

National Annual Report 2004

Raxen 5 Programme

EUMC

1. Executive Summary

The writing of a national report on the current year is extremely difficult in France, as research centers and institutes that produce statistical data only analyse data collected the preceeding year, in the best of cases. Thus, this report essentially covers information from the first six months of 2004. One of the most important evolutions is the fact that the level of racist and anti-Semitic acts of violence has never been as high as in the first six months of 2004. A priority has been given by Public Authorities to fight this trend, with the creation of the new Interministerial Committee Against Racism and Antisemitism on December 3rd, 2003.

This report recalls that the French constitution forbids differential treatments on the basis of origin, “race” or religion. The groups affected by racism, xenophobia and discrimination are thus defined in relation to the legal definition of the penal offences and common law prohibitions that are stipulated in the relevant articles of the penal and Labour Code and other relevant legislation.

In the field of employment, statistical data from the INSEE on the situation faced by immigrant groups on the labour market¹ show that these tend to face unemployment more frequently than the rest of the population, and that the jobs they get are often either part-time or temporary work. The data from the 114 hotline confirm that cases of discrimination in employment, professional life, and training concern 60% of the callers. The report describes case law from 2004 and several studies financed by the public powers that give relevant information to the EUMC. The report also describes various initiatives taken by the public authorities. Among others, the fact that the Prime Minister entrusted the chairman of a committee of important businesses with coordinating a programme aimed at promoting equality of opportunities in the private sector. Also, the second Interministerial Committee for Integration aims at favouring the reception and training of newly arrived immigrants. As a final example, the Social Cohesion Plan, presented by the Minister of Employment, Labour, and Social Cohesion, comprises specific measures for employment.

For the very first time, the Minister of Education and Research published data on racist and anti-Semitic acts in secondary schools. Since January 2004, some 1030 acts of racist motivation and 203 acts of anti-Semitic motivation have been registered in secondary schools, amounting to 3% of all reports of acts of violence. Also, the report accounts for two analyses of the various measures taken to receive and offer school guidance to foreign pupils who have recently arrived in France, and who can face various difficulties. A « Republican booklet » was published by the public powers and distributed at the start of the school year in September 2004. A software programme created in 2001 as a tool to report racist and anti-Semitic acts in schools was further improved this year. Measures were also taken in order to install software filters in school computers that automatically bar racist websites. The Plan of Social Cohesion adopts a series of measures aimed at improving equality of opportunities in education. Finally, the law on the application of the principle of secularity forbidding the wearing of religious signs in state schools was adopted in March 2004, and its application to cases of students wearing the veil at the beginning of the school year are described.

As concerns legislation, it is reported that Directives 2000/43 and 2000/78 have been partially transposed. To further complete their transposition, the government deposited a Bill before Parliament creating a High Authority to fight against all discriminations and for equality, on July 15th, 2004 which was adopted

¹ These studies exploit on a regional level the data of the last national census (1999) in several regions: Poitou-Charentes (PUBFR2024), Aquitaine (PUBFR2026), Centre (PUBFR2028), Provence-Alpes-Côtes d'Azur (PUBFR2032), Bretagne (PUBFR2030), Corsica (PUBFR2025), Auvergne (PUBFR2029), Languedoc-Roussillon(PUBFR2027).

in first reading on October 6, 2004. The law on the application of the principle of secularity forbidding the wearing of religious signs in state schools that was adopted in March 2004 is described both in the chapter on legislation and the one on education. Furthermore, the law for the adaptation of justice to the evolutions of criminality (known as Perben 2) that was adopted on March 16, 2004 extends the delay to prosecute racist statements and increases the sanctions related to racist violence. The report establishes a list of case law gathered by the French consortium that concern acts of racism or discrimination. The report furthermore lists all the initiatives and measures taken in 2004 after the four meetings of the Interministerial Committee Against Racism and Anti-Semitism charged by the Prime Minister to assess the measures required in order to face the present situation of acts of racist and anti-Semitic violence.

In the field of housing, there is little new academic research. The INSEE, however, provides data on the housing situation of immigrant groups in five French regions², and another research carried out by the INSEE in 2002 provides interesting results on low-income families that allow the extraction of information about the housing situation of immigrant groups. Another research analyzes the situation and residential strategies of middle class people of foreign origin in two neighbourhoods in Lyon and Paris. It reveals and explains the form taken by indirect or hidden discrimination towards this public. The policies concerning the housing of asylum seekers, refugees and rejected asylum seekers in the Alpes-Maritime region as well as the existing local aid structures are analyzed by a study produced by University scholars. The national report also presents the conclusions of a report by the Economic and Social Council on the fight against « bad housing », as well as a report on infant lead poisoning in unfit habitation, published by the General Inspection of Social Welfare (Inspection Générale des Affaires Sociales). The Plan on social Cohesion includes measures to increase low-cost housing, to reinforce emergency support and to improve the housing situation of discriminated groups in France.

The report draws on official data published by the Minister of Interior on racist and anti-Semitic acts in the first six months of 2004. The 95 acts and 161 threats show that the level of racist violence is particularly high, and that these might be explained as « repercussions », directly linked to the terrorist attacks in Madrid on March 11th, 2004. In this context, 26 acts and 37 « anti-Muslim » threats have been reported in 2004, until now, which is more than twice as many as in 2003 (entire year). The desecration of Muslim graves in the Bas-Rhin region shocked public opinion. Also, anti-Semitic violence has risen since 2003, with 135 acts and 375 threats, and seems linked to the situation in the Middle East. The main measures taken by the public powers are due to the Interministerial Committee Against Racism and anti-Semitism. The report presents the heated debate on the use of the word “islamophobia” that has been used to designate anti-Muslim violence. The report draws on data published in 2004 by a commission under the CNCDH as well as a survey made in 2003. The report also mentions the fact that the French Council of Muslim Faith announced the creation of a National Monitoring Centre on Islamophobia, and that new groups wish a political recognition, either as democratic or secular Muslims.

² The data on the housing situation of immigrant groups from the 1999 national census concern the following five regions: Poitou-Charentes, Aquitaine, Brittany, Corsica, Haute-Normandie.

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3. Legal Definitions and sources

3.a. Official (legal) definitions of socially vulnerable groups affected by racism, xenophobia and discrimination in the five areas.

The inalienable rights deriving from this status are unrelated to any notion of “race”, “ethnic group” or “origin”. Specifically, no circumstances are considered to justify differential treatment on grounds of “race” or “origin”. In its case law, the Constitutional Council has recognized only the French people, without distinction of origin, “race” or religion, and the law has consistently refused to admit such criteria as legal or administrative categories³. Thus, no section of the French population may claim to be a “people”, a “minority”, or a “group”, with cultural or other rights attaching to such status⁴. The law grants to all individuals, and to their beliefs and allegiances, its uniform and impartial protection, but does so solely to them as individuals. For legal purposes, groups defined by such beliefs or allegiances simply do not exist. The law regards human beings as essences detached from the subjective and cultural accidents of origin, which means that statistics or comparisons based on origin are illegitimate, even in the context of admitted socially constructed and constraining categories.

Meanwhile, ROMs, Sinti, Gypsies and Travellers are benefiting from a specific institutional framework which protects their way of life. It is managed by the prefects and imposed by law, insuring them parking rights and allowing them to organize their administrative existence⁵. However, this law provides institutional support to a way of life but does not thereby create a legal category of citizens based on their origin.

The groups affected by racism, xenophobia and discrimination are thus defined by the legal definition of the offences themselves which are stipulated in the relevant articles of the penal and Labour Code. Moreover, the definition of “racial” discrimination includes the notion of “deemed origin” attributed by the discriminating party, which distances the offence of any predefined group.

Racist offences are material facts from which racist intent may be imputed. Some have no identified victim but are judged to impugn humanity or some section of it (e.g. press offences), to violate the respect due to the dead (e.g. the profanation of graves and other memorials), or to deny the indignity of past atrocities (e.g. Holocaust denial, usually called in French “*négationnisme*”, which was made a specific offence by a law of 1990). What these acts have in common is that the very fact of committing them creates a presumption that they were intended to transgress the right to dignity, which is at the core of the French legal conception of equality.

Article 225-1 defines unlawful grounds for discrimination that are subject to prosecution in very broad terms, which cover *inter alia* race, real or supposed origin, beliefs and opinions. Article 225-2 specifies the situations in which appeal to the unlawful grounds previously specified shall be punishable. The realm of application of the prohibition to discriminate is thus more restrictive and covers only employment, provision of goods and services, and “interference in ordinary economic activity”.

In the case of racist offences, they are few in number and respond to very peculiar circumstances corresponding to acts of which racist intent is substantively constitutive. There are no specific procedural rules relating to racist offences:

³ Article 1er de la Constitution de la Ve République (1958) (PUBFR1262) et Conseil Constitutionnel, 15 juin 1999, DC 99-412 relative à la Charte européenne des langues régionales ou minoritaires

⁴ Article IV de la déclaration des droits de l’homme et du citoyen, Conseil constitutionnel 9 mai, 1991, *Loi portant statut de la collectivité territoriale de Corse*, décision n° 91-290DC, *Journal officiel*, 14 mai 1991, p. 6350. (PUBFR1305)

⁵ Loi n° 69-3 du 3 janvier 1969 relative au régime applicable aux personnes circulant en France sans domicile ni résidence fixe ; Loi « Besson » n° 614-2000 du 05 juillet 2000 relative à l’accueil et à l’habitat des gens du voyage (PUBFR0552) ; Décret n° 2003-1120 du 24/11/2003 relatif à la Commission nationale consultative des gens du voyage (PUBFR1795).

- Digital recording or storage of data comprising, directly or indirectly, a person’s “racial origins”, without that person’s express consent and except where specifically authorized by law (art. 226-19 of the Criminal Code).
- Racist violation of the respect due to the dead (art. 225-18 of the Criminal Code).
- The wearing or public display of insignia, uniforms, or emblems, likely to remind the public of those characteristic of the perpetrators of crimes against humanity is an offence carrying a maximum fine of €1,500 (art. R645-1 of the Criminal Code).

A final offence is peculiar to sport meetings, including broadcasts of sporting events in stadia. Any person having, in any way whatsoever, incited spectators to hatred or violence against a person or group of persons faces a maximum sentence of 1 year’s imprisonment and a €15,000 fine (art. 42-7 of the law of July 16 1984, incorporated in art. 222-16 of the Criminal Code). Introduction, wearing, or display, in such gatherings of insignia, signs, or symbols, characteristic of racist or xenophobic ideology carries the same maximum sentence (art. 42-7-1 of the law of July 16 1984).

In view of the growing number of attacks related to origin or religion, particularly targeting the Jewish and Muslim communities (cf. section 5A of this report), the Law of February 3 2003, aggravating the penalties related to infractions bearing a racist, anti-Semitic or xenophobic character was adopted unanimously by the National Assembly and the Senate⁶. In addition, this law created a new offence of destruction of property with respect to places of worship, schools and educational or leisure facilities, or vehicles for the transport of children (art. 322-3 al. 2 CP), the penalty being 5 years imprisonment and / or a 75,000 €fine.

The law of July 29th, 1881 defines a number of offences deriving from the verbal (oral or written) and non-verbal expression of various forms of racism, specifically: racial defamation; racial insult; incitement to racial discrimination, hatred, or violence; denial of or apology for crimes against humanity.

3. b. Data and information sources for the five areas

Diverse and complementary sources were used for writing this report. It is however important to bear in mind that it is difficult to analyse this year’s evolutions, as most research centres and institutions that produce statistical analyses work from data collected last year, in the best of cases.

The report draws on official statistics published by the Ministries that work in the areas covered by Raxen 5 – when such statistics exist. Among these, one finds official sources from the Ministry of the Interior that are published by the CNCDH (National Consultative Commission of Human Rights) as well as data from the Ministry of Education and Research. Official sources also provided the information concerning legislation, action programmes and initiatives led by public authorities. Information concerning actions and programmes led by non-governmental organisations stems from material produced by these same organisations in the course of their information or communication activities.

The report also draws on publications that specifically concern the issues specific to the areas of the Raxen 5 programme. Even though these publications were published in 2004, the information and analyses generally cover the years 2002 or 2003. Certain publications are preliminary conclusions or summaries of various stages of research that will stretch over a longer period of time, and their final conclusions will only be published in a couple of years.

Finally, the national report also draws information from the media, especially the written daily and weekly press, as the Adri produces a weekly review of national press, covering Raxen’s five themes. An analysis of the local press would be interesting, but the Adri doesn’t yet dispose of the means necessary to proceed to this review.

⁶ Loi n° 2003-88 du 03/02/2003 visant à aggraver les peines punissant les infractions à caractère raciste, antisémite ou xénophobe - JORF n°29 du 4 février 2003 (PUBFR0384)

In a near future, the report will be able to draw on the statistics resulting from the work of the Monitoring Centre on Immigration and Integration recently created by The Minister of Employment, Labour and Social Cohesion and the Secretary of State for Integration. The Monitoring Centre will be under the authority of the High Council of Integration, and it will present an annual report based on new statistical methods informing the public authorities about immigration and integration. The Centre will report annually to Parliament and will also supply information to the European Commission.

4. Analysis of the five main areas

4.1. Employment

4.1.A. Publicly Available Evidence of Racism and Discrimination in Employment

- Official Data

In 2004, the national census produced data that makes it possible to analyse the access to employment of immigrant populations in several French regions.⁷ These data show the difficulties that immigrant populations face on the labour market: they are subjected to higher rates of unemployment and the jobs they get are often either part-time or temporary work.

The 114 help-line provides data⁸ opening an insight – unprecedented in France – into discrimination and the perception of its victims. However, before looking at information derived from this data, three methodological limitations should be pointed, which indeed partly explain why analysis is still preliminary.

First, the source – unsolicited telephone calls – is inherently biased, and there is no adequate basis for statistical correction. It is impossible to know at this stage whether callers are representative of the victims of discrimination as a whole.

Secondly, the only data set that can be analyzed is made up of those callers who are “referred” (*signalés*): cases are not referred when they are judged unfounded or when the caller does not wish to be part of the process.

Thirdly, help-line respondents are not sociological investigators, and have, obviously a quite different function. Thus the help-line was never intended to be and is not a sociological tool. Any use of the material available must therefore take account of the fact that it is primarily oriented towards victim support.

Finally, the number of calls transmitted to the platform has been substantially influenced by the fact that since June 2nd, 2003, the reception of the help-line has been effected by an automated telephone service offering new services and disposing of requests for information, thus reducing calls processed by the platform.

67% of calls are made by men, 21,4% of them by adults between 40 and 59 years of age and 42% by adults between 26 and 39 years. Very few young people contact the Help-line: people under 25 represent 25% of the callers and less than 1% are under 18. Their calls are generally in relation to access to goods and services, discos and, in a lesser degree, difficulties in access to employment.

Discriminations emerging from calls to the Help-line touch a great variety of subjects. However, employment, professional life and formation are by far dominant in the complaints. They amount to 60% of the complaints (professional life 26,7%, access to employment 26,7% and professional training 7%).

⁷ INSEE, Atlas des populations immigrées de la région Poitou-Charentes, INSEE, Mars 2004, p44 (PUBFR2024) ; INSEE, Les populations immigrées en Aquitaine, Insee Aquitaine, 2004, n°48, avril 2004, p 30 (PUBFR2026) ; INSEE, Immigrés : le Portugal et le Maroc, principaux pays d'origine des immigrés résidant dans la région Centre, Insee Centre info, n° 124, juin 2004, 4p. (PUBFR2028) ; INSEE, Les populations immigrées en Provence-Alpes-Côte d'Azur, INSEE, 2004, p 20 (PUBFR2032) ; INSEE, Atlas des immigrés en Bretagne, Avril 2004, p41 (PUBFR2030) ; INSEE, Atlas des populations immigrées en Corse, INSEE, Mai 2004, p 23 (PUBFR2025).

⁸ GIP-GELD Internal statistics from January 2004 to June 2004.

As for court cases, it is important to note that discrimination and other case law related to racist offences are largely unpublished. Access to decisions is dependant on addressing a request to each court based on press information and to use information collated by voluntary networks active in judicial support. The amount of work, in order to survey only about 15 cases (during the period between January and September 2004), is considerable: it would be quite impossible to provide exhaustive information in the absence of publication, publicity and access. In addition, the only official statistics relate to the criminal record of condemnations and are published within a minimal delay of 18 months from the end of the year. There are no available statistics relating to the number of complaints lodged to the police or criminal prosecutor, but it is known that their number is far superior to the amount of cases prosecuted or to the statistics relating to condemnations.

In relation to decisions rendered since January 2004, we have identified three cases before the labor courts relating to professional life⁹, four cases pending before the labour and penal courts¹⁰, one case before the penal court relating to access to employment¹¹, and one case of the social chamber of the *Cour de cassation* (Higher court of appeal) which, for the first time, qualifies racists insults of an employee, whether verbal or written, as faults justifying dismissal¹².

- The media

The selection of press articles by the Adri in the first semester of 2004 shows that little is published on the theme of racial discrimination in the labour market, in particular at a local level. Consequently, we would like to draw the attention to two articles published in 2004¹³ that concern two well-known companies, both at a national and international level.

- Research and surveys

In 2004, several studies were financed by the public authorities in order to get a more precise picture of discrimination on the basis of foreign origins. The first study analyses the careers of young women of North-African background and was financed by the Direction of Population and Migrations (DPM), and the Social Action Fund for Integration and the Fight Against Discrimination (Fasild). The second study was published at the initiative of the Service for Women's Rights (SDFE) and analysed processes of double discrimination, on the basis of gender and origins. Furthermore, a study financed by the DPM analyses the access of young people of immigrant background to employment in the public sector. Finally, a study by the Cereq (Study and Research Center on Professional Qualification) compares the data of a major statistical survey, carried out on various categories of youth, called "Generation 98". However, even though these studies present data collected before 2004, their results are relevant enough to be brought to the EUMC's attention.

In her study, Emmanuelle Santelli analyses the careers of 200 young adults of North-African background, between 20 and 29 years old, who have lived in the Lyonnese suburban neighbourhoods for at least ten years.¹⁴ The aim of the study was to determine how this common experience has affected them as they stepped into adult life, notably as they integrated the labour market. The impact of their shared life experience in a specific urban space and their use of other urban spaces in their social evolution and careers,

⁹ Conseil Prud'hommes de Lyon 16 Janvier 2004 Fatima Amrouche c/ SA Téléperformance (PUBFR1968) ; Conseil Prud'hommes de Paris 17 mai 2004 Jemel Doune c/ SARL Sofradex (PUBFR1973)

¹⁰ Various cases initiated against Renault before the labour court in Boulogne and Paris, one penal complaint lodged against Chronopost in Strasbourg on February 19, 2004 discussed hereafter in section 4 III C. Legislation.

¹¹ Chambre d'instruction de la Cour d'appel de Besançon 21 avril 2004 Nasséra Gherbi (PUBFR1966)

¹² Cour de Cassation Chambre sociale 02/06/2004 Sté Pavillon Montsouris c/ X n°02-44904 et X c/ Sté Spot image n°02-45269 (PUBFR1974)

¹³ "Une plainte pour discrimination raciale a été déposée contre une antenne régionale de Chronopost", *Le Monde*, 21-22 mars 2004 (PUBFR1734), "Renault accusée de discrimination raciale", *AFP*, le 23 juin 2004 (PUBFR1965).

¹⁴ Santelli Emmanuelle, *Du quartier à l'entrée dans la vie adulte : les trajectoires socioprofessionnelles d'une cohorte de jeunes adultes français d'origine maghrébine*, Université Lyon II, Groupe de recherche sur la socialisation, Lyon, janvier 2003, 231p. (PUBFR1844)

is analysed. There is a major differentiation on the basis of gender. In spite of the fact that the girls are more successful at school than the boys are, they often go through longer periods of unemployment later. The research identifies a growing victimisation as these young people face difficulties in the access to employment and as their feeling of being discriminated in the labour market increases.

The study on discrimination in the access to employment of women of foreign background and their daughters analyses their specific situation of double discrimination.¹⁵ These women are not only discriminated on the basis of gender, but also on the basis of their foreign background, and, in spite of being more successful at school, they know more obstacles throughout their careers and are less often promoted in their jobs than men of foreign background are. More frequently than the men, they are given jobs for which they are overqualified, they go through periods of unemployment or they only manage to get part-time work. Also, they more often need to participate in programs aimed at integrating them into the labour market.

Hubert Peres' study focuses its analysis on a specific phase of the competitive examinations of "category A civil servants". Hundreds of interviews were made with candidates, careers advisers, and teachers in three cities (Montpellier, Grenoble and Bordeaux) and a questionnaire was handed out to all students preparing for the competitive examination in preparatory training centres. The study seizes and analyzes the differences in the access to employment in the public sector of young people of immigrant background, whether they originate from "Third countries" or from other E.U. countries. It also analyzes the discourse of persons who advise young people in their personal choices and careers, and identifies elements which are determinant of young people's perception of civil service.¹⁶

The French Centre for Research on Education, Training and Employment (Cereq) has analysed the integration of young people of foreign background (North Africa, Spain, Italy, Portugal) into the labour market after leaving university, on the basis of the results from the data relating to the « Generation 98 » study which monitored the professional progression of a group of student who obtained their High School diplomas in 1998. The study compares the evolution of the careers of young people of North African and Southern European backgrounds and those of young people of French background. It analyses their socio-demographic characteristics and their results at school and university before focusing on their access to a first job and the characteristics of the job they occupied at the time of the study. The results show that youths of North African background have more difficulties than youths of South-European or French background, as they enter the labour market and when they face unemployment.¹⁷

The study furthermore shows that, more often than men do, women tend to lose status on the job market and are given jobs for which they are overqualified (44% women of North African background were unemployed for more than a year as compared to 19% of the men). One third of the respondents had a strong feeling of « victimisation ». This feeling was more pronounced with the men, who believe that they are victims of discrimination on the basis of their last name and of their skin colour. The study shows that 33,6% of these young people give up university before their second year, as compared to 16,3% of youths of French background. Also, only 3,2% of registered students of North African background complete a higher university degree, as compared to 88% of registered students of French background

These afore-mentioned studies were financed by the public authorities in order to make up for the lack of knowledge on racial discrimination in employment. Three other studies and surveys in this field should be

¹⁵ Roulleau-berger Laurence, Lanquetin Marie-Thérèse (dir.), *Femmes d'origine étrangère : travail, accès à l'emploi, discrimination de genre*, Paris, La Documentation Française, 2004, 175p. (PUBFR1867)

¹⁶ Peres Hubert, Jourda Marie-Thérèse, Attou Khadidja, Dedieu Olivier, Fonbonne Guillaume, *L'accès aux fonctions publiques des jeunes d'origine immigrée*, Montpellier, Faculté de droit, avril 2004, 250p. (PUBFR1249)

¹⁷ Frickey Alain, Murdoch Jake, Primon Jean-Luc, Vollenweider-Andresen L., *Les débuts dans la vie active des jeunes issus de l'immigration après des études supérieures. Enquête "génération 98"*, Marseille, Cereq, février 2004, 37p. (PUBFR1894) The statistical precision of the method used in this survey should be emphasized, as 2500 questionnaires from the « Generation 98 » study that was carried out on 54,000 youths, were reexamined. Signalons la rigueur statistique de la méthode d'exploitation secondaire de 2 500 questionnaires extrait de l'enquête Génération 98 portant sur 54 000 jeunes.

mentioned as they bring new knowledge on employers' recruitment practises and the various perceptions of employers and young victims of discrimination.

The Moderation Centre of Discriminations at the University of Paris I did a study on employers' recruitment practises for temping agency Adia. The method of « testing » was used, as seven different standard curriculum vitae were sent to answer 258 job adds for a sales person with a *BTS*-degree (vocational training certificate taken after the age of 18). Job applicants with handicaps turned up to be the main victims of discrimination, followed by job applicants of African and North African background, people in their fifties, unattractive people, people living in neighbourhoods of ill reputation, and, finally, women.¹⁸

In a special issue on racism in French businesses, the newspaper *Les Echos* gave statistical data on the diverse perceptions of obstacles in the employment of young qualified people of immigrant background, by employers and young victims of discrimination. A survey by CSA/ Enjeux from 2004 reveals that 74% of the French feel that these youths are victims of racial discrimination in their work place. 70% of workers interviewed and 74% of the respondents who belong to the managerial staff do not feel that this applies to their own company.¹⁹

4.I.B Processes for Receiving, Recording and Processing Complaints of Racism or Discrimination in Employment

In France, complaints of racism or discrimination in employment are legally treated by the courts. All matters relating to salary, professional life and dismissal of salaried workers of the non public sector are dealt with by the French Labour Court (Conseil de prud'hommes) whose decisions can be appealed before the Courts of Appeal. Civil servants and employees of the public sector must address their complaints to the administrative courts.

In addition, in cases of access to employment, professional training, sanction and dismissal, there are penal recourses available to all categories of employees. As discussed hereafter in section 4 III A Legislation, the pending Bill creating a High Authority to Fight against all discriminations and for equality²⁰ which was adopted in first reading on October -, 2004, will complete the transposition of Directive 2000/43 and create a civil recourse conforming its requirements in cases of discrimination in access to employment and professional training.

To facilitate the access of victims to these recourses which were seldom used, the French government decided in 2000 to create a complaint scheme in matters of "racial" discrimination, based on a free helpline (114) transmitting complaints (*signalements*) to the appointed departmental administrative office of the CODAC for administrative follow up at the local level.

The "114" is all at once a source of information, a place to talk and listen, an orientation platform and a public service reporting acts of discrimination. These various functions correspond to its public's multiple needs which emerge as a desire to say, to name, to interact, to understand but mostly to refuse inequality of treatment and the ensuing prejudice. A team of professionals accomplish these missions under the seal of confidentiality.

When a "caller" requests a personal follow-up of his situation and accepts to transmit his identity, a formal report is established and transmitted to the permanent secretary of the CODAC of the caller's department of residence.

While this decentralized scheme did not give rise to a satisfying response to victims for various reasons (explained in Raxen 4) among which the inexperience of local actors and administrative resistance to

¹⁸ Study carried out between April 13th and May 14th, 2004, source : The Monitoring centre on Discrimination.

¹⁹ Deschamps Pascale-Marie, "Raciste l'entreprise ? Vingt ans après ses voisins, la France s'alarme de la discrimination au travail et envisage des solutions", *Enjeux, les Echos*, N°203, juin 2004, pp 64-81. (PUBFR1814)

²⁰ Projet de loi n° 1732 du 15/07/2004 portant création de la Haute autorité de lutte contre les discriminations et pour l'égalité. (PUBFR1976)

name but a few, it has allowed governmental and civil society actors to experiment their approach. The analysis of its shortcomings has allowed an evaluation of the difficulties related to the implementation of the prohibition of discrimination in the French context and lead the government to set priorities, identify basic requirements and strategies, thereby substantially contributing to the elaboration of the Specialized Body. As discussed hereafter, France is in the process of putting in place a Specialized Body in application of EU Directive 2000/43 for January 2005, thereby creating a new system for processing complaints of discrimination.

4.I.C. Initiatives Taken by the Public Authorities and Other Actors

The analysis of racial discrimination in the field of employment and the revelation of the true scale of the problem, combined with the incentive resulting from E.U. programmes have led French public authorities to work out and to implement policies to favour the equality of Opportunities and fight discrimination in the access to employment. The political commitment in this field by the public authorities is pursued in 2004 in five directions that are summarised as follows in a note published by the DPM²¹:

- the production of knowledge
- the diffusion of information on discrimination to the key economic players
- partnerships with key players on the labour market
- training and supporting institutional actors
- fighting discriminations at a local level

The Charter for the Equality of Opportunities was officially presented to the Prime Minister on March 8th, 2004, by the Minister of State for Parity and Professional Equality. The Charter states that in three years, 300 actions should take place, aiming at training the key economic players and institutional actors (notably in the police force and in education) and heightening their awareness of forms of double discrimination in order to fight those more effectively. Specific measures should be taken for immigrant women: the introduction of notions of citizenship for recently arrived immigrants with a specific presentation of the equality of rights between women and men, and a national programme to help young girls and women from deprived suburbs who wish to set up businesses.

On Mai 28th, 2004, the Prime Minister met with a committee of company directors, chaired by Claude Bébéar. The company directors made a commitment to sign a Charter for a national strategy for the equality of opportunities. The Prime Minister entrusted Claude Bébéar with piloting a programme aimed at the companies that are committed to favour diversity and equality of opportunities. It should also be mentioned that in the beginning of 2004, an organisation regrouping leading French businesses published a report on the same subject. The Montaigne Institute has a workshop on the inequality of opportunities in France.²² The report recommends that a programme of equal access to employment should be established by implementing a Charter for diversity signed by companies, by promoting the training of young people and the equality of opportunities in schools and also by making the prevention of ghettoisation a national cause.

An appraisal on the measures taken over the last year was made by the Interministerial Committee on Integration on June 2nd, 2004. The "Reception and Integration Contract» has been established in 26 departments, and by the end of 2004, a "National Reception and Migration Agency" will be created. Measures have been taken to favour vocational training of young people with immigrant background, so as to "favour the equality of opportunities in education, training, and employment". Among these initiatives: 10,000 grants on merit should be given within two years, 25,000 sponsorships should be made in the field

²¹ Aubert Patrick, Boubaker Nourredine, *La politique de lutte contre les discriminations raciales dans le domaine de l'emploi*, Notes et documents, N°50, ministère de l'Emploi, du Travail et de la Cohésion sociale, Paris, mai 2004, 18p. (PUBFR1819)

²² Sabeg Yazid, Méhaignerie Laurence, *Les oubliés de l'égalité des chances. Participation, pluralité, assimilation ... ou repli ?*, Paris, Institut Montaigne, janvier 2004, 269p. (PUBFR1220)

of employment in 2004. Partnerships between schools in troubled neighborhoods and *grandes écoles* (competitive-entrance higher education establishments) should be developed, as well as public training for competitive examinations that give access to employment in the civil service.

The “Social Cohesion Plan”²³ that was presented by Jean-Louis Borloo, Minister of Employment, Labour and Social Cohesion, on June 30th, 2004, comprises several measures. Among these, one finds the organization of new ways of recruitment in order to favour a greater social mix in the civil service. Young people without qualifications or degrees, notably people from poor neighbourhoods should get access to alternating training. The Plan also revolves around the reform of the reception and integration of immigrant populations by the creation of a “National Reception and Migration Agency” (ANAM), the generalisation of the “Reception and Integration Contract” from January 1st, 2006, and the elaboration of local programmes of integration of immigrant populations in all regions.

As operation “It Will Be Possible”, initiated by SOS Racism and Claude Bébéar, former chairman of Axa France’s Surveillance Council, continues in 2004, it is clear that Pierre et Vacances, L’Oréal, Schneider and other large companies joined the operation with an implication that goes beyond communication and marketing purposes.

A new Monitoring Centre on Discriminations²⁴ was created at the University of Paris I in December 2003, so as to produce statistical data in order to improve human resources in private companies. The Research Center on Organisation Management and Social Relations (CERGORS) took the initiative for creating this center in order to develop research and surveys in the field of discrimination in all its forms. Its research focus on evolutions in the inequality of opportunity in employment.

It should also be very interesting to follow the projects that have applied for the EQUAL programme in 2004. In the Ile-de-France region, for instance, 8 out of 71 applicants in all areas cover theme B and the fight against racism.²⁵ These applicants have very diverse backgrounds. One of them is an organisation that has specialized in the field of memory and immigration, and another applicant is a company specialized in the production of documentaries. However, it seems that the European Social Fund’s slow administrative and financial procedures on the programme that ends in 2004, has deterred several new potential applicants from reapplying for EQUAL. The methodological tools developed by the former programme will be presented in action 3 by 2005.

A regional initiative for fighting discrimination in employment, taken by the Rhône Prefecture, should also be brought to the EUMC’s attention. The Prefecture encourages actors in the field of employment such as local jobcentres of the French National Employment Office (ANPE) to send anonymous job applications so as to hide a job applicant’s last name or his place of residence. This technique should allow job applicants to get a first job interview on the basis of their qualifications, degrees, training, and experience, only.

According to statistical data produced by the Observatory of the Town Contract in Lyon and its Suburbs, 13% of young people under 25 in Lyon are unemployed, whereas the figures go up in neighbourhoods with high concentrations of populations of foreign origin (20 % in Vaulx-en-Velin, 19 % in Vénissieux, 18 % in the Saint Jean de Villeurbanne area and 22 % in Rillieux-la-Pape), as companies avoid employing young people of immigrant background.²⁶

²³ Ministre de l’Emploi, du Travail et de la Cohésion Sociale, *Plan de cohésion sociale*, Paris, 30 juin 2004, 45 p. (PUBFR1824)

²⁴ The Research Center on Organisation and Social Relations Management (CERGORS) initiated this monitoring center, in order to develop studies and research in the field of all discriminations. Its research activities focus on assessing the evolution of equality of chances on the labour market.

²⁵ Project listed in a summary on the implementation of E.U. programmes to fight discrimination and inequality on the labour market (PIC EQUAL) in the Ile-de-France region, from June 30th, 2004. ATR de la DRTEFP Ile-de-France.

²⁶ “La préfecture du Rhône lance le curriculum vitae anonyme”, *Le Monde*, 4 mai 2004. (PUBFR1939)

4.I.D. Evolutions Concerning Undocumented Immigrants

It is impossible to give any indications as to the evolution of the number of undocumented immigrants (so-called « sans-papiers ») that work without a residence permit in France today.²⁷

4.II. Education

4.II.A. Public available evidence of racism and discrimination in education

- Data from the national 114 help-line

The calls of youths under 18 to the 114 help-line essentially concern questions related to difficulties in school in reason of the caller's personal situation. But these calls are scarce (less than 1%) stressing that the help-line is not perceived as a solution to these problems. Furthermore, the callers generally refuse to give their identity by fear of reprisals and manifest an immense resentment related to their feeling of not being recognized as French citizens.

- Acts motivated by racism and antisemitism registered in public establishments

The SIGNA software implemented in 2001 by the National Ministry of Education in all elementary and secondary state schools is intended first of all as a tool for collecting data on the serious acts of violence that take place in state schools and institutions. It is a steering tool that gives an idea of the evolution and traces the larger trends of violence in the school environment thus helping the institution in setting priorities in facing and preventing this phenomena. Three criteria permit to report an act:

- 1) acts that are qualified as criminal
- 2) acts reported to the police
- 3) acts creating a stir in the school community

This last mentioned criterion holds a share of subjectivity which does not burden the quality of the measure since the Ministry wanted to have a tool of tracing at hand. In the same spirit, it was decided that incivilities should not be reported as the resulting data would bear a subjective character. Only France has equipped its schools with this reporting system, which is a warning system, allows precise analysis and specific interventions.

When the extensive SIGNA survey was created, the nomenclature of acts consisted of 27 entries. In this nomenclature, a single entry referred specifically to an act related to racist motives, they were insults of a racist character. Certain acts, such as physical violence, thefts, or tags could be motivated by considerations of racist order, but the survey did not allow to distinguish between acts that were not motivated by such considerations. Since January 2004, the racist or antisemitic motivation of each single act can be monitored. However, it is not yet possible to compare the present data, that has been collected from January 2004 onwards to results from preceeding years.

- Acts Motivated by Racism or Antisemitism Registered by SIGNA since January 2004

Since January 2004 some 1030 acts of racist motivation and 230 of antisemitic motivation have been registered in institutions of secondary education (grammar schools, technical colleges, educational training colleges, regional institutions of special education (EREA)), amounting to 3% of all reports.

Since January 2004, 76% of the incidents motivated by racism or antisemitism were reported in grammar schools, and 12% were reported in secondary schools (all ranks mixed). Most reports of incidents motivated by racism or antisemitism are grave insults or threats, tags or other grave incidents (90% of the reports). The students are the principal instigators of these acts (85%) and in 7% of the cases the authors are unknown. When a student is the author of an act motivated by racism or antisemitism, two times out of

²⁷ The Ministry of Labour, through the Interministerial Delagation for the Fight Against Illegal Work (DILTI), registers offences on labour regulations in the field of so-called « hidden » work, committed the previous year. Among the 7 offences registered by the Ministry of Labour, these concern foreigners who are inspected on their job and who do not possess a working permit (which does not mean that they are necessarily undocumented immigrants). The data from 2004 is not yet available, neither is the data from 2003.

three, by and large, the victim is a fellow student, and a bit more than two times out of ten a staff member (mostly teachers).

In primary schools the numbers are very low and have not yet been a subject of analysis. But one may note that the acts are most frequently committed by the member of a child's family against a staff member of the school. It must be underlined, however, that the software, which also registers acts committed in the vicinity of state schools and institutions, does not register the acts committed within or close to private schools.

- Case Law

This year administrative courts were confronted with recourses concerning the appropriate sanction for anti-Semitic insults, threats and violence committed by students on their classmate. In December 2003, the disciplinary council of a secondary school in Paris definitively expelled two 11 year old students of north African origin for such behaviour. This decision was confirmed by the Rector of the school district in January 2004 in application of the Decree of August 30, 1985. After school break in January 2004, the expelled students were registered in another public school to complete the school year but their parents challenged the Rector's decision before the Administrative Court. On May 20, 2004, the Administrative Court of Paris in first instance decided that the evidence showed that on October 11, 2003, the first accused student had pushed his fellow student in the stairs, hitting him while he was on the floor and calling him "Minus". The second student laughed when his fellow student fell and was beaten, further making fun of him and calling him "buffoon and dirty Jew". The Court decided that these acts of violence required sanction but considering the age of the students and the fact that it was not established that these were repeated incidents, definitive exclusion from the school was disproportionate and inappropriate²⁸. The Ministry of education and the victim's parents appealed the decision. On August 11, 2004, the Administrative Court of Appeal of Paris modified the first judge's interpretation of the facts, concluding that the student who beat the victim was bullying his class mate since the beginning of the year. However, it maintained the decision of first instance and concluded that the situation in both cases did not require the application of the strictest sanction of definitive exclusion²⁹. The Ministry of Education and the victim's parents appealed the decision of the Court of Appeal before the Conseil d'Etat. This last appeal has not yet been heard.

4.II.B. Statistical Evidence of Inequality in Immigrant Children's Educational Performance

The Ministry of National Education in France does not produce statistical data relating to the academic results of foreign children or children of foreign origin. Therefore, we cannot give statistical evidence of inequality in performance of these groups. However, certain studies deal with the school records of pupils recently arrived in France since a specific programme is offered to them in accordance with their level of education and their knowledge of French language at the time of their arrival in France.³⁰

In 2003 a participant observation of the reception and school guidance of foreign pupils, who have just arrived in an experimental centre in Montpellier, describes the pilot plan for their first reception, the pupils' sociological characteristics (age, gender, level), the modalities of evaluations of their linguistic competence and their learning of French language.³¹ Arriving late in France at the age of attending secondary school, these pupils have different levels of schooling and can experience difficulties when they are integrated into normal school classes. The teachers' attitude towards these pupils and the nature of the rela-

²⁸ Tribunal administratif de Paris, 20 Mai, 2004

²⁹ Cour administrative d'appel de Paris (August 11, 2004) nos 04PA02022 and 04PA02023

³⁰ The special report on Education in the Raxen 4 Programme from 2003 gives a detailed description of the reception given to these newly arrived students.

³¹ Zoia G., Visier L., *Emigrer en France à l'âge du collège : trajectoires d'élèves nouvellement arrivés en région Languedoc-Roussillon*, IUFM, Montpellier et CADIS-EHESS, Paris, Montpellier, IUFM, 2003, 134p.

tionship between the children's reception centre and the school are important in the face of these unequal levels of schooling.

Another study published in 2003 analyses the non-attendance of first-arriving pupils³² caused by a poor educational level and/or their difficulties in submitting to rules of school attendance. In addition, the guidance plans leading them towards specialized classes contribute to maintain these pupils in skilled training, although they may feel a keen desire of theoretical learning, often to a much stronger degree than young French pupils or foreign pupils born in France.

4. II.C. Initiatives

At the first meeting of the Interministerial Committee Against Racism and Antisemitism on December 9th, the Minister of Justice announced that the National Ministry of Education had worked out a Republican Guide to be used by all school establishments. Furthermore, they had adapted the new software SIGNA for a better registration of incidents of antisemitic nature (see above), which should help to get a better knowledge of acts that had often been ignored in the past. The Republican Guide was distributed in September 2004 to all schools and to all teachers of history, literature, and philosophy. It may be used as a support for civic education classes and some aspects of history, literature and philosophy classes. The guide consists of an alphabetic reference book and an anthology of texts and films intended to explain a series of notions and to extend the knowledge of the documents that help enhancing the pedagogical actions against racism and antisemitism and developing the pupils' democratic and republican understanding and values.

At the interministerial committee's meeting of January 27th, 2004, the Minister of Youth, National Education and Research gave an overview of the manifestations organized for the day commemorating Shoah. The publishers of school material were called upon by the Ministry of National Education to pay extra attention to proscribing all contents that might favour racist and antisemitic attitudes and behaviour.

At its meeting of March 18th, 2004, the Interministerial Committee focused on the rising antisemitism in the school environment as a particularly troubling phenomenon. The Minister of National Education together with the Minister of Cities and Urban Renewal, have entrusted Pierre-André Taguieff, Research Manager of Cevipof, with a study to identify the various kinds of antisemitism facing young children in school and the factors and circumstances that foster the emergence of antisemitic behaviour.

This meeting was particularly focused on the means to fight the diffusion of racist and antisemitic ideas on the Internet, and it was decided that an International conference should be organized on this theme in Paris on the 16th and 17th of June 2004. The Minister of Youth, National Education and Research presented measures taken to protect the access to the Internet in schools. Every school will install a software filter that automatically bars websites that figure on a list which is updated on a daily basis and distributed nationwide.

At the meeting of May 3rd, 2004, held after the desecration of the cemetery of Herrlisheim, the Prime Minister wanted the inter-church commemoration held on May 6th in Colmar to condemn racist and antisemitic acts. As he wanted the ceremony to be "open to young people", he asked the Minister of National Education to take part in the event and express the importance that his Ministry attaches to the fight against racism and antisemitism. At the meeting of May 3rd, the Minister of National Education presented the project of the republican booklet with the title "The Republican Idea Today", which was tested online on the Internet from March to September 2004.

Tuesday, September 14, the Minister of education announced that 5000 DVD of this Booklet, as well as 250 000 hardcopies, had been sent throughout France in elementary, secondary and high schools for the school year 2004-2005 and will be used as a support for civic education, history and philosophy classes.

³² Schiff C, Lazaridis M., Octave C., Barthou E., Chauprade B., Delorme A., *Non scolarisation, déscolarisation et scolarisation partielle des migrants : les obstacles institutionnels à l'accès des enfants et des adolescents nouvellement arrivés en France à une scolarité ordinaire*, LAPSAC-CADIS, Université Victor Segalen, Bordeaux II, 2003, 157p. (PUBFR0335)°

In 2004, the annual report of the High Council for Integration launched a “citizenship training” plan in the “Reception and Integration Contract”. The report also puts forward recommendations to improve the social advancement of youngsters from poor urban areas.

Finally on June 30th, 2004, the Plan of Social Cohesion announced by the Minister of Employment, Labour and Social Cohesion presented an important recommendation on education. This Plan will give rise to the creation of 750 educational teams within primary schools in the educational priority networks, making it possible to follow children in great difficulties as well as their families, either individually or in groups. 150 educational platforms and boarding schools should be created in order to help non-attendant secondary school pupils or pupils with major difficulties.³³.

4.II.D. Main state provisions for minority education

In the French national education system there are no main state provisions for minority education since the very notion of “minority” is prohibited by the universal values of the republican model. On the other hand, foreign languages are taught in schools and linguistic diversity is recognized in the French public educational sector.

The language chosen by the Republic and by French schools is French, as laid down by the Constitution. However, on May 7th, 1999, France signed the Charter of Regional or Minority Languages of the European Council. Five so called 'non-territorial' languages joined the regional languages and those of the DOM-TOM (overseas territories), as well as North African Arabic, oriental Armenian, Berber, Romany, Spanish-Jewish, Yiddish, that were all migrant languages originally, but that are now considered as the languages of French citizens.

Eight modern languages are taught in primary schools (English, German, Portuguese, Spanish, Italian, Arabic, Russian, Chinese) as well as the regional languages. Fifteen modern foreign languages are taught in secondary schools: by alphabetic order: Arabic (literary), Chinese, Danish, Dutch, English, German, modern Greek, modern Hebrew, Italian, Japanese, Melanesian languages, Polish, Spanish, and Turkish; likewise the regional languages: Alsatian regional languages, Basque, Britton, Catalan, Corsican, Langue d'Oc, regional languages of the Gallic, of the Mosel region and Tahitian regions). 22 languages can be the subject of non-optional exams for A-levels, and 45 the subject of optional exams.³⁴

Also, the analytical reports on educational produced within the framework of the Raxen 3 and Raxen 4 programmes present in detail the specific modalities of reception of first-arriving pupils in France. Finally, a special study on the school attendance of children of Travellers is being prepared for the Raxen 5 programme.

4.II.E. Religious symbols in schools

The Law on the application of the principle of secularity forbidding the wearing of signs or clothes by which a student ostensibly manifests a religious belief in elementary, secondary and high schools was adopted on March 15th, 2004, and published on March 17th, 2004.

It forbids the « [...] wearing of signs or clothes by which students ostensibly manifest a religious belief ». The wearing of discreet religious signs remains authorised. The law further instructs each school to adopt a house regulation and put in place internal procedures for the school year 2004-2005 that should help manage the enforcement of the law by processes of mediation and dialogue with the student, eventually followed by disciplinary measures. As this new law raised a certain number of debates, an evaluation of the results of the enforcement of the law is due in September 2005.

³³ Ministre de l'Emploi, du Travail et de la Cohésion Sociale, *Plan de cohésion sociale*, Paris, 30 juin 2004, 45 p. (PUBFR1824)

³⁴ See : BOEN n°6 du 5 février 2004.

A government circular of May 18th, 2004 on the implementation of Law n° 2004-228 of March 15th 2004 was published on May 22nd, 2004. It states that « the prohibited signs and clothes are those by which one is immediately identified by one's religious beliefs, such as the Islamic veil, the kippa or a cross of manifestly excessive dimension ». However, the government circular emphasises the importance of creating a real mediation process with the participation of professionals in order to avoid disciplinary sanctions to cases where students categorically refuse to obey the law.

According to the Ministry of Education, in 2003 1200 young girls attended their first school day wearing an Islamic veil. Although precise figures are not yet available, the Minister of Education has declared that the number of girls who refuse to take off their veil after a process of mediation is substantially inferior this year.

4. III. Legislation

4. III A. Describe any new legal provisions or developments concerning the transposition of Directives 2000/43EC and 2000/78EC, especially regarding the development or creation of a specialized body.

Directives 2000/43 and 2000/78 have been partially transposed, particularly with respect to employees covered by the labour code, civil servants and access to housing. This legislation does not however cover the professions or harassment as a constitutive element of discrimination. Furthermore, it does not provide for reasonable accommodation of handicapped workers and only provides partial protection of victims and witnesses against reprisals: the only reprisals covered are dismissal or disciplinary measures, and it is for the employee to establish a prima facie case that the employer's action was illegitimate.

The reform of the 1975 outline law on handicaps led to the adoption on 15 June 2004 by the National Assembly at the first reading of the bill on the equality of rights and opportunities, participation and citizenship of handicapped persons.³⁵ This text completes the transposition of the provisions of Directives 23000/43 and 2000/78 on the integration of handicapped persons independent of their origin. In particular, it provides handicapped persons with a right to compensation and a right to access to education and employment by adapting the work place (article 2A of the bill). Under Title II Chapter I of the bill titled 'Compensation for the Consequences of the Handicap', this right to compensation is stipulated for the benefit of any handicapped person with stable and regular residency in the territory, an order-in-council by the State Council defining the terms and conditions of stable and regular residency (article 2 of the bill).

To further complete transposition of the directive 2000/43, the government has deposited on July 15 2004 before Parliament the Bill creating a High authority to fight against all discriminations and for equality³⁶, which was adopted in first reading on October -, 2004, for implementation in January 2005.

It contains two sections: the first creates the High Authority to fight against all discriminations and for equality (*Haute autorité de lutte contre les discriminations et pour l'égalité* hereafter the **High Authority**) and the second section completes the transposition of Directive 2000/43.

The High Authority to Fight Against All Discriminations and for Equality

The Bill before Parliament follows most of the recommendations of the Stasi report on the creation of an independent administrative authority to fight against all discriminations which was submitted to the Prime Minister on February 19, 2004³⁷. It proposes the creation of an independent administrative body with

³⁵ Projet de loi n° 183 du 28/01/2004 pour l'égalité des droits et des chances, la participation et la citoyenneté des personnes handicapées. (PUBFR1982)

³⁶ July 15, 2004, no. 1732 (*Projet de loi portant création de la Haute autorité de lutte contre les discriminations et pour l'égalité*) (PUBFR1976)

³⁷ Bernard STASI « Vers la Haute Autorité de Lutte contre les Discriminations et pour l'Egalité : rapport au Premier ministre » Premier ministre - février 2004 (PUBFR1235)

competence over all discriminations, direct and indirect, that are forbidden by the laws of the Republic, therefore readily adapting itself to future legal evolutions. It will cover discrimination by reason of real or imputed race or origin, sex, handicap, age, health, religion, sexual orientation, opinions, appearance, union activities in all domains regulated by law.

Its realm of power outreaches the requirements of directives 2000/43 and 2002/73. In addition to investigative powers, the High Authority will insure the promotion of equal treatment, and it will have power to make recommendations on all issues relating to discrimination, and to identify and promote good professional practices and to coordinate and conduct studies and research.

The High Authority should have competence to investigate individual and collective complaints, whether the investigation is initiated of its own accord or by written demand of the claimant. Its investigative powers should allow it to request explanations from any public or private person, including communication of documents and hearing of relevant witnesses. In case of non compliance, the Bill proposes that it be in a position to request a court order. It may also ask that all required investigations be effected by any service of the state and may proceed to visits in all non private premises after due notice and consent of the owner.

When in presence of a criminal offence, it will transmit the claim to the penal courts. Otherwise it may offer mediation to the parties or complete the investigation, in which case it will issue its conclusions and recommendations to the parties who will have a certain delay to comply. In case of non compliance, the High Authority will have the power to call public attention to its recommendations. In addition, it may alert the relevant authorities in cases that call for disciplinary sanctions against the respondent.

The High Authority has also been conceived as an auxiliary of Justice. The Bill creates the possibility for the criminal, civil and administrative courts to seek its observations in cases under adjudication. In addition, the High Authority will have the possibility to seek permission to submit its observations in criminal matters.

Transposition of Directive 2000/43

The second part of the Bill aims at completing the transposition of Directive 2000/43 in areas which are presently covered by the Penal Code or administrative law: social protection, social security, healthcare, education and access to goods and services, access to employment, independent and non salaried workers. Article 17 of the Bill states that in these areas each has a right to equality of treatment independently of his or her deemed or real origin, proposing a recourse benefiting from the presumption and transfer of the burden of proof provided for in the EU directive. However, it creates an exception in criminal matters, which provide for an inquisitive judge with investigative powers.

4.III.B. Describe any other relevant legal provisions or jurisprudence established in 2004.

The Law on the application of the principle of secularity in public schools

The Law on the application of the principle of secularity in public schools has been adopted on March 15, 2004 and published on March 17, 2004³⁸.

It forbids "...in public elementary, secondary and high schools, the wearing of signs or clothes by which a student ostensibly manifests his or her religious beliefs" (our translation). Discreet religious signs remain authorized. The law further instructs each school to adopt in house regulations for the school year 2004-2005 in order to put in place internal procedures to manage the enforcement of the law by a mediation and dialogue process with the student, followed by, ultimately, disciplinary proceedings. In view of the de-

³⁸ Loi n° 2004-228 du 15 mars 2004 encadrant, en application du principe de laïcité, le port de signes ou de tenues manifestant une appartenance religieuse dans les écoles, collèges et lycées publics (JORF n° 65 du 17 mars 2004 page 5190) (PUBFR1843)

www.legifrance.gouv.fr/WAspad/Visu?cid=25931&indice=1&table=CONSOLIDE&ligneDeb=1

bates raised by this new law, the text itself foresees an evaluation of the results of its enforcement in September 2005.

The administrative instruction of May 18, 2004, on the conditions of enforcement of the above mentioned law, which has been redrafted three times, was published on May 22, 2005³⁹.

It states that “the prohibited signs and clothes are those by which one is immediately identified by his or her religious beliefs such as the Islamic Veil, which ever is the word by which it is designated, the Kippa or a cross of manifestly excessive dimension.” (our translation). However, it emphasises the necessity of organising a true mediation procedure with professional support in order to limit disciplinary sanctions to cases of deliberate refusal by the student to abide by law.

Last year, according to the ministry of education, 1200 young girls came to school on the first day wearing the Islamic veil⁴⁰. Although the numbers are not yet available, the minister of education declared that after a true mediation, the number of girls refusing to remove their veil upon entering the school premises was substantially inferior to those of the preceding year.

In parallel, in the prospect of implementing the principle of secularity the Minister for Interior, Interior Security and Local Liberties, adopted an administrative instruction addressed to the Prefects of each Department⁴¹ reiterating that secularity carries the respect of an equilibrium between freedom of religion and the separation of religious institutions from public institutions. It stresses that the action of the State in the present context must aim at the prevention of manifestations of intolerance towards religious communities but equally at protecting individuals against violence of all sorts, whether or not they are committed in the name of one’s allegiance to these communities. The Prefects are instructed, before the beginning of the school year 2004-2005 and in collaboration with the Regional Education Inspector (*Inspecteur d’académie*), to make their best efforts to confer with the representatives of each religion present in the Department in order to prepare all necessary measures of information, prevention and mediation.

The Law for the Adaptation of Justice to the Evolutions of Criminality (Perben 2)

The Law for the Adaptation of Justice to the Evolutions of Criminality (Perben 2) has been adopted on March 16, 2004⁴². It extends from three months to one year the delay to prosecute to racists statements and increases the sanctions related to racist violence. The reinforcement of the anti-discrimination penal regime appears in Chapter IV of the Law, entitled “Dispositions concerning the fight against discrimination” (articles 38 to 45) and addresses 4 main issues:

- 1) The delay to prosecute racist statements (insult, defamation, incitement to hatred, discrimination and violence) as well as revisionist affirmations is extended from three months to one year. This reform was demanded for many years by NGOs in order to facilitate, amongst others, the indictment of websites that circulate openly racist, anti-Semitic and xenophobic messages in quasi-impunity. The law does not however address the offence of apology of crimes against humanity.
- 2) Sanctions incurred in relation to the offence of discrimination are increased to a maximum of three year imprisonment and a 45 000 € fine (article 225-2). In addition, the law creates an aggravating factor in relation to discriminatory refusal to sell or give access to a public place (discos, shops, public services etc...), sanctioned by a maximum of 5 years imprisonment and a 75 000 €

³⁹ Circulaire du 18 mai 2004 relative à la mise en oeuvre de la loi n° 2004-228 du 15 mars 2004 encadrant, en application du principe de laïcité, le port de signes ou de tenues manifestant une appartenance religieuse dans les écoles, collèges et lycées publics (JORF n° 118 du 22 mai 2004 page 9033) (PUBFR1849)

www.education.gouv.fr/bo/2004/21/MENG0401138C.htm

⁴⁰ Libération « Un lendemain de rentrée calme sur le front du voile » 03/09/2004 (PUBFR1964)

⁴¹ Circulaire N° NOR/INT/A/04/00086/C relative au respect de la laïcité et à la prévention des manifestations d’intolérance religieuse (PUBFR1981)

⁴² Loi n° 2004-204 du 9 mars 2004 portant adaptation de la justice aux évolutions de la criminalité (JORF n°59 du 10 mars 2004 page 4567) (PUBFR1796)

<http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=JUSX0300028L>

fine. The same sentence is applicable to discriminations committed in public services (article 432-7 Penal Code).

- 3) The aggravating factor related to racist and homophobic motive is extended to death threats, theft and extortion. This reform completes the list established by the Law of February 3rd, 2003 in relation to sentences applicable to crimes committed with a racist, anti-Semitic or xenophobic motive.
- 4) The list of infractions for which anti-racist NGOs have standing before the courts is extended, subject to the consent of the victim.

4.III.C. Important examples of Court cases concerning racism and discrimination in 2004

The organizers of a sports manifestation were convicted for discrimination on the basis of nationality in access to services further to having refused to give the promised prize to the winner of the event for the sole reason of the winner's being of Algerian nationality. The organizers considered that the rules of the race reserved the right to participate to French citizens only.⁴³ The Court emphasizes that the moral element of the offence rests on the authors having deliberately applied this difference of treatment, their personal motives and convictions were of no consequence to the definition of the offence.

The Court of Appeal of Douai has delivered one of the first criminal conviction in discrimination against a representative of public authority. The Court sentenced a Mayor to a fine of 500 Euro for racial and religious discrimination, further to his decision to reserve Saturday afternoons for 'Christian' marriages. The said Mayor refused to celebrate the civil marriage of persons of Muslim confession on a Saturday even though he had no Christian marriages to perform that day. In the first instance the mayor was convicted to a suspended sentence of eight months imprisonment and a fine of 1500 Euro. This decision had been appealed to the Court of cassation.⁴⁴

The Social Chamber of the Court of Cassation has decided in two cases that an employee pronouncing racist insults against a subordinate or addressing an electronic mail to his employer containing anti-Semitic menaces and insults 'necessarily' represents 'a wrongful act' and constitutes a real and serious reason for dismissal.⁴⁵

The Criminal Court of Paris convicted a private landlord for having refused to let an apartment on grounds of the origin of the applicant.⁴⁶

Finally, the trade union CGT lodged a complaint in Strasbourg on 19th February 2004 against the regional branch of the National Post Service, Chronopost, a company dispatching parcels and letters, and some of its sub-contractors.⁴⁷ Chronopost was said to have asked its sub-contractors in several regions to sign a certificate promising that they did not have in their employment and would never have in the future 'persons of foreign nationality'. Chronopost's management maintains that there has been a misunderstanding on the part of their sub-contractors and that they only wanted to insure that the sub-contractors didn't employ undocumented immigrants. The sub-contractors however claim that this formulation was pre-edited and a clear demand on the part of Chronopost. The case is still under investigation.

The Criminal Court of Grenoble has convicted the seller of a land, to an important sentence in view of the usual precedents. In this case, the vendor, after having accepted the pre-contract, refused to complete the

⁴³ Tribunal correctionnel de Castres 04/02/2004 MRAP, LICRA et Stop Racisme c/ MJC Montdragon et autres. (PUBFR1787)

⁴⁴ CA Douai chambre correctionnelle 13 avril 2004 N°03/01108 – pourvoi en cassation. (PUBFR1970)

⁴⁵ Cour de Cassation Chambre sociale 02/06/2004 Sté Pavillon Montsouris c/ X n°02-44904 et X c/ Sté Spot image n°02-45269 (PUBFR1974)

⁴⁶ TGI de Paris 17^e chambre correctionnelle 16 janvier 2004, Fatimata N'Djaye c/ Odette X (source : Le Parisien « La propriétaire condamnée pour discrimination » 17/01/2004) (PUBFR1967)

⁴⁷ Le Monde « Une plainte pour discrimination raciale a été déposée contre une antenne régionale de Chronopost » 22/03/2004. (PUBFR1734)

transaction when she found out that the buyer was 'Arab'. From that moment, after having demanded particulars and proof about his private life and having claimed possible problems with his neighbours, the vendor raised the price and diminished the surface of the lot, finally refusing to proceed with the sale on grounds of conveyance and titles. The vendor was fined Euros 10 000 and a suspended sentence of four months imprisonment. The Court also ordered its decision to be made public in the bulletin issued by the National Federation of Real Estate Agencies, and held the vendor liable to pay a compensation of Euros 1500 to the buyer, Euros 500 to his wife, as well as Euros 1500 to each one of the associations intervening in this case, SOS Racism and the MRAP.⁴⁸

On the other hand, important evolutions are to be observed in investigations undertaken in criminal proceedings and before the Labour courts. The Chamber of Preliminary Inquiry of the Court of Appeal of Besançon went against the judgement dismissing the case for lack of evidence pronounced by the Court of Lons-le-Saunier after a three years of preparatory inquiry following a complaint of racial discrimination in employment. The plaintiff had been a nurse's aid at a hospital in town for more than three years, always on short term contracts. It is to be noted that she was not promoted, even though she had good recommendations and that promotions are usually given automatically. On the contrary, she was transferred to another service where she was met with racist insults. Her superior refused to help her, emphasizing that she herself did not like 'grumpy Arabs'. The Court of Appeal ordered the investigating magistrate who had recommended the non-suit to open a complementary investigation, demanding that a detailed and comparative study of all the records of promotion of the hospital staff be made, that witnesses be heard, and to proceed, if necessary, with the necessary accusations.⁴⁹

With regard to the Labour Courts, a case involving seven employees from the Renault company, several of them retired, concerns allegations of racial discrimination in the course of their careers. An inquiry was opened, and an expert investigation of the company's files was ordered in order to allow a comparative analysis of the development of their careers.⁵⁰ This case thus applies the comparative analysis inspired by EU discriminations law acknowledged by the Court of Cassation in trade union discrimination matters, to discrimination on grounds of origin.⁵¹ Finally, with the support of GIP-GELD and FASILD, the Paris departmental branch of the CFDT has developed a training module of their members elected to the Paris labour court and of employee representatives covering discrimination law and procedural strategy to implement the shift in the burden of proof in accordance with EU Law. This module should ensure the training of all their judicial actors in 2004 and 2005.

This year administrative courts were confronted with recourses concerning the appropriate sanction for anti-Semitic insults, threats and violence committed by students on their classmate.

4.III.D. Strategies or Initiatives to Develop Legal Provisions Against Racism and Discrimination, and Against Anti-Semitic or Islamophobic Acts, by Committees, Inquiries, Interest Groups, etc.

After the arson of a Jewish school in Gagny (Seine-Saint-Denis), French President Jacques Chirac announced the creation of an Interministerial Committee with the task of surveying the development of anti-Semitic violence and of establishing the necessary means to restrain its evolution. The President emphasized that 'any aggression towards the Jewish community is an aggression against France'. Established by the Order in Council of December 3rd 2003, this committee has been entrusted with the following tasks: Defining the orientations of the policies to fight racism and anti-Semitism; surveying the coherence and the efficiency of preventive and repressive actions; establishing a programme of actions. The committee has taken three series of measures concerning security, justice, and education. It held its first meeting on December 9th 2003 and immediately decided to work out a 'Republican Booklet' and a system of surveyance of audiovisual broadcasts that contain racist or anti-semitic remarks. At this meeting, the Minister of

⁴⁸ Le Monde, September 1st, 2004 and Le Monde September 15th, 2004.

⁴⁹ L'Humanité « Discrimination : un premier pas vers la justice » 27/04/2004 (PUBFR1966)

⁵⁰ AFP « Renault accusé de discrimination raciale par un cadre d'origine tchadienne » 23/06/2004 (PUBFR1965)

⁵¹ Cour de cassation chambre criminelle 14/06/2000 CFDT Interco N°99-81.108 (PUBFR1328)

Justice announced that magistrates, advisors to persons subject to trial and associations had been appointed in all general law offices of Courts of Appeal. He announced the “training in good citizenship” as an alternative to criminal sentence as well as the re-launch of the Codacs.

The government also decided to establish a ‘surveyance system’ for audiovisual broadcasts that may contain racist or anti-Semitic opinions. The Prime Minister insisted on an ‘active surveyance’ of Internet sites and also of ‘television and radio broadcasts’ and of the written press where elements of anti-Semitic or racist nature may be present directly or indirectly.

On January 27th 2004 the second meeting of the Interministerial Committee for the Fight Against Racism and Anti-Semitism was held at Matignon. The Minister of Justice raised the necessity to address the problems related to ethnic relations in penitentiaries as well as the need for the presence of chaplains of all confessions. The Ministers of Education and of School Teaching gave an overview of the manifestations organized to commemorate the Day of Remembrance of the Holocaust. In view of the growing anxiety in the Jewish community caused by the revival of anti-Semitic acts the Minister of Justice announced the French government’s determination to fight anti-Semitism by undertaking a series of measures, and he announced his intention of freeing a sum of 15 million Euros to secure ‘exposed sites’ (synagogues, mosques, etc.) and to establish a plan to fight anti-Semitic Violence in schools.

The Interministerial Committee met for the third time on March 18th, 2004. This meeting concentrated particularly on the means to fight against the diffusion of racist and anti-Semitic ideas spread over the Internet and the decision was taken to organize an international conference on this theme in Paris on June 16th and 17th 2004. The Minister of Youth, National Education and Research presented a measure taken to secure the Internet access in schools based on the installing in every school of software which automatically filters sites figuring on a list distributed nation-wide and updated daily.

The Council Representing Jewish Institutions in France (CRIF) is conferring with internet access suppliers in order to prevent the diffusion of racist or anti-Semitic theories on the Internet. A direct set-up between the CRIF, the suppliers and the Central Office of Fight Against Criminal Acts on the Internet will be installed to enable an immediate reporting of racist and anti-Semitic sites and starting police investigations.

At the fourth meeting of the Interministerial Committee Against Racism and Anti-Semitism on May 3rd, 2004, the Prime Minister met with the Chief Rabbi of France and the President of the French Council of Muslim Faith.

The Committee recalled that it intended to follow the application of the measures of the government against any kind of anti-Semitism and racism, both with regard to repressing and sanctioning these acts as well as to education and prevention.

During this meeting in May 2004 the Minister of Youth, Education and Research presented administrative instructions on the guide ‘The Republican Idea Today’ which had been announced in December 2003.⁵² It constitutes a resource to help pedagogical teams create a sensibility in youngsters towards the fight against racism and anti-Semitism. The two main objectives are:

- Adapting the teaching of good citizenship in order to concretize the classes in history, education of good citizenship, and philosophy;
- Enabling the students to acquire the republican principles by making them participate in the debate between citizens, which is a true instrument of sharing and of firmly establishing values

It consists of four parts:

- A ‘Republican alphabet’, a series of short texts on key concepts edited by well-known persons to make students understand the republican idea;
- Points of hallmarks for teachers and students: a chronology and the most important judicial texts which will function as navigation marks for reflection;

⁵² Ministère de la jeunesse, de l’éducation nationale et de la recherche « L’idée républicaine aujourd’hui » SCE-REN/CNDP - Mars 2004 (PUBFR1861)

- An anthology of texts to work on in class and to renew the education in good citizenship, grouped in three sets;
- A filmography collecting works suitable for moving the students and making them reflect in concrete ways.

4. IV. Housing

4. IV.A. Available Data

If one consults the database that was updated in 2004 by the French consortium, one notes that the theme of racial discrimination in the housing sector has been given very little attention, both with regards to statistical data, research, and action programmes carried out by public authorities and by associations. The statistics concerning complaints of discrimination in the housing sector from the 114 help-line indicate that they represent 10.7% of the complaints registered between January 1st and June 30th, 2004.⁵³

In the first six months of 2004 certain regions published statistical data concerning the situation of foreign populations.⁵⁴ The data shows important variations in the housing situation of the immigrant populations due to the local context and to the years of presence of these populations in each region. In regions where immigration is feeble or recent, immigrant and French populations have very similar housing situations.

Likewise, one can present the results of a study allowing, with due reservations, to extract information about the housing situation of immigrant populations or populations of foreign origin in France. We must bear in mind that in 2004 close to three million people are affected by 'bad housing', even by having no home of any kind.⁵⁵ On the other hand, like in most other European countries, housing shortage and the increasing property prices tend to intensify the mechanisms of spatial segregation which affect socially unstable or low-income groups.

An extensive research published on the housing of low-income families, based on the INSEE's surveys from 1988 and 2002⁵⁶, establishes that on average these families are younger than in the past and that they tend to live in low-cost housing, either rented by the public authorities (32% in 2002) or by private landlords (24%). Although this study does not distinguish low-income families according to their origin or nationality, one can nevertheless presume that the housing conditions described concern especially the foreign or immigrant groups in France, as they are heavily represented among low-income families. This study presents the following situations: persistent problems of overcrowding, with a high proportion of large families (their low income makes it impossible to adapt the size of the home to the size of the family). Housing allowances have made it possible to meet the high increases in rent registered since 1988, especially in dwellings owned by private landlords. The net financial rent burden on the income has increased from 13% to 16% between 1988 and 2002.

⁵³ Sources : GIP GELD, September 2004.

⁵⁴ INSEE, Atlas des populations immigrées de la région Poitou-Charentes, INSEE, Mars 2004, p44 (PUBFR2024) ; INSEE, Les populations immigrées en Aquitaine, Insee Aquitaine, 2004, n°48, avril 2004, p 30 (PUBFR2026) ; INSEE, Immigrés : le Portugal et le Maroc, principaux pays d'origine des immigrés résidant dans la région Centre, Insee Centre info, n° 124, juin 2004, 4p. (PUBFR2028) ; INSEE, Les populations immigrées en Provence-Alpes-Côte d'Azur, INSEE, 2004, p 20 (PUBFR2032) ; INSEE, Atlas des immigrés en Bretagne, Avril 2004, p41 (PUBFR2030) ; INSEE, Atlas des populations immigrées en Corse, INSEE, Mai 2004, p 23 (PUBFR2025).

⁵⁵ Prud'homme Nicole, *Accès au logement, droits et réalités*, Conseil Economique et Social, Paris, janvier 2004, 195 p. (PUBFR1239)

⁵⁶ Driant Jean-Claude et Rieg Christelle, *Les conditions de logement des ménages à bas revenus*, Insee Première, N°950, février 2004, 4p. (PUBFR1915)

On the other hand, a study on discriminations in the access to housing rented by private landlords towards middle class candidates that are of foreign origin, or perceived as foreigners compares two neighbourhoods in Lyon and Paris in 2003.⁵⁷ This study concentrates on the situation of middle class people of foreign origin who have sufficient income to escape the primary stigmatizations and who choose to live in dwellings owned by private landlords out of concern for social differentiation. The study reveals the importance of the practise of indirect or hidden discrimination by way of requests for security bonds or requests for a guarantor. The study advocates an evolution of legal action but also an action to spread the knowledge of Community law and the creation of an ethical Charter against discrimination, which should be adopted by real estate agencies.

Finally, a report made by the University of Nice-Sophia Antipolis⁵⁸ analyzes the policies concerning the housing of asylum seekers, refugees and rejected asylum seekers in the Alpes-Maritimes region. The specific sociological characteristics of these groups are taken into account, as their actual housing conditions and local aid structures are analysed. The study offers a series of methods to increase knowledge of these groups so as to improve housing policies.

4.IV.B. The handling of cases of discrimination in housing

1. Government measures to support victims of discrimination

The national 114-Codac measure was created in 2000 and was passed as a Resolution on November 16th, 2001. This free help-line is part of a programme of preventing and fighting racial discrimination in all areas of social life, including housing. This service receives phone-calls from callers who perceive themselves as either victims or witnesses of racial discrimination. The help-line also informs and advises the public on these issues. It allows to register reports of acts of discrimination and to identify legal entities whom the callers point out as having committed acts of discrimination. At the local level of the *département*, these complaints are transmitted to the Codac, the judicial authority and the institutions that follow up on the complaint and support the victims.

2. Civil Appeals in the Case of Refusal to let⁵⁹

The Bill on social modernisation of January 17, 2002⁶⁰ strengthens the French measures taken to fight discrimination by creating a civil appeal in the case of refusal to let housing for residential purposes, for mixed purposes, or property rented accessory to the principal residence. It is, indeed, forbidden to refuse to let housing to a person on the basis of the person's origin, family name, physical appearance, belonging or non-belonging to a real or alleged ethnic group, nation, race, or religion. This ban applies to private as well as council housing. When the litigation concerns a sum that represents less than €7600, the competent jurisdiction is the sub-district court. For larger sums, the case is settled within the jurisdiction of the county court. The person who considers himself to be a victim of acts of discrimination should present evidence of these acts. On the basis of this evidence, defense should prove that the reasons that led to refusing to let out accommodation, were justified. A case can be submitted to the court up to ten years after the refusal took place, and the author of discrimination can be sentenced to pay compensation to the victim for the damages caused, be they financial or moral.

⁵⁷ Chignier Riboulon F. dir, Belmessous F. et H., Chebbah-Malicet L., *Les discriminations quant à l'accès au logement locatif privé des catégories sociales étrangères ou perçues comme étrangères : une étude à partir des quartiers Lyonnais et Parisiens*, Laboratoire de recherche CERAMAC Université Blaise Pascal de Clermont Ferrand, 2003, 155p. (PUBFR1704)

⁵⁸ Université de Nice-Sophia Antipolis, *L'hébergement des demandeurs d'asile comme enjeu local. Eléments d'analyse et perspectives méthodologiques à partir du cas des Alpes-Maritimes*, Nice, Université de Nice-Sophia Antipolis, janvier 2004, 195p. (PUBFR1917)

⁵⁹ Sources : GIP Gelds' websites' file on housing: www.le114.com.

⁶⁰ Loi n°2002-73 du 17 janvier 2002 de modernisation sociale, Journal officiel, 18 janvier 2002, pp. 1008-1052. (PUBFR0244). Article 1 of the "Mermaz" Tenants Bill (loi n°89-462 du 6 juillet 1989). (PUBFR0658)

3. Criminal Appeals⁶¹

The person refusing to let housing to a person on the basis of his origin, family name, physical appearance, belonging or non-belonging to a real or alleged ethnic group, nation, race, or religion faces a maximum sentence of 3 year's imprisonment and a €45,000 fine (articles 225-1 and 225-2 of the Penal Code). The refusal to sign a contract with somebody on the basis of the aforementioned criteria is punished with the same sentences and concerns all types of renting: main homes, second homes, commercial premises, seasonal premises, etc. The case is settled within the jurisdiction of the magistrate's court, in which the premises that are the object of contention, are located. A case should be submitted to the magistrate's court within three years after the refusal to let. In criminal matters, it is the responsibility of the state prosecutor and/or the plaintiff to prove the violation of the law, in accordance with the principle of presumption of innocence, that protects the defendant. All possible means can be used to prove acts of discrimination in the access to housing

4. Administrative Appeals

Administrative law guarantees the equality of rights and of treatment by the civil service, among others the equality of rights to council housing (equality of treatment of application at the préfetures, municipalities, and council housing institutions), as well as equality in the access to private housing in the face of the pre-emptive right of town councils. In cases of conflicts or failure to reach an out-of-court settlement, the administrative courts will take over the case of administrative law in order to put an end to the offence by reestablishing the rights of the victim. One can mention the following appeals :

Administrative appeal against a refusal to rent council housing by the commission granting housing

Appeal to the prefect against the misuse of the pre-emptive right of town councils

Appeal to the interministerial mission of inspection on council housing (the existence of files based on ethnic criteria, discrimination among council lessors)

Appeal to the National Commission on Information and Liberties (in cases of the existence of files based on ethnic criteria or discrimination among council lessors or real estate agencies)

4.IV.C. Initiatives and good practises

In its report on access to housing, the Economic and Social Council offers various orientations in order to try to solve the problem of "bad housing" in France.⁶² Housing allowances should be adapted to the family's specific needs, in order to help groups that suffer from special difficulties. The families' resources should be taken into account, both concerning the part of their budget spent for rent and the means that the family has to help younger and older family members. The Council also proposes the creation of a public service on housing and the annual construction until 2014 of 320 000 dwellings of which at least 120 000 should be low-cost housing.

Furthermore, a report made by the General Inspection of Social Welfare deals with the struggle against infant lead poisoning related to unfit habitation in three Departments in the Ile-de-France region (Paris, Seine-Saint-Denis, Hauts-de-Seine).⁶³ Having evaluated the measures taken to assess the struggle against infant lead poisoning, the report presents three recommendations taken from the Prime Minister's Plan of Environment Health in June 2004, namely, the realisation of a nation-wide survey on infant lead poisoning, detection programs in priority zones, the exemption of the patient's financial contribution for detection tests, and the renovation of plumbing.

⁶¹ Sources : GIP Gelds' websites' file on housing: www.le114.com,

⁶² Prud'homme Nicole, *Accès au logement, droits et réalités*, Conseil Economique et Social, Paris, janvier 2004, 195 p. (PUBFR1239)

⁶³ Rousseau-Giral Anne Chantal, Tricard Dominique, Crepey Georges, *La lutte contre le saturnisme infantile lié à l'habitat indigne, Rapport de l'Inspection Générale des Affaires Sociales*, n°2004 034, mars 2004, 238p. (PUBFR1816)

On June 30th, the Plan on Social Cohesion announced by the Minister of Employment, Work, and Social Cohesion includes measures on housing.⁶⁴ In addition to doubling the production of low-cost housing with the aim of constructing 500 000 new dwellings in five years, an operative provision of struggle against unfit habitation will be activated. This Plan also calculates with the mobilisation of privately owned rental dwellings, encouraged by the reinforcement of social welfare allocated by the ANAH (The National Agency for the Improvement of Housing) in cases of rehabilitation programmes or in cases of unpaid rent. Finally, the Plan proposes the reinforcement emergency reception and housing (for asylum seekers) by increasing the number of accommodations and establishing a priority criterion of access to low-cost housing.

V. Acts of Racist Violence and Crimes

4.V.A. Public available evidence of racist violence and crime in the first six months of 2004

If one compares the statistical data published by the Ministry of Interior for the first six months of 2004 to the same months in previous years, they show that the level of racist violence has never been higher. The increase in acts of violence perpetrated in March and April seem to be a wave of “repercussions”, directly linked to the terrorist attacks in Madrid. Neo-Nazi acts were particularly frequent in the Bas-Rhin region.⁶⁵ The 95 acts and 161 threats reported in these first six months of 2004 show that the level of racist and xenophobic violence is particularly high. These numbers are superior to the ones of the first six months of 2002 (63 acts and 145 threats), a period that was still influenced by the terrorist attacks of September 11th, 2001.

The decrease that was recorded in May 2004 was confirmed in June. One can observe a comparable decrease as concerns threats. The circumstances that can explain these evolutions, notably the terrorist acts of March 11th in Madrid, do not seem to have favoured racist acts these last two months.⁶⁶

4 attacks against non-nationals or persons of North African background, as well as 37 arsons, attempted arsons, bomb attacks, and damage to their property have been perpetrated in Corsica. These facts constitute 43% of all the racist acts that were reported in France. In the region of Alsace, 14 acts were reported (15%), in the region of Île-de-France, 13 acts were reported (14%), and in the Provence-Alpes-Côte d'Azur region, 7 acts were reported (7%).⁶⁷

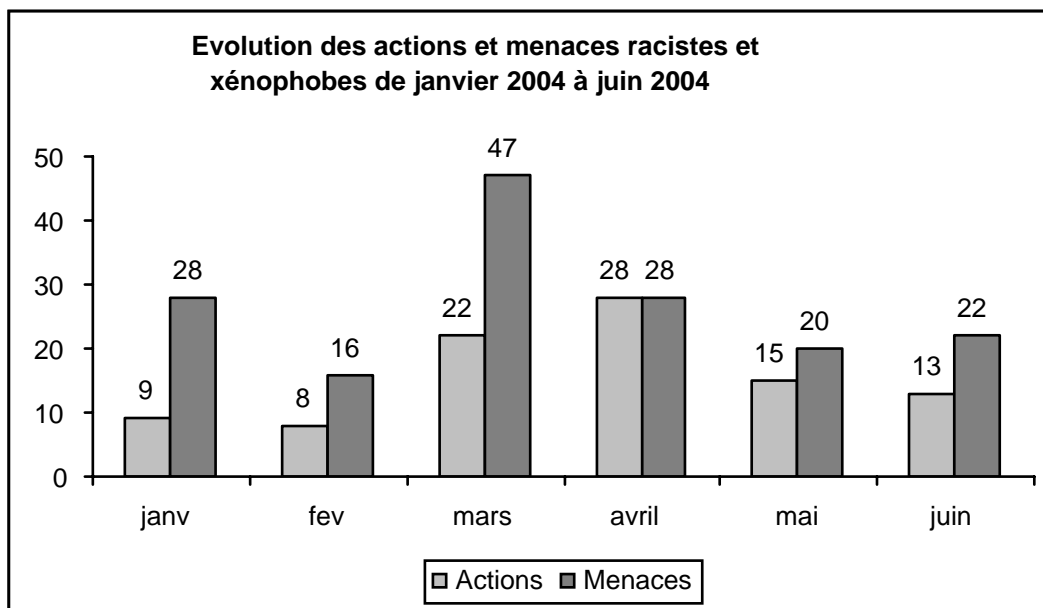
Evolution of Racist and Xenophobic Acts and Threats, from January 2004 to June 2004

⁶⁴ Ministre de l'Emploi, du Travail et de la Cohésion Sociale, *Plan de cohésion sociale*, Paris, 30 juin 2004, 45 p. (PUBFR1925)

⁶⁵ CNCDH, *Violence raciste ou xénophobe : un niveau sans précédent*, document fourni par la RCRG, vendredi 2 juillet 2004, 3p.

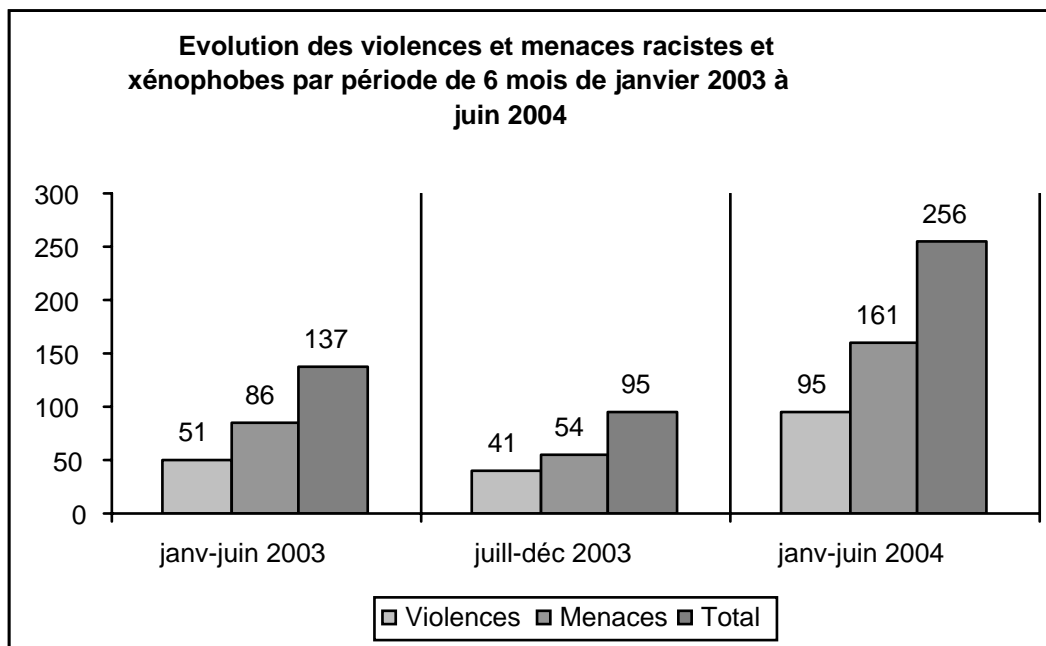
⁶⁶ CNCDH, *Violence raciste ou xénophobe : un niveau sans précédent*, document fourni par la RCRG, vendredi 2 juillet 2004, p 1.

⁶⁷ CNCDH, *Violence raciste ou xénophobe : un niveau sans précédent*, document fourni par la RCRG, vendredi 2 juillet 2004, p 2.



Acts Threats

Evolution of Racist and Xenophobic Acts and Threats, by 6 Month Periods, From January 2003 to June 2004



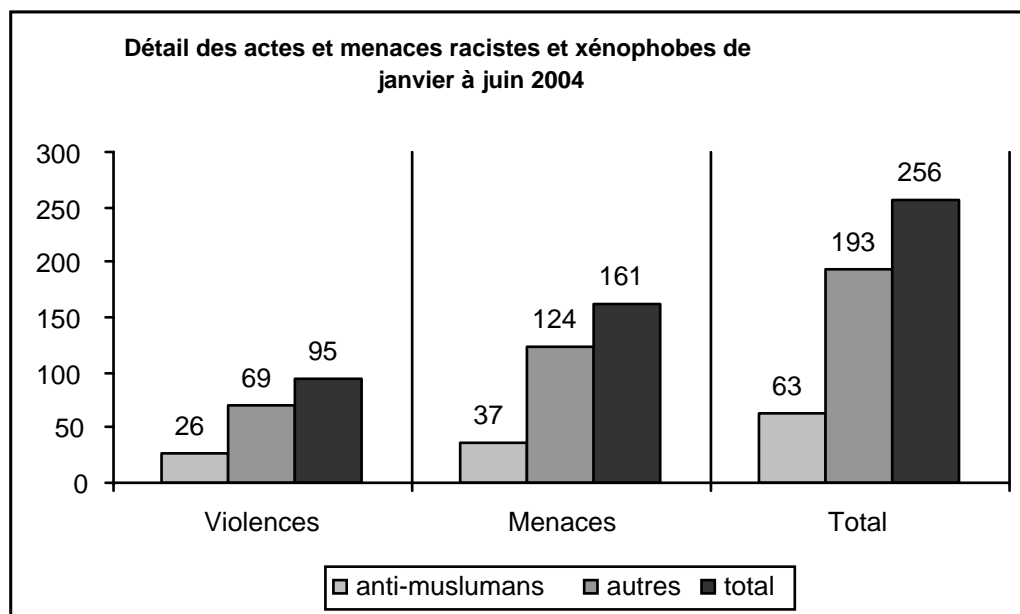
Jan.-June 2003 July-Dec. 2003 Jan.-June 2004

Acts of Violence Threats Total

In this context, “anti-Muslim” acts are part of this evolution. In the first 6 months of 2004, 26 acts and 37 threats - more than twice as many as in 2003 - were reported. Among these acts, 40 were aimed at

Mosques, 7 at Muslim burials, and 2 against Muslim funeral homes.⁶⁸ The French public opinion was deeply marked by the desecration of numerous Muslim graves in the Muslim parts of cemeteries in the Bas-Rhin region.

Detail of Racist and Xenophobic Acts and Threats, From January to June 2004



Acts of Violence Threats Total
 Anti-Muslim Other Total

4 .V.B. On Anti-Semitism

- Publicly Available Evidence

The 135 acts and 375 threats that were reported in the first six months of 2004 indicate that the level of anti-Semitic violence continues to rise as compared to the last six months of 2003 and the first six months of 2003.⁶⁹

In spite of a decrease in June 2004, the acts that were reported in 2004 show that the situation is very worrying, and that it seems to be a direct consequence of international events, notably in the Middle East (the war in Irak, Israeli operations in Palestine). It seems important to stress that 76 of the 135 acts of violence were attacks (26 persons were wounded), and 33 of them were perpetrated on minors.⁷⁰

Apart from an attempted bomb attack on the home of a Rabbi, 5 arsons were reported (3 were on synagogues), as well as numerous acts of vandalism: 53 on synagogues, 5 on Jewish and state schools, 5 on commemorative plaques and urns, 4 on the Jewish parts of cemeteries, 14 on cars, 7 on apartments, and 3 on businesses owned by Jews. Acts of vandalism were also reported on the premises of a Jewish organisation, and on a theatre where a Jewish organisation was performing a show.⁷¹ Since the beginning of the year, 30 acts of anti-Semitic violence were perpetrated in schools.

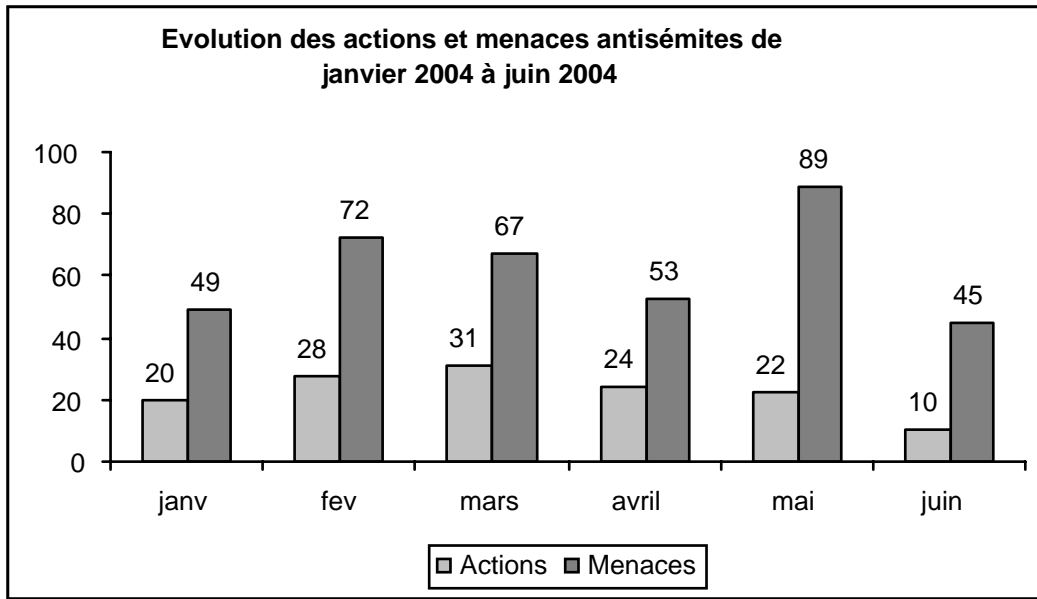
⁶⁸ CNCDDH, *Violence raciste ou xénophobe : un niveau sans précédent*, document fourni par la RCRG, vendredi 2 juillet 2004, p 2.

⁶⁹ CNCDDH, *Progression de la violence antisémite au premier semestre 2004*, document fourni par la RCRG, vendredi 2 juillet 2004, p 1.

⁷⁰ CNCDDH, *Progression de la violence antisémite au premier semestre 2004*, document fourni par la RCRG, vendredi 2 juillet 2004, p 1.

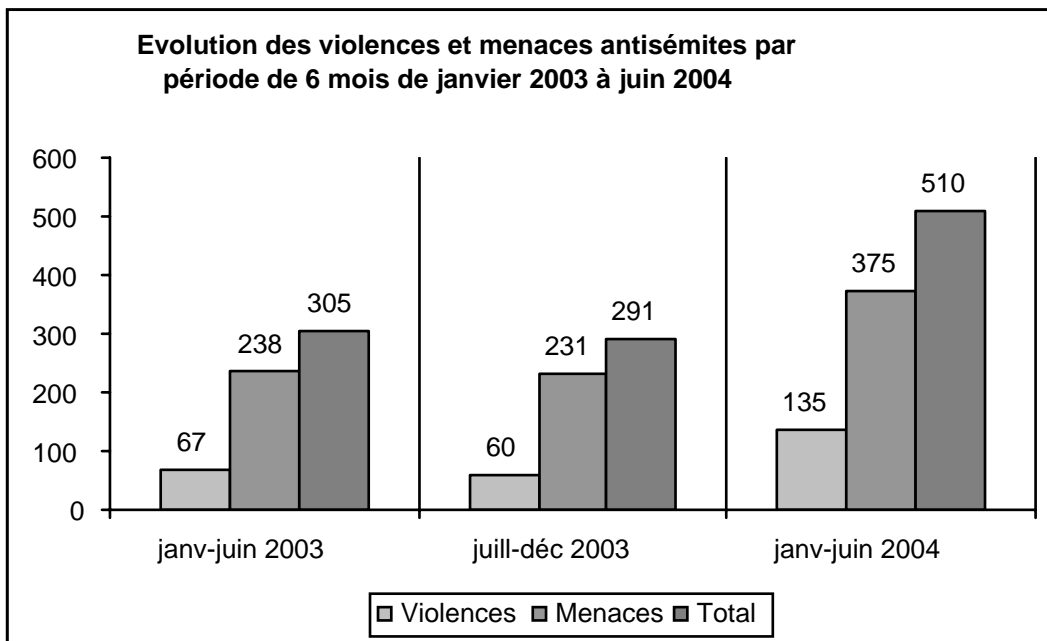
⁷¹ CNCDDH, *Progression de la violence antisémite au premier semestre 2004*, document fourni par la RCRG, vendredi 2 juillet 2004, p 1.

Evolution of Anti-Semitic acts and threats, January 2004 – June 2004



Jan. Feb. March April May June
Acts Threats

Evolution of Anti-Semitic Acts and Threats, by 6 Month Periods, January 2003 – June 2004



Jan-June 2003 July-Dec. 2003 Jan-June 2004
Acts Threats Total

- Anti-Semitic Acts

Among the acts that were reported this year, one finds the following ones:

On February 23rd, 2004: the destruction of a plaque commemorating Jews deported during World War 2, in the 11th arrondissement of Paris.

On April 27th, a seventeen year old Jewish man was attacked in Sarcelles by a group of young North Africans and Africans who uttered anti-Semitic remarks at him, threatened him with a knife and then beat him up.⁷²

On April 30th, it was discovered that 127 graves had been desecrated in the Jewish cemetery of Herrlisheim. Neo-nazi and anti-Semitic inscriptions such as "Judens raus" covered the graves.⁷³ This act, perpetrated in 2004, stands out as the most violent act of desecration, both by its scale and by its symbolic power.

On May 6th, the Jewish memorial in Verdun was covered with neo-Nazi phrases.⁷⁴

On June 12th, a fresco made by Jewish children in the Rivesaltes camp in 1942 was hammered until it was completely destroyed.⁷⁵

- Initiatives by Public Powers and Organisations

The main measures taken by French public authorities were followed through the actions of the Interministerial Committee created in December 2003 to fight against racism and anti-Semitism.⁷⁶ Supra section 4 III D

On May 16th 2004, a demonstration against anti-Semitism was called by SOS Racism in Paris and gathered several thousands of people who denounced the multiplication of anti-Semitic acts in the weeks before.⁷⁷ This demonstration stressed the division of associations in their strategies to fight different forms of racism. The Licra co-organised the demonstration and all political parties apart from the National Front, participated in it. In spite of the MRAP (Movement Against Racism and for Friendship between Peoples) and the LDH (League of Human Rights) having a different discourse than SOS Racism and the Licra (International League Against Racism and Antisemitism), these organisations all participated in the demonstration.

4.V.C. On "Islamophobia"

The term "Islamophobia should be used with care, as it is debatable. The public opinion perceive most acts of Islamophobia as equivalents to "anti-North African" or "anti-Arab" racism, as most victims of these acts are of North African origin. Certain observers see this phenomena as a semantic shift to designate ancient forms of racism and discrimination, Islam being the latest way of characterising/naming the otherness of immigrants.⁷⁸ The League of Human Rights object to this term, as they believe that it veils the problems of segregation that the groups of North African origin are victims of in France.⁷⁹ For the MRAP (Movement Against Racism and for Friendship between Peoples), Islamophobia is "a fear of Islam" that is an extension of anti-Arabic racism.⁸⁰

⁷² *La Croix*, 27 avril 2004. (PUBFR1928)

⁷³ "Depuis deux mois, en Alsace, les actes racistes se sont multipliés", *Le Monde*, 16 juin 2004. (PUBFR1934)

⁷⁴ "Les dégradations de sépultures, effet de mode ou actes concertés ?", *Le Monde*, 16 juin 2004. (PUBFR1934)

⁷⁵ "Une fresque profanée dans un camp de concentration", *Libération*, 14 juin 2004. (PUBFR1942)

⁷⁶ See the sub-section on the Interministerial Committee in the chapter on Legislation

⁷⁷ This demonstration gathered 9 000 persons according to the police and 30 000 persons according to the organizers.

⁷⁸ CNCDH, 2004, *La lutte contre le racisme et la xénophobie*. Rapport d'activité 2003, La documentation française, 650 p., (PUBFR1248)

⁷⁹ CNCDH, 2004. *La lutte contre le racisme et la xénophobie*. Rapport d'activité 2003, La documentation française, 650 p., (PUBFR1248)

⁸⁰ Mouloud Aounit, entretien, in *Différences*, revue trimestrielle du Mrap, n°247, juillet 2003.

The debate on the use of this term is a reminder of the debate on Pierre-André Taguieff's term "the new judeophobia".⁸¹ In both cases, the international context seems to play a major role for minorities; in the case of Islam, there is a confusion of Muslim, Islamist, fundamentalist, terrorism, etc. The attacks of September 11th, 2001 in the United States, the transformation of Muslim fundamentalism into international terrorism, as well as the conflicts in the Middle East, all contribute to reinforce the hostility of certain parts of the French public opinion towards Muslims in France. This movement of rejection or at least of suspicion has also been enforced by the increase in religious demands in France, notably with the second generation, as well as certain ways of living and cultural practise, such as the treatment of women. The lack of knowledge of Islam, notably its history, which is characterised by the French colonial past and the movements of decolonization, still lead to rejection.

The term "anti-Muslim" acts will be used in this section, in order to avoid the semantic debate. This term designates acts of violence against individuals or their belongings because of their identity, practise, or real or alleged belonging to Muslim faith.

In 2004, there seems to have been an outbreak in acts against Muslims in France. Even though they object to using the term "Islamophobia, the CNCDH⁸² published a report on the fight against racism in March 2004, in which the Commission discusses the theme of "Intolerance and acts of violence against Islam in French society".⁸³ In a summary, written by the subcommittee (of the CNCDH) on "Racism and Xenophobia", a definition of Islamophobia is given.

The study furthermore presents the points of view of a number of key figures interviewed on this theme, an analysis by the CEVIPOF on the view of French public opinion on Islam, as well as the written contributions of the members of the CNCDH. The aim of this study is to inform the public and the authorities on this specific form of racism, by making a first assesment of the problem and by giving a number of suggestions on how to improve the situation. The opinion poll⁸⁴ on racism had several questions on Islam. It confirms that there is a generalisation in French society of the rejection of Islam and Muslims, and that the debate is influenced by "islamophobia" as a new form for racism. The numerous acts of violence and damage against mosques and Muslim graves, as well as several publications confirm this (see Section E of the report). However, it is difficult to measure this hostility against Islam, as there is a lack of liable statistical sources.

- Anti-Muslim Acts

Among the acts that were reported this year, one finds the following ones:

Islam is strongly represented in Alsace, a region that separates the Church and the State differently than the rest of France. Several mosques have been built here recently thanks to public funding. The Front National and the regional movement "Alsace d'abord" which is a dissident minority of the Front National, are also very heavily represented in the region.

In the night between the 5th and 6th of March, 2004, two mosques were burnt in the Annecy area, most probably by the same arsonists. A Celtic cross had been painted on one of the walls of the first place of worship. The damages were limited.⁸⁵

⁸¹ Pierre-André Taguieff, *La nouvelle judéophobie*, Paris, Mille et Une Nuits, 2002. (PUBFR0607)

⁸² CNCDH, 2004, *La lutte contre le racisme et la xénophobie*. Rapport d'activité 2003, La documentation française, pp 217-230 (PUBFR1248).

⁸³ CNCDH, 2004, *La lutte contre le racisme et la xénophobie*. Rapport d'activité 2003, La documentation française, Chapitre 6, pp 217-230 (PUBFR1248). The MRAP initiated a reflection and action programme against Islamophobia in 2003 that continues in 2004. On September 20th, 2003, the organisation organized a colloquium at the Senate with the participation of experts on the Arabic and Muslim worlds. Furthermore, the organisation published a report on this issue as well as on extremist movements on the Internet.

⁸⁴ Poll carried out by the CNCDH between November 24th and December 5th, 2004 on a representative sample of the French population (aged over 18).

⁸⁵ *Libération*, 6-7 mars 2004 et *Le Monde*, 9 mars 2004. (PUBFR1715)

On April 5th, 2004, five steles (four Muslim ones and a Jewish one) were damaged in the military cemetery of Cronembourg, in Strasbourg.⁸⁶

In the night between the 14th and 15th of April, the Moroccan mosque of Haguenau in the Bas-Rhin region was covered with racist inscriptions.⁸⁷

In the night between the 19th and 20th of April, unidentified persons covered the entrance of the Turkish mosque Eyyub Sultan in the La Meinau neighbourhood of Strasbourg with the phrase “Death on the Arabs!” as well as swastikas.⁸⁸

In the night between the 22nd and 23rd of April, a Muslim grocery shop in Strasbourg was covered with racist inscriptions and a cross was drawn on its wall.⁸⁹

On May 30th, the home of a member of the Regional Council of Muslim Faith in Strasbourg was covered with racist inscriptions.

On June 9th, three Muslim graves were damaged in the Canet cemetery of Marseilles.⁹⁰

In the night between the 13th and 14th of June, three graves in the Muslim part of the Le Meinau cemetery were desecrated. Swastikas and neonazi phrases were painted on about fifty graves and on the cemetery wall, alongside with threats against the president of the Regional Council of Islam and the president of the Regional Council of Alsace.⁹¹

On June 17th, three gunshots were fired against the Mosque of Escaudai, near Valenciennes, and the walls were covered with racist inscriptions.

In the night between the 23rd and 24th of June, in Haguenau, around fifty tombs of Muslim soldiers, most of whom were Moroccans who died for the liberation of Alsace in 1944-45, were desecrated. Seven steles were knocked over and 48 others were covered with swastikas, celtic crosses and SS signs, drawn in red paint. The inscription “HVE junior” is a reference to a neo-nazi group founded in 1988.⁹²

On June 26th, xenophobic inscriptions were discovered on the walls of the mosque in Nanterre.

- The State of the French Public Opinion

The answers to the surveys carried out by CEVIPOF (Research Centre on French Politics) for the CNCDDH from November 24th to December 5th shows the complexity of the public opinion's attitudes towards Islam and Muslims. The respondents categorically reject “Islam” (partly because they fear fundamentalism) whereas the “Muslim faith” inspire less fear. Close to half of the respondents (48%) believe that “the values of Islam are incompatible with the values of the French Republic”. Even though the question of the Islamic veil created a heated debate⁹³, the question of Islam is not reduced to this debate as Islam is progressively accepted in French society: 75% of the respondents state that French Muslims are “as French as the French are”. Also, the respondents who are hostile to Muslims are hostile to immigrants as a whole. The rejection of Islam is thus linked to a general ethnocentric attitude. 76% of these same respondents admit that their knowledge of Muslim faith is “bad” or “very bad”.

⁸⁶ "Depuis deux mois, en Alsace, les actes racistes se sont multipliés", *Le Monde*, 16 juin 2004. (PUBFR1934)

⁸⁷ "Depuis deux mois, en Alsace, les actes racistes se sont multipliés", *Le Monde*, 16 juin 2004. (PUBFR1934)

⁸⁸ "Depuis deux mois, en Alsace, les actes racistes se sont multipliés", *Le Monde*, 16 juin 2004. (PUBFR1934)

⁸⁹ "Depuis deux mois, en Alsace, les actes racistes se sont multipliés", *Le Monde*, 16 juin 2004. (PUBFR1934)

⁹⁰ Les dégradations de sépultures, effet de mode ou actes concertés ?", *Le Monde*, 16 juin 2004. (PUBFR1934)

⁹¹ "En Alsace, la vague profanatrice touche un cimetière musulman", *Le Monde*, 16 juin 2004. (PUBFR1934)

⁹² "Des tombes musulmanes ont été profanées au cimetière militaire de Haguenau", *Le Monde*, 26 juin 2004. (PUBFR1935)

⁹³ 84% of the people polled said that they were “completely” or “rather” opposed to the wearing of the Islamic veil on the place of work, 87% to the wearing of it in schools, 87% to the wearing of it on photos in identity papers, and 88% to civil servants wearing it. It should be noted, however, that this poll took place during the debate instigated by the Commission on Secularity, on the wearing of religious signs in schools.

The report concludes that there is no outbreak in islamophobia per se, as islamophobia is an expression of traditional forms of anti-immigrant racism. The profiles of people who are hostile to Islam are very similar to the ones of racist persons. Furthermore, islamophobic prejudice is not particular to people belonging to socially and culturally disadvantaged or extreme right-wing groups. Intellectual and cultivated left-wing people or extreme left-wing people also express islamophobic prejudice, often in the name of republican value, secularism, and universality. (p. 220).

- Initiatives by Public Powers and Organisations

At the third meeting of the Interministerial Committee for the Fight Against Racism and anti-Semitism on March 18th, 2004, the Prime Minister recalled that no confusion should be made between the criminal authors of the bomb attacks in Madrid and French people of Muslim beliefs.

After the desecration of Muslim graves in Strasbourg in June 2004, the Minister of Interior and of Worship, Dominique de Villepin, went to Strasbourg where he read a declaration by the French President.⁹⁴ He declared that a "Religious Committee against Intolerance" should reflect upon ways of fighting these acts. On June 24th, the French President expressed his indignation and the Minister of Defence and the Minister of State for War Veterans both condemned these appalling desecrations. After the French President's speech in Chambon-sur-Lignon on the 8th of July, a number of key figures have been commissioned by the public authorities to participate in fighting these acts.

After this act of profanation, the French Council of Muslim Faith, declared that a National Monitoring Centre of Islamophobia would be created with the same way of functioning as the other permanent commissions of the council. The Monitoring Centre will collect information from the Observation units that will soon open in every one of the 25 regional councils of the French Council of Muslim Faith.⁹⁵

In April 2004, the Minister of Justice published a guide presenting the various criminal offences and sanctions in the field of the fight against racism, anti-Semitism and discrimination, and describes all the actions undertaken by the Chancellery in this field.⁹⁶

The many obstacles that were put in the way of Muslims who wished to build mosques showed that the public authorities (and especially local representatives who were afraid of shocking their voters) didn't want Islam to be too visible in French society. The Muslim faith was not given the same possibilities of worship and religious expression as the other religions did.⁹⁷ Numerous academics and intellectuals have suggested various measures that could be taken by the public authorities in order to treat the Muslim faith equally and make Islam more visible in French society⁹⁸: the possibility to get leave so as to be able to celebrate Muslim holidays, the demolishing of fences around the Muslim parts of cemeteries, more places to carry out ritual slaughters, the possibility to get meals without pork in canteens and cafeterias, the presence of chaplains in hospitals, prisons, and the army.

Each year, the Ministry of Civil Service makes a list of the main religious holidays (among these Muslim holidays) on the basis of which believers can ask for exceptional holidays.⁹⁹ If this calendar were used in

⁹⁴ In his message, the President recalls that "all acts of hate, of aggression, and of violence, are opposed to our values and to our ideals. They will thus be fought with determination", in "Les musulmans créent un observatoire de l'islamophobie", *Le Figaro*, 16 juin 2004. (PUBFR1937)

⁹⁵ "Les musulmans créent un observatoire de l'islamophobie", *Le Figaro*, 16 juin 2004. (PUBFR1937)

⁹⁶ Direction des Affaires criminelles et des Grâces, *Les dispositions pénales en matière de lutte contre le racisme, l'antisémitisme et les discriminations*, Ministère de la justice, avril 2004, 17 p et annexes. (PUBFR1821)

⁹⁷ CNCDH, 2004. *La lutte contre le racisme et la xénophobie*. Rapport d'activité 2003, La documentation française, 650 p., (PUBFR1248)

⁹⁸ "La République et ses immigrés, l'exigence laïque du respect mutuel", Yamina Benguigui, Henri Rena-Ruiz, *Le Monde diplomatique*, janvier 2002, p 4-5.

⁹⁹ *Circulaire PF/7 n° 2034 du 16 octobre 2002* de J.P. Delevoy, ministre de la Fonction Publique.

the private sector, it would be a major advance.¹⁰⁰ Also, the prefects should inform religious Muslim organisations on the Law of 1905 and the advantages they could draw from having a status as a religious organisation¹⁰¹. Most of the Muslim organisations have been created on the basis of the Law of 1901, thus not separating their religious activities from their social and cultural activities. Furthermore, the Minister of the Interior should create a method to identify and count anti-Muslim acts, just as anti-Semitic acts.

The French Council of Muslim Faith (and its local committees) in 2003 under the aegis of the Minister of Interior was created so as to have an official representation of Islam that included the diversity of the believers, and also to be able to discuss action programmes with recognized representatives. Since its creation, certain groups try to get a political recognition of Muslims. That is notably the case of the new Council of Democratic Muslims in France, created in October 2003 that has signed a commitment to the Republic and its values, as well as the French Council of Secular Muslims created in May 2003.¹⁰²

Furthermore, the lack of knowledge of Islam is a factor that leads to rejection and the creation of stereotypes. French society is also the victim of the media's confusion between Islam, Islamism, urban segregation, etc. In order to counter these very negative representations of Islam, a reform should be made of the contents of schoolbooks on the history of religions, and information campaigns and inter-religious meetings should be organized. Measures should be taken to raise the awareness of people working in the media in order to change their way of representing Islam and Muslims in France.

4.V. D. The Most Vulnerable Social Groups

In the cases of racist and xenophobic acts of violence, the most vulnerable social groups are the ones of foreign origins, notably from North Africa and sub-Saharan Africa. However, it is more difficult to distinguish racist and anti-Muslim acts methodologically speaking, and to distinguish between racist acts of discrimination and discrimination on the basis of religion.

In spite of the fact that there were few anti-Muslim acts in France after September 11th, 2001, there is a generalized suspicion towards Muslims. "Discrimination on the grounds of the victim's supposed or real belonging to Islam seems to have become more wide-spread, especially in the field of employment."¹⁰³

However, certain acts are clearly directed at religious symbols (such as mosques, Muslim graves, religious associations) and persons who are perceived to be believers. According to Dalil Boubakeur, Rector of the Great Mosque of Paris and former President of the French Council of Muslim Faith, "*It is no longer a question of racist acts against North Africans but of an islamophobia that touches a community in its religious specificity. The objectives of these agitators are not very clear, but the fact that these acts take place in an identical way all over France is most worrying.*"¹⁰⁴

A new criteria should be created, based on relevant scientific criteria, that would make it possible to assess the number of racist and "anti-Muslim" acts separately.

¹⁰⁰ Among these advantages, one finds exemptions from council and property taxes, tax exemptions at the reception of donations and legacies, and tax exemptions for donators, in CNCDH, 2004. *La lutte contre le racisme et la xénophobie*. Rapport d'activité 2003, La documentation française, 650 p., (PUBFR1248)

¹⁰¹ Ces avantages comprennent des exonérations de la taxe d'habitation, de la taxe foncière pour les locaux, réceptions des dons et legs exonérées de taxe, exonérations fiscales pour les personnes consentant à des dons manuels, in CNCDH, 2003. *La lutte contre le racisme et la xénophobie*. Rapport d'activité, La documentation française, p ?.

¹⁰² CNCDH, 2004. *La lutte contre le racisme et la xénophobie*. Rapport d'activité 2003, La documentation française, 650 p., (PUBFR1248)

¹⁰³ CNCDH, 2004. *La lutte contre le racisme et la xénophobie*. Rapport d'activité 2003, La documentation française, 650 p., (PUBFR1248)

¹⁰⁴ "Les musulmans créent un observatoire de l'islamophobie", *Le Figaro*, 16 juin 2004. (PUBFR1937)

4.V. E. Important Cases from 2004

Various acts of racism, xenophobia and antisemitism have been described in the earlier parts of this report.

The two parts describing antisemitism and “Islamophobia” give numerous examples in this field. However, all people of all origins, races and religions seem affected by these acts. Niederhaslach’s Christian cemetery was desecrated twice, on May 1st and June 7th.¹⁰⁵ In the beginning of May, 34 Christian graves were desecrated in Amiens, as well as two other cemeteries in Allauch (near Marseilles) and in Foucart, in the Seine-Maritime region.¹⁰⁶ On May 27th, 15 Christian steles were knocked over in the cemetery of La Meinau, in Strasbourg.¹⁰⁷ Certain leaders of religious and anti-racist organisations worry as these kinds of events have become features of everyday life, notably in the Alsace region. It seems that most of these acts are perpetrated by small neo-Nazi groups, but some of them are likely to have been perpetrated by teenagers much similar to those who would burn cars.

4.V. F. Initiatives

Law n°2004-204 of March 9, 2004 for the adaptation of justice to the evolutions of criminality, known as Perben 2, extends the delay to prosecute racist statements and increases the sanctions related to racist violence. It is described in the part on legislation in this report.¹⁰⁸

The CNCDH (National Consultative Commission of Human Rights) published two reports on French websites and chat rooms with racist content within the framework of the Conference on Security and Cooperation in Europe that was held in Paris on June 16th and 17th, 2004.¹⁰⁹ Because of legislation in French-speaking countries, notably France, the authors of racist websites on the Internet have become cautious: they tend to avoid using nazi symbolism and expressions that could lead to criminal sanctions. However, one can still find contents that encourage racist hatred, which set the case for establishing specific methods adapting to their evolutions in order to improve policy orientations as well as adapt measures of prevention and penalty.

The members of the OSCE that met on June 16th and 17th, 2004, on the initiative of France in order to discuss means of action in the fight against racism on the Web, concluded on seven different strategies to transform the Internet into a tool for tolerance.¹¹⁰

It should also be mentioned that a symposium called “Pale Screens” was organized on April 26th, 2004 by the High Council for Integration, the CSA, and the Fasild in order to debate on the lack of representation of minorities on the television, and in order to raise the awareness of prejudice and stereotypes that are conveyed by the media.

¹⁰⁵ “Les dégradations de sépultures, effet de mode ou actes concertés ?”, *Le Monde*, 16 juin 2004. (PUBFR1934)

¹⁰⁶ “Les dégradations de sépultures, effet de mode ou actes concertés ?”, *Le Monde*, 16 juin 2004. (PUBFR1934)

¹⁰⁷ “Depuis deux mois, en Alsace, les actes racistes se sont multipliés”, *Le Monde*, 16 juin 2004. (PUBFR1934)

¹⁰⁸ Loi n°2004-204 du 9 mars 2004 - JORF n°59 du 10 mars 2004 page 4567. (PUBFR1796) See the chapter on Legislation for more detail.

¹⁰⁹ CNCDH, *L’Internet raciste en langue française*, Paris, CNCDH, juin 2004, 15 p. (PUBFR1926)

¹¹⁰ They condemned racist, xenophobic, and anti-Semitic propaganda. They committed themselves to “promoting tolerance, mutual respect, dialogue, understanding, also in the media and on the Web”. They wish to transform the Internet into an educational tool against racism, especially aimed at youths. They encourage the cooperation between NGOs, religious organisations and other groups “in order to study and control racist, xenophobic, and anti-Semitic propaganda, and the incitement to violence on the Internet”. They declared that they were satisfied with the work made by the OSCE representative on the freedom of the media. They commit themselves to “promoting good practice” in order to “identify efficient methods to handle the question of racist propaganda without jeopardizing the freedom of expression and information”. Finally, the OSCE plan to continue to include this subject into their future strategies.

http://www.internet.gouv.fr/imprimer.php3?id_article=1802.