



“French detention and immigration policies risk reducing human rights protection” says Commissioner Hammarberg in his report

[20/11/08] “Security concerns should not undermine a full respect for human rights norms. Some French policies on detention and immigration risk undermining these standards.” With these words, the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, presented today his report on France, identifying problems as regards prison conditions, preventive detention (*rétenion de sûreté*), juvenile justice and rights of migrants.

While welcoming some improvements since the 2006 report, the Commissioner criticises the “unacceptable living conditions faced by many detainees, who have to cope with overcrowding, lack of privacy, dilapidated facilities and substandard hygiene” adding that “the high level of suicides in French prisons is a symptom of structural deficiencies in the penitentiary system.” Urging the authorities to solve rapidly these problems, he also stressed that “the proposed revision of prison legislation must not ignore respect for prisoners’ fundamental rights, and more effective solutions and financial means should be provided to improve both material conditions and the treatment of people suffering from mental disorders.”

Commissioner Hammarberg is also concerned about the risk of arbitrary decisions in the context of preventive detention, and calls for the greatest possible vigilance. “Dangerousness, on the basis of which preventive detention is ordered, is not a clear legal or scientific concept” he said. “Harsh measures have to be applied in some circumstances in order to protect society, but their use should not become routine. They must remain the last resort, and other recidivism prevention measures should be applied in the first instance.”

With more than 3,000 minors imprisoned each year in France, the Commissioner is also worried about the tough stance taken by the juvenile justice system. “Without underestimating the seriousness of some acts committed by minors, the problem of juvenile delinquency will not be solved by imposing harsher penalties. A successful policy should entail measures facilitating prevention, rehabilitation and the social integration of young people in difficulty. In all cases, the emphasis should be on education rather than punishment.”

Furthermore, Commissioner Hammarberg observes that French immigration policy, in particular the quota of irregular migrants to be expelled, raises serious human rights concerns. “Migrants are not numbers and even those without permit have human rights. Many of them have contributed to the development of the country and they do deserve a humane treatment” he said. “No further arrests should be made in schools areas or prefectures and those detained at the border or in holding centres should be given enough time to complete asylum applications, in decent living conditions”. He recommends that regularisation and family reunification procedures be more transparent and calls on the French authorities to cease setting targets for the numbers of irregular migrants to be expelled.

The report also focuses on the situation of Roma and Travellers, for whom “solutions must be found to guarantee respect for their dignity. Moreover, the various special rules applicable to Travellers, such as those relating to voting rights and travel permits, should be abolished and better access to health care, education and employment for Roma should be secured.”

Finally, the Commissioner invites the French authorities to consult national human rights structures and NGOs more systematically and protect their independence. “Their role is fundamental to ensure a constant monitoring of the human rights situation. An enhanced dialogue with them would be highly beneficial for human rights in France”.

The report is based on the findings of a visit carried out last May as part of the activities to assess the respect of human rights commitments by all Council of Europe’s member States. It is published together with a factual memorandum on the Commissioner’s previous visit in January and the Government response.

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