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Human Rights Committee

Sixth periodic report submitted by France under article 40 of the Covenant pursuant to the optional reporting procedure, due in 2022*, **

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* The present document is being issued without formal editing.
** The annex to the present document may be accessed from the web page of the Committee.

I. Introduction

1. France hereby submits to the Human Rights Committee its sixth periodic report on implementation of the International Covenant on Civil and Political Rights.

2. The report was prepared in collaboration with the National Consultative Commission on Human Rights. The establishment of this institution, which has existed since 1947, was formalized in Act No. 2007-292 of 5 March 2007. Accredited with category A status, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), it is made up of 30 representatives of civil society (non-governmental organizations (NGOs) and trade unions) and 30 eminent experts, as well as the Defender of Rights, a representative of the Economic, Social and Environmental Council, a deputy and a senator. Its role is to advise the Government and Parliament on human rights issues and to monitor the international commitments of France by following up on the implementation of the recommendations made by international and regional bodies.

II. Replies to the list of issues (CCPR/C/FRA/QPR/6)

A. Reply to the issues raised in paragraph 1

3. First, there have been no significant developments in the legal and institutional framework within which human rights are promoted and protected since 2015 and the consideration of the fifth periodic report.

4. Second, with regard to the information requested:

(a) Regarding the procedures for post-sentence preventive detention, which have been clarified by the courts

5. It will be recalled that article 706-53-13 of the Code of Criminal Procedure, incorporated into the Code pursuant to the Act of 25 February 2008, provides that, exceptionally, where a person's situation is re-examined at the end of his or her sentence and he or she is determined to be particularly dangerous with a very high risk of reoffending owing to a serious personality disorder, that person may be placed in post-sentence preventive detention. The Criminal Chamber of the Court of Cassation, on the basis of article 706-53-16 of the Code of Criminal Procedure, held that the regional post-sentence preventive detention courts could only order the placement of a convicted person in post-sentence preventive detention after verifying that that person had actually been able to benefit, while serving his or her sentence, from appropriate medical, social and psychological care (decision of 28 March 2018). The courts thus ensure close supervision of this measure, which can only be imposed in exceptional cases.

6. Since the creation of post-sentence preventive detention, the French courts have imposed it on 16 occasions in respect of 10 convicted persons, some of whom have been placed in post-sentence preventive detention several times.

- Nine persons were placed under preventive surveillance, but only one convicted person remains subject to an ongoing measure.
- One individual – the convicted person whose case gave rise to the aforementioned decision issued by the Court of Cassation on 28 March 2018 – had no measure imposed on him.

(b) Concerning the comments on intelligence techniques contained in document CCPR/C/121/4

7. The Government wishes to deal first with the issues raised explicitly by the Committee in paragraphs 9 and 10 of the list of issues, which are addressed below.

8. The legal framework established by the Act of 24 July 2015 and the Act of 30 November 2015 has been modified several times by lawmakers to bolster the role of the National Commission for the Control of Intelligence Techniques, the independent administrative authority responsible for supervision in this area. Most recently, in 2021, lawmakers revised the legal framework regulating intelligence techniques with the adoption of the Act of 30 July 2021 on Intelligence and Prevention of Terrorism. This Act, inter alia, supplemented the legal framework regulating intelligence techniques, adapted it to the needs of the intelligence services and brought it into line with international case law, placing all operations involving the use and transmission of data by these services under the ex post facto supervision of the Commission. In addition, in two specific cases, the Act made the transmission of intelligence subject to the prior authorization of the Prime Minister, which is granted after an opinion has been issued by the Commission. Lawmakers also took account of the judgment of the Court of Justice of the European Union of 6 October 2020 in the case of *La Quadrature du Net and Others v Premier ministre and Others*, in which the Court held that access by public authorities to connection data must be subject to a prior review carried out either by a court or by an independent administrative body whose decision is binding. The Act now provides that, when the Prime Minister authorizes the use of an intelligence technique after an unfavourable opinion has been received from the Commission, the matter must be referred immediately to the Council of State, which must rule on it within 24 hours. The Prime Minister's decision may not be executed until the Council of State has issued its ruling, except in duly substantiated cases of emergency where the Prime Minister has ordered the immediate implementation of the technique in question. Such an emergency may not be invoked when the person concerned holds a parliamentary mandate or exercises the profession of judge, lawyer or journalist. The law also limits the power of the Prime Minister to invoke an emergency as the basis for implementation of some of the more intrusive intelligence techniques. When the technique involves entering a private residence, he or she may use this power only for the purpose of preventing terrorism. However, this has never happened in practice, all of the Commission's unfavourable opinions, without exception, having been respected by the Prime Minister.

(c) With regard to the accusations of sexual abuse in the Central African Republic

9. The Government recalls that, subject to the international commitments of France, French military personnel deployed abroad as part of pre-positioned forces or in the context of foreign operations who commit indictable offences outside the territory of the Republic, including while off duty, are subject to the ordinary jurisdiction of the Paris court specializing in military matters.

10. In the case in question, five proceedings were initiated by the French judicial authorities after the Ministry of the Armed Forces received allegations that French soldiers deployed in the Central African Republic had committed sexual abuse against children in 2014 and 2015.

11. Three of the cases were discontinued by the prosecuting authorities because the facts did not appear to be sufficiently substantiated.

12. A fourth case, initiated in 2014 on the basis of a report by the Ministry of the Armed Forces relaying information transmitted by the United Nations concerning allegations of child rape committed by French soldiers at the M'Poko site, led to the opening of a criminal investigation at the Paris court in 2015. This procedure resulted in a dismissal order being issued by the investigating judge on 11 January 2018. This decision, which was upheld by the Paris Court of Appeal, is now final.

13. A final investigation, opened in 2016 following a report from the Office of the United Nations High Commissioner for Human Rights, is still ongoing.

14. Third, the Government recalls that the Views of the Human Rights Committee, a non-judicial body established under article 28 of the International Covenant on Civil and Political Rights, are not binding on the State to which they are addressed. This is clear from article 5 (4) of the Optional Protocol to the International Covenant on Civil and Political Rights, which states: "The Committee shall forward its views to the State Party concerned and to the

individual.” However, the Government implements these Views in good faith, to the best of its ability.

15. With regard, more specifically, to the Views in *Hebbadj v. France* and *Yaker v. France* concerning the wearing of the full-face veil, the Government wishes to point out that the primary objective of Act No. 2010–1192 of 11 October 2010 Prohibiting the Concealment of One’s Face in Public Places is to prevent practices tending to conceal the face, which may constitute a danger to public safety and which disregard the minimum requirements of life in society. The Act thus does not seek to prohibit a particular religious practice or manifestation. The European Court of Human Rights, in its judgment of 1 July 2014 in the case of *SAS v. France* (No. 43835/11), held that respect for the minimum requirements of life in society, “living together”, can be linked to the legitimate aim of the protection of the rights and freedoms of others. Consequently, it found that the law in question was not contrary to the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights). Under these circumstances, and for the reasons further developed by the Government in response to the Views in question, no amendments were made to the law concerned.

16. With regard to the Views in *Singh v. France*, while the Government does not intend to amend the national provisions requiring individuals to appear “bareheaded” in identity photographs on official documents, given the imperatives of safety and combating fraud in particular, and the endorsement of the French regulations by the European Court of Human Rights, it has always remained open to the possibility of organizing technical meetings with associations on issues relating to the photographs affixed to identity documents. The Government recalls that delegates from French and European Sikh associations have been received at such meetings.

17. Lastly, in the case of *Cochet v. France*, Mr. Cochet was able to file a claim for compensation following the issuance of the Committee’s Views (CCPR/C/102/D/1876/2009). However, while the court of appeal made a finding of gross fault and ordered the State to compensate Mr. Cochet and the company Acolyance for their losses, this judgment was overturned by the Court of Cassation sitting in banc. The Court of Cassation held that no text or general principle of European Union law, nor any well-established case law of the Court of Justice of the European Union, nor the principle of retroactive application of the lighter penalty, prevented the prosecution and punishment of persons who submitted false customs declarations having the aim or effect of obtaining any advantage attached to intra-Community imports and made prior to the establishment of the single market. The application by the Court of Cassation of article 110 of the Act of 17 July 1992 thus did not contravene European Union law. There was therefore no reason to compensate Mr. Cochet and the company Acolyance for their losses, in the absence of any fault that would allow the State to be held liable in a court decision.

B. Reply to the issue raised in paragraph 2

18. The Government first recalls that, in addition to the withdrawal in 1988 of its reservation with regard to article 19, the French State notified the Secretary-General, in a communication received on 26 July 2012, of its decision to partially withdraw its reservation with regard to article 14 (5) made upon accession. This followed the introduction of the possibility of appealing decisions on criminal matters before the Court of Assizes. The reservation with regard to article 14 (5), now refers only to certain offences tried by the police courts – for example, certain driving offences such as illegal parking, which is punishable by a fine. Even these decisions may be the subject of an appeal in cassation.

19. The State has maintained its remaining reservations and does not currently plan to withdraw them.

C. Reply to the issues raised in paragraph 3

20. First, it is important to point out that the French authorities have no evidence of a widespread practice of racially based identity checks. In any case, such practices are

prohibited, and the work of the police and the gendarmerie is organized in such a way as to prevent this prohibition from being violated.

21. The powers of the internal security forces with regard to identity checks are strictly regulated to ensure that they are not exercised in a discriminatory manner. Under article 78-2 of the Code of Criminal Procedure:

- Where identity checks are carried out at the initiative of the internal security forces, there must be one or more plausible reasons for suspecting that the person being checked "has committed or attempted to commit an offence or is preparing to commit an indictable offence".
- Where identity checks are carried out by the administrative police, the aim must be to "prevent a breach of the peace, in particular conduct prejudicial to the safety of persons or property". In this connection, the Court of Cassation requires a statement of reasons setting out the specific nature of the threat to the peace that constituted the grounds for carrying out the identity check.
- Where identity checks are carried out at the written request of the public prosecutor, in accordance with the reservations of interpretation formulated by the Constitutional Council on 24 January 2017, they must be limited in scope, in terms of the offence concerned, and may only be carried out during a specified period and in a specific location.

22. Efforts to prevent discriminatory identity checks rely both on police and gendarmerie officers' adherence to their ethical obligations and on the conduct of ex post controls by the judicial authority, in its capacity as guardian of individual liberties.

23. With regard to ethical obligations, the current regulatory provisions of the Internal Security Code are designed to prevent any risk of discriminatory identity checks; non-compliance may constitute a disciplinary offence. In particular, officers must carry out their mission "with complete impartiality" (Internal Security Code, art. R. 434-11) and, when conducting identity checks, must not rely on "any physical characteristic or distinctive sign to determine the persons to be checked", unless they have received a specific report justifying the check (art. R. 434-16). Lastly, since 2014, police and gendarmerie officers have worn individual identification numbers (identity and agency identification numbers), intended to ensure that they are visible to and identifiable by members of civil society.

24. Second, any person who believes that he or she has been the victim of a discriminatory identity check can sue the criminal investigation officer concerned for compensation for non-pecuniary damages, on the basis of article L. 141-1 of the Code of Judicial Organization.

25. The Court of Cassation considers that an identity check carried out on the basis of physical characteristics associated with a person's actual or presumed origin, without any prior objective justification, constitutes a gross fault for which the State may be held liable (decision of the First Civil Chamber of the Court of Cassation of 9 November 2016). A person checked in these circumstances may be compensated.

26. In addition, people who believe that they have been the victim of a discriminatory identity check can file a complaint with the Inspectorate General of the National Police or the Inspectorate General of the National Gendarmerie, whose overarching mission is to carry out inspections of the departments and services of the Directorate General of the National Police and the Directorate General of the National Gendarmerie throughout France. In this capacity, they conduct independent judicial investigations, on their own initiative or on instructions from the judicial authority. As part of their disciplinary powers, they also conduct administrative investigations that may lead to disciplinary sanctions.

27. In 2020, 5,420 reports were received on the reporting platform of the Inspectorate General of the National Police, including 180 reports of discriminatory remarks and 85 of discriminatory practices.

28. Reports relating specifically to identity checks constituted only a fraction of the total number submitted to the reporting platform of the Inspectorate General of the National Gendarmerie, despite the fact that the procedure involves a simple declaration not subject to any filtering, allowing any person who feels dissatisfied with the actions of gendarmerie

officers to submit a report to that effect. For the year 2021, the platform received 2,344 reports. Of that number, 987 were within the Office's remit, of which 15 (1.5 per cent) involved potentially discriminatory behaviour and/or statements, including abusive identity checks.

29. An individual can also turn to the "antidiscriminations.fr" platform of the Defender of Rights, launched on 12 February 2021 and intended to support people who are victims or witnesses of discrimination, whatever the grounds and the domain. This new platform, whose creation was requested by the President of the Republic, received 14,000 reports in one year, mostly concerning conflicts related to an individual's origins or disability. The law enforcement authorities became involved in about 5 per cent of all these cases. The Defender of Rights may refer a matter to the Inspectorate General of the National Gendarmerie or the Inspectorate General of the National Police.

D. Reply to the issues raised in paragraph 4

30. First, behaviour and speech motivated by hatred are punishable under French criminal law. Articles 225-1–225-4 of the Criminal Code establish penalties for discrimination and articles 132-76 and 132-77 envisage aggravated penalties when offences are motivated by hatred of others. The Act of 29 July 1881 on Freedom of the Press provides another basis for combating hate speech, in particular article 24 (7), which establishes penalties for public incitement to discrimination, hatred or racial or religious violence; article 33 (3), which deals with public insult; and article 32 (2), which establishes penalties for public defamation. The legislation in this area was expanded with the adoption of the Act of 24 August 2021, which created an offence of endangering others by disseminating personal information (Criminal Code, art. 223-1-1).

31. Addressing hate crimes and hate speech is a longstanding priority of the Government's criminal policy. As early as 2003, the Ministry of Justice asked public prosecutor's offices to designate a prosecutor to act as focal point for combating antisemitism. Since the issuance of the circular of 11 July 2007 and the dispatch of 5 March 2009, all public prosecutor's offices have designated such focal points and there are now 205 throughout the territory. They are responsible for promoting access to justice for victims of acts or speech motivated by hatred and improving the quality of the response by the criminal justice system. Alongside these focal points, all prosecutors benefit from a range of training opportunities in relation to combating racism, antisemitism and discrimination, which are provided by the National School for the Judiciary. Criminal policy in this area is conducted through partnerships between the Ministry of Justice and associations fighting racism, antisemitism and homophobia.

32. Second, in line with criminal policy, the Ministry of Justice is taking steps to address the disparity between the number of offences of racism or discrimination reported by associations and the low number of such cases handled by public prosecutor's offices or tried by the courts. These steps are aimed at facilitating the filing of complaints and enabling victims to speak out; this is evidenced in the circular of 4 April 2019, which emphasizes that law enforcement officials must be made aware of the need to sensitize their departments to the quality of the reception afforded victims of racist, antisemitic or homophobic attacks. In the circular of 17 May 2021 on efforts to combat offences motivated by sexual orientation, the Minister of Justice reminded prosecutors that they were entitled to point out to law enforcement agencies the need to be attentive to the way in which victims of homophobic attacks were received.

33. This circular was issued as part of the process, initiated by the national police in 2014, of professionalizing the support provided to victims. Investigators are tasked with evaluating, coordinating and optimizing the reception of members of the public and act as racism, antisemitism and discrimination focal points. In 2018, a trial was carried out, with a network of investigators who had undergone enhanced training, to raise awareness among senior law enforcement officials and criminal investigation officers who receive complaints and conduct investigations of specific aspects of victim support. In addition, in each defence zone, police officers and gendarmes were given a one-day training course on hate crimes and relevant investigative techniques. This training, involving police officers, gendarmes and prosecutors,

proved its worth, and the experiment was extended to the whole country by decision of the Delegation to Combat Racism, Antisemitism and Anti-LGBT Hatred, as from 1 July 2019. Examples of the training provided to combat hate speech and hate crimes include a module conducted with the Maison d'Izieu memorial, a presentation by the Mémorial de la Shoah and a lecture given by the FLAG association.

34. Third, in the face of the resurgence of online hatred, the Ministry of Justice, with a view to ensuring a visible and unified response, issued the circular of 24 November 2020 establishing the National Centre to Combat Online Hate Speech, a specialized section of the Paris public prosecutor's office, with jurisdiction over online content viewable from anywhere in the country that it is likely to constitute harassment, hate speech or incitement to online hatred. Since it began its operations on 4 January 2021, 502 cases have been referred to the Centre.

35. In addition, an online hate observatory has set up working groups to analyse the mechanisms by which hatred is disseminated online.

36. Fourth, with regard to the police resources deployed, the Government would first like to point out that PHAROS, the online platform for reporting illegal content and behaviour established by the Ministry of the Interior within the central directorate of the criminal investigation department, part of the national police, is currently staffed by 51 officers, both police and gendarmerie officers, who ensure its operation 24 hours a day. By way of example, the PHAROS platform received 289,590 reports in 2020 (of which 8.1 per cent related to discrimination), 263,825 reports in 2021 (of which 5.7 per cent related to discrimination) and 100,362 reports in the first half of 2022 (of which 6.6 per cent related to discrimination).

37. In addition, in August 2020 a hate crimes division was created within the Central Office for Combating Crimes against Humanity and Hate Crimes. It handles and coordinates criminal investigations into complex indictable offences motivated by racism, xenophobia or anti-religious sentiment or by the victim's sexual orientation or gender identity, including online crimes. The Central Office has also prepared and distributed to law enforcement agencies a number of aids for investigators to help them understand the issues at stake and correctly classify the acts involved (including a guide for investigators, entitled "Punishing racist, anti-religious and anti-LGBTI discrimination and offences", revised in 2020, and a guide entitled "Hate crimes", published in 2020).

38. A policy of preventive action has been implemented, one example of which is the establishment by the gendarmerie of 81 family protection centres, for which the fight against discrimination is a priority. The French authorities have also taken steps to support victims. Under the 2018–2020 national interministerial plan for combating racism and antisemitism and the 2020–2023 national interministerial action plan for equality and against anti-LGBT+ hatred and discrimination, various measures have been taken, with a view to achieving two objectives:

(a) Taking better account of all victims;

(b) Ensuring the effectiveness of penalties and strengthening protection and prevention in order to improve victim support.

39. Other measures include the introduction of preliminary online reporting of discrimination and offences of incitement to discrimination, defamation and racist insult, prior to the lodging of a complaint, and the setting up of operational committees for combating racism, antisemitism and anti-LGBT+ hatred at departmental level. Lastly, there are a number of instruments regulating the reception of victims at police and gendarmerie stations. A charter on the reception of members of the public has existed since 2004, and a code of ethics since 2014. These two documents guarantee easier access, attentive listening and a respectful reception for victims of criminal offences.

40. Fifth, with regard to efforts to combat discrimination specifically against Roma and Travellers, in 2016 France acknowledged its responsibility for the internment of nomads and the violence against them in the 1940s, at a ceremony of tribute that included a speech by the President of the Republic. On 30 June 2021, a national communication campaign to raise public awareness of itinerant lifestyles was approved in principle by the National Advisory Commission on Travellers. Lastly, the 2020–2030 National Strategy for Roma Equality,

Inclusion and Participation was presented by the Interministerial Delegation on Shelter and Access to Housing in March 2022.

41. Sixth, in the context of the pandemic, in 2020, 7,759 cases of a racist nature involving 6,740 perpetrators were referred by public prosecutor's offices to other agencies, representing an increase of 5 per cent in terms of the number of cases and 4 per cent in terms of the number of perpetrators compared with 2019. Proceedings in respect of 51 per cent of the 6,740 perpetrators referred by the public prosecutor's offices were discontinued because they could not be prosecuted. In 81 per cent of the cases, proceedings were discontinued because the offence was not sufficiently substantiated. In 7 per cent, the discontinuance of proceedings was due to the expiry of the statute of limitations, which is very short for such offences. In 2020, 45 per cent of criminal justice responses resulted in a prosecution before the courts, and 55 per cent in an alternative to prosecution. In 2020, 955 offences of a racist nature or offences in which racism was an aggravating circumstance resulted in a conviction, representing a 10.1 per cent increase (compared with 867 offences in 2019).

E. Reply to the issues raised in paragraph 5

42. Since the beginning of the public health crisis, the French authorities have sought to ensure that the socioeconomic consequences of the crisis do not exacerbate inequalities, discrimination or exclusion for certain vulnerable categories of the population, such as persons living in poverty, persons with disabilities, homeless persons, persons belonging to ethnic minorities, women, and refugees and migrants.

43. First, Emergency Act No. 2020-290 of 23 March 2020 on Combating the Coronavirus Disease (COVID-19) Pandemic empowered the Government to ensure continuity of support and protection for persons with disabilities and persons living in poverty, in order to combat discrimination and exclusion during periods of lockdown or curfew. For example, some benefits were extended without the submission of new applications. In addition, adjustments to the conditions governing the commencement, recognition and duration of entitlements relating to coverage of health-care costs and provision of benefits in kind under social insurance schemes, as well as family benefits, personal housing grants, employment incentives and supplementary health insurance, ensured continuity of entitlement for insured persons and their access to health care. The Government also extended the period during which renters could not be evicted for non-payment. It issued instructions to prefects with a view to preventing the eviction of renters and the cutting-off of their electricity, heating or gas during the extended moratorium on evictions without affecting the finances of the landlords or suppliers concerned. Lastly, in 2021, it was decided to allocate €30 million to establish 26 health centres and clinics, located in policy priority areas, to provide medical, psychological and social support to residents.

44. Second, as early as March 2020, the Government opted to keep open the homeless shelter places created for winter 2019/20 and to create new places on an exceptional basis. Nearly 43,000 places were opened from March 2020, bringing the total number of places in non-specialized accommodation to 203,000, a record, by the end of 2020. The Government decided to maintain the number of places in non-specialized accommodation at 200,000, a high figure, until the end of March 2022.

45. Specialized shelters were also set up, starting in March 2020, for people with non-severe COVID-19 who could not be cared for in their group accommodation because the appropriate conditions were not in place (no possibility of isolation, risk of comorbidity, etc.) and for people in street situations. These were not medical facilities, but rather accommodation centres where persons who were not seriously ill could be housed and isolated. At the height of the crisis, 3,600 places were available in specialized accommodation centres.

46. Large-scale distribution of masks (around 153 million) ensured the protection of persons in situations of vulnerability. In addition, €50 million of funds were mobilized to distribute personalized support vouchers (for food, hygiene products) to homeless persons with no means of support who lacked access to food aid, food kitchens and basic necessities. More than 90,000 people benefited from this initiative, a substantial proportion of whom

were children (around 20 per cent of beneficiaries) and single people (between 15 and 24 per cent of beneficiaries, depending on the month concerned). The Government also launched two emergency plans to assist providers of food aid. On 23 April 2020, following the distribution of vouchers, the Government announced a first plan to support food aid, with a budget of €39 million, covering the whole territory. A second emergency plan was launched in July 2020, with a budget of €55 million, over 80 per cent of which was allocated to decentralized services to support specific actions carried out locally to maintain access for vulnerable groups to essential goods (food, hygiene products) during the crisis.

47. In addition, the sector providing accommodation and integration services for homeless persons benefited from funding under the "France Relance" recovery plan and the national poverty reduction strategy, enabling:

- The financing of 1,000 places for persons in situations of acute marginalization as a result of a long history of living on the streets and mental health and/or addiction problems
- The creation of 1,500 places for pregnant women and women with infants lacking housing or accommodation
- The renovation of 137 day shelters and 8 accommodation centres in overseas France

48. Lastly, arrangements for vaccinating vulnerable persons were developed in the reception, accommodation and integration sector, as well as in migrant workers' hostels. For example, accommodation centres were able to make appointments for the people they serve directly with the vaccination centres, as part of an overall strategy devised and shared by means of the fact sheet for migrant workers' hostels.

49. Third, equality between women and men, which the President of the Republic declared to be a major objective of his five-year term, constituted a priority for the Government, even during the public health crisis. Thus, the measures described above were designed to prioritize the protection of women.

50. Efforts undertaken in the context of the pandemic aligned with broader policies. The Government set up specific systems to protect women victims of domestic violence and their children and to combat discrimination and violence. Law enforcement interventions in the home, in the family sphere, increased by 42 per cent between 2019 and 2022. The Government allocated €4 million from its budget to tackle the increase in violence against women and sexual violence.

51. In addition, access to women's fundamental rights, such as emancipation and the right to control their own bodies, was ensured thanks to adjustments in respect of abortion, while the cost of abortion was fully covered by the health insurance system. Access to contraception was also guaranteed through the dispensing of the birth control pill without repeat prescriptions. Lastly, the continuity of maintenance payments was ensured during lockdown for parents who were not receiving such payments and for parents who, owing to financial difficulties, were unable to make such payments, thanks to the temporary extension of the family support allowance as a substitute for maintenance payments.

F. Reply to the issues raised in paragraph 6

52. The Government adopted a series of measures to respond to the COVID-19 pandemic, giving special consideration to fundamental guarantees and freedoms. The laws passed between 23 March 2020 and January 2022 to combat the pandemic gave the Prime Minister the power to issue decrees imposing general restrictions on travel and limiting freedom of enterprise and freedom of assembly and to requisition any goods or services. These proportionate measures were reviewed by the French courts each time they were imposed. In addition, these laws were the subject of referrals to the Constitutional Council for preventive review (*saisines a priori*) and of priority questions of constitutionality (*questions prioritaires de constitutionnalité*), an a posteriori procedure.

53. These laws also empowered the Government to issue a series of ordinances on the basis of article 38 of the Constitution to deal, in particular, with the economic, financial and

social consequences of the pandemic (cash-flow support for businesses, payment of aid, use of part-time working, etc.).

54. The legal theory of exceptional circumstances also provided the basis for Decree No. 2020-260 of 16 March 2020 regulating travel as part of efforts to combat the spread of COVID-19, which was issued by the Prime Minister using his general police powers.

55. The measures taken in response to the pandemic did not run counter to the provisions of the Covenant. Article 4 provides that, "in time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties … may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation". The conditions imposed in March 2020 in response to the public health emergency did not give rise to any derogation from the rights recognized in the Covenant. The Government, which was keen to ensure that its response to the pandemic remained within the bounds permitted by international human rights law, did not report any derogation through the intermediary of the Secretary-General of the United Nations (art. 4 (3)), nor did it avail itself of the provisions of article 15 of the European Convention on Human Rights.

56. The Government adopted a series of measures to guarantee the continuity of public services and access to justice (procedural adjustments with regard to territorial jurisdiction and time limits for proceedings and judgments, changes to the rules governing police custody, etc.), thereby guaranteeing access to the courts. The postponement of the second round of the municipal elections to June 2020 did not infringe article 25 of the Covenant (right to vote and to be elected). Indeed, the suspension and postponement of the voting were justified under the circumstances, given the spread of the pandemic according to the scientific knowledge available at the time, the measures imposed during lockdown that prohibited the holding of public gatherings and the limits on interpersonal contact. In addition, the postponement was strictly limited in time, since the second round took place three months after the first.

57. While the lockdowns and curfews may have infringed article 12 (right to freedom of movement) by restricting travel outside the home or abroad, these measures were necessary, appropriate and proportionate in view of the worsening public health crisis, particularly in 2020, as was repeatedly pointed out by the French Council of State, to which this type of measure was referred under the emergency procedure. The localized management of the pandemic, as provided for in article 2 of Act No. 2021-689 of 31 May 2021 on the Management of the End of the Public Health Crisis, allowed measures to be targeted according to local situations and thus ensured that the action taken was proportionate to the risk. The measures taken thus fell within the scope of what is permitted under article 12 (3) of the Convention.

G. Reply to the issues raised in paragraph 7

58. Act No. 55-385 of 3 April 1955 on States of Emergency, as amended, provides the basis for the declaration of a state of emergency. Following the attacks perpetrated in Paris on the night of 13–14 November 2015, the Government declared a state of emergency with the adoption of Decree No. 2015-1475 of 14 November 2015 implementing the Act of 3 April 1955. The state of emergency was extended six times by the legislature and ended at midnight on 1 November 2017. More than 12,000 measures were put in place on this basis between November 2015 and November 2017.

59. First, there were several types of measure. All these measures could be challenged before the administrative courts under the emergency procedure, with a view to having them revoked or suspended or, in the case of an illegal measure constituting a fault and resulting in harm, obtaining redress.

60. Between November 2015 and October 2017, 4,484 administrative searches were carried out, 65 of which were challenged up to the appeal stage. Nearly 1,000 judicial proceedings for terrorism-related offences were instituted. As a result of the searches, 552 persons were arrested and 464 taken into police custody, and over 600 weapons were seized, including almost 80 weapons of war.

61. Under a restricted residence order, a person may be required to remain in a specified place of residence for a specific period of time when there are substantial grounds for believing that his or her behaviour constitutes a threat to public security and public order. Such orders may be accompanied by certain additional obligations (such as the obligation to report to a police station, to hand over identity and travel documents or to avoid contact with a named individual). A total of 446 persons were placed under restricted residence orders from 14 November 2015 to 1 November 2017.

62. In addition, article 5 of the Act of 3 April 1955 empowers a prefect whose department (*département*) is included wholly or partly within an area in which a state of emergency has been declared to order the establishment of protection or safety zones where the presence of persons is regulated and to secure certain places by introducing individual or collective access restrictions during gatherings linked to major events or particular circumstances (notably the holding of elections). This measure was used on almost 70 occasions to secure different types of event and particularly sensitive locations over the period in question.

63. The Act of 3 April 1955 allows the State representative in the department to prohibit the stay, in all or part of the department, of any person seeking to hinder, in any way whatsoever, the actions of the authorities. A total of 638 measures were imposed to prohibit certain persons from attending prayer rooms or other venues (fans zones, areas surrounding cultural, recreational or sporting events) or from taking part in demonstrations, on account of serious breaches of the peace they had committed during previous events with the aim of hindering the actions of the authorities.

64. Although the 1955 law allows for the dissolution of associations or de facto groupings, no such dissolution was ordered during the period under review. Nineteen mosques were closed on the basis of article 8 of the Act of 3 April 1955, either because of the radical nature of the imam's preaching, which constituted incitement to hatred, violence and religious discrimination, or because of the activities taking place there, such as the organization of recruitment channels for jihad or of Koranic schools indoctrinating for jihad; four of these closures were appealed through the courts. The Government wishes to recall that, on 23 November 2015, in the context of its use of the Act on States of Emergency, it submitted to the Secretary-General of the United Nations the notification called for under article 4 of the Covenant, at the same time as it informed the Council of Europe that it was availing itself of the provisions of article 15 of the European Convention on Human Rights; the state of emergency came to an end on 1 November 2017.

65. Second, with regard to the impact of such measures.

66. In three cases, evidence obtained as the result of a restricted residence order led the Paris public prosecutor's office to request the revocation of the measures imposed (judicial monitoring and electronic surveillance) or to enforce a penalty pursuant to article 723-16 of the Code of Criminal Procedure.

67. In addition, between 2015 and 2017, 23 proceedings for terrorist conspiracy were instituted thanks to administrative searches, which established the commission of the offence or corroborated other evidence; it should be noted that several administrative searches can give rise to a single judicial investigation.

68. The Government wishes to point out that one such investigation made a major contribution to thwarting a planned large-scale attack in April 2017, during the presidential election campaign.

H. Reply to the issues raised in paragraph 8

69. For some of the information requested, the Government refers to the previous reply.

70. For the rest, it emphasizes that its laws and regulations have had to be adapted in step with the evolution of a persistent threat. While the risk of attacks planned from the Iraqi-Syrian border area now seems to have fallen, the attacks carried out in France in late 2020 and in April 2021, in which five persons lost their lives, show that there remains a home-

grown threat in the form of persons who are difficult to detect, not having spent time with Da'esh, and heed the ongoing calls of terrorist organizations to carry out killings.

71. The legislation in this area was adapted by the Act of 30 October 2017 on Strengthening Internal Security and the Fight against Terrorism. The measures for which the Act provided were made permanent by the Act of 30 July 2021 on Intelligence and Prevention of Terrorism. This process followed the road map prepared by the Prime Minister as part of the Counter-Terrorism Action Plan, which was put in place in 2018 and updated during 2021. Since 2017, five laws have thus been passed to strengthen counter-terrorism efforts and prevent and combat violent radicalization. Following a referral for preventive review or a priority question of constitutionality, the Constitutional Council may review these laws for consistency with the rights and freedoms provided for in the Constitution, which are similar to those enshrined in the Covenant. The ordinary courts may also check their compliance with treaties upon receipt of an application to that effect.

72. The laws allow for measures necessary to combat terrorism, which the Government plans to introduce. Their application is monitored by the administrative or ordinary courts, as appropriate.

73. First, when a place or an event is at risk of an act of terrorism because of its nature or the number of persons present, article L. 226-1 of the Internal Security Code empowers the prefect to order the establishment of a protection perimeter to regulate access to the area and movement within the area itself.

74. The establishment of a protection perimeter allows the State security forces and, where appropriate, municipal police officers and private security agents under the supervision of senior law enforcement officers to deter persons likely to commit an act of a terrorist nature from entering a place or the venue of an event that is at heightened risk or prevent them from doing so.

75. In its Decision No. 2017-695 QPC of 29 March 2018, the Constitutional Council, ruling on a priority question of constitutionality, held that a prefectural order establishing a protection perimeter must set out precise conditions (in terms of its extent and duration) and rules for access to and movement within the area (checks) that respect the requirements of private, family and professional life, that the scope of application of the measure must be "strictly limited" and that "the necessary safeguards" must be in place to ensure a balance "between, on the one hand, the constitutionally affirmed goal of preventing the undermining of public order and, on the other, the freedom to come and go and the right to respect for private life".

76. The Constitutional Council nevertheless formulated three reservations, namely, that authorized agents carrying out private security activities must in such cases limit themselves to assisting criminal investigation officers, that they must be placed "under the authority of a senior law enforcement officer" and that it was for "the public authorities to take measures to ensure that such persons remain under the effective supervision of senior law enforcement officers".

77. The third of these reservations was incorporated into article 2 of the Act of 30 July 2021 (Internal Security Code, art. L. 611-1 (1)). The article now specifies that, for places subject to a protection perimeter, the order is renewable once only, for a period not exceeding one month, provided that the conditions that gave rise to the establishment of the protection perimeter remain in place.

78. In four years of application, approximately 640 protection perimeters have been established, yet only one order to establish a protection perimeter has been appealed through the courts, resulting in a partial suspension. The order was suspended insofar as it concerned lawyers, on the basis that it did not exempt them from frisking and visual inspections and searches of their briefcases, which might contain documents covered by the obligation of professional secrecy, a corollary of their clients' right to defence (Administrative Court of Pau, Order No. 1901885 of 23 August 2019).

79. Second, with regard to closures of places of worship, article L. 227-1 of the Internal Security Code allows the administrative authorities to order the closure of places of worship at which words are spoken, ideas or theories are propounded or activities are carried out that

incite violence, hatred or discrimination, incite the commission of acts of terrorism or promote such acts.

80. In the aforementioned decision, No. 2017–695 QPC of 29 March 2018, the Constitutional Council ruled that lawmakers had struck a fair balance between, on the one hand, the constitutionally affirmed goal of preventing the undermining of public order, which includes the prevention of terrorism, and, on the other, freedom of conscience and the freedom of worship.

81. The Constitutional Council placed special emphasis on the fact that several safeguards were in place: lawmakers had stipulated that the measure was limited to six months in duration and had not made provision for it to be renewed. A new closure order might be adopted only on the basis of facts that occurred after the reopening of the place of worship. The closure of the place of worship must be justified and proportionate, including in terms of its duration, to the reasons that gave rise to it.

82. A closure order may not be enforced for a period of at least 48 hours, following which it may be executed ex officio by the authorities. Lastly, it may be appealed to an administrative judge by means of an urgent application. The measure may not be executed ex officio until the urgent applications judge has informed the parties whether a public hearing will be held.

83. The 10 decisions taken to close places of worship have been upheld by the administrative courts.

84. Article 3 of the Act of 30 July 2021 expanded procedures for the application of the measure of closure of places of worship by establishing that accessory premises of the place of worship targeted by the measure may also be ordered to close where there are substantial grounds to believe that these related spaces could be used for the same purposes as the place of worship that has been ordered to close.

85. Third, individual administrative monitoring and surveillance measures may be implemented by the administrative authorities to prevent acts of terrorism but not in response to a mere threat to public order and security, as during a state of emergency.

86. Given the regulation of the measures and the strict conditions for their adoption, the Constitutional Council declared that the provisions of the Internal Security Code relating to individual administrative monitoring and surveillance were consistent with the Constitution (Decision No. 2017–691 QPC of 16 February 2018). First and foremost, the Council noted that lawmakers had created these measures in pursuance of the goal of combating terrorism, which supports the constitutionally affirmed goal of preventing the undermining of public order, and had clearly defined the conditions for using the police measures in question by limiting the scope of application to persons suspected of posing a particularly serious threat in that regard.

87. These measures must be based on detailed facts, supported by memos produced by the intelligence services (*notes blanches*), which are made available to the parties in the event of legal proceedings.

88. The Council of State has consistently upheld the evidentiary value of such memos in its case law. The Council of State has held that their evidentiary value cannot be called into question unless the complainant raises a serious challenge against them (Council of State, sect., 11 December 2015, *Cédric D.*, No. 395009; Council of State, 23 December 2015, *R.*, No. 395229; Council of State, 31 January 2018, *Association des musulmans du Boulevard National*, No. 417332). Accordingly, the courts may use memos produced by the intelligence services as evidence but must subject them to critical analysis.

89. In four years of application, approximately 500 initial individual administrative monitoring and surveillance measures have been adopted. Only 11 decisions to suspend or revoke such a measure have been handed down by the administrative courts. The regime governing such measures has been modified by the Act of 30 July 2021, which provides for the possibility of banning a person from visiting a specific place, after taking into account his or her family and professional life (Internal Security Code, art. L. 228-2 et seq.).

90. A ban on associating with specific persons, which is a measure monitored by the Constitutional Council, has also been introduced (Internal Security Code, art. L. 228–5). The measure may not be imposed if it disproportionately infringes the right to lead a normal family life (Act of 30 July 2021, art. 4).

91. Fourth, the home searches (and, where applicable, the seizure of data and access to seized data) introduced under the Act of 30 October 2017 on Strengthening Internal Security and the Fight against Terrorism must meet more narrowly defined criteria than the administrative searches that were possible during the state of emergency and are subject to prior authorization by the judicial authorities.

92. In view of the safeguards provided, the Constitutional Council concluded that lawmakers had "placed strict limits on the scope of application of the measure they had introduced", had "provided the necessary safeguards" and had "ensured a compromise, which is not manifestly unbalanced, between, on the one hand, the constitutionally affirmed goal of preventing the undermining of public order and, on the other, the right to respect for private life, the inviolability of the home and the freedom to come and go" and "the right to an effective judicial remedy" (Decision No. 2017-695 of 29 March 2018).

93. Of the 629 applications made to the liberties and custody judge in the four years of implementation of the Act, 66 have been refused.

94. Similarly, there have been few cases in which the liberties and custody judge has declined to authorize access to data seized during a search. As at 31 October 2021, in four years of implementation of the Act on Strengthening Internal Security and the Fight against Terrorism, only 11 of 241 applications for access to seized electronic data carriers had been denied.

95. The appeals filed against decisions of the liberties and custody judge between 1 November 2020 and 31 October 2021 concerned 44 home searches. The vast majority of such decisions were upheld on appeal.

96. Lastly, the four main provisions of the Act on Strengthening Internal Security and the Fight against Terrorism – namely, protection perimeters, closures of places of worship, individual administrative monitoring and surveillance measures, and home visits – are subject to enhanced parliamentary oversight, which has been maintained by the Act of 30 July 2021. The Government thus submits a detailed annual report to Parliament on the implementation of these measures. Every week, it also provides the legislative committees of the Senate and the National Assembly with a copy of the measures adopted or implemented by the administrative authorities on the basis of the Act. In addition, Parliament has the capacity to hold hearings with the persons responsible for implementing these measures.

97. In addition, to supplement the tools for preventing acts of terrorism, the Act of 30 July 2021 allows all prefects and the intelligence services to receive information relating to the psychiatric care of persons who also represent a serious threat to public order because of their radicalization.

98. The communication of this information is subject to the following conditions:

- It must be used solely to monitor persons who represent a serious threat to public security and order as a result of terrorist radicalization.
- The recipients of the information must be limited to the prefect and part of the intelligence services.
- There is a limited period in which information may be communicated; the information communicated may concern only facts that occurred less than three years prior to the lifting of the non-consensual care measure.
- Lastly, the information communicated must be limited only to identifying data (last name, first names, address, sex, and date and place of birth) and data relating to the person's administrative situation.

99. These measures are thus necessary and are subject to close scrutiny at both the conception and application stages. The Government also wishes to emphasize that, while radical Sunni Islamism has been the main source of the terrorist threat since the attacks of 11

September 2001, the French counter-terrorism system does not target any religious community in particular; an offence of terrorism has not taken place under the criminal law unless specifically defined material and intentional elements are present, and these are based on objectively identifiable behaviours with no reference to religion.

100. A study of the criminal cases that have been – and are being – processed by the French counter-terrorist justice system shows that these provisions are not applied only in respect of acts connected with the Islamist terrorist threat. They have also been used in the prosecution, investigation and punishment of acts amounting to other forms of terrorism (separatist terrorism connected with Euskadi Ta Askatasuna (ETA) or the Kurdistan Workers' Party (PKK), for example) or terrorism connected with ultra-right movements, which has been on the rise in recent months.

101. Lastly, the National Consultative Commission on Human Rights has information to assess these cases from a human rights perspective (see, for example, its opinion of 18 February 2016 on the monitoring of the state of emergency).

I. Reply to the issues raised in paragraph 9

102. Since 24 July 2015, France has had a law on intelligence, which was submitted to the Constitutional Council. The law regulates intelligence techniques and makes them subject to oversight by the National Commission for the Control of Intelligence Techniques. The Act of 30 July 2021 on Intelligence and Prevention of Terrorism amended certain provisions by supplementing such features as the applicable safeguards and ensuring that the intelligence services have the resources necessary to effectively protect the fundamental interests of the nation.

103. Essentially, lawmakers were seeking to strengthen the reviews carried out by the National Commission for the Control of Intelligence Techniques prior to the use of any intelligence technique in France by endowing unfavourable opinions of the Commission with suspensive effect. As a matter of principle, under article L. 821-1 of the Internal Security Code, every intelligence-gathering technique must be reviewed by the Commission before being authorized by the Prime Minister.

104. To give greater weight to the reviews carried out by the National Commission for the Control of Intelligence Techniques, the suspensive effect of the Commission's unfavourable opinions was expanded to apply to all intelligence-gathering techniques pursuant to the Act of 30 July 2021. Whenever authorization is granted despite an unfavourable opinion by the Commission, the matter must be referred to the Council of State, which is required to rule on it within 24 hours. A decision by the Prime Minister to grant authorization may not be executed until the Council of State has issued its ruling, except in duly substantiated cases of emergency where the Prime Minister has ordered the immediate implementation of the technique in question, although no such order may be issued in respect of persons - including journalists - occupying the protected professions or positions mentioned in article L. 821-7 of the Internal Security Code. In addition, these measures may be used only for an exhaustively listed number of purposes (prevention of violations of the fundamental interests of the nation, as mentioned in article L. 811-3 of the Internal Security Code), and the data collected through monitoring are subject to strict conditions of access and storage. In its opinion on the bill, the Council of State considered that the option chosen by lawmakers, which combines a mechanism of review by an independent administrative authority with that of prior and effective monitoring by a court of law should the Prime Minister override an unfavourable opinion of the National Consultative Commission on Human Rights, was consistent with applicable constitutional and treaty requirements.

105. The Act of 30 July 2021 also brought greater precision to the regulations applicable to the sharing of intelligence and information between the services and national administrative authorities and clarified exchanges among national intelligence services. An intelligence service may thus transmit information in its possession that has been collected, extracted or transcribed if the receiving service needs such information to exercise its functions. An additional safeguard has been introduced in this regard: if the information to be transmitted was collected for a different purpose or was collected, extracted or transmitted

using a technique that the receiving service could not have used, prior authorization must be obtained from the Prime Minister, following an opinion by the National Consultative Commission on Human Rights. The transcripts or extracts must be destroyed once they are no longer necessary for the service's purposes.

106. In addition, the only lawful justification for the use of intelligence-gathering techniques is to achieve goals relating to defence or the prevention of violations of the fundamental interests of the nation, as listed exhaustively in article L. 811-3 of the Internal Security Code.

107. Lastly, with regard to the rights enshrined in articles 19 and 21 of the Covenant, the National Commission for the Control of Intelligence Techniques has, through its opinions, developed a precise doctrine to ensure compliance with the provisions in question. For example, in the specific case of requests based on the "prevention of collective violence likely to cause a serious breach of the public peace", the Commission considers that this objective cannot be interpreted as permitting the infiltration of a political or trade union group or the limitation of the constitutional right to express one's opinions, even extreme ones, as long as there is no risk of a serious breach of the peace.

J. Reply to the issues raised in paragraph 10

108. The French authorities – both the Government and Parliament – closely monitor the implementation of counter-terrorist administrative police measures that have been ordered and evaluate their effectiveness.

109. As mentioned above, since 2016, the parliamentary assemblies have been provided with precise and regular information on administrative police measures imposed on the basis of the Act of 3 April 1955 on States of Emergency.

110. Moreover, the Government is required by law to submit an annual report to Parliament evaluating the effectiveness of counter-terrorist administrative measures.

111. In addition, the National Commission for the Control of Intelligence Techniques submits an activity report to Parliament and has decided to make this report public. The report shows that, in 2020, the prevention of terrorism was the basis on which almost half of intelligence requests were submitted (46.3 per cent of the total). That same year, 16.5 per cent of requests were submitted in connection with the objective of ensuring defence and promoting major foreign policy interests, fulfilling the country's European and international commitments and preventing any form of foreign interference. The prevention of organized crime accounted for 14.4 per cent of the requests.

112. Lastly, according to this report, intelligence techniques were used to monitor 21,952 persons in 2020, compared with 22,210 in 2019. Of these, 8,786 persons (40 per cent of the total) were monitored in the interests of preventing terrorism, and 5,021 (22.9 per cent) to prevent organized crime.

113. With regard to the remaining issues, the Government refers to the information provided in the replies to the previous questions.

K. Reply to the issues raised in paragraph 11

114. First, with regard to humanitarian repatriations from Syria, France is not required by its international human rights obligations to repatriate persons who are not subject to French jurisdiction within the meaning of the relevant international treaties. Moreover, as the national courts have held, any repatriation requires France either to enter into negotiations with foreign authorities or to intervene in a territory beyond its sovereignty. Consequently, the position adopted by the French authorities, in accordance with the country's international commitments, is as follows:

- Adults who have chosen to join the ranks of a terrorist organization must be tried locally, as close as possible to where they committed the acts in question.

- Unlike their parents, the children concerned did not choose to join the cause of a terrorist organization. For this reason, the French Government takes a proactive stance, mobilizing very substantial means to bring them back home whenever possible. When the repatriation of the children involves the return of their mothers and the conditions on the ground make this possible, if the mothers accept repatriation with full knowledge of the facts, they too are returned. These mothers face criminal proceedings upon their arrival in France. At the beginning of July 2022, France proceeded for the first time with the repatriation of 16 mothers; at the same time, 35 French minors were repatriated.

115. France has thus conducted several operations resulting in the return of 72 especially vulnerable children (2 Dutch and 70 French children) and 16 women.

116. In addition, France is providing humanitarian support to improve the situation in north-east Syria. In 2022, France will transfer €40 million to humanitarian actors on the ground: €16 million will be set aside for stabilization and €24 million for humanitarian aid. The beneficiaries include humanitarian actors working in the camps of north-east Syria. During the period 2018–2022, over €30 million was specifically allocated to the humanitarian response for displaced persons and refugees in the camps of north-east Syria.

117. Second, the Government recalls at the outset that France respects the sovereignty of the Iraqi State, with which it maintains diplomatic relations and regular political dialogue. France respects the independence of the Iraqi judiciary in particular. This position must be maintained when handling all legal cases involving our nationals abroad. That said, whenever necessary, the President of the Republic and the Minister have recalled the opposition of France to the death penalty in all places and under all circumstances and their wish to see such sentences commuted where they have been imposed on French nationals. French representations to the Iraqi authorities have ensured that, at the time of writing, these death sentences have not been carried out.

L. Reply to the issues raised in paragraph 12

118. First, article R. 434-18 of the Code of Ethics of the National Police and the National Gendarmerie provides that force is to be used only "within the bounds established by law, only when necessary and in a manner proportionate to the goal to be achieved or the seriousness of the threat, as the case may be". The same article states that a police officer or gendarme "may use weapons only when absolutely necessary and in accordance with the legislation that applies to persons of their status".

119. In 2018, the Inspectorate General of the National Police set up a database of persons injured or killed during police operations.

120. The data on persons injured or killed during police operations in 2020 show that 32 deaths and 92 injuries were recorded in that year (compared with 27 deaths and 144 injuries in 2019):

- Over 85 per cent of injuries and deaths occurred outside police premises
- 25 per cent of reports related to police operations
- 12 per cent of cases occurred in the context of custody (police custody or sobering-up cells)
- Two reported deaths related to terrorism cases
- 19 per cent of injuries occurred during law enforcement or urban violence operations (compared with 40 per cent in 2019)

121. In addition, more than half of the injuries occurred without the use of a weapon (59 per cent), which shows the importance of training in intervention techniques. Data are not gathered specifically on the use of restraint techniques such as "*pliage*" (holding detainees bent over in a sitting position with their heads pressed against their knees) and "*plaquage ventral*" (keeping detainees in the prone position). Moreover, it should be noted that the

chokehold has been banned since 30 July 2021, and alternative arrest techniques are now being taught.

122. Half of the deaths recorded in 2020 resulted from the risks that the person took when attempting to flee or from a pre-existing health condition.

123. Data concerning origin or ethnicity are not available as collecting such data is illegal in France.

124. With regard to the National Gendarmerie, 7 fatalities and 16 injuries (causing temporary total incapacity for work lasting over eight days) were recorded in connection with the activities of gendarmerie units in 2019, compared with 8 fatalities and 8 injuries in 2020. Over the same period, no deaths occurred following or during gendarmerie operations as a result of the excessive use of force or restraint techniques. Moreover, the national gendarmerie neither teaches nor uses the "*pliage ventral*" or "*plaquage ventral*" techniques.

125. Gendarmes receive extensive training on minimizing the risks of causing injury when making arrests. Each year, over 11,000 trainees are accepted either on courses that will lead to a qualification or on advanced courses at the national centre, which is recognized as a European centre of excellence.

126. Training is also organized on combating discrimination. As a matter of course, it is provided with the equality and diversity focal points of each school in attendance. The Government emphasizes that, in 2018, a system of racism, antisemitism and discrimination focal points was set up at each departmental gendarmerie unit to improve victim assistance. This network relies on the 1,740 local prevention officers appointed at groupings of gendarmerie units and independent local gendarmerie units. Moreover, a methodological guide on combating discrimination prepared by the Directorate General of the National Gendarmerie in 2007 has been distributed and was updated in 2012 and again in 2018. Available to all gendarmes online, the guide provides an overview of the different types of discrimination, offers advice on victim inclusion and sets out efficient investigation methods.

127. The other training courses on techniques and weapons used by law enforcement, delivered with a view to preventing injuries, are described in the replies to the issues raised in paragraphs 18 and 24.

128. Second, judicial inquiries may be opened and result in convictions. For example, in 2019, 1,460 judicial inquiries were entrusted to the Inspectorate General of the National Police – 292 referrals related specifically to the use of force or weapons during the "*gilets jaunes*" (yellow vest) demonstrations – and 1,322 investigations were closed and the outcomes transmitted to the judicial authorities. In 2020, 1,101 judicial inquiries were opened, and 1,167 were closed and the outcomes transmitted to the judicial authorities. Between 2015 and 2021, French courts handed down 517 convictions, including 117 in 2021, for offences against the person by those holding a position of public authority. Of these, 74 per cent were accompanied by a prison sentence, and 12 per cent by a non-suspended prison sentence.

M. Reply to the issues raised in paragraph 13

129. As a preliminary point, it should be recalled that the Arms Trade Treaty is implemented by the States parties thereto (art. 14) with the assistance of a secretariat (art. 18), to which States parties submit, inter alia, an annual report concerning authorized or actual exports and imports (art. 13). There is thus nothing in the Treaty to provide for the involvement of the Human Rights Committee in monitoring its implementation. The Committee's competence relates solely to the implementation of the International Covenant on Civil and Political Rights, which, moreover, is not explicitly mentioned in the Treaty.

130. French exports of war equipment are strictly controlled through a rigorous interministerial examination procedure. The Interministerial Commission for the Examination of War Equipment Exports is responsible for examining all applications for export licences, prior to the decision of the Prime Minister. The decision is thus the outcome of a meticulous examination carried out collectively by the four voting members of the

Commission on a case-by-case basis.[1] The Commission examines all licence applications while ensuring the utmost respect for the international obligations of France, in particular those established under the Arms Trade Treaty and Common Position 2008/944/CFSP and the eight assessment criteria set out therein.[2] In particular, under articles 6 and 7 of the Arms Trade Treaty, the Interministerial Commission assesses the compliance of the proposed export with international humanitarian law and international human rights law. To this end, the examining authorities take into account and cross-check data relating to the end client (treaties that the client has signed and its past and present attitude with regard to compliance with international humanitarian law), developments in the regional and international context and, lastly, the equipment itself and ways in which it could be used contrary to international humanitarian law and international human rights law. The departments use all the sources available to them. When carrying out this analysis, compliance with the international obligations of France is a prerequisite: only once it has been established that a licence application is compliant may the examination go ahead.

131. In addition, once authorization has been granted, if the situation under international law changes, the authorities may also re-examine the licences – and repeal, withdraw or suspend them – and refuse to grant the new licences needed to keep the exported equipment in operational condition. Most of the licences also include special terms regulating the export to help mitigate the risks of misuse.

132. Lastly, once the decision has been made, many checks are carried out to ensure that the licence conditions are followed. Officers authorized by the Ministry of the Armed Forces carry out documentary and on-site checks at exporting companies. These checks concern compliance with both the scope and conditions of the licence. There are penalties for non-compliance. The Directorate General of Customs and Indirect Taxes carries out a pre-clearance check of all exports after targeting and blocking certain declarations at customs.

133. The country and region mentioned in the list of issues are monitored just as closely as other recipients.

N. Reply to the issues raised in paragraph 14

134. Since 2021, a new judicial remedy has been available to provide effective recourse against undignified conditions of detention, thereby ensuring compliance with the judgment in *J.M.B. v. France* and the case law of the Constitutional Council (Decision No. 2020-858/859 QPC of 2 October 2020) and the Court of Cassation (Criminal Chamber, 8 July 2020, No. 20-81.739). Pursuant to Act No. 2021-403 of 8 April 2021 on Protecting the Right to Respect for Dignity in Detention, a new article, 803-8, was added to the Code of Criminal Procedure to introduce a judicial remedy against undignified conditions of detention. It is available to both remand and convicted prisoners. An implementing decree, No. 2021-1194 of 15 September 2021, was adopted in this context.

135. The arrangements for the implementation of this remedy offer applicants a high level of protection. To submit an application, the applicant or his or her lawyer makes a declaration to the competent judicial authorities or the head of the prison facility. The judge must rule on the admissibility of the application within 10 days of its receipt by means of a reasoned order. If the application is admissible and well founded, the judge specifies in the order the conditions of detention considered to be undignified and requests the prison administration to end them within a period of between 10 days and 1 month. This might include transferring

[1] The Ministry for Europe and Foreign Affairs, the Ministry of the Economy, the Ministry of the Armed Forces and the General Secretariat for Defence and National Security.

[2] Respect for the international obligations listed in the Common Position; respect for human rights; the internal situation in the country of final destination; the preservation of regional peace, security and stability; the national security of member States and friendly and allied countries; the behaviour of the buyer country with regard to the international community, as regards in particular its attitude to terrorism; the existence of a risk that the equipment will be diverted within the buyer country or re-exported under undesirable conditions; and the compatibility of the exports of the equipment with the technical and economic capacity of the recipient country.

the detainee to another facility. The prison administration must report to the judge on the measures taken or proposed to the detainee.

136. If, at the end of this period, the judge finds that the remedial action has not ended the undignified conditions of detention, he or she may order:

- A transfer
- The immediate release of a detainee in pretrial detention (possibly subject to judicial supervision or house arrest with an electronic bracelet)
- A sentence adjustment for convicted prisoners

137. The judge may, however, refuse to take one of these three decisions if the prisoner has objected to a transfer offered by the prison administration as a means of remedying the situation, except where the prisoner is a convicted person and the transfer would have caused undue interference with the right to respect for his or her private and family life in view of his or her family's place of residence.

138. The judge's decisions may be appealed. If the application is inadmissible or unfounded, the detainee is notified by means of a reasoned order.

139. Since 25 February 2022, it has been possible to record applications based on article 803-8 of the Code of Criminal Procedure in Cassiopée (a computer system for processing information relating to judicial proceedings), and the data have been available since 31 March 2022. As at 1 July 2022, 30 orders by liberties and custody judges and 132 orders by sentence enforcement judges had been issued under article 803-8.

O. Reply to the issues raised in paragraph 15

140. In response to the COVID-19 pandemic, prompt measures were taken by the prison administration to prevent the entry and spread of the virus in prison facilities and ensure the continuity of the public prison service.

141. The crisis was managed in two stages. During the first stage – lockdown – exceptional restrictive measures were put in place throughout the country to protect prisoners, some of whom had underlying health conditions. These measures were similar to those taken to protect the general population and included a strict lockdown, with no visits and no recreational activities, and the temporary closure to the public of all buildings used by the justice system. During the second stage, efforts were focused on striking a sustainable balance between protective measures and the enjoyment of rights, with the level of protection varying from region to region.

142. The protective measures taken were in keeping with the following guiding principles:

- Must align with government strategy
- Must take account of the local situation (curfews, local lockdowns, different alert levels)
- Must ensure the continuity of the public prison service
- Must be coordinated with the Ministry of Health and decentralized services
- Must protect the rights of detainees

143. First, protective measures similar to those brought in for the general population but tailored to the prison environment were put in place. A large-scale awareness-raising campaign on protective measures was carried out, hygiene and cleaning products including soap, bleach and detergent were regularly distributed, shower and exercise groups were reduced in size and restricted to closed sets of prisoners, and protocols were developed in close collaboration with the Directorate General for Health to ensure that symptomatic infections were detected and reported, care was provided to those infected and contact tracing was carried out. A vaccination campaign was approved and began in early 2021. Depending on the circulation of the virus in the local area, stricter government measures could be taken, as for the rest of the population.

144. In the exceptional context of the lockdown of March 2020, several measures were taken to protect family ties, provide access to religious support, combat poverty and uphold the right to a defence. Financial assistance and additional telephone credit were provided, voicemail services were set up and, in some prisons, videophone calls were arranged. A toll-free religious support hotline was established for each faith.

145. In addition to the measures mentioned above, and following in the footsteps of several other European countries including Italy, Germany, Spain, Portugal and the United Kingdom, exceptional measures were taken to allow for the early release of certain prisoners approaching the end of their sentences.

146. Second, new measures were set out, under Ordinance No. 2020-303 of 25 March 2020 amending the rules of criminal procedure pursuant to the Emergency Act of 23 March 2020, to reduce the size of the prison population and thus mitigate the risks of contagion and disruption. The application of these measures, which resulted in more than 6,000 early releases, together with the fact that 6,500 fewer inmates entered the prison system because of decreased court activity, led to a significant drop in the prison population, with 12,500 fewer prisoners, equivalent to an 18 per cent decrease, over the span of three months. The occupancy rate of prison facilities dropped from 116.7 per cent before the health crisis to 96.9 per cent. As at 1 July 2020, there were 58,723 inmates in the prison system, compared to 71,377 as at 1 March 2020.

147. The two news measures introduced – house arrest and sentence reduction in exceptional circumstances – were deemed appropriate and proportionate. The duration of their implementation was limited to the initial stage of the health crisis, from March to July, and house arrest was applied only during lockdown. The scope of their application was also limited so that they did not benefit persons who had committed the most serious offences, such as acts of terrorism and domestic violence. There were no notable incidents during this period and only 38, or 1.7 per cent, of the 2,133 house-arrest orders issued were revoked.

148. These early releases were organized within a controlled framework and resulted in a more orderly environment in prison facilities, which in turn led to a reduction in the number of adverse incidents and better working conditions for staff.

P. Reply to the issues raised in paragraph 16

149. Ordinance No. 2020-303 of 25 March 2020 provided for the emergency amendment of the rules of criminal procedure to address the spread of COVID-19. In particular, it upheld the right of access to counsel by allowing for the use of means of remote communication and ensuring that physical meetings with lawyers could continue.

150. Article 16 of Ordinance No. 2020-303 provided for the automatic extension of the maximum period of pretrial detention or house arrest under electronic surveillance in certain strictly regulated circumstances. Extensions could be applied in respect of adults or minors over 16 years of age only in criminal cases or in cases where the defendant faced a sentence of at least 7 years' imprisonment, had been detained in the course of a judicial investigation or was due to be tried at the conclusion of such an investigation. Only one extension could be applied in each case.

151. Articles 149–149-3 of the Code of Criminal Procedure provide that, when a decision to dismiss a case or a discharge or acquittal decision is made known to the defendant, he or she must be advised of his or her right to seek compensation. Details regarding compensation provided are set out below:

Year	*No. of times compensation provided*	*Total amount paid out that year*	*Average amount paid out*
2021	484	€10 830 098.90	€22 376.23
1 Jan. 2022–11 July 2022	312	€7 513 554.63	€24 081.91

152. Closed educational centres continued to operate during lockdown. Over the lockdown period, 62 per cent of the minors housed in such centres were allowed to return home to their families by order of the supervising judge. Although changes to the curriculum had to be made, educational continuity for these minors was ensured, mostly through distance learning.

153. The circular of 26 March 2020 on the Ordinance of 25 March 2020 drew the attention of the juvenile courts and educational services to the urgent need to prioritize alternatives to pretrial detention and systematically review the situation of minors in pretrial detention with a view to proposing release under precautionary measures, where appropriate. There were 804 minors in detention as at 1 January 2020, 780 minors as at 1 April 2020 and 670 minors as at 1 July 2020.

154. The aforementioned provisions were applicable for a limited time only, since article 16-1 of the Act of 11 May 2020 on the Extension of the State of Emergency provided for a gradual return to ordinary law and the cessation of the automatic extension of pretrial detention as from 11 May 2020. Automatic extensions were therefore applied only in respect of detention orders that expired during lockdown.

155. In its Decision No. 2020-878/879 QPC of 29 January 2021, the Constitutional Council declared the automatic extension of pretrial detention in the context of public health emergencies to be unconstitutional, on the grounds that the necessity of such extensions was not subject to judicial review and the process thus violated article 66 of the Constitution. The provisions concerned were immediately repealed, without retroactive effect. The fact that the automatic extensions that had been applied were not retroactively repealed did not have a significant impact, particularly with regard to minors, since the ordinance providing for such extensions had remained in force for a short time only – from 26 March 2020 to 11 May 2020 – and the circumstances in which automatic extensions could be applied in respect of minors had been strictly limited.

Q. Reply to the issues raised in paragraph 17

156. A number of national agencies are involved in implementing the Second National Action Plan to Combat Trafficking in Persons 2019–2021, in particular the Central Office for the Suppression of Human Trafficking, which combats trafficking, and the French Office for the Protection of Refugees and Stateless Persons, whose beneficiaries are particularly vulnerable to trafficking. A plan to assist child victims of trafficking has also been launched. The Interministerial Task Force to Protect Women against Violence and to Combat Human Trafficking coordinates anti-trafficking measures.

157. The Central Office for the Suppression of Human Trafficking has developed innovative projects aimed at combating human trafficking for the purpose of sexual exploitation. The protection of victims and adaptation to the use of new technologies are currently priorities in this area.

158. A comprehensive plan of action to improve care services for victims has been launched. Under this plan, the model victim statement record was revised, such that victims are now systematically notified of the specific rights afforded to them since 2016. The plan also comprises measures aimed at improving mechanisms for keeping victims informed, renovating waiting and interview rooms and strengthening partnerships with specialized associations.

159. Measures are also being taken to address the increasing use of new technologies by traffickers. For example, some investigators from the Central Office for the Suppression of Human Trafficking have been trained to conduct online investigations under a pseudonym (referred to as "*cyberpatrouille*", or cyberpatrolling) and are using this special technique increasingly often. Telephones used by suspects are systematically monitored during investigations in order to gather evidence from encrypted communications. Partnerships with private companies such as Airbnb and Western Union have produced effective results, as modern trafficking networks make extensive use of these online services. The Office's international partnerships also make it possible to prosecute persons involved in cross-border trafficking operations, particularly through the use of digital tools.

160. The French Office for the Protection of Refugees and Stateless Persons is also involved in anti-trafficking efforts. The trafficking of women and girls from Nigeria, Côte d'Ivoire, Guinea and the Democratic Republic of Congo for the purpose of sexual exploitation has been reported. Exploiting the asylum system, human trafficking networks have been known to force victims in Nigeria, sometimes through the use of violence, to file asylum applications in order to regularize their administrative situations.

161. The French Office for the Protection of Refugees and Stateless Persons has stepped up its efforts to combat trafficking. The Office has an anti-human trafficking unit composed of specialized agents who conduct tailored interviews with self-identified and suspected victims of trafficking. The unit's strategy was updated in 2021, taking into account jurisprudential developments, such as the possibility of denying asylum protection to, or withdrawing it from,[3] persons involved in trafficking, and vice versa. In 2021–2022, the Office is strengthening the resources available to its teams for informing and providing guidance to victims about their rights.

162. The French Office for the Protection of Refugees and Stateless Persons significantly increased the size of its staff over the reporting period[4] and took steps to improve the training of its agents, in particular protection officers responsible for examining asylum claims and supervising officers, on the subject of human trafficking. Approximately 450 agents, i.e. all agents working in this field, have completed a course on human trafficking. This training initiative has continued in 2022 for new recruits and all interested members of staff. At the same time, the Office has developed tools to raise general awareness among all citizens of their obligations to report offences to the competent authorities under article 40 of the Code of Criminal Procedure and to report situations in which children are endangered or at risk of being in danger. This obligation extends to the identification of adult and child victims of trafficking in the context of the asylum procedure.

163. As part of its Vulnerability Plan, the French Office for the Protection of Refugees and Stateless Persons provides training on trafficking to interpreters and external interlocutors. These external interlocutors include vulnerability focal points within the French Office for Immigration and Integration, the staff of facilities for the initial reception of asylum-seekers and social workers from the accommodation facilities run by the national system for the reception of asylum-seekers.

164. The National Acceleration Strategy to Eliminate Child Labour, Forced Labour, Human Trafficking and Contemporary Slavery by 2030 was designed to reinforce and complement existing interministerial action plans. It is aimed at enhancing and accelerating national efforts to achieve target 8.7 of the Sustainable Development Goals under the 2030 Agenda.

165. The National Strategy lays the foundations for a renewed commitment in this area by providing a comprehensive framework for the activities of the public authorities and stakeholders. This framework should enable the authorities to take action not only at the national level, but also through the country's European trade and investment policies, through its international cooperation programmes to promote a responsible economy and through the supply chains of multinational companies established on French soil, as well as through public procurement processes.

166. The Minister of Labour, Employment and Integration, the Junior Minister for Foreign Trade and Economic Attractiveness and the Secretary of State for Children and Families have all committed to the launch of the National Strategy, which is aimed at protecting vulnerable persons from the worst forms of exploitation in France and around the world. The Strategy will be periodically evaluated by the stakeholders involved in its design and the bodies that make up Alliance 8.7, for which the International Labour Organization (ILO) in Geneva acts as the secretariat.

[3] National Court on the Right of Asylum, full bench, 25 June 2019, *Ms. I.*

[4] In 2019, 805 agents and, in 2020, 1,005 (compared to around 450 in 2014). See French Office for the Protection of Refugees and Stateless Persons, 2020 activity report.

167. In addition to the measures described above, a national plan to combat the prostitution of minors was adopted on 15 November 2021.

168. The Act of 27 March 2017 on the Duty of Care of Parent and Contracting Companies introduces new due diligence obligations in the French Commercial Code for the largest companies, which must draw up and implement a due-diligence plan. The law provides that such companies will be held liable for failure to comply with these new obligations, which are aimed at reducing the risk of serious human rights and environmental abuses, including when such abuses are committed by a company's direct or indirect subsidiaries, in France or abroad.

R. Reply to the issues raised in paragraph 18

169. Particular importance is placed on the observance of ethical principles during all law enforcement operations by police and gendarmerie officials in Paris and the surrounding area. All law enforcement operations are conducted under the strict supervision of superiors.

170. All allegations of misconduct are investigated either internally at the request of the administration or externally by the judicial authorities or an independent administrative authority. For example, in 2016, during a migrant relocation operation in Paris, a police officer used a tear gas canister without having received the order to do so from his superior, for which he received an administrative sanction. In November 2020, a sanction was imposed on a police officer who deliberately tripped a protester. The Inspectorate General of the National Police is currently conducting two further investigations concerning police operations that took place in December 2020 and July 2021.

171. Officers assigned to mobile units receive systematic mandatory training in the use of all weapons they may be called upon to employ. They regularly undergo refresher training and are subject to supervision to prevent injuries. For example, trained supervisors are now assigned to assist officers authorized to use the 40-mm defensive impact projectile launcher. Officers are regularly reminded of the rules governing the use of such equipment when preparing for operations. Steps have been taken to provide law enforcement officers with body cameras, the use of which is encouraged. The recordings captured by these cameras are stored in accordance with strict standards that make it impossible to manipulate the footage.

172. Individuals and associations may submit claims of harassment by law enforcement officers and/or police brutality through the reporting platforms of the Inspectorate General of the National Police and the Inspectorate General of the National Gendarmerie. All submissions are systematically reviewed and responded to.

173. Two types of operation carried out in the north of France are sensitive in nature.

174. The first are operations to clear land illegally occupied by migrants, in compliance with a court order. Each operation is conducted simultaneously with a sheltering operation organized by the prefecture. Incidents during this sort of operation are rare.

175. The second are operations aimed at preventing illicit maritime crossings. The law enforcement authorities sometimes face hostility from migrants trying to reach England, in which case they are obliged to use force, including to restore order in dangerous situations. Several memorandums have recently been issued on the missions of the police, the management of health risks, the legal framework governing operations, the use of weapons, police ethics and the procedure for evicting and sheltering persons illegally occupying land in Calais.

176. Since 2016, two incidents in Calais, Grande-Synthe and northern France have led to the launch of disciplinary proceedings. These proceedings resulted in two suspensions from duty, handed down in November 2021, for misconduct involving the excessive use of force in July 2018.

S. Reply to the issues raised in paragraph 19

177. First, France reinstated internal border controls in November 2015, in accordance with articles 25 and 27 of the Schengen Borders Code, on account of the continued threat of terrorism.

178. Persons seeking to enter France by land from a border State must do so at an authorized border crossing point, a list of which has been provided to the European Commission. It is the responsibility of the competent authorities to ensure that third-country nationals who arrive at the border meet the conditions required for admission to French territory and, if they do not meet those conditions, to notify them of the decision to refuse entry. Such decisions must be in writing, with reasons given, and provide information on the possibility of lodging an appeal. The submission of an asylum application by a third-country national suspends the effect of the decision to refuse entry while the application is under review. The procedures applied subsequent to the re-establishment of internal border controls thus comply with the principle of non-refoulement, since France does not remove, expel or extradite third-country nationals to States where there is a serious risk that they would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment.

179. French law prohibits the removal of minors and thus the administrative detention of unaccompanied minors. Removal may not be carried out by the prefecture until a juvenile court judge has ruled on whether the presumed minor should be placed in the care of the child welfare agency and all appeals have been exhausted.

180. Second, concerning the measures taken to guarantee presumption of minority until a final decision has been taken by a juvenile court judge, the Civil Code provides that foreign civil status documents must be considered authentic in the absence of proof to the contrary. Bone age assessments may be ordered by the judicial authority (Civil Code, art. 388) with the informed consent of the person concerned, who must be informed of the procedure in a language that he or she understands (Constitutional Council, Decision No. 2018-768 QPC of 21 March 2019). It falls to the judge to interpret the conclusions of the assessment in the light of the person's civil status documents and the evaluation report. If the procedure is inconclusive, the individual must be given the benefit of the doubt (Court of Cassation, First Civil Chamber, 12 January 2022, No. 20-17343). During the procedure to examine his or her minority and unaccompanied status, the young person may benefit from child protection measures. The Council of State has reiterated that the urgent applications judge of the administrative court has the power to order the prolongation of temporary emergency accommodation arrangements pending the issuance of a court decision (notably, in its Decision No. 440686 of 4 June 2020).

181. Third, regarding the implementation of the judgment in the case of *Kahn v. France*, minors are not subject to the rules governing the stay of foreigners (Code on the Entry and Stay of Aliens and the Right to Asylum, art. L. 411-1). Consequently, unaccompanied minors may not be removed. The child protection system enables cooperation between the president of the departmental council, juvenile court judges issuing child protection orders and the Unaccompanied Minors Unit, which coordinates the national shelter, assessment and referral system. In the event that a protective measure ordered by a juvenile court judge is not executed (Civil Code, art. 375), following a hearing with the unaccompanied minor at which he or she must be assisted by a lawyer, an appeal may be lodged with the administrative courts, including under the emergency procedure.

182. A guide on good practices for examining the minority and unaccompanied status of persons claiming to be unaccompanied minors was published on 23 December 2019. In order to identify unaccompanied minors who do not present themselves to the child welfare services, the authorities have developed outreach initiatives with the support of specially trained professionals. The Hors la Rue association has trialled an initiative in Paris whereby it identifies foreign minors in street situations and provides them with educational support.

183. Article L. 221-2-5 was inserted in the Social Welfare and Family Code pursuant to the Child Protection Act of 7 February 2022, thereby prohibiting departmental councils from carrying out a new minority and unaccompanied status examination when a minor is sent to a new department after having already been assessed by the department in which he or she

arrived. The article also makes it compulsory to use the "AEM" automated personal data processing system for the assessment of minority, which facilitates the identification of persons claiming to be unaccompanied minors with a view to standardizing assessments across France.

184. More generally, local departmental child welfare services will provide assistance to any person claiming to be an unaccompanied minor (Social Welfare and Family Code, art. L. 223-2). All presumed minors receive shelter to ensure their protection while the departmental authorities are assessing their situation.

185. The State contributes financially to the care of persons claiming to be unaccompanied minors (Social Welfare and Family Code, art. R. 221-12), providing €100 towards an initial assessment of the health needs of every person. Unaccompanied minors who receive assistance from child welfare services also benefit from universal health insurance. To ensure that they are able to exercise their rights, minors held in the waiting area pending the assessment of their asylum applications are appointed an ad hoc administrator, and a guardianship order may be issued by the family court.

T. Reply to the issues raised in paragraph 20

186. During the public health emergency, measures were taken to protect the residency and social rights of foreign nationals.

187. Several ordinances were issued extending the validity of certain categories of residence permit and prolonging the legal effects of those permits throughout the extension period. Similarly, application deadlines were extended. Arrangements were made so that applications for State medical aid could be submitted online rather than in person.

188. As mentioned above, during the lockdown in place from March to May 2020, exceptional measures were put in place for the creation of shelter places and referrals to them. The health crisis led to an increase in sheltering operations to protect persons in street situations, particularly isolated migrants, during lockdown.

189. Between the start of the health crisis and 11 May 2020, when the first lockdown was lifted, 3,463 people were sheltered in accommodation provided by the national system for the reception of asylum-seekers. A COVID-19 testing system was implemented and special measures were taken to ensure social distancing. A policy was developed for the vaccination, before August 2021, of all persons who wished to be vaccinated, in vaccination centres and facilities for the initial reception of asylum-seekers. Telephone helplines were set up at the end of April to help social workers to meet the needs of vulnerable persons requiring mental health assistance.

190. In addition, many homeless and vulnerable persons received shelter within the non-specialized accommodation system, in accordance with the principle of the unconditional shelter of persons in distress. Non-specialized accommodation was provided to all homeless persons seeking shelter, irrespective of their administrative situation, in the 203,000 existing places, and 40,000 additional places were opened in the space of a few days.

U. Reply to the issues raised in paragraph 21

191. Act No. 2021-646 of 25 May 2021 on Ensuring Global Security while Preserving Freedoms covers several areas.

192. First, the Act amends the rules governing the use of body cameras by law enforcement officers and establishes a legal framework for the use of cameras installed on remotely piloted aircraft for civil security purposes (e.g. fighting forest fires).

193. Second, by defining the purposes for which the use of such devices may be authorized, the period for which the data collected may be kept and the persons authorized to have access to those data, Act No. 2021-646 upholds the principles of proportionality and necessity.

194. Lastly, the Act authorizes surveillance officers to detect drones, including in the vicinity of buildings they have been tasked with monitoring. However, this activity does not constitute general surveillance of public spaces, since it is restricted to the buildings for which surveillance officers are responsible and the immediate surroundings of those buildings. Moreover, surveillance officers are authorized only to gather information about the drone, not about its owner, and to pass this information on to the law enforcement authorities.

195. All measures designed to give effect to these provisions are subject to prior approval by the National Commission for Information Technology and Civil Liberties, which is also responsible for monitoring the implementation of security systems and their compliance with the legal framework governing the protection of personal data.

196. Prior to its promulgation, Act No. 2021-646 was subjected to extensive scrutiny by the Constitutional Council (Decision No. 2021-817 DC of 20 May 2021). The Council found that the Act did not violate any of the rights enshrined in the Constitution, which are equivalent to those recognized in the Covenant.

V. Reply to the issues raised in paragraph 22

197. Freedom of expression and freedom of information are among the fundamental values of the French Republic. Persons exercising these freedoms must be protected from strategic lawsuits.

198. Freedom of expression is protected under French law.

199. The need to ensure a balance between respect for freedom of expression and the punishment of abuses committed in the exercise of that freedom has resulted in the introduction of procedural rules that deviate from the general law, notably through the adoption of the Act of 29 July 1881, which protects all forms of public expression, in particular freedom of expression in relation to offences committed through the written press. Specifically, the Act of 1881 establishes short statutes of limitations for such offences (although the Act of 24 August 2021 extended the statute of limitations for public prosecution from three months to one year for certain offences) and provides for liability in series and the restriction of the circumstances in which persons charged with such offences may be placed in pretrial detention.

200. For the purposes of their defence, persons prosecuted for defamation may produce “evidence derived from a violation of the secrecy of an investigation or inquiry or any other professional secret if it is of such a nature as to establish his or her good faith or the truth of the defamatory facts”, without the production of such evidence giving rise to proceedings for concealment.

201. The Act of 1881 also protects the confidentiality of the sources used by journalists and the circumstances in which their information is obtained (art. 2). This protection extends to informants and all printed documents, computers, telephones and digital files belonging to journalists that could be used to identify their sources.

202. The Code of Criminal Procedure also provides for exceptions in respect of searches of journalists’ homes, which must be carried out by a judge in accordance with specific criteria (art. 56-2); requests from the judicial authorities, which must respect the principle of the confidentiality of sources (art. 60-1); transcriptions of correspondence with journalists that could be used to identify a source (art. 100-5); and the hearing of journalists as witnesses, which must respect the confidentiality of their sources (art. 326).

203. The Act of 1881 also protects journalists from undue interference by recognizing their right “to resist pressure, to refuse to divulge their sources and to refuse to sign off on an article or broadcast […] the form or content of which has been modified without their knowledge or against their will”. All media companies are required to adopt a code of ethics. Employment law protects journalists by allowing them to leave their employer at any time and receive severance pay. The Act of 24 August 2021 provides for the application of aggravating circumstances when the offence of revealing personal information about a person

in order to seriously harm that person, his or her family or his or her property is committed against a journalist (Criminal Code, art. 223-1-1).

204. There are also general provisions carrying penalties that prevent the use of strategic lawsuits in civil, commercial and criminal matters:

- Under civil law, any person who acts in a dilatory or abusive manner in the context of civil proceedings is liable to face a civil fine of up to €10,000 (Code of Civil Procedure, art. 32-1), without prejudice to any damages that may be claimed by the defendant (Civil Code, art. 1240). The use of dilatory tactics by litigants is also punishable (Code of Civil Procedure, art. 118).
- Under commercial law, any person who acts in a dilatory or abusive manner in the context of proceedings to prevent, cease or remedy a breach of business confidentiality is liable to a penalty (Commercial Code, art. L. 152-8).
- Under criminal law, a civil party, submitter of a direct summons, who is found to have been abusive or dilatory is liable, in the event that the accused is acquitted or the case is dismissed following an investigation, to a civil fine of up to €15,000 (Code of Criminal Procedure, arts. 392-1, 177-2 and 212-2).

205. The incorporation of the European directive on the protection of whistle-blowers into national law has led to a number of developments in this area, including the adoption of a specific system for protection against strategic lawsuits. Persons who attempt to bring strategic lawsuits against whistle-blowers face a fine of €60,000, and the Code of Criminal Procedure has been amended to remove a particularly prejudicial procedural obstacle which applied in the case of prosecution for defamation and which prevented the criminal courts from imposing a civil fine where public prosecution had been initiated through criminal indemnification proceedings before the investigating judge. The Organic Act of 9 December 2016 provides that the Defender of Rights is responsible for referring whistle-blowers to the appropriate authorities. The Act of 21 March 2022 established the role of deputy defender responsible for the protection of the rights of whistle-blowers and provides that anyone may request the Defender of Rights to certify his or her status as a whistle-blower.

206. France also supports a related initiative of the European Commission, under which the Commission adopted a plan of action on 2 December 2020 to protect journalists and rights defenders from strategic lawsuits. It is planned to develop a legislative instrument establishing civil procedural safeguards against strategic lawsuits and a non-legislative instrument inviting member States to adopt measures to raise awareness of the issue, to provide relevant training for legal professionals, to monitor the use of strategic lawsuits and to provide support for the targets of such lawsuits. However, this initiative concerns lawsuits of a cross-border nature only.

W. Reply to the issues raised in paragraph 23

207. The Act of 24 August 2021 on Strengthening Respect for the Principles of the Republic is intended to provide a comprehensive response to the phenomenon of communities self-segregating on the basis of radical religious, political or philosophical ideas. By prohibiting separatist behaviour and rhetoric encouraging such behaviour, the Act aims to protect the cardinal values of liberty, equality and fraternity, which form the foundation of the French Republic. As pointed out in the circular of 22 October 2021 introducing the Act, one of the objectives of the Act is to better protect public services by making it an offence to issue separatist threats. The offence covers threats and acts of intimidation or violence of a separatist nature that are aimed at securing changes to the rules relating to a public service. The Act allows for the effective dissolution of associations that cause serious disturbances to public order (Internal Security Code, art. L. 212-1). Associations may challenge their dissolution in administrative court, including under the emergency procedure.

208. The Act, however, also ensures balance with the freedom of association, which has constitutional status (Constitutional Council, Decision No. 71-44 DC of 16 July 1971). The rules regarding dissolution are consistent with the relevant requirements of the European Convention on Human Rights and the Covenant. In fact, the European Court of Human

Rights has found that States may restrict the exercise of the freedoms of expression and assembly through the dissolution of associations (*Refah Partisi (the Welfare Party) and Others v. Turkey*, 13 February 2003, No. 41340/98, No. 41342/98, No. 41343/98 and No. 41344/98). In the view of the Court, the dissolution of an association is permissible only if the measure meets a pressing social need, as is the case when the rules under the Act of 24 August 2021 are applied.

209. With respect to the manifestation of one's beliefs, particularly religious beliefs, in public spaces and/or the wearing of religious symbols in public spaces, the principle of neutrality laid down by law in 1905 precludes public service employees from manifesting their religious beliefs (or their political or philosophical convictions) through external symbols, including clothing. However, the duty of neutrality of public service employees does not apply to parents accompanying school trips. This is because, unlike teachers, parents accompanying school trips provide logistical help on a voluntary basis and do not contribute to the children's education during the trips.

210. More broadly, the duty of neutrality does not apply to users of public services, as the principle of secularism ensures their right to freedom of conscience and to manifest their religious beliefs as long as they do not disturb public order or the smooth delivery of public services. Accordingly, anyone may wear conspicuous symbols in public spaces as long as public order is respected. Thus, since the adoption of the Act of 11 October 2010, while religious headscarves may be worn in public spaces, full-face veils – for reasons of public order and coexistence in society – may not. However, the Council of State found that mayoral decrees banning the wearing of "burkinis" constituted a serious and manifestly illegal infringement of freedom of movement, freedom of conscience and personal liberty, which are fundamental freedoms, in the absence of any risk that the garment would lead to a disturbance of public order (see Council of State, urgent applications procedure, 2016, *Association de défense des droits de l'homme – Collectif contre l'islamophobie en France*, No. 403578).

211. In addition, the Act of 15 March 2004 regulates the wearing of symbols or clothing conspicuously manifesting religious affiliation by minor students in public schools; it does not, however, prohibit them from wearing discreet symbols.

212. Private companies are not subject to the principle of neutrality, except under specific, objective circumstances. To bolster secularism and neutrality, the Act of 24 August 2021 specified that these principles apply to employees of holders of government procurement contracts, concessionaires, social housing providers and entities with a public service mission, such as the companies running French railways (Société nationale des chemins de fer français), transportation networks in and around Paris (Régie autonome des transports parisiens), the airports of Paris (Aéroports de Paris) or public housing projects.

213. The Act has also strengthened the principles of neutrality and secularism in public services by increasing the oversight of acts by local authorities that would seriously undermine secularism or neutrality in a public service. Prefects are authorized to request that an administrative judge suspend the act in question, and the judge must rule within 48 hours of the request.

214. All these rules, and the guarantees accompanying them, are consistent with the Covenant.

X. Reply to the issues raised in paragraph 24

215. First, during demonstrations, the role of law enforcement is first and foremost to guarantee the exercise of civil liberties, in particular the freedom of expression and peaceful assembly, by ensuring the safety of demonstrators. When a demonstration degenerates into a mob (as defined in article 431-3 of the Criminal Code) and public order must be maintained or re-established, law enforcement officers intervene in accordance with duly defined laws, rules and techniques.

216. When law enforcement officers were accused of using excessive force during particularly long and intense periods of public disturbance in France – including during the

"*bonnets rouges*" (red cap) movement, the protests against the planned airport at Notre-Dame-des-Landes, the demonstrations against the labour law and the "*gilets jaunes*" (yellow vest) movement – the Ministry of the Interior sought to adjust the rules governing law enforcement interventions. The National Law Enforcement Code was revised in December 2021 and makes the State's actions clearer.

217. For example, a mob may be broken up after warnings for it to disperse have gone unheeded. The warnings are given by an administrative official or a senior law enforcement officer who is not a part of the forces intervening. The rules regarding warnings have been reworked to ensure that the order given to demonstrators is clear and unambiguous. Any use of force is preceded by three warnings to disperse, in accordance with Decree No. 2021-226 of 5 May 2021.

218. The use of intermediate means and weapons is regulated and takes place progressively under the Internal Security Code. Law enforcement officers may use force only if it is absolutely necessary under the circumstances for the maintenance of public order. The force used must be proportionate to the disturbance in question, and its use must cease once the disturbance has ceased.

219. The first range of weapons to be used are sound grenades, tear gas canisters and sting grenades. Riot guns can also be used if law enforcement officers "are subjected to assault or they cannot otherwise defend the ground that they occupy".

220. The use of these weapons requires training leading to a special certification, which must regularly be renewed.

221. Second, all law enforcement officers are required to wear their identity and agency identification numbers during operations, regardless of whether they are part of a crowd control unit.

222. Supervisors must monitor compliance with this requirement, and it is set out clearly in the Code of Ethics of the National Police and the National Gendarmerie (Internal Security Code, art. R. 434-15). If, during crowd control operations, an officer wears tactical or other vests that may hide the number, the number must be affixed to the officer's shoulder.

223. Lastly, it has been decided that all officers taking part in crowd control operations as part of a unit must wear uniforms that allow them to be identified, if necessary by indicating the unit to which the officers belong on their backs.

Y. Reply to the issues raised in paragraph 25

224. First, with regard to "the measures taken to follow up on allegations", the reporting platform that was set up in 2013 with a view to improving ties between the police and the public is an administrative service that makes available to users, via the website of the Ministry of the Interior, an online form allowing them to bring matters before the Inspectorate General of the National Police. The reporting platform is not a complaints mechanism and cannot be used to access either investigation or emergency services. The purpose of the platform is to channel the report to the administrative agency best placed to follow up on it or, where applicable, to the judicial authorities.

225. According to the annual report of the Inspectorate General of the National Police, 660 of the total 4,792 reports made in 2019 were directly related to the "*gilets jaunes*" movement and the high school students' movement. Additional details are contained in the reply to the issues raised in paragraph 3. The reporting platform set up at the Inspectorate General of the National Gendarmerie in 2013 received some 4,500 reports from individuals between 2018 and 2020. Of that number, 113 reports, including 23 linked to the "*gilets jaunes*" movement, related to a legitimate use of force that was uncontrolled and disproportionate or an illegitimate use of force by gendarmes over the aforementioned period.

226. Second, regarding complaints, 456 judicial investigations, initiated under the authority of the judiciary, were entrusted to the Inspectorate General of the National Police and carried out independently and impartially following complaints alleging acts of violence by persons vested with public authority during the "*gilets jaunes*" movement.

227. Between November 2018 and December 2020, 406, or 88 per cent, of the investigations were concluded and transferred to the judicial authorities. There were 295 cases that were dismissed, generally either because the offence involved had not been established or because no offence had been committed. In 70 per cent of the cases, the judicial authorities concluded that the use of force had been legitimate. The remaining 30 per cent include cases where the facts could not be established or there was insufficient evidence to identify the officers responsible. Nineteen police officers faced prosecution in 2020.

228. Of the complaints made in connection with the demonstrations of the "*gilets jaunes*" movement:

- 36 per cent related to the use of riot guns and grenades
- 6 per cent related to various projectiles
- 5 per cent related to the use of tear gas
- 38 per cent related to blows received and the use of truncheons
- 16 per cent did not relate to any of the above

229. With respect to the gendarmerie, the judicial authorities referred cases involving acts of violence committed by persons vested with public authority during crowd control operations undertaken in connection with the "*gilets jaunes*" movement to the judicial investigations office of the Inspectorate General of the National Gendarmerie 17 times between 2018 and 2020. To date, none of the investigations concluded has resulted in the prosecution of a gendarme. Investigations conducted by the judicial investigations office of the Inspectorate General of the National Gendarmerie are independent and impartial. The independence of the Inspectorate General of the National Gendarmerie has been recognized by the European Court of Human Rights.

230. Lastly, with regard to reparation, in general, the State's strict liability in relation to mobs under article L. 211-10 of the Internal Security Code, which provides for reparation of harm, may be applicable to harm arising from injury suffered in connection with demonstrations, including between 2018 and 2020 (see, regarding the relevant conditions, Council of State, 2016, *Société generali Iard*, No. 389835). Claims for compensation must be sent to the authorities. If a claim is denied, an application for compensation may be filed with an administrative court.

Z. Reply to the issues raised in paragraph 26

231. First, under current French positive law, there is no legal basis for preventive arrests. Only the prior commission of an indictable offence can legally justify an arrest. Statistics are not kept on the circumstances in which offences are committed, such as whether they occurred during a public gathering.

232. Second, however, the provisions of Act No. 2019-290 of 10 April 2019 on Strengthening and Guaranteeing the Maintenance of Public Order at Demonstrations have strengthened mechanisms facilitating the detection, apprehension and punishment of perpetrators of offences committed during demonstrations. In this respect, it has been made an offence under article 431-9-1 of the Criminal Code to conceal one's face, and the scope of the penalty consisting of a prohibition on demonstrating has been expanded.

233. The Act has made available to public authorities suitable means for taking action against rioters, such as expedited procedures that facilitate the prosecution of offences committed in mobs and the ability to impose an additional penalty consisting of a prohibition on participation in demonstrations. The Constitutional Council found the provisions of the Act to be consistent with the Constitution in a decision of 4 April 2019. According to the Council, lawmakers had undertaken a balancing of constitutional requirements and had not infringed in an unnecessary, inappropriate or disproportionate manner the right to collectively express ideas and opinions. The Council noted that the safeguards provided by the strict definition of the conditions for prohibiting someone from demonstrating and the

oversight by judicial officials of planned operations, including visual inspection and bag search operations, allowed for the protection of the freedoms in question.

234. Third, the Ministry of Justice regularly issues circulars containing criminal policy instructions that draw the attention of public prosecutors to offences that may be committed during demonstrations and gatherings and ask them to implement an appropriate and responsive criminal policy.

235. The sole aim of the instructions is to combat this phenomenon and to ensure that those persons who commit violent acts in order to prevent demonstrations from running smoothly and to hobble everyone's freedom to demonstrate by threatening the safety of demonstrators are pursued and arrested. The instructions are in no way intended to punish people peacefully exercising their freedom to demonstrate. They also seek to ensure the safety of peaceful demonstrators.

236. The aim is to dissuade or prevent violent groups or rioters from taking part in demonstrations and thus to allow the demonstrations to proceed as peacefully as possible.

AA. Reply to the issues raised in paragraph 27

237. The provisions of the previous National Law Enforcement Code had prompted protests from journalists, including with respect to the requirement that their identity be verified before they could receive authorization to wear protective equipment and the arrangements for their accreditation. In a decision of 10 June 2020 (No. 444849), the Council of State declared void several provisions of the Code relating to the work of journalists.

238. An addendum to the Code released on 6 December 2021 concentrates on the work of journalists during demonstrations and provides in part that journalists:

- Are not required to wear distinctive signs such as armbands or "Press" vests
- May move freely within secured areas
- May remain at the scene when a mob is being dispersed "provided that they cannot be confused with the members of the mob and do not hinder law enforcement operations"
- Are authorized to wear protective equipment
- May, upon request, have a law enforcement officer designated as a liaison and a dedicated communication channel set up for the duration of the demonstration

239. It provides for the designation of contact persons within the internal security forces, initial and in-service training on the rights of the press and joint exercises to develop better mutual understanding.

240. In addition, article 2.2.5 of the Code specifies that the right of both citizens and law enforcement officers to their own image is defined and protected. However, law enforcement officers – other than those assigned to services legally bound to anonymity – may not object to the recording of images or sound during operations in public places. It should be remembered, however, that it is now an offence to publish files containing lists of police officers or gendarmes (Criminal Code, art. 266-16-2).