

**STATEMENT BY MR. JOËL THORAVAL,  
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Although in France the word intolerance chiefly denotes an aggressive or hostile attitude to those who do not share one's opinions or, to be more precise, philosophical or religious beliefs and if, therefore, the concept of secularism occupies an especial place there, it is entirely possible to consider, on the whole, that the fight against intolerance involves a fight against racism, xenophobia and discrimination.

This relentless battle requires concerted action by governments and civil society. Although France has grappled and is grappling still today with the drift towards racism and xenophobia, it has behind it a long tradition of combating discrimination so well personified by René Cassin, the founder of our Commission. This fight is based on the concept of equality of rights refined in the Declaration, Preamble and Constitution of 1789, 1946 and 1958. Article I of the last document declares: "France is an indivisible, secular, democratic and social republic. It ensures the equality before the law of all citizens without distinction as to origin, race or religion. It respects all beliefs...".

On the basis of this concept of equality of rights, a history has been lived through, convictions have been forged, laws passed, institutions created, procedures established and dynamic associations formed. To illustrate the interaction between government bodies and civil society in the fight against racism and xenophobia in France, I should like to focus on two central aspects: first, the activities of the National Consultative Commission for Human Rights (NCCHR) in promoting the equality of all at the collective level and, second, recent developments and immediate prospects of the fight against discrimination and of individual protection of the victims.

**1. THE NCCHR'S ACTIVITIES IN PROMOTING THE EQUALITY OF ALL AT THE COLLECTIVE LEVEL**

**(a) Organization and operation of the NCCHR**

As regards its organization and operation, the NCCHR helps to promote tolerance at the collective and general levels thanks to the range of its duties and responsibilities, its plural composition and the transparency of its activities.

The Commission has competence to deal with all matters of a general nature that concern human rights and humanitarian action. It has a two-fold function of exercising vigilance and making proposals. The law of 13 July 1990 conferred on it the responsibility of submitting an annual report on the fight against racism and xenophobia. It is also responsible for developing relations with the school, university and business circles with a view to implementing programmes of action to combat racism and xenophobia.

The plurality of beliefs and opinions is ensured by the diversity and number of its members: 97 persons in total - 33 from NGOs, 7 from the major trade -union confederations, 47 from circles with the greatest competence in the field of human rights, together with 7 French experts holding positions in international human rights bodies, a member of Parliament, a senator and the Ombudsman of the Republic (*Médiateur de la République*), whose national role should be particularly stressed. All are entitled to speak and vote at the plenary meeting and are members of one or more of the seven working subcommittees, one of which is concerned with combating racism and xenophobia. As for the representatives of the ministers concerned, they attend in an advisory capacity.

The Commission is independent and has the power to deliver opinions on its own initiative, which expands the subject areas and increases the number of cases where its opinion is sought by the Government. All its activities are made public without exception. This transparency assures it of its autonomy and authority.

**(b) Interaction with the authorities**

Apart from its organization and operation, the second characteristic feature of the NCCHR is its method of interaction with the authorities both at the national and international levels.

The decree under which the Commission was established lays down that it shall assist the Prime Minister and the ministers concerned by offering its opinion in the areas of its competence. It encourages consultation between the authorities concerned and NGOs. It may receive requests for studies from governmental authorities and, conversely, may ask ministries to prepare reports. Since the representatives of the Prime Minister and of the ministers concerned are members of the “plenary” with advisory status, their assistants attend the meetings of the subcommittees and their working groups when necessary. Depending on the topical nature of the problems, the Commission hears the main ministers, in person, with discussion and exchanges of views. The president of the NCCHR and the chairmen and rapporteurs of the subcommittees are frequently heard by parliamentary committees as part of legislative procedures. The dialogue between the authorities and civil society is firmly established through the Commission which has, moreover, a large audience in the media because it has existed for a long time (since 1947), because of the prestige of its founder René Cassin, the independence of its analyses and the place it occupies historically in the fight against racism, xenophobia and discrimination.

Its activities at the international level are not unknown to this audience. As for the United Nations, the NCCHR participates every year in the session of the Commission on Human Rights and since November 2002 has held the presidency of the European Regional Group of National Institutions. More specifically, the NCCHR contributes to the preparation of France’s reports to the Committee on the Elimination of Discrimination against Women, the Committee on Human Rights, the Committee on Economic, Social and Cultural Rights and the Committee on the Elimination of Racial Discrimination.

As regards the Council of Europe, Ms. Martine Valdès -Boulouque, Vice-President of the NCCHR, is the French member of the European Commission against Racism and Intolerance (ECRI).

Lastly, in the European Union the NCCHR represents the French round table at the European Monitoring Centre on Racism and Xenophobia (EUMC).

**(c) Actions undertaken**

This balanced interaction between the Commission and the authorities explains the actions undertaken by the Commission both with regard to the annual report on racism and xenophobia and with regard to numerous recommendations adopted which are followed up in collaboration with the General Secretariat of the Government.

Since 1989, the Commission has been publishing an annual report on the fight against racism and xenophobia, which is submitted directly to the Prime Minister on 21 March - the international day for the elimination of all forms of racial discrimination. It is widely circulated. This report is written on the basis of contributions received from the Ministers of the Interior and of Justice, associations and trade unions committed to the fight against racism and individuals who are members of the Commission or from the outside world (academics, researchers, journalists, etc.) and the results of a relevant survey of public opinion. The second part of each of these reports develops an annual topic, such as: the role and weaknesses of public institutions in integration, questions about identity, the right to religious expression in a secular society, conditions of the application of measures made specifically for foreigners, the fight against racism and xenophobia in Europe, priorities and means of harmonization or progress made with regard to the protection of victims of discrimination and the influence of Community law.

In a broader perspective, besides the annual report on racism and xenophobia, the NCCHR - as a result of its overall competence - does not fail to deal with racial and xenophobic discrimination, if it is necessary, when it delivers opinions with regard to international law and international humanitarian law, questions of justice and security, immigration and asylum, economic and social rights and the situation regarding children, the sick and the disabled. It has made numerous recommendations and studies throughout this area, particularly since 1987. The Commission also carries out specific assignments on racism and discrimination, such as its opinions on a draft bill related to the fight against the dissemination of racist and xenophobic ideas (1994), on bringing French legislation in line with the joint action of the European Union against racism and xenophobia (1997), on the implementation in France of the European Commission's Action Plan against Racism (1998) and on the draft Council framework decision on combating racism and xenophobia submitted by the European Commission (2002). The same goes for its recommendations concerning a draft European directive on the protection of individuals with regard to the processing of personal data (1994) and on the Internet and human rights (1996).

**2. THE PROMOTION OF THE EQUALITY OF ALL AT THE INDIVIDUAL LEVEL: THE SPECIFIC ROLE OF THE NCCHR**

**(a) Recent developments**

The NCCHR plays a specific role in combating intolerance by promoting the equality of all at the collective level. The individual protection of victims in these areas is covered by special measures undergoing rapid development.

In fact, French law makes clear provision for specific structures at the national and regional level to combat racism and support the victims of racial discrimination. At the national level, the Group to Study and to Combat Discrimination (GELD) is a place for dialogue and discussion between the different players in the fight against racism, including in particular representatives of ministers, the Ombudsman of the Republic, associations and trade unions. It conducts studies and surveys to expose racial discrimination, principally with

regard to employment, housing, education and in public services. Since January 2001, GELD has been entrusted with the running of the helpline “114”, which is a freephone number and which allows victims and witnesses of discrimination to report cases or practices that they consider to be discriminatory. These arrangements are supplemented at the regional level with the establishment of regional citizenship commissions (CODAC), places where people can find an open ear and advice and where the support policy for victims of discrimination is put into practice. CODAC involves the prefect, the public prosecutor, the president of the “county court” (*Tribunal de Grande Instance*), heads of regional services, elected representatives, associations and public and private employers. These measures, which represent indisputable progress, still face some inadequacies linked to the difficult operation of the calls to the “114” telephone number and a lack of independence of CODAC because of their composition.

Under the pressure of Community requirements set out in Article 13 of the Treaty of Rome, as amended by the Treaty of Nice, and in compliance with two European directives relating to racial and ethnic discrimination as well as unequal treatment as regards employment and work, the French law of 16 November 2001 has strengthened the general framework of the protection of victims of discrimination under domestic law: by widening the definition of victim by introducing the concept of “indirect” discrimination and by improving the procedure relating to disputes in four areas: a greater possibility for trade-union organizations and associations combating discrimination to submit the cases to a civil judge, protection against retaliatory measures and above all “readjustment” of the burden of proof, which will henceforth lie on the defendant in certain situations.

**(b) Future prospects: the “Stasi Mission” and “the independent authority”**

In France, the immediate future for the fight against racism and xenophobia will be dominated by the establishment of a body responsible for promoting the equality of treatment without discrimination based on race or ethnic origin under Article 13 of the Treaty of Rome, as amended by the Treaty of Amsterdam, European Directives following therefrom and the commitment made by the President of the Republic in his speech in Troyes on 14 October 2002. The French Prime Minister has already asked Mr. Bernard Stasi, Ombudsman of the Republic and former minister, to carry out most extensive consultations and expert studies that should lead to the establishment by law “of a new independent authority concerned with all forms of discrimination” (letter from the Prime Minister of 2 June 2003). Talks are under way.

This overview of the actions undertaken in France against discrimination is unavoidably incomplete and does not underestimate the difficulties encountered, the persistence of the threats or the seriousness of certain issues. As I come to the end of my statement, I feel it necessary to make a triple appeal: for tireless efforts with regard to education and raising the awareness among young people and the public, for a reinforced European dialogue to develop internal legislation more quickly and, lastly, for unflinching and constant vigilance, as was requested of us by the OSCE Ministerial Council in its Decision No. 6 and to which I owe the pleasure of meeting you.