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The use of force by law enforcement officials in France

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Abstract. This article provides a comprehensive review of the international standards governing the use of force by law enforcement officials in their duty of maintaining public order. Recognizing the imperious duty of States to ensure rights and freedoms within their territory, the balance between this duty and the necessity to ensuring respect for the law must be analysed. In France, the will to maintain security and public order seems to be a higher priority than the respect of the rights and freedoms of the persons living within its territory. This article tackles in particular the national regulations and their compliance with international standards, the use of weapons by French law enforcement officials, the policing of unlawful assemblies and the racial discriminations faced by the population.

Key words: Human rights law; law enforcement officials; use of force; right of peaceful assembly; right to life; physical integrity; less-lethal weapons; deontology; public order.

Франциядағы құқық қорғау органдары қызметкерлерінің күш қолдануы

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Түйіндеме. Бұл мақалада құқық қорғау органдары қызметкерлерінің қоғамдық тәртіпті сақтау жөніндегі міндеттерін орындау кезінде күш қолдануын реттейтін халықаралық стандарттарға жан-жақты шолу берілген. Мемлекеттердің өз аумағында құқықтар мен бостандықтарды қамтамасыз етудің шұғыл міндетін мойындай отырып, осы міндет пен заңды құрметтеуді қамтамасыз ету қажеттілігі арасындағы тепе-теңдікті талдау қажет. Францияда қауіпсіздік пен қоғамдық тәртіпті сақтауға деген ұмтылыс оның аумағында тұратын адамдардың құқықтары мен бостандықтарын құрметтеуден гөрі басым болып көрінеді. Бұл мақалада, Атап айтқанда, ұлттық нормативтік актілер және

олардың халықаралық стандарттарға сәйкестігі, Францияның құқық қорғау органдары қызметкерлерінің қаруды қолдануы, заңсыз жиналыстар кезінде құқықтық тәртіпті сақтау және халық алдында тұрған нәсілдік кемсітушілік қарастырылады.

Негізгі сөздер: Адам құқықтары құқығы; Құқық қорғау органдарының қызметкерлері; күш қолдану; бейбіт жиналыстар құқығы; өмір сүру құқығы; физикалық қол сұғылмаушылық; аз өлімге әкелетін қару; деонтология; қоғамдық тәртіп.

Применение силы сотрудниками правоохранительных органов во Франции

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Аннотация. В этой статье представлен всесторонний обзор международных стандартов, регулирующих применение силы сотрудниками правоохранительных органов при выполнении ими своих обязанностей по поддержанию общественного порядка. Признавая настоятельную обязанность государств обеспечивать права и свободы на своей территории, необходимо проанализировать баланс между этой обязанностью и необходимостью обеспечения уважения закона. Во Франции стремление поддерживать безопасность и общественный порядок, по-видимому, является более приоритетным, чем уважение прав и свобод лиц, проживающих на ее территории. В этой статье, в частности, рассматриваются национальные нормативные акты и их соответствие международным стандартам, применение оружия сотрудниками правоохранительных органов Франции, охрана правопорядка при проведении незаконных собраний и расовая дискриминация, с которой сталкивается население.

Ключевые слова: право прав человека; сотрудники правоохранительных органов; применение силы; право на мирные собрания; право на жизнь; физическая неприкосновенность; менее смертоносное оружие; деонтология; общественный порядок.

Introduction. The use of force by representatives of the state is a recurrent problem in our societies, where the line between maintaining order and harming people is extremely thin. Indeed, the very function of the state is to ensure this balance between its duty to protect individual freedoms as well as the integrity of the people living within its territory while maintaining order and public safety. The abusive and

disproportionate use of force by law enforcement officials is a recurrent issue in France, that lead to others issues such as the lack of confidence between the population and the police. This issue has been regularly addressed by national and international human rights experts, particularly in the context of policing peaceful protests (see, ie. Amnesty International, report 2022-2023 on France), or in other situations such as the dismantling of migrant camps in France (see, ie. Human Rights Watch, 2017, “Like living in hell”: police abuses against child and adult migrants in Calais), or at the occasion of everyday missions of law enforcement officials. Indeed, the population needs to trust the representant of the State in the accomplishment of its duty of protection of liberties and rights. Law enforcement officials should have this role and image of protection, and not an image of repressive persons that may infringe physical integrity of the people. That’s why, in order to preserve the rule of law, the State must impose rules and regulation to itself and to its representant.

In this article, international standards on the use of force by law enforcement authorities and the compliance to them by the French State will be studied.

Materials and methods

To conduct the study, it is necessary to start by a comprehensive understanding of the international legal framework of the use of force by States’ officials, followed by national legislations and politics orientation in this matter to assess the compliance of France to those rules and standards. Reports and recommendations of international and national organisations will be relied on, as well as national and regional Courts’ decisions.

Discussion. Universal standards on the use of force by law enforcement officials

At the universal level, the combined lecture of the Code of Conduct for Law Enforcement officials (1979), the Basics principles on the use of force and firearms by law enforcement officials (1990) and the human right committee (HRC) general comments n°36 (right to life) and n°37 (right of peaceful assembly) allows to draw the following standards:

First, states must adopt rules and regulation on the use of force and firearms by law enforcement officials with respect to ethics, especially the protection of human dignity. Indeed, the later shall act by keeping in mind that their duty is in the first place to ensure and protect the people living within the territory of the State and their rights and liberty. In this regard, the use of force must be avoided as far as possible according to the principle of precaution, they should carry out their duty without resorting to force, inflict, instigate, or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, in any circumstances. Thus, the use of force falls into the principle of necessity.

In situations where the use of force is unavoidable, the later must be strictly necessary and proportionate to the situation faced by the officials, with the obligation to protect human life. The principle of proportionality here applies to the legitimate response to the seriousness of the offense and the objective to be achieved. On this matter, a particular attention should be drawn on the regulation of the use of firearms and less-lethal weapons. States shall work on the development of a range of weapons

and ammunition as broad as possible to equip their officials in order to differentiate the use firearms and other weapons in appropriate situations. This must be done with the aim of decreasing the use of weapons of any kind, and the reduction of the need to use means capable of causing death and injury to the persons. The use of weapons of any kind must be strictly controlled and the deployment of non-lethal incapacitating weapons should be carefully evaluated in order to minimize the risk of endangering the persons. In addition, national legislation on the use of firearms by law enforcement official must include guidelines that specify the circumstances under which they are authorized to carry firearms, prescribe the type of arms and ammunition permitted and in which appropriate circumstances they can be used, with the prohibition of weapons and ammunition likely to cause unwarranted injury or present unwarranted risk. The principle of precaution provides for the states on the need to equip law enforcement officials with self-defensive equipment such as shields, helmets, bullet proof vests and bullet-proof means of transportation, in order to decrease the need to use weapons of any kind. Furthermore, no firearms shall be used by the law enforcement officials against persons except in case of self-defence or defence of others against imminent threat of death or serious injury, in preventing the perpetration of particular serious crime involving threat to life or in preventing the escape of a person presenting such danger and resisting their authority to prevent his or her escape. In all those cases, the use of firearms is an extreme measure that must be used only when other means are insufficient to achieve the objectives. The state's officials must identify themselves as such and clearly express their intention to use firearms unless it would place them or other persons at risk of death or serious injury or it would be clearly inappropriate or pointless due to the circumstances of the situation. The use of less-lethal weapons deserves a special attention. Less lethal weapons are police batons, hand-held chemical irritants, chemical irritants launched at a distance (tear gas), conducted electrical weapons ("taser"), kinetic impact projectiles, dazzling weapons, water cannon, acoustic weapons and equipment. The importance to tackle their use lies in the fact that they can inflict serious injury or death, in some case the use of those weapons is potentially unlawful. The Office of the High Commissioner for Human Rights (HCHR) published a guidance on less-lethal weapons and their use and risks that they can represent as well as circumstances in which their use can be unlawful. For instance, the use of chemical irritant launched at distance and of kinetic impact projectile can be unlawful when they are fired in the head or in the face of an individual, especially at a short distance, owing to the high risk of death or serious injury. In any case, less-lethal weapons shall be developed with serious testing, selection and evaluation of the risks they may represents.

Secondly, the qualification of law enforcement officials shall be ensured by the states from the selection of those officials by a proper screening procedure, the providing of a thorough professional training which shall be continuous and subjected to periodic review. This training must draw a special attention on issues of police ethics and human rights. The formation must tackle alternatives to the use of force and firearms, including the peaceful settlement of conflicts, the understanding of crowd

behaviour, methods of persuasion, negotiation and mediation and technical means, in the view of limiting the use of force and firearms. A specific training must be undergone by any official who is put in possession of any kind of weapon. In order to ensure the precaution principle of avoiding the use of force of any kind and excessive compartments of law enforcement officials stress counselling shall be provided to those that are involved in situation where use of force and firearms may be used.

Thirdly, alleged violations of the rules on the use of force by law enforcement officials must be subjected to effective and independent investigations. This consists in the establishment of effecting reporting and review procedures conducted by independent administrative or prosecutorial authorities which must be in position to exercise jurisdiction in appropriate circumstances. Moreover, detailed report must be sent promptly to the competent authorities responsible for administrative and judicial control, as soon as an incident involving the use of force by a public official occurs. The general duty of state to investigate entails the state to ensure independent, impartial, prompt, thorough, credible and transparent investigation when the use of force by its official lead to the allegation of violation of a right such as death or injury. The prosecution should explore the responsibility of superior officials and clarify the truth relating to the events leading to the incident. Perpetrators of unlawful use of force must be held accountable and the state shall provide appropriate remedies to the victim. It should be noted that such incident must lead the state to review its regulation on the use of force, as well as the operational procedures and the training of law enforcement officers.

The fundamental principle of non-discrimination is of an utmost importance in the action of law enforcement officials. Indeed, the UN HCHR published a report in 2021 in which he noted that a large number of incidents of deaths at the hands of law enforcement officials concerns Africans and people of African descent, and that the great majority of these “incidents” took place in Europe, Latin America and North America. This is part of a more systemic racism, marked by structural inequalities and the marginalisation and exclusion of certain populations. In particular, the report mentions recurrent situations in which the victims of the police force did not represent an imminent threat of death or serious injury that would have justified the use of such a high level of force against them. In order to combat this profound discrimination and to put an end to the impunity observed for human rights violations by police forces, the High Commissioner has drawn up a list of recommendations and a 4 points agenda toward transformative change for Racial Justice and Equality. Among them, the absolute need for states to provide for clear and effective legal framework on the use of force by law enforcement officials with respect for human rights and for the international principles on the use of force and firearms of legality, precaution, necessity, proportionality, accountability, and non-discrimination. The report also recommends the publication by states of data concerning the law enforcement officials’ actions leading to death or serious injury and the related prosecution and conviction, the publication of data on racial profiling and on ethnic origins of the victims.

The universal standards on the use of force by law enforcement officials address some specific situations, where the possibility of excessive use of force or arbitrary deprivation of life is more at risk. On this point, A particular attention should be drawn on the crowd control and the right of peaceful assembly, which is a fundamental right embodied in core universal human rights documents. As the situation where assemblies don't fall within the scope of the right of peaceful assembly are narrow (HRC general comment on the right of peaceful assembly, 2020), the use of force in the context of policing unlawful assembly should occurs rarely. The first duty of law enforcement officials regarding peaceful assemblies is to prevent it from any unwarranted interference and to facilitate their progress, to protect journalists, monitors and observers, medical personnel, and other members of the public. Any use of force must comply with the fundamental principles above mentioned and shall restrict to the minimum extent necessary. Law enforcement officials must seek to de-escalate situations that might result in violence and must use non-violent means to do so. When the use of violence is unavoidable, a prior warning is necessary and must be followed by a time for the crowd to disperse. Moreover, the use of firearms is prohibited unless it is strictly necessary and only in the cases above mentioned. In view of the threat for life caused by rubber coated bullet and other attenuating energy projectiles, they should be subject to the same prohibition as firearms. The law enforcement officials must be specifically trained on the control of crowd and must be appropriately equipped with protective equipment and less-lethal weapons. Less-lethal weapons with wide area used to disperse, such as tear gas and waters cannons shall be used in last resort following a verbal warning.

At the regional level, the jurisprudence of the European Court of Human Rights (ECHR) only will be tackled, as this study address the compliance of France to the international standards on the matter. The framework of the use of force by law enforcement officials has been mostly build from the articles 2 (right to life) and 3 (prohibition of torture and other inhuman or degrading treatment or punishment) of the Convention. In several cases, the Court condemned States for violation of those articles linked to an abusive or excessive use of force, both on the material aspect of the right (ECHR, 2018, Semache v. France) and the procedural aspect (ECHR, 2019, Chebab v. France). The rule of law implies that when a right is violated by the state or its representant, in the present case law enforcement officials, no impunity is allowed and states shall provide a legal framework for the work of its police forces with ethics and adherence to professional standards, as well as effective report and investigation procedures in case of breach of the law by law enforcement officials. To be effective, complaints investigations must meet the principles of independence, adequacy, promptness, public scrutiny and victim involvement (Commissioner for human rights of the ECHR, 2009).

The case of France

The mission of guaranteeing and maintaining public order is the primary historical mission of the State in the French tradition. Over time and as the modern state has evolved, this policing mission has been seen as having to be permanently linked to

questions of individual freedom and rights. This spirit can be found in the founding documents of the French republic, The Declaration of the rights of man and the citizen (1789). The article 12 provides the aim of the public forces, which is that “the guarantee of human rights requires a public force, but one instituted for the benefit of all”. Thus, the public order should be understood as “the shelter for freedom and rights” (Cahn, 2019), and the State must preserve it in order to ensure the enjoyment of those later. Moreover, the rule of law impose to the State and its agents to not inflict suffering and to not violate fundamental rights such as the right to life and to physical integrity of the persons.

National regulation on the use of force:

The main source of law governing the use of public force is the French internal security code (CSI), which sets out the organisation, missions, duties and operations of the various branch of police and gendarmerie. This code states the principles of necessity and proportionality regarding the use of force (article R.432-18 CSI). Concerning the use of weapons, especially firearms, the law meets the international standards, in particular the obligation to be identifiable as a law enforcement official; the principle of absolute necessity and strict proportionality; and the circumstances when firearms can be used are limited and clearly described (article L435-1 CSI).

Nevertheless, the excessive and unlawful use of violence by law enforcement officials in France remains a topical issue that requires a response from the government. Two recent cases that received important media coverage must be cited to illustrate the kind of incident where a strong presumption of an unlawful use of force by law enforcement officials exists. Both of the cases are still in investigation and few official information are public, that’s why precaution must be used when addressing them. The first case concerns the deprivation of life of a 17 years old minor by a police officer in the context of a roadside check that fired the young man from the car window, this “incident” was filmed and the video shows unequivocally that the use of a firearm by the law enforcement official didn’t comply either with French law or with international law as he wasn’t in an exceptional situation that would have allow him to use its firearm. The officer that shot claimed that it was self-defence, but the investigations finds that it was not (Liberation, 2023). The second case deals with serious injuries sustained by a young man after being shot with a kinetic impact projectile and blows. This “incident” took place on the fringes of violent gatherings in reaction to the murder of the 17-year-old by a police officer few weeks before. Although the law enforcement officials involved in the incident claimed that used necessary and proportionate force, video-surveillance images revealed by an independent media show that the officers involved were hardly identifiable as such, and above all that they did not appear to be in a situation of imminent danger with regard to the victim or any other person, making the use of violence using less lethal weapons and subsequent physical and verbal violence unwarranted and avoidable. Their behaviour therefore appears to have been manifestly disproportionate. Moreover, the videosurveillance shows that the law enforcement official that fired with the kinetic impact projectile (LBD) from the back and in the head of the victim, causing to him very serious injury (Mediapart, 2023)

Those situations, which are far from being isolated cases, show a lack of compliance of law enforcement officials to the law and to their deontology principle. This issue is regularly tackled, at the international level (the issue has been raised for instance during the 3rd UPR of France, 2023) as well as at the national level, where the government has been questioned numerous times and to which recommendations are done (see, i.e. Commission Nationale Consultative des Droits de l'Homme [CNCDH], 2021 and 2023).

If efforts are made by the French government in order to comply with the multiple recommendations, such as the lengthening of the formation for police officers (CNCDH, 2023), they remain insufficient and they are accompanied by measures to strengthen police powers. For instance, the common rules above mentioned concerning the use of weapons by public security forces have been established by a law of 2017 concerning public safety. At the occasion of its UPR, the national report of the French delegation claimed that this law allowed to clarify the rules on the matter, by incorporating the principles set out by the ECHR and national courts, including the principles of absolute necessity and strict proportionality. Paradoxically, this law is part of a series of legislations that always strengthen the powers of police forces which, combined with the too often unconditional support affirmed by politicians in the public sphere, tends to strengthen the feeling of impunity when committing unlawful acts (CNCDH, 2021). This political focus on security linked with public order put before the ideal of freedoms and rights is in the heart of the law itself (Cahn, 2019).

This government support is also reflected in the regulation of the use of weapons by law enforcement officials. The sociologist Sébastien Roché conducted a works on the matter, that shows that France is one of the European countries to provide the most weapons to its agents, especially less-lethal weapons (Roché, 2020).

Control of the law enforcement official actions and investigations in case of unlawful use of force:

The control of the action and respect for deontology of law enforcement officials is conduct by two inspection bodies that correspond to the two branches of law enforcement officials: the police, which is under the scope of the ministry of internal affairs and the gendarmerie, which is under the scope of the ministry of army. Those two inspection bodies are the IGPN (Inspection Générale de la Police Nationale) and the IGGN (Inspection Générale de la Gendarmerie Nationale). The control of the action can be done randomly or can follow up on a report. The law states that any failure by a law enforcement official to comply with the rules and principles defined by the it will expose him/her to disciplinary action in accordance with the rules specific to his/her status, independently of any criminal sanctions that may be incurred (articles R434-25 to R434-27 CSI). The second authority of control of law enforcement official's actions is the one of the French defendeur of rights (Défenseur des droits). Its special status is enshrined in Article 71 of the French Constitution as an independent authority in charge of monitoring the respect of rights and liberty by state's institutions. Concerning the law enforcement officials, the defendeur of rights can be seized by any person that is victim or a witness of a law enforcement official's breach of ethics or unlawful use of

force, or can seize itself. If the ombudsman finds that a breach has occurred, he or she will refer the matter to the relevant inspection body for disciplinary sanctions.

Awareness is raised on the effectiveness of those inspection bodies, especially on the necessity for the State to provide more guarantee of independence (see, i.e. communication of the Council of Human Rights to the Universal periodic review [UPR] committee, 2023). Indeed, the ECHR stated that the IGPN and IGGN didn't comply with the appearance of independence and impartiality required by it (ECHR, *Chebab v. France*, 2019). On this point, the IGPN has been opened to external personality, which is a first but tiny step toward more independence (CNCDDH, 2023).

Concerning the judicial proceedings, victims of violation of their rights caused by a potential unlawful or excessive use of force by the police, have to lodge a complaint within the police or gendarmerie, which will be forwarded to the public prosecutor who, if he considers that there is reason to believe that a violation of rights has indeed taken place and that the use of force was illegal, unnecessary, or disproportionate, will take legal action which will lead to an investigation. enforcement officer on the judicial scene and can lead to criminal sanction and remedy to the victim. It should be parallel to the internal disciplinary procedure. In case of refusal from the police officer to accept the complaint, which is illegal but not impossible, any person can seize directly the prosecutor. The limit of this last type of control is that victim can be scared or ashamed to lodge complaint against a law enforcement official to his peers. The responsibility of the author convicted of unlawful use of force can be engaged, but also the state itself can be held responsible on the grounds of gross negligence on the part of the State (*Tribunal Judiciaire de Paris*, 2020).

However, another critic can be made regarding the slowness issue of this proceedings. Indeed, international human rights bodies have called France to conclude the investigation proceedings in the case of the death of Adama Traore and to ensure that those responsible for it will be prosecuted and sanctioned in an appropriate way (UN Committee on the Elimination of Racial Discriminations [CERD], 14 December 2022 and UN HCR, November 2021). In April 2023, a case has been filed before the ECHR where the claimant holds the State liable for a violation of article 3 of the ECHR following the permanent loss of his left eye caused by a hand grenade blast. The IGPN concluded an investigation and sent the perpetrator before a criminal court to be tried on charges of deliberate violence resulting in permanent disability, and that the shot was unjustified as the company was not besieged or surrounded. However, the judge ruled that the person who fired the shot was not criminally responsible, considering that it was an act of self-defence. The public prosecutor refused to appeal this decision. The claimant thus complains of a procedural infringement of Article 3, the general duty of the State obliging it to conduct an effective and official investigation, leading to the identification and punishment of those responsible

At the occasion of its 3rd UPR, France stated that measures were established to provide effective remedy to victims of potential unlawful use of force by the police, by recalling the above-mentioned remedies and possibility of becoming a civil party in the case, which implies calling on the advice of a lawyer. Declares that an officer suspected

of using excessive force may be subject to an administrative and judicial investigation, which is not systematic except in the case of a shot that has caused injury or death. Declares that in 2020, 1,708 sanctions will be imposed on police officers, including 120 for lack of exemplarity, 52 for lack of probity and 62 for excessive use of force or coercion, and 15 sanctions will be imposed on gendarmes for unlawful violence. However, in 10 years, disciplinary sanctions for excessive or unlawful use of force have been almost divided by three (Halissat and Leboucq, 2021). France then refers to the procedure for expatriation during legal proceedings against a law enforcement official suspected of breaching professional deontology, which consists of changing the competent jurisdiction when the officer has a habitual relationship with magistrates in order to guarantee the principle of impartiality. However, this practice is not systematic and must sometimes be requested by the victims themselves (France's response to the UN HRC, 2022).

On 11 October 2023, the supreme court of France ruled that the French State had also failed to monitor compliance by public officials with the rules of professional conduct to which they are subject (Conseil d'Etat, 2023). Indeed, law enforcement officials have the obligation to be identifiable by wearing an individual identification number, even when the law authorises them to carry out an operation in civilian clothing. According to the court, the disobedience to this obligation by law enforcement officials constitutes a widespread failure within the police rank. The court also emphasized the failure of the State to ensure that its employees comply with this obligation, since it only states that this obligation was regularly reminded without taking other measures to ensure the respect of the wearing of this identification number to the agents. The supreme court ordered the state to take all necessary measures to ensure compliance with this obligation and to modify the characteristics of the individual identification number so that it is sufficiently legible in all operational contexts. In the same idea of protecting victims of abuses from the law enforcement officials by allowing them to identify the author of violations of their rights, the State must take all necessary measure to encourage law enforcement officials to systematically use their pedestrian camera in situation where violence could arise to allow administrative and judiciary bodies to understand the circumstances of incidents.

The issue of racial profiling:

Racial profiling is a reality in France that is not confined to isolated cases (French supreme courts, Cour de Cassation, 2016 and Conseil d'Etat, 2023). The State doesn't establish data to characterise the number of identity checks carried randomly, or data on the people subject to these checks such as their sex, age, ethnic origin, etc. Nor is there any data on the incidents giving rise to the use of force, or on the number of allegations of violations of individual rights following the use of force by law enforcement officers, or on the number of these allegations that have given rise to administrative and judicial investigations, or on the outcome of these investigations. The national supreme court of France acknowledged the existence of a central loophole in the French system due to the lack of legal traceability of these controls. Indeed, in a survey published in 2017, the French Ombudsman pointed out that 94% of identity

checks didn't lead to a judicial proceeding, which means that there is no control of their legality possible in the majority of the cases. Moreover, the survey shows that there are 7 times as many checks among 18-25 year olds and 5 times as many among young black and Arab men, with behaviour that is prohibited by the code of ethics of law enforcement officials, such as being on a first-name basis, insults and bullying. This lack of compliance with the deontology has been since, observed numerous times (see, i.e. Human Rights Watch, 2020).

Although identity check have a legal framework (article 78-2 of the Code of Criminal Procedure) and that discriminations of any kind in police practices are strictly prohibited by the law (article R434-16 CSI), recommendations has been made for a complete overhaul of identity check procedures, with a more precise legal framework and improved traceability (CNCDH, 2021 and *Defenseur des droits*, 2020). The occurrence of discriminatory identity check founded only on physical characteristics, outside of the legal framework, have been the object of numerous sociological studies. Jérémie Gauthier explains it, in part, by the fact that physical description of individuals, in the police procedures, address their "type" as "European" "African" "arab". This type of description doesn't comply with the reality of the origin of the persons and most important, the racial profiling is seen as a working tool by police officers (Gauthier, 2015).

At the international level, the UN CERD expressed a great concern about the "disproportionate" high number of identity checks and arrests carried out against certain populations in France. These include people of African and Arab origin, Roma, travellers and aliens. As well as the high number of cases of excessive use of force and ill-treatment by the police against these same groups of people is preoccupying (UN CERD, 2022). The UN HCHR's 2022 report on Racial Justice and Equality for African descent expressed concerns about the independence of mechanisms for monitoring the actions of law enforcement officials and called France to account on a number of points in the case of Adama Traoré, a 24-year-old man who died following a police apprehension, including the failure to charge racial discrimination. Similar issues were also raised during the 3rd cycle of France's UPR. With regard to France's responses to international bodies, its position on discriminatory identity checks and systemic discrimination is clear. It does not legally recognise the concept of "person of African descent", or other minority, and therefore does not compile any statistics. France believes that the fight against this discrimination is part of the fight against all forms of discrimination, and more specifically as part of the national plan to combat racism, anti-Semitism and discrimination based on origin (2023-2026). The French government thus expresses its intention not to take additional specific measures to fight against the problems of discrimination linked to ethnic origin, real or supposed, in the context of the law enforcement official's actions, and, particularly, through the practice of racial profiling. It points out that French law prohibits such discrimination and provides for remedies in the event of a police officer's breach of ethics. In its response to the CERD declaration following the killing of the 17 years old man above

mentioned, the French government refutes any accusation of racism or systemic discrimination by the police in France. (CERD, 2023 and France Diplomacy, 2023).

The use of force by law enforcement officials in the context of undeclared or unauthorized assemblies:

The cases of incidents involving disproportionate use of force by law enforcement officials during protest in France have increased since 2018 and the repressive reactions linked to the yellow jackets movement, and in the context of other protests such as, for instance, those related to the reform on retirement regime. Numerous cases of serious injuries or even deaths (see, i.e. Amnesty international, 2022) as occurred in this context and as the result of the use of force by law enforcement official, in charge of the policing of those assemblies have been reported.

Especially, the systematic repression of demonstrations, the abusive and disproportionate use of force by the law enforcement officials and the softening of the legislation on the use of lethal weapons by the police (CNCDDH, 2021 and Roché, 2020) in this context has been tackled. In particular, it refers to the new policing plan adopted in 2021, which states that although there have been positive developments in terms of keeping certain units at a distance from assemblies and the favouring a de-escalation approach, the level of violence observed during demonstrations remains as high as ever, units with no specific policing training are involved and the use of particularly dangerous weapons that are not appropriate for policing has not ceased. In addition, this plan still does not recognise the role of independent observers, despite a supreme Court decision of 2021 (CNCDDH, 2023).

The policing plan is a general document whose purpose is to define the framework for policing, applicable to all events taking place on national territory, setting out a common doctrine for all law enforcement officials. The guidelines include a reminder of the code of conduct applicable to law enforcement officials, special attention to journalists and their protection during protests, the need to be identifiable as law enforcement officer and the modernisation of verbal summonses. Nevertheless, the plan confirms the value of using intermediate force resources and less-lethal weapons to maintain law and order, in particular the use of the GM2L grenade (which does not contain explosives), the replacement of sting-ball grenades by a more recent model, and the use of LBDs (which are kinetic impact projectiles) with the introduction of a supervisor alongside the shooters except in cases of legitimate self-defence. Moreover, as it has been above explained, the use of weapons in the control of crowd in France stays at an high range (CNCDDH, 2023). Another aspect of the crowd control policy worries human rights defenders, which is the fact that they are often operated by police brigades which are not formed to this purpose (CNCDDH, 2021, Cahn, 2019).

It should be noted that French law makes a distinction between declared demonstrations and so called “atroupements”, which are defined as any gathering of people on the public highway likely to disturb public order. The later may be dispelled by the law enforcement officials after two unsuccessful summonses (article L211-9 CSI). Declared assemblies can be banned for reasons of risk of disturbing public order. This was the case, for example, in several French departments recently when peaceful

assemblies in support of the rights of the Palestinian people and calling on the government to take action to demand a ceasefire in Gaza were held. In such cases, it is up to the administrative judge to assess whether or not the ban is proportionate. National and international bodies for the protection of human rights have expressed concerns about the quasi-systematic ban of protests, which would infringe the freedom of peaceful assembly (see, i.e. Conseil d'Etat, 2023). In this regard, we must remind that the UN HRC in its general comment on the right of peaceful assembly includes in the scope of the article 21 of the ICCPR spontaneous assemblies as long as there is no violence and that a collective disobedience by non-fulfil legal requirements for assemblies should not allow the state to interfere with the right of peaceful assembly and, a fortiori, to do it by using force.

During the 3rd cycle of France's Universal Periodic Review, the State reiterated that the use of force in the context of policing of assemblies was guided by the principles of strict necessity and proportionality, and that measures were taken to ensure that the use of force was monitored and that administrative and judicial investigations were carried out in the event of incidents involving the use of force and resulting in injury or death to the persons. The report refers in particular to the code of ethics distributed to the law enforcement officers, the regular reminder of the obligation to wear the individual identification number and the systematic use of pedestrian cameras in high-risk situations. It should nevertheless be remembered that these obligations are not respected in a large number of cases by law enforcement officials, as explained above, and that the State must provide remedies to these deficiencies in order to preserve the fundamental rights of individuals, in particular respect for their right to life, their physical integrity, human dignity and the right to peaceful assembly.

Results and conclusion. The international principles on the use of force and firearms are of an utmost importance in order to preserve the respect by the State and the enshrinement of rights and freedoms of the population, while ensuring their safety by preserving public order.

At first sight, according to the laws and procedures set by France, there is a compliance with international standard in their majority, although some legal provisions such as the qualification of unlawful protests and their systematic dismissal by the law enforcement official do not comply with all the international recommendation. The study of the situation in France shows that even with the existence of regulations, formations, and forms of control, the abusive and disproportionate use of force and arms by law enforcement officials remain a reality. This significate that a work must be done in order to come as close as possible to international standards and international monitoring bodies, as well as national human rights authorities, give recommendation on this matter that should be followed.

Moreover, it must be stated that the problem of racial discrimination in the French police represent a part of a bigger issue of systemic racism that should be tackled seriously by the authorities.

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