

FRANCE

CESCR E/1989/22

131. The initial report of France on the rights covered in articles 10 to 12 of the Covenant (E/1986/3/Add.10) was considered by the Committee at its 12th and 12th meetings, held on 14 February 1989 (E/C.12/1989/SR.12 and 13).

132. The report was introduced by the representative of the State party. He provided further information concerning the implementation of the rights contained in articles 10 to 12 of the Covenant, paying particular attention to the description of the main developments which had occurred since the submission of the report in October 1987. The emphasis was placed on the following major issues referred to in the written questions formulated by the Pre-sessional Working Group of the Committee: struggle against social marginalization, poverty and insecurity, protection of the children and of the family; housing policy; the protection of the handicapped; and, within the context of article 12, the struggle against AIDS. In that connection, he pointed out that the information provided both in the report and in his introductory statement was the result of a very wide interdepartmental consultation which had brought together all the services concerned, which in their turn regularly had worked in conjunction with the relevant social groups and organizations, including the trade unions and all specialized associations.

133. The representative, with reference to articles L512(1) and L311(7) of the French Social Security Code, informed the Committee that France applied the principle of equality of treatment as between nationals and foreigners who regularly resided in France and that foreign workers and their dependants were eligible for social insurance benefits if they were resident in France. Turning to the problem of the struggle against social marginalization, poverty and insecurity, he described political, legal, organizational and financial aspects of a new policy proposed by the French Government in favour of the most disadvantaged groups in order to give full value to the relevant provision contained in the Preamble to the 1946 Constitution to which reference was made in the actual Constitution. It was indicated that over the preceding five years, France had conducted three main assistance programmes against social marginalization. Their common feature was that the State functioned in close association with its local and national partners, which had been one of the recommendations of the Committee on Economic, Social and Cultural Rights. The most recent measure in that area had been the minimum income system, adopted by Parliament on 1 December 1988. The minimum monthly income had been fixed by decree at 2,000 francs for a single person, plus 1,000 francs for the first dependant and 600 francs each for other dependants. Other relevant statistical information was also provided.

134. With reference to the protection of children and the family, the representative of the reporting State stated that the attitudes towards the protection of children had changed very much over the preceding 20 years: from a policy of assuming responsibility for a considerable number of homeless children, all recent efforts had been directed towards the families themselves in order to help them to bring up their children by making existing forms of assistance more comprehensive, of which a

detailed description was given. He indicated that three further mechanisms had been set up by the present Government to encourage recognition of the rights of the child and of the family. In 1986, the family benefits system covered 5.9 million families and 12.5 million children. In addition to benefits for improving the well-being of the family, the family benefit organizations were currently managing all housing benefits. In 1986, they had distributed 147 billion francs in benefits. Within the context of article 10, a description was given of a comprehensive family planning policy carried out in France since the 1960s, including information on the problem of abortion.

135. Addressing the issue of housing policy, the representative pointed out that it was geared towards satisfying the needs of the poorest elements in the society. Information was provided on the low-cost housing campaign, which the Government had been carrying out for the last 10 years. In June 1988 the Government had adopted a series of new measures for moderate rent housing and run-down areas, in order to improve the quality of life. To combat rent rises in the uncontrolled sector, amendments had been made to the "Mehaignerie Act" of 23 December 1986.

136. The representative of the reporting State provided further information concerning the protection of disabled persons, indicating in particular that in June 1988 a secretariat of State within the Ministry of Solidarity, Health and Social Protection had been set up to deal with disabled persons. French policy with respect to disabled persons was directed at three major concerns: employment, children and the promotion of independent living.

137. With respect to French policy on AIDS, detailed information was provided and within this context, it was emphasized that the Government in November 1988 firmly reaffirmed non-discrimination with respect to AIDS victims and the fact that they should not be excluded from society if fundamental human rights were to be observed. The Committee was informed that the Government adopted a national anti-AIDS plan with three priorities, namely prevention, cure for the victims and research. It was indicated that the budget for information campaigns on AIDS amounted to 100 million francs and the AIDS research budget had been raised from 50 million francs in 1988 to 150 million francs in 1989.

General matters

138. With reference to the general framework within which the Covenant was implemented, the members of the Committee wished to have additional information on factors and difficulties, if any, affecting the implementation of the rights set forth in articles 10 to 12 of the Covenant, and, in particular on the extent to which the various rights had not yet been fully realized; to what extent there was a continuing system of monitoring of the enjoyment of the rights referred to in articles 10 to 12 of the Covenant, which might clearly indicate any significant deterioration in the situation and help to identify urgent measures which might need to be taken; and to what extent non-governmental organizations or social groups had been associated in the preparation of the report. They also wished to know in which respects the rights of non-citizens were restricted as compared with those of citizens; and if there were any regional disparities in the extent of enjoyment of the relevant rights. Further information was also requested on the French national health, housing and education schemes and, in particular, on any benchmarks established by the Government for minimum levels of the enjoyment of the rights recognized in articles 10 to 12 of the Covenant.

139. Members of the Committee, having noted that the report was, in some respects, too legalistic in its approach, and therefore might not adequately reflect the real situation in the country, asked for further information on the actual difficulties encountered in implementing the Covenant. In particular, they wished to know what action had been taken to overcome regional disparities especially with reference to the heavily-industrialized North; to what extent unemployment affected the realization of the rights contained in articles 10 to 12; what consequences the failure of the EEC to act on the social dimensions of the 1992 project would have for the enjoyment of the rights affirmed in articles 10 to 12 of the Covenant and what major outstanding problems there were in relation to the implementation of those articles.

140. It was also noted that there was a methodological defect in the report; the part on article 10 contained a section on the Overseas Territories, whereas the parts on articles 11 and 12 did not. It was suggested that the regular inclusion of a special section on the Overseas Territories would be useful in the future.

141. Replying to the questions on general matters, the representative of the State Party, after referring to the statement made by France when ratifying the Covenant, also explained that the nationality condition only concerned the disabled person's allowance introduced by the Disabled Persons Act of 1975, which under French law was not a social security benefit, but a financial allowance paid by the State without any quid pro quo in order to guarantee disabled adults a minimum of resources. The principles concerning equal treatment of nationals and aliens when the latter were regularly resident in French territory remain fully applicable with regard to other social benefits, including those paid to disabled adults.

142. On the problem of the social dimension in the Europe of 1992, he stated that the introduction of a European social policy was a priority for France.

143. As regards France's food aid to the third world, the Committee was informed that it took various forms and was provided through various channels, which were described in detail. It was stated that France's contribution to the EEC's food aid programme had amounted in 1987 to 1.2 million tons of grain, 130,000 tons of powdered milk and 30,000 tons of butter oil, among the most important items. In addition in devoting 0.51 per cent of its GDP to development aid in 1987, France was well ahead of a number of leading European countries in that field.

144. Further details were given to the Committee on the question of overseas departments and territories. The status of overseas departments was governed by the principle of legislative assimilation contained in the 1946 Constitution and reaffirmed in article 73 of the 1958 Constitution.

145. The situation of the Overseas Territories was very different from that of the overseas departments and was reflected in the principle of "legislative specialization". The organization of the Overseas Territories was also determined by the Territories' statutes; if it was evident from the statutes that a particular field was not the responsibility of the State, it came within the competence of the Territory. By virtue of that principle of autonomy for Overseas Territories, regulation of the rights set forth in articles 10 to 12 of the Covenant was entirely a matter for the Territories, which

dealt with such matters in their territorial assemblies.

Article 10: Protection of the family, mothers and children

146. The Committee was interested to know what kind of family planning policy was exercised in France; whether abortion was allowed, and if so, under what conditions; whether the Government was aware of any significant number of cases involving the exploitation of child labour in France, and if so, could details be provided as to the problems encountered and the solutions proposed; whether there had been in France any significant problems involving sexual abuse of children in recent years, and if so, what measures had been taken to provide appropriate special protection.

147. In addition, further clarification was sought as to the statement contained in the report, in accordance with which different family benefits had been paid in the overseas departments and in the metropolitan France. It was also asked whether protection was accorded to families in which the parents were not married; how many divorces there were in France and whether the divorce rate was rising or falling; what measures had been taken in France to encourage the moral and spiritual consolidation of the family and of marriage; whether statistics existed and could be provided on the number of widows, divorced and separated persons by sex. Members also wanted to know what legal protection was available to women employees if they actually were dismissed during pregnancy; whether paternity leave existed in French law and, if so, in what circumstances; and what the trends in juvenile delinquency in France were.

148. In his reply, the representative of the State party noted that over the past 30 years the nature of the family had changed considerably: firstly, the term “family” had come more and more to mean a unit consisting of a couple, whether married or not, and their children; secondly, the number of families lacking a parent was increasing. The Government’s family policy was described in the light of that trend. On protection for pregnant women under the labour law, attention was drawn to various legal aspects and it was pointed out that if a pregnant woman was dismissed from her job, it was for the judge to decide whether it was preferable that she should be reinstated or that compensation, for example, should be paid. Additional information was provided on the single parent’s allowance, which was paid essentially to women, on paternity leave in France and on the payment of family benefits in overseas departments.

Article 11: Right to an adequate standard of living

149. With reference to the implementation of the right to food, the Committee requested further information as to the extent to which France had not succeeded in eliminating hunger and malnutrition, and on the free distribution of food to disadvantaged persons. In relation to arrangements for the minimum supplies of food to needy groups referred to in the report, it was asked why it had taken four years - from 1979 to 1983 - to implement EEC regulation 2374/79; had that regulation been introduced because of widespread unemployment or for other reasons; and what qualifications were required to be eligible for that assistance.

150. As to the right to housing; it was asked whether the various subsidies provided to landlords indicated that housing construction in France was not sufficiently profitable; why, despite all the

efforts made by the Government, the housing situation was, in statistical terms, worse than in some other western European countries; and whether there was any significant incidence of homelessness in France. More information was also sought on the rent control scheme.

151. With reference to the difference between the standard of living in metropolitan France and the standard of living in the Overseas Territories, additional information was requested. It was noted, in connection with the Disabled Adults Allowance, that to be eligible a person must be of French nationality or a national of a country which had concluded a Convention with France, and it was pointed out that such a regulation seemed to be in contradiction with article 2, paragraph 2, of the Covenant, which stated that the State parties guaranteed that the rights in the Covenant would be exercised “without discrimination of any kind as to ... national or social origin ...”. With reference to the right to housing it was asked what the criteria were for decent housing in France; what was the current trend in the proportion between rented and owned housing in France and whether the 40 per cent in the rental sector, mentioned in the report, was equally divided between urban and rural areas.

152. The representative of the State party, after describing in detail the policy for dealing with unemployment, said that it was aimed particularly at the major categories of unemployed, i.e. young people, women and workers approaching retirement age, mainly those over 55. But despite all the measures taken by the Government, the unemployment rate remained high in France. As regards the differences in standard of living between the overseas departments and territories and metropolitan France, the necessary explanations were given and the relevant legislation was described. Additional information was provided in answer to the questions on the exercise of the right to housing, and in particular a definition was given of housing with “modern conveniences” by French standards. The Committee was informed that living space had increased considerably over the past 10 years and now averaged 80 m² in individual dwellings, which were 51.2 per cent owner-occupied, and 68 m² in collective dwellings.

153. As regards the particularly difficult situation in which certain needy groups had found themselves in France two or three years earlier, it was stated that the main answer to the problem was the guaranteed minimum income for reintegration, on which further explanations were given.

Article 12: Right to physical and mental health

154. Members of the Committee wished to know whether health care facilities were equally available and accessible in rural and urban areas, and if not, what incentives had been given to medical doctors to practise in rural areas; and whether sporting and recreational facilities were sufficiently developed and accessible to everyone. The Committee also requested further information on the measures adopted by the Government of France to combat AIDS.

155. In addition, more information was sought on public and private contributions in the health sector; on the interministerial committee which had been set up to study the problem of drug addiction and on the background to drug addiction in France and its influence on society; on the rate of infant mortality; on the number of doctors per thousand inhabitants, and the number of hospital beds available.

156. In his reply, the representative of the State Party said that France had one doctor per 400 inhabitants and that the number of hospital beds had been 720,000 at 1 January 1987, 510,000 in public hospitals and 210,000 in private ones. Infant mortality, which was steadily declining in France, had been 13.8 per thousand in 1975, 9.5 per thousand in 1982, 8 per thousand in 1986 and 7.7 per thousand in 1987. Of the 138,835 doctors in France in 1988, 25 per cent of whom were women, 69.2 per cent were in private practice and 30.8 per cent were in the State sector.

157. With reference to the penal policy on drug taking, he said that the French criminal system was not just aimed at drug sellers or traffickers, since the way the traffic was organized, at least in France, meant there was no clear distinction between traffickers and consumers. Nevertheless, with regard to the latter, the penalties could be alleviated through application of article L.728, first paragraph, of the Health Code, which was described in detail.

158. As regards France's activities for international co-operation in the health field, he described the operations it undertook, including humanitarian disaster relief, exports of pharmaceuticals and medical products, training of foreign medical students, admission of medical research workers, attendance at and organization of international medical congresses. Detailed information was given on the anti-Aids campaign.

Concluding observations

159. Having noted that the French Government had a strong social policy, the Committee expressed a desire to have more information on economic and social problems and difficulties encountered in implementing the relevant provisions of the Covenant, as well as what the authorities were doing to deal with them.

160. The observation was made that the explanations given on article 2 of the Covenant and on the statement made by France when ratifying it had not been convincing and that French law on the disabled was contrary to the Covenant.

161. The Committee noted with satisfaction the willingness of the French delegation to provide the Committee with further written information on various questions raised during consideration of France's initial report on the rights covered by articles 10 to 12 of the Covenant.

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850. The Committee considered the second periodic report of France on the implementation of the Covenant (E/1990/6/Add.27) at its 67th and 68th meetings, held on 16 November 2001, and adopted, at its 77th meeting, held on 23 November 2001, the following concluding observations.

A. Introduction

851. The Committee welcomes the second periodic report of the State party, which was prepared in close conformity with the Committee's guidelines.

852. The Committee notes with appreciation the quality of the report, the comprehensive written and oral replies given by the State party, as well as the open nature of the constructive dialogue with the delegation, which included government officials with expertise on subjects relevant to the provisions of the Covenant.

B. Positive aspects

853. The Committee welcomes the State party's recent efforts to address the problem of social exclusion in the State party, inter alia, by the adoption of Framework Law No. 98-657 of 29 July 1998 to combat social exclusion, particularly targeting the right to work, the right to housing and the right to health.

854. The Committee acknowledges the existence of two national human rights institutions, the National Consultative Commission of Human Rights and the National Ombudsman (Le Médiateur de la République).

855. The Committee notes with appreciation the efforts made by the State party to address unemployment by creating new jobs and by establishing programmes to improve access to the labour market, such as the projet d'action personnalisé follow-up programme for the unemployed and the trajet d'accès à l'emploi programme, which is aimed especially at young persons.

856. The Committee welcomes the recent court decisions convicting perpetrators of female genital mutilation.

857. The Committee notes with interest the various initiatives by the State party to combat the serious problem of domestic violence, including the launching of a national action plan in 2000.

858. The Committee also commends the State party for its campaign against alcohol and tobacco abuse, especially among young people.

859. The Committee welcomes the measures undertaken by the State party to combat trafficking in persons, child pornography and sexual exploitation of women and children.

860. The Committee notes with appreciation the progress made by the State party with regard to the right to health, particularly by establishing universal coverage of health-care insurance through Law No. 99-641 of 27 July 1999 which extends health insurance to everyone living in the national territory and provides 100 per cent coverage to persons with a very low income.

C. Factors and difficulties impeding the implementation of the Covenant

861. The Committee notes that there are no factors and difficulties which prevent the effective implementation of the Covenant in the territory of the State party.

D. Principal subjects of concern

862. The Committee expresses its concern that, despite the constitutional provision (art. 55) stipulating the primacy of international law over national law and the monistic principle adopted by the State party incorporating international law in the domestic legal order, the Covenant and its provisions are not considered directly applicable by some courts of law (e.g. the *Conseil d'Etat*), resulting in a dearth of court decisions in which reference is made to the Covenant and its provisions. The Committee is also concerned about the delegation's statement that some economic, social and cultural rights are not justiciable.

863. The Committee expresses its concern that, along with the reform of official development assistance by the State party, such assistance as a percentage of GNP has been in decline since the 1980s.

864. The Committee expresses its concern about the lack of recognition of minorities in France. While the French tradition emphasizes the unity of the State and the equality of all French citizens, and while there is a commitment on the part of the State party to respect and protect equal rights for all, the Committee is of the opinion that the fact that all individuals are guaranteed equal rights in the State party and that they are all equal before the law does not mean that minorities do not have the right to exist and to be protected as such in the State party. The Committee emphasizes that equality before the law is not always adequate to ensure the equal enjoyment of human rights, and in particular economic, social and cultural rights, by certain minority groups in a country.

865. The Committee is concerned that the State party has not yet changed the minimum age for marriage for girls (15 years) in the Civil Code to conform with that for boys (18 years), especially in the light of the delegation's statement that this discrepancy has not had an actual impact on the marriage rate, which has demonstrated an increasing average age of marriage for both sexes.

866. The Committee is concerned about the increased job insecurity, even under positive economic conditions, due to, for example, involuntary part-time employment and the risk of losing employment altogether, which is said to have contributed to an increased rate of suicide among the population of working age.

867. The Committee is concerned that the criteria of "representativity" for participation of trade unions in certain processes such as collective bargaining may tend to exclude smaller and newer trade

unions in favour of the larger and more established ones and therefore may jeopardize the right of all trade unions to function freely in accordance with article 8 (c), paragraph 1, of the Covenant.

868. The Committee notes with regret that the State party has not yet ratified ILO Conventions No. 117 (1962) concerning basic aims and standards for social policy or No. 174 (1993) concerning the prevention of major industrial accidents.

869. The Committee is concerned about the problem and extent of homelessness in the State party, particularly in the urban areas. The Committee is also concerned about the inadequacy of government policy aimed at the reduction and prevention of homelessness.

E. Suggestions and recommendations

870. The Committee requests the State party to provide information in its third periodic report on: the results of the implementation of the framework law to combat social exclusion; the results of the national action plan to combat domestic violence; and the results of the campaign against alcohol and tobacco abuse.

871. The Committee strongly encourages the State party to criminalize trafficking in persons.

872. The Committee recommends that the State party provide proper training to the judiciary, prosecutors and other officials responsible for the implementation of the Covenant and its rights, to ensure that these rights are consistently enforced in courts of law.

873. The Committee recommends that the State party increase its official development assistance as a percentage of GNP to a level approaching the 0.7 per cent goal established by the United Nations.

874. The Committee suggests that the State party review its position with regard to minorities, ensuring that minority groups have the right to exist and to be protected as such in the State party. The Committee recommends that the State party withdraw its reservation with regard to article 27 of the International Covenant on Civil and Political Rights and that it ratify the Framework Convention on the Protection of National Minorities, as well as the European Charter for Regional and Minority Languages, signed by State members of the Council of Europe in 1995 and 1992, respectively.

875. The Committee also recommends that the State party increase its efforts to preserve regional and minority cultures and languages, and that it undertake measures to improve education on, and education in, these languages.

876. The Committee recommends that the legal minimum age for marriage for girls be raised to 18 years.

877. The Committee recommends that the State party undertake urgent steps to address the problem of job insecurity, as well as the serious problem of suicides related to it. The Committee requests that the State party include information in its third periodic report on the project of the Ministry of Labour

and Solidarity which addresses as a matter of priority the reduction of the number of suicides among the population of working age and the provision of assistance to families of suicide victims.

878. The Committee recommends that the State party ensure that the criteria of participation and, in particular, the condition of “representativity” do not impede the right of trade unions to participate freely in processes such as collective bargaining, irrespective of their size, in accordance with article 8 (c), paragraph 1, of the Covenant.

879. The Committee strongly recommends that the State party ratify ILO Conventions No. 117 (1962) concerning basic aims and standards for social policy and No. 174 (1993) concerning the prevention of major industrial accidents.

880. The Committee strongly recommends that, in addition to its present campaigns to aid the homeless, especially during the winter months, the State party devote particular attention to raising awareness about the phenomenon and that the State party continue to develop policies on how to address the problem adequately, and not only as a matter of emergency.

881. The Committee encourages the State party, as a member of international financial institutions, in particular IMF and the World Bank, to do all it can to ensure that the policies and decisions of those institutions are in conformity with the obligations of States parties to the Covenant, in particular the obligations contained in article 2, paragraph 1, and articles 22 and 23 concerning international assistance and cooperation.

882. The Committee requests the State party to disseminate the present concluding observations widely at all levels of society, in particular among State officials and the judiciary, and to inform the Committee on all steps taken to implement them in its next periodic report. It also encourages the State party to continue to involve non-governmental organizations and other members of civil society in the preparation of its third periodic report.

883. Finally, the Committee requests the State party to submit its third periodic report by 30 June 2006 and to include in that report detailed information on the steps it has undertaken to implement the recommendations contained in the present concluding observations.