Pursuant to Section 2 of the Act of 13 July 1990, the Advisory Committee publishes an annual report on these issues.

Moreover, the 1992 and 1993 and 1996 reports have provided ample reference material for this survey.

The Committee has established a file on case-law concerning racism and a large documentation service.

2. Ministries' Action

The Ministry of Education focuses on proper education in human rights. This instruction takes a variety of complementary forms, including:

- new explicit and implicit contents taught in different ways: civics course, Educational Action Plan entailing the carrying out of a civics project using innovative tuition techniques such as making a video film, mounting an exhibition, etc. or competitions. Human rights education implies *knowledge*;

- teaching pupils how to participate in the life of the school community. The pupil is regarded as a citizen. Human rights education becomes a *real initiation into citizenship*;

- extracurricular activities jointly run by the educational authorities and educational associations like the FOEVEN (*Fédération des Oeuvres Educatives et de Vacances de l'Education Nationale*) (a federation specialising in educational holidays) and UNESCO clubs;

- activities designed to integrate the most underprivileged and foreigners, protect young people and train teachers.

Moreover, a number of facilities have been set up for school-aged foreign children: reception classes, *Centres de Formation et d'Information pour la Scolarisation des Enfants de Migrants (CEFISEM)* (training and information centres), etc.

The Ministry of Social Affairs and Integration, renamed the Ministry of Regional Planning, Urban Affairs and Integration, is active in the field of vocational training, housing and social mediation and thus conducts a vigorous policy to integrate foreigners. In addition to the ministry, the *Fonds d'Action Sociale pour les Travailleurs immigrés et leurs Familles* (Social Action Fund for Immigrant Workers and their Families - FAS) plays a leading role in the integration of immigrants; for example, in 1992 it contributed FF 1,210 million for this purpose. Reference must also be made to the activities of the *Conseil national des Populations immigrées* (National Council of Immigrant Population - CNPI), a consultative body attached to the FAS.

In 1993, the ministry carried out a number of integration measures (in schools, to help foreigners on their arrival in France, to promote the integration of foreign women, to make various public services more accessible to non-citizens, to improve their access to health and to foster cultural integration) as it considers that the integration of foreign immigrants into French society is the best defence against racism and xenophobia.

Since 1995, the Ministry sponsored a number of actions to help the undertaking of young immigrants as well as young people coming from marginal areas.

Note

¹ National Advisory Committee on Human Rights, 1990 Report "1990. La lutte contre le racisme et la xénophobie. Exclusion et Droits de l'Homme," La documentation française, 1991.

Note

² Paris, 12 November 1974, Dalloz 1975, 471, note Foulon-Piganiol.

Note

³ Douai, 25 June 1974, Dalloz 1975, 492

Note

⁴ Paris, 18 December 1996, Doc Juris-data No 023839.

Note

⁵ Criminal Division of the Court of Cassation, 14 October 1986, Bull. Crim. N 287, Gazette du Palais 1987, 1, Summary p. 193.

Note

⁶ Commission Nationale Consultative des Droits de l'Homme, 1993 report "1993. La lutte contre le racisme et la xénophobie. Exclusion et Droits de l'Homme" , La documentation française, 1994.

Note

⁷ Paris, 27 March 1996, Doc Juris-data No020728.

Note

⁸ Bulletin des arrêts de la Cour de Cassation en matière criminelle, No 118 and 1995, No 217.

Note

⁹ Case quoted in the Report of the special Rapporteur (of the Commission on Human Rights) on contemporary manifestations of racism, racial discrimination, xenophobia and the intolerance associated with them on his/her mission to France from 29 September to 9 October 1995, Doc. ONU E/CN.4/1996/72/Add.3.

Note

¹⁰ Paris, 30 March 1995, Doc.Juris-Data No 021295.

Note

¹¹ See National Advisory Committee on Human Rights, Report 1993, 1993 La lutte contre le racisme et la xénophobie. Exclusion et Droits de l'Homme, La documentation française, 1994, p. 146, communication by MRAP.

Note

¹² See National Advisory Committee on Human Rights, Report 1993, 1993 La lutte contre le racisme et la xénophobie. Exclusion et Droits de l'Homme, La documentation française, 1994, p. 136, communication by LICRA.

Note

¹³ See National Advisory Committee on Human Rights, Report 1993, 1993 La lutte contre le racisme et la xénophobie. Exclusion et Droits de l'Homme, La documentation française, 1994, p. 136, communication by LICRA.

Note

¹⁴ See the opinion of the National Advisory Committee on Human Rights dated 26 September 1996 in Report 1996: 1996: La lutte contre le racisme et la xénophobie. Exclusion et Droits de l'Homme, La Documentation Française, 1997, p. 2378; Cohen C, Les derniers développements de la législation antiraciste, Gaz. Pal., 1-4 January 1997, p. 41.

Note

¹⁵ National Advisory Committee on Human Rights, Report 1996, 1996 La lutte contre le racisme et la xénophobie. Exclusion et Droits de l'Homme, La Documentation Française, 1997, p.73.

Note

¹⁶ National Advisory Committee on Human Rights, 1992 Report, 1992 La lutte contre le racisme et la xénophobie. Exclusion et Droits de l'Homme, La documentation française, 1993, p. 129.

Note

¹⁷ Jean-Pierre Bonafé-Scmitt (sic) La médiation une justice douce, 1990, p. 47.