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French Delegation to the Parliamentary Assembly of the OSCE

**STATEMENT BY MR. MICHEL VOISIN,  
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RACISM, XENOPHOBIA AND DISCRIMINATION**

Vienna, 4 September 2003

Permit me first of all to express my happiness at the holding of this Conference. It supplements so well the one held on anti-Semitism, in which I had the honour to participate in June this year.

Anti-Semitism can indeed be regarded as a specific category of racism even though in certain respects it differs from the latter. While a disturbing increase in anti-Semitic acts has been noted in recent years in some European countries, including France, the persistence of racism and xenophobia, along with the outbreak of extreme rightism in these same countries, is a matter of as much concern to responsible persons that we are. These prejudices must therefore be condemned and fought against as vigorously and as consistently.

The fight against racism implies constant vigilance on the part of the legislator because, although a law can always be perfected, racist acts and dissemination of these ideas assume new forms which call for new responses.

On this subject I should like to give a picture of the French legislation and how it has developed recently. These developments have been approved unanimously by the French Parliament.

To start with, I shall underline the first characteristic of this legislation: in France anti-Semitism is not a specific offence and is dealt with under general provisions applicable to all forms of racism. If the law distinguishes between racist and anti-Semitic acts, the penalties for both are exactly the same.

French criminal law deals with criminal acts and remarks by dividing them into the categories of incitement, injury and propaganda in favour of racial theories.

Under a law passed in 1972 associations for combating racism and anti-Semitism now have the recognized right of submitting complaints with a view to initiation of prosecution against authors of racist or anti-Semitic acts or remarks.

Another important characteristic of French law is that it allows restriction of the freedom of expression when such freedom may serve racism, racism being not an opinion but a scourge that is detrimental to law and order. French law punishes propagation of racist ideas by all written or oral means and by all means of audio-visual communication. Under the

freedom of the press law of 29 July 1881, incitement to discrimination, hatred or violence is punishable by one year's imprisonment and a fine of EUR 45,000. Not only the offender but also the editor of the publication, the publisher of the work or the producer of the audio-visual piece in question are liable to be convicted.

In view of the fresh outbreak and development of racist and anti-Semitic behaviour, the penal code has recently been amended by the law of 5 February 2003 in order to increase the penalty for an offence when a racial or anti-Semitic motive can be proven. The existence of such a motive will be determined by investigation of the remarks, writings, pictures, objects or acts preceding, accompanying or following the commission of the offence. The proof of the motive for the offence should in practice be based on established facts. That the victim belongs to a particular ethnic group or religion does not constitute sufficient grounds for presuming the racist nature of the offence.

This reform was needed because of the change in the nature of racist acts. While earlier legislation allowed punishment only in the case of racist behaviour which flaunted itself as such, it will henceforth be possible to punish with greater severity attacks, thefts or insults when the investigation shows that racism was the hidden motive for these offences.

I should also like to draw your attention to one of the contemporary dimensions of the spread of racist behaviour, namely the spreading of racist and anti-Semitic ideas via the Internet. My countryman, Mr. Gérard Kerforn, will set forth his thinking on the subject tomorrow. His report on the dissemination of Arabophobia through the Internet demonstrates the serious nature of this phenomenon.

In France, judicial decisions have established the principle of responsibility of Web hosts as access providers if the host is located outside the country. Moreover, a draft law now under discussion by Parliament places on the technical service providers the obligation to take all appropriate measures to terminate promptly the dissemination of illicit messages as soon as they become aware of them.

I hope that these measures will inspire other participating States of our Organization. I also note with pleasure that discussions within the OSCE and its Parliamentary Assembly have promoted an awareness which, at the Rotterdam session, was reflected in the unanimous adoption of a resolution, on the initiative of the United States, referring to the need for identifying specific measures to combat the dissemination of neo-Nazi and racist articles via the Internet. I know that some States have a particularly liberal notion of the freedom of expression. However, thought must be given to this area if we wish to prevent this great tool for spreading ideas and information from serving the most ignoble causes.