

The following appendix does not form part of ECRI's analysis and proposals concerning the situation in France.

APPENDIX

ECRI wishes to point out that the analysis contained in its second report on France, is dated 10 December 1999, and that any subsequent development is not taken into account.

In the course of the confidential dialogue process between the French governmental authorities and ECRI on the draft text on France prepared by ECRI, a number of comments of the French governmental authorities were taken into account by ECRI, and integrated into the report.

However, following this dialogue, the French governmental authorities expressly requested that the following observations on the part of the authorities of France be reproduced as an appendix to ECRI's report.

OBSERVATIONS PROVIDED BY THE FRENCH AUTHORITIES CONCERNING ECRI'S REPORT ON FRANCE

1. *Introductory remarks:*

These general remarks particularly concern paragraphs 25 and 28 of the report. In these paragraphs, the authors appear to question the French republican model based on the principles of the indivisibility of the nation and the equality of all citizens before the law, which stem from a legal tradition dating back two hundred years. In this respect, attention should be drawn to Article 1 of the Declaration of the Rights of Man and the Citizen of 26 August 1789, which has served as a reference for many peoples fighting for their freedom throughout the 19th century and was the primary source of inspiration for the Universal Declaration of Human Rights:

“Men are born and remain free and equal in rights. Social distinctions may be founded only upon the general good.”

This concept is also to be found in Article 1 of the French Constitution, which provides that:

“France shall be an indivisible, secular, democratic and social Republic. It shall ensure the equality of all citizens before the law, without distinction of origin, race or religion. It shall respect all beliefs.”

The French Republican structure is therefore founded on a social pact which transcends all differences and to which every individual can willingly adhere, whatever his or her biological characteristics or personal convictions.

It follows that the legal concept of “minority” does not exist in French law, which does not mean that the specific characteristics of people’s identities are not recognised. But they lie within the realm of individual, private choice governed by freedom of thought and conscience and are not based on objective criteria.

Although ECRI feels it must consider that “de facto, [minority groups] exist” and that “the rights of individuals connected with the identity of these groups of the population of France are limited”, it must be pointed out that there is no consensus of opinion on this assessment of French sociological reality in the country itself.

Such an assessment presupposes a notion of citizenship which distinguishes between individuals according to the ethnic or religious group to which they belong. This notion cannot be applied to the situation in France. For example, how does one identify persons “of North-African origin”, the expression used in the report, among the French population? Should one distinguish between those who, while living in France, have Algerian, Tunisian or Moroccan nationality and those who were born in these countries but now hold French nationality? But if this is the case, how far back should one go to establish the criterion of “origin”? Should religious beliefs also be taken into account? And is it wise to put Tunisians, Algerians and Moroccans all in the same group? Finally, and above all, do the interested parties want or claim to be identified in this way or to belong to this group?

The French government is obviously not unaware of the limits of the French model for integration, but it considers that the fight against racism and intolerance must continue to be waged according to this model. This is why any approach that attempts to introduce quotas or recognise communities within society in defiance of the principle that all persons are equal before the law is unambiguously rejected. Accordingly, the remark made in paragraph 32 of the report encouraging a greater representation of “people of immigrant background” in the police force is inadmissible. Only candidates who have passed the tests and competitive examinations - which are identical for everyone - set specifically to recruit police officers are admitted into the force, regardless of their ethnic origin or religious beliefs. Similarly, the criticism made by the authors of the report in the following paragraph of “the sometimes simplistic and stereotypical representation of the minority communities” in the media is meaningless in a society which does not base its definition of itself on the recognition of the communities of which it is supposedly made up.

Furthermore, the social models founded on this community-orientated approach, which identifies the existence of minority groups within society, as is the case for example in the United States, have not provided proof of their effectiveness, or at least proof that they are more effective than the French model, in combating racism.

Racism and intolerance unfortunately affect all societies, however they are organised and whatever principles they are based on. There is therefore no question

at present of any “reconsideration” of the egalitarian “approach”, on which our Republic is founded.

2. Paragraph 21:

The French government objects to the use of the expression “phenomenon of separation” in schools in this paragraph. This expression refers to a segregationist concept of society which in no way corresponds to the egalitarian approach underlying the French Republic.

However, it is recognised that in some districts, and therefore in some schools, the phenomenon of disproportionate representation of disadvantaged categories of the population does exist. The French government recommends that the term “the phenomenon of separation” be replaced by “the phenomenon of disproportionate representation”.

3. Paragraph 24:

The following information needs to be added to the end of the paragraph in order to give a more accurate picture of the present situation:

“It should be noted that even though it cannot be denied that the situation of immigrants as regards housing is less satisfactory than that of French nationals, recent surveys carried out by INSEE and INED¹ point to an overall improvement. The French authorities have clearly shown their determination to deal on a wide-ranging basis with the question of immigrants’ access to housing in the Law of 28 July 1998 on the fight against exclusion, which reiterates the principle of housing for all and provides that applicants for social housing shall be given a number on a waiting list and that reasons must be given for all refusals.

This determination does not dispense with the need to accurately assess discrimination against immigrants as regards access to housing. A working group of specialists has been set up within the GIP-GED².

The French government has also reorganised the tasks of the CNLI³ (now the CILPI⁴) especially with regard to hostel accommodation.”

4. Paragraph 37:

¹ INSEE: French national institute of economic and statistical information; INED: French national institute for demographic studies.

² GIP-GED: Working group on immigrant populations and Study group on discrimination.

³ CNLI: French national committee on housing for immigrants.

⁴ CILPI: French inter-ministerial committee on housing for immigrant populations.

Mention should be made of the concrete measures already taken under the Ministry of Employment and Solidarity programme for the fight against discrimination. The last sentence of the paragraph should therefore be replaced by the following:

“This intention was reflected on 11 May 1999 at the round-table discussion between the Minister for Employment and Solidarity, the Minister responsible for Urban Policy, employers’ organisations and trade unions by a joint declaration on the fight against discrimination in the workplace (the Grenelle Declaration) and the swift adoption of concrete and effective measures. Among these measures, attention should be drawn to the setting up of a study group on discrimination (GED), of an awareness-raising and training programme for public-service employment agency staff (ANPE⁵, AFPA⁶, district offices and decentralised departments of the Ministry of Employment and Solidarity, including labour inspectorates), trade unionists and company managers, new sponsoring arrangements to help young people find jobs, the inclusion of the fight against discrimination in the new urban contracts and improvements to legislative provisions.”

5. Paragraph 39:

There should be a reference to the project set up in the Rhône-Alpes region, which offers a concrete example of dialogue between the various social, political and economic players that ECRI calls for in order to fight against discrimination in the labour market. The following sentences could be added to the end of the paragraph:

“In this respect, the “specific action for equal opportunities at work” (ASPECT) project launched in the Rhône-Alpes region by the Ministry of Employment and Solidarity and in which all the administrative and economic players are involved and which is aimed at incorporating the principles set out in the European Declaration against discrimination in the workplace signed in Florence in October 1995 and in the Grenelle Declaration into company agreements, is a praiseworthy example.”

⁵ ANPE: French national employment office.

⁶ AFPA: Adult vocational training association.