



**Convention on the
Rights of the Child**

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COMMITTEE ON THE RIGHTS OF THE CHILD

Fifty-first session

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 44 OF THE CONVENTION**

**Concluding observations of the Committee on the
Rights of the Child: France**

1. The Committee considered the combined third and fourth periodic report of France (CRC/C/FRA/4), at its 1401st and 1402nd meetings (see CRC/C/SR.1401-1402), held on 26 May 2009, and adopted at the 1425th meeting, held on 12 June 2009, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined third and fourth periodic report of the State party, as well as the written replies to its list of issues (CRC/FRA/Q/4 and Add. 1). It also notes that the State party provided information on the Overseas Departments and Territories, it however regrets that this information is presented in an annex and does not follow the general guidelines regarding the form and content of periodic reports (CRC/C/58/Rev.1). The Committee appreciates the presence of a high-level and multi-sectorial delegation and the open and positive dialogue it conducted, which allowed a better understanding of the situation of children in the State party.

3. The Committee reminds the State party that these concluding observations should be read in conjunction with its concluding observations adopted on the initial report of the State party to the Optional Protocols on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict, contained in CRC/C/OPSC/FRA/CO/1 and CRC/C/OPAC/FRA/CO/1.

B. Follow-up measures undertaken and progress achieved by the State party

4. The Committee notes with appreciation the positive developments related to the implementation of the Convention, such as:

(a) Law No. 2004-439 of 26 May 2004 on the reform of divorce with the objective to simplify and accelerate the procedures of separation, in particular to reduce the length and exposure of children to these procedures;

(b) The establishment under the Law No. 2004-1486 of 30 December 2004 of the High Authority to Combat Discrimination and Promote Equality (*Haute Autorité de Lutte contre les Discriminations et pour l'Égalité*, HALDE);

(c) Law No. 2005-102 of 11 February 2005 on equal rights and opportunities and the inclusion and participation of persons with disabilities;

(d) Law No. 2005-744 of 4 July 2005 on the reform of adoption;

(e) Ordinance No. 2005-759 of 4 July 2005 on the reform of filiation, abolishing the concepts of legitimate and natural birth;

(f) Law No. 2006-399 of 4 April 2006, which strengthens the prevention and punishment of domestic violence and violence against children and raises the legal minimum age for marriage for girls to 18 years old;

(g) Law No. 2006-728 of 23 June 2006 on succession and donation, creating equality between children, regardless of birth status;

(h) Law No. 2007-290 of 5 March 2007 instituting an enforceable right to housing;

(i) Law No. 2007-293 of 5 March 2007 on the reform of child protection;

(j) Law No. 2007-308 of 5 March 2007 on legal protection of adults:

(i) Reinforcing the right of the child to be heard;

(ii) Including the possibility for members of a child's family, medical and social services and members of Parliament to seize the institution of the Children's Ombudsperson (*Défenseure des enfants*);

(iii) Creating focal points in charge of child protection in the departments.

(k) The establishment, on 16 January 2009, of a High Commissioner for Youth in charge of devising a coherent policy for the 16 to 26 year-old youth.

5. The Committee further welcomes that France has become a party to the following international conventions:

(a) Convention for the Protection of All Persons from Enforced Disappearance, on 23 September 2008;

(b) Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, on 2 October 2007.

C. Main subjects of concern and recommendations

1. General measures of implementation (arts. 4, 42 and 44, para. 6 of the Convention)

Committee's previous recommendations

6. The Committee regrets that some of the concerns and recommendations it made upon consideration of the second periodic report of the State party have been insufficiently addressed, particularly those relating to reservations and declarations to the Convention, the incorporation of the concept of the child as a subject of rights, the minimum age of criminal responsibility, birth registration, family reunification, intercountry adoption, corporal punishment, unaccompanied minors and juvenile justice (CRC/C/15/Add. 240).

7. The Committee urges the State party to make every effort to address those previous recommendations that have been partly, insufficiently or not implemented at all, and to provide adequate follow-up to the recommendations contained in the present concluding observations in its next periodic report. The Committee also urges the State party to incorporate the concept of the child as a subject of rights in all policies, programmes and projects.

Reservations and declarations

8. The Committee regrets that the State party continues to put forward domestic legal concerns regarding the Committee's previous recommendation to withdraw the reservation in relation to article 30 and the two declarations in relation to articles 6 and 40 of the Convention.

9. The Committee reiterates its recommendation to the State party to review its position with respect to children belonging to minority groups and to consider withdrawing its reservation to article 30 of the Convention, and both declarations to articles 6 and 40 of the Convention.

Legislation

10. While welcoming the alignment of the jurisprudence of the Court of Cassation (*Cour de Cassation*) on the direct applicability of the Convention with the jurisprudence of the Council of State (*Conseil d'État*), the Committee is concerned at the limited number of provisions which are recognized as having such direct effect.

11. The Committee recommends that the State party continue to take measures to ensure that the Convention, in its entirety, is directly applicable on the whole territory of the State party and that all the provisions of the Convention can be invoked as a legal basis by individuals and applied by judges at all levels of administrative and judicial proceedings.

Coordination

12. The Committee takes note of several reforms with regard to the coordination of actions in the field of child protection, such as the transfer of the Inter-ministerial Taskforce on the Family from the former Ministry of Family to the Ministry of Labour, Social Relations, Family and Urban Affairs and the strengthening of the mandate of the President of the General Council in each department as a focal point for the implementation of child protection, as well as the establishment of the High-Commissioner for Youth between 16 and 26 years of age. However, it remains concerned at the lack of coordination between the national and the departmental level, including the Overseas Departments and Territories. The Committee is further concerned over the absence of a parliamentary commission in charge of children's rights.

13. The Committee reiterates its previous recommendation, urging the State party to establish a body for overall coordination of the implementation of the Convention and its two Optional Protocols between the national and the departmental levels, including the Overseas Territories and Departments, with a view to decreasing and eliminating any possibility of disparity or discrimination in the implementation of the Convention and its two Optional Protocols and to ensure that sufficient human and financial resources be allocated and a clear mandate be established for this coordinating body (CRC/C/15/Add. 240, para. 9). It further recommends the establishment of a commission for children's rights at both levels of the Parliament.

National strategy and plan of action

14. The Committee expresses concern at the absence of a comprehensive national strategy for children and a related national plan for its implementation, based on the framework of the Convention and endorsed at the highest level of the Government. The Committee is further concerned that this may result in the lack of consideration of child rights when formulating the annual plans as well as in overall planning and budgeting by the Government.

15. The Committee encourages the State party to engage in a broad dialogue with political forces, professionals, civil society and children, aimed at the formulation of a national comprehensive strategy on children. This strategy should cover both, the guarantee of universal rights to all children equally as well as measures of special protection for those most vulnerable, especially those living in Overseas Departments and Territories. This plan of action should take into account the outcome document "A World Fit for Children" adopted by the United Nations General Assembly at its special session on children in May 2002 and its mid-term review in 2007. The Committee also recommends that the State party ensure adequate budget allocation and follow-up and evaluation mechanisms for the full implementation of the plan of action to regularly assess progress achieved and identify possible deficiencies.

Independent monitoring

16. The Committee welcomes that two institutions, namely the Children's Ombudsperson (*Défenseure des enfants*) and the National Consultative Commission of Human Rights

(*Commission nationale consultative des droits de l'homme, CNCDH*) play an important role in monitoring the implementation of the rights of the child. The Committee notes the widespread activities of the Children's Ombudsperson in the implementation of the Convention, including its individual complaint mechanism and the advisory role of CNCDH on legislation relating to child rights. The Committee however regrets that the independent monitoring institutions are not regularly consulted on draft legislation.

17. The Committee recommends that the State party ensure the promotion of the complementary role of the independent monitoring institutions for the full implementation of the Convention and to make further progress in enhancing the role of the Children's Ombudsperson, in particular with respect to its individual complaint mechanism and provide it with adequate financial and human resources to carry out its mandate effectively. The Committee further encourages the State party to regularly consult both institutions on draft legislation. In this regard, the Committee draws the attention of the State party to its general comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child.

Allocation of resources

18. The Committee notes with appreciation the increase in expenditures on children in recent years, such as in the area of education. Nevertheless, the Committee is concerned that such increase is not sufficient to eradicate poverty and tackle inequalities, in particular with regard to the right to housing and medical services in school. The lack of consistent budgetary analysis and child-rights impact assessment makes it difficult to identify the expenditure allocated to children throughout the country and whether it serves to effectively implement policies and legislation affecting them. Furthermore, the Committee shares the concern expressed by the CNCDH with regard to the disparities in resource allocation in the different departments, including the Overseas Departments and Territories.

19. The Committee recommends that the State party, in accordance with article 4 of the Convention, allocate the maximum extent of available resources for the implementation of children's rights, with a special focus on eradicating poverty and reducing inequalities across all jurisdictions, including the Overseas Departments and Territories. In this endeavour, the State party should take into account the Committee's recommendations issued after the day of general discussion devoted to "Resources for the Rights of the Child - Responsibility of States", held on 21 September 2007. The Committee further recommends that the State party introduce budget tracking from a child-rights perspective and regularly conduct child-rights impact assessment to evaluate whether the allocation of budget is sufficient and adequate for the development of policies and the implementation of legislation.

Data collection

20. The Committee takes note of the establishment of a centralized data collection and monitoring centre gathering information relating to children at risk, namely the National Observatory for Children at Risk (*Observatoire national de l'enfance en danger, ONED*). However, it remains concerned at the process of collecting data from different sectors and whether there is a unified method in assessing and documenting the data which is harmonized

between data providers. The Committee is further concerned at the conditions under which data providers and processors can access the information collected, in particular at the lack of a comprehensive policy on the use of personal data.

21. The Committee recommends the establishment of a harmonized nationwide system to collect and analyse data, disaggregated on all areas covered by the Convention and its two Optional Protocols, as a basis for assessing progress achieved in the realization of children's rights and to help design global and comprehensive policies for children and their families and facilitate the promotion and implementation of the Convention and its two Optional Protocols. The Committee further recommends the State party to solely enter unidentified personal information in the databases and to regulate by law the utilisation of the collected data in order to prevent misuse of the information.

Dissemination of the Convention, training and awareness-raising

22. The Committee welcomes the recent efforts of the State party to implement compulsory training of professionals working with or for children on the principles and provisions of the Convention, with a particular focus on children at risk. It also notes that school curricula contain modules on education of citizens, including human rights. Nonetheless, the Committee is concerned at the low level of knowledge about the Convention among children and adults.

23. The Committee recommends that the State party further strengthen its efforts to ensure that all the provisions of the Convention and its two Optional Protocols are widely known and understood by adults and children alike throughout the State party.

Cooperation with civil society

24. While welcoming the efforts undertaken by the State party to establish relationships between the Government and civil society, including non-governmental organizations (NGO), the Committee is concerned that cooperation with NGOs with regard to the preparation of the report as well as to the implementation of the Convention remains insufficient.

25. The Committee recommends that the State party strengthen the active and systematic cooperation with civil society, including NGOs and children's associations, in the promotion and implementation of children's rights, including, their participation in the elaboration of policies and cooperation projects, as well as in the follow-up to the concluding observations of the Committee and the preparation of the next periodic report. The Committee encourages the State party to support civil society at the local level and to respect its independence.

International cooperation

26. The Committee notes with appreciation the contributions made by the State party to various child-rights related activities in the area of international and bilateral cooperation.

27. The Committee encourages the State party to continue to strengthen its activities in the area of international cooperation, inter alia, by striving to achieve the United Nations

0,7 per cent target of gross domestic product (GDP) for international development assistance. The Committee further encourages the State party to take into due account, in its bilateral cooperation with other States parties to the Convention and its two Optional Protocols, the concluding observations and recommendations made by the Committee in respect of those countries. In this regard, the Committee invites the State party to take into account its recommendations issued in 2007 after the day of general discussion on “Resources for the Rights of the Child – Responsibility of States”.

2. General principles (arts. 2, 3, 6 and 12 of the Convention)

Non-discrimination

28. The Committee welcomes the establishment under the Law No. 2004-1486 of the High Authority to Combat Discrimination and Promote Equality (*Haute Autorité de Lutte contre les Discriminations et pour l'Égalité*, HALDE), which has the power to receive individual complaints and act on its own initiative to remedy problems of discrimination based on national origin, disability, health, age, gender, family and marital status, trade union activity, sexual orientation, religious beliefs, physical appearance, surname, and genetic characteristics. It also notes with appreciation the effort of the State party to establish equality between children, irrespective of the circumstances of their birth, through adoption of Ordinance No. 2005-759 abolishing the concepts of legitimate and natural birth and Law No. 2006-728 on succession and donation, creating equality regardless of the child's birth status. It also notes the abolishment of discrimination with regard to financial benefits for non-French children and parents of “large families” as well as the Court of Cassation decision, according to which, foreign families legally residing in France with their children, are fully entitled to child benefits; however, it regrets its lack of implementation. The Committee further appreciates that in the Overseas Territory of Mayotte, the State party has forbidden discrimination on grounds of sex or legitimacy among children in matters of inheritance.

29. The Committee recommends the State party to further support the role of HALDE in combating discrimination and promoting equality. The Committee also urges the State party to implement the decision of the Court of Cassation on the right of non-French families to be granted child benefits.

30. While welcoming the inclusion in school curricula of activities to counter racism, anti-Semitism and xenophobia, the Committee expresses concern at persistent discrimination, in particular in the field of economic and social rights, hampering social progress, justice and non-discrimination, especially with respect to children residing in the Overseas Departments and Territories, asylum-seeking and refugee children, as well as children belonging to minority groups such as Roma, travellers (“*gens du voyage*”) and religious minorities. It further expresses concern that the new law on control of immigration, integration and asylum providing for DNA testing for immigration applicants and quotas for deportations, could contribute to generate a climate of discrimination against immigrant children.

31. The Committee urges the State party to ensure full protection against discrimination in the field of economic and social rights and on the grounds of race, origin, colour, name, ethnic or social origin, name or other grounds. It urges the State party to continue its efforts to eliminate regional disparities and to take measures to prevent and combat the persistent discrimination against foreign children and children belonging to minority groups, and create a climate of social progress, justice and equality. The Committee further urges the State party to take all necessary measures to ensure that cases of discrimination against children in all sectors of society are effectively addressed.

32. The Committee is also concerned at the stigmatization, including in the media and in school, of certain groups of children, in particular vulnerable children and children living in poverty, such as Roma and disabled children, children belonging to minorities and children living in suburbs (*banlieues*), which leads to a general climate of intolerance and negative public attitudes towards these children, especially adolescents, and may be often the underlying cause for further infringements of their rights. The Committee is further concerned at the general negative attitude of the police towards children, in particular adolescents.

33. The Committee recommends that the State party take measures to address the intolerance and inappropriate characterization of children, especially adolescents, within the society, including in the media and in school, and to promote the positive and constructive attitude of the police towards children and adolescents.

34. The Committee notes that no information was included in the report on the measures and programmes relevant to the Convention undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account general comment No. 1 (2001) on the aims of education. The Committee requests that specific information, as outlined above, be provided in the next periodic report as well as on the measures taken to follow-up on the 2009 Durban Review Conference.

Best interests of the child

35. The Committee notes that in 2005, the Court of Cassation (*Cour de cassation*) has aligned its jurisprudence with that of the Council of State (*Conseil d'État*) acknowledging the direct applicability of article 3, paragraph 1, of the Convention. It also takes note of the integration of the principle of the best interests of the child in legislation on childcare and child protection, divorce, succession and donation. However, the Committee remains concerned about the paucity of impact assessments of certain government actions and decisions on the best interests of the child, as well as the persisting differences in practice in understanding the application of this principle. Furthermore, this principle is rarely put into action by the legislative bodies, at the municipal, regional and national levels.

36. The Committee recommends that the State party

(a) Take all appropriate measures, in particular through concrete procedural rules, to ensure that the principle of the best interests of the child, in accordance with article 3 of the Convention, adequately guides all government actions and decisions with

regard to all legal provisions as well as in judicial and administrative decisions and in projects, programmes and services which have an impact on children;

(b) Ensure that discrepancies in the application of this principle remain minimal;

(c) Assess the impact on the best interests of the child of government actions and decisions, as well as actions and decisions by the civil society, in order to further enhance its own understanding - and therefore its guidance - of what constitutes "best interests", as well as provide training to all decisions makers (judges, public officials, legislative bodies etc.).

Right to life, survival and development

37. While welcoming the establishment of a working group that elaborated a new assessment tool for the prevention of suicides of children in places of detention, the Committee is seriously concerned at the death of children in detention in 2008, as well as at the high prevalence of self-injurious behaviour among these children.

38. The Committee recommends that the State party use all available resources to protect the child's right to life, including by reviewing the effectiveness of preventive measures. The State party should also introduce a systematic, independent and public review of any unexpected death or serious injury involving children, either in care or in detention and use its results to enhance its preventive measures.

Respect for the views of the child

39. The Committee welcomes the changes introduced by the Law No. 2007-308 of 5 March 2007, which recognizes the child's right to a hearing in all proceedings concerning parental authority, succession, guardianship and adoption. Nonetheless, it reiterates its concerns that making the exercise of this right subject to the child's own request may give rise to discrimination and inconsistencies in practice. Furthermore, it welcomes the existence of a children's parliament; however it regrets that its recommendations are rarely taken into consideration.

40. The Committee recommends that the State party, in accordance with article 12 of the Convention, and taking into account the recommendations adopted by the Committee in 2006 after the day of general discussion on the right of the child to be heard, ensure that the right to a hearing in all proceedings concerning a child is widely disseminated to parents, teachers, headmasters, public administration, the judiciary, children themselves and the society at large, with a view to increasing opportunities for children's meaningful participation, including in the media. It urges the State party to give due weight to the opinions and recommendations of the Children's parliament in all instances of legal reforms that have a direct effect on children and to encourage initiatives to create such institutions at the departmental and municipal levels.

4. Civil rights and freedoms (arts. 7, 8, 13-17 and 37(a) of the Convention)

Birth registration

Birth registration in Overseas Departments and Territories

41. The Committee takes note of the enactment of the Law No. 2006-911 of 24 July 2006 with regard to Mayotte, which stipulates that all births must be registered and encourages the strengthening of the process by the Civil Status Review Commission (*Commission de révision de l'état civil*). The Committee further acknowledges the constraints with regard to the accessibility of children living along the Maroni and Oyapock rivers in French Guyana.

42. The Committee recommends that efforts be continued to ensure birth registration for all children on the territory of the State party. It further reiterates its previous recommendation urging the State party to increase its efforts to ensure birth registration for all children in French Guyana.

National birth registration

43. The Committee takes note of the information provided by the State party on the measures undertaken, in particular the adoption of Ordinance No. 2005-759 on the reform of filiation and the new role played by the National Council on Access to Personal Origins (*Conseil national pour l'accès aux origines personnelles*, CNAOP), in facilitating the child's access to his or her origins. Nevertheless, the Committee expresses concern at the long waiting period for new inquiries. The Committee also remains concerned that the mother, if she so wishes, can conceal her identity and oppose the right of the child to know his or her origins, depriving the child of a part of his or her rights.

44. The Committee reiterates its previous recommendation to the State party to take all appropriate measures to fully enforce the child's right to know his or her biological parents and siblings, as enshrined in article 7 of the Convention and in the light of the principles of non-discrimination (art. 2) and the best interests of the child (art. 3). The Committee further recommends the State party to ensure that new inquiries are treated in a timely fashion.

Freedom of thought, conscience and religion

45. The Committee notes that the State party has taken measures to attenuate the consequences of the Law No. 2004-228 of 15 March 2004 banning the wearing of "signs or dress through which pupils ostensibly indicate which religion they profess in public, primary and secondary schools", including the establishment of a mediator in the national public education system. Nevertheless, the Committee endorses the concluding observations of the Committee on the Elimination of Discrimination against Women, that the ban should not lead to a denial of the right to education for any girl and their inclusion into all facets of French society (CEDAW/C/FRA/CO/6, para. 20), as well as those adopted by the Human Rights Committee noting that respect for a public culture of *laïcité* would not seem to require forbidding wearing such common religious symbols (CCPR/C/FRA/CO/4, para. 23).

46. The Committee recommends that the guarantees of article 14 of the Convention concerning the right of the child to freedom of thought, conscience and religion, including

the right to manifest one's religion in public as well as private, be upheld and that particular attention be paid to avoid discrimination on the grounds of thought, conscience or religion.

Freedom of association and peaceful assembly

47. The Committee is concerned at the restriction imposed on the freedom of association of children by the use of high frequency ultra-sound devices, particularly painful for children, as well as flash ball devices and taser guns, without sufficiently instructing the security forces on their use against children.

48. The Committee further expresses concern over the discrimination against younger children regarding their freedom of association and the prohibition for children to be elected for the posts of President and Treasurer within an association.

49. The Committee recommends that the State party reconsider or ban the use of high frequency ultra-sound and flash ball devices and other harmful devices as they may violate the rights of children to freedom of association and peaceful assembly, the enjoyment of which is essential for the children's development and may only be subject to very limited restrictions as enshrined in article 15 of the Convention. It further recommends that measures be taken to harmonize the rules on freedom of association for children of all ages.

Protection of privacy

50. The Committee notes with concern the multiplication of databases, in which personal data of children are gathered, stocked and used for a lengthy period, which may interfere with the right of children and their families to privacy. With regard to *Base élèves 1^{er} degré*, the Committee notes with appreciation that the State party has removed sensitive data, initially included, from this database. However, given the fact that its utility for the educational system and purposes are not clearly defined, the Committee is concerned that this database be used for other purposes, such as for the detection of delinquency and irregular migrant children and at the insufficient legal safeguards to prevent interconnection with other administrative databases. It is further concerned that parents cannot oppose, are often not informed of the registration of their children and may be reluctant to enroll them in schools.

51. Recalling the recommendations made by the Human Rights Committee (CCPR/C/FRA/CO/4, para. 22), the Committee urges the State party to take all necessary measures to ensure that the gathering, storage and use of sensitive personal data are consistent with its obligations under article 16 of the Convention. The State party should in particular ensure that:

(a) **The gathering and holding of personal information on computers, data banks and other devices, whether by public authorities or private individuals or bodies, is regulated by law and its aim is clearly defined;**

(b) **Effective measures are adopted to ensure that such information does not reach the hands of persons who are not authorized by law to receive, process and use it;**

(c) Children and parents under its jurisdiction have the right to access their data and to request rectification or elimination of information, when it is incorrect or has been collected against their will or processed contrary to the provisions of the Law No. 78-17 on computing, filing and liberties (*Loi relative à l'informatique, aux fichiers et aux libertés*).

Access to appropriate information

52. The Committee notes the introduction of parental control software for internet use and awareness-raising campaigns in the State party on the risks of using the internet, including on mobile phones. However, it is concerned at the accessibility of written, electronic and audiovisual media, including video games, with violent and/or pornographic content.

53. The Committee recommends that the State party take measures to protect children from access to harmful information, including electronic and audiovisual exposure. It further recommends that effective measures be taken to exercise control on the accessibility of written, electronic and audiovisual media, including video and internet games harmful to children.

Torture or other cruel, inhuman or degrading treatment or punishment

54. The Committee notes the establishment of a Controller General of places of deprivation of liberty (*Contrôleur général des lieux de privation de liberté*) on 30 October 2007 and welcomes that the State party included in its report information on the conditions of detention of children. However, it is concerned at allegations of acts of ill-treatment of children in places of detention by public officials and regrets that information on this issue is missing in the State party report. The Committee further expresses concern at the high number of reported incidences of excessive use of force against children by law enforcement officials, in particular by police officers and at the low number of cases which resulted in a prosecution and conviction.

55. The Committee recommends that the State party establish an effective monitoring system on the treatment of all detained children and ensure that all allegations of torture, or other cruel, inhuman or degrading treatment or punishment are promptly and properly investigated and that the perpetrators are prosecuted and punished. The State party should further raise awareness of and enhance the training on human rights of the child for law enforcement officials.

Follow-up to the United Nations Study on violence against children

56. With reference to the United Nations Study on violence against children (A/61/299), the Committee recommends that the State party:

(a) Take all necessary measures for the implementation of the recommendations contained in the report of the independent expert for the United Nations Study on violence against children while taking into account the outcome and recommendations of the regional consultation for Europe and Central Asia, held in Ljubljana from 5 to 7 July 2005. In particular, the Committee recommends that the State party pay particular attention to the following recommendations:

- (i) To prohibit all violence against children;**
- (ii) To promote non-violent values and awareness-raising;**
- (iii) To provide recovery and social reintegration services;**
- (iv) To develop and implement systematic national data collection and research;**

(b) Use these recommendations as a tool for action, in partnership with civil society and in particular with the involvement of children, to ensure that every child is protected from all forms of physical, sexual and psychological violence and to gain momentum for concrete and, where appropriate, time-bound actions to prevent and respond to such violence and abuse;

(c) Provide information concerning the implementation by the State party of the recommendations of the Study in the next periodic report;

(d) Cooperate with and support the Special Representative of the Secretary-General on Violence Against Children.

Corporal punishment

57. While taking note of the assertion by the State party that all forms of physical corporal punishment are prohibited in the French Penal Code, the Committee reiterates its concern that corporal punishment, in particular in the home, as well as in schools, remains widespread, especially in the Overseas Departments and Territories, and that a specific provision to prohibit explicitly corporal punishment against children is still missing.

58. Reiterating its previous recommendation and in accordance with its general comment No. 8 (2006), the Committee recommends that the State party explicitly prohibit corporal punishment in all settings, including in the family, in schools, in institutions and other childcare settings, increase awareness-raising in this respect and promote the value of education without violence according to article 28, paragraph 2, of the Convention. In this endeavour, the Committee further recommends that the State party follow-up on the campaign of the Council of Europe to achieve full prohibition of all forms of corporal punishment which it has signed up for.

**5. Family environment and alternative care
(arts. 5, 18 (paras. 1-2), 9-11, 19-21, 25, 27 (para. 4) and 39 of the Convention)**

Family environment

59. The Committee is concerned that many families lack appropriate assistance in the performance of their child-rearing responsibilities, and notably those families in crisis situations due to poverty, absence of adequate housing or separation.

60. The Committee recommends that the State party intensify its efforts to render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities, in particular for families in crisis situations due to poverty, absence of adequate housing or separation.

Children deprived of a family environment

61. The Committee expresses concern at the number of individual measures, including separation, ordered by the judiciary. It further expresses concern at the children's lack of contact and opportunities to meet with their families, at the geographic distance between the family home and the institutional care, as well as insufficient consideration of the child's views and best interests when deciding on alternative care.

62. The Committee recommends that the State party:

(a) Avoid the placement of children in alternative care as a result of low parental income;

(b) Take into account in all measures the views of children and provide them with child-accessible complaint mechanisms in all parts of the country;

(c) Facilitate the initiation of contact proceedings and maintain regular contact for all children separated from their parents and siblings, including those in long term residential care;

(d) Make sure that children without parental care have a representative who actively defends their best interests;

(e) Take into account the Committee's recommendations issued at the day of general discussion on children without parental care, held on 16 September 2005.

Adoption

63. The Committee takes note of the legislative reform in the area of adoption, as well as the establishment on 30 January 2009 of the inter-ministerial Committee on adoption. The Committee however restates its concern that the majority of intercountry adoptions are mainly carried out with countries of origin that have not ratified the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (two-thirds), and that a high percentage of intercountry adoptions are carried out through individual channels and not through accredited bodies. The Committee also notes with concern that intercountry adoptions are facilitated by embassies and consulates, including the use of volunteers working with them, which may undermine the work of accredited bodies. It further remains concerned at

the absence of authorization by a competent authority of domestic adoptions of children under the age of 2 in French Polynesia and New Caledonia.

64. Reiterating its previous recommendation and in the light of article 21 and other related provisions of the Convention, the Committee recommends that the State party ensure that:

(a) Cases of intercountry adoption are dealt with by an accredited body in full compliance with the principles and provisions of the Convention and the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption;

(b) Bilateral agreements replicating the standards of the Convention, as well as the standards of the 1993 Hague Convention are concluded with countries that have not ratified the aforementioned Convention;

(c) Authorization by the competent authority becomes mandatory for domestic adoptions in French Polynesia and New Caledonia.

65. The Committee also expresses concern at the State party's new draft law on adoption, which enables national adoption of children in situation of parental neglect, provided that a declaration of family abandonment has been obtained by the social services. The Committee is particularly concerned that this bill, once enacted, may entail the risk of definitely separating these children, especially those from low-income families and families living in poverty, from their family environment.

66. The Committee recommends that this draft law on adoption takes seriously into account the right of the child not to be separated from his or her family (art. 9), as well as the four general principles of the Convention (arts. 2, 3, 6 and 12). It should further fully comply with the provisions of article 21 of the Convention.

Abuse and neglect

67. While welcoming the progress represented by the establishment of ONED, as well as the adoption of the Law No. 2007-308 of 5 March 2007 on child protection, the Committee notes with concern the increasing number of cases of child abuse and neglect, the high incidence of child disappearances from home and the lack of implementation of the Law on child protection. The Committee is further concerned at the lack of access to justice of children victims of abuse and neglect.

68. The Committee recommends the State party to:

(a) Allocate the necessary budgetary resources to the implementation of the Law on Child Protection and in particular to ensure that measures are coordinated on a national level, including the Overseas Departments and Territories;

(b) Establish mechanisms to monitor the number of cases and the extent of violence, sexual abuse, neglect, maltreatment or exploitation considered by article 19, including within the family, in institutional or other care;

(c) Enhance access to justice for children victims of abuse and neglect;

(d) Ensure that professionals working with children (including teachers, social workers, medical professionals, members of the police and the judiciary) receive training on their obligation to report and take appropriate action, including measures of protection, in suspected cases of domestic violence against children, abuse and neglect;

(e) Use the media for awareness-raising campaigns on the new Law on child protection and, in general, to create a climate of rejection of all forms of violence against children and women, in particular girls and children from vulnerable groups.

6. Basic health and welfare

(arts. 6, 18 (para. 3), 23, 24, 26, 27 (paras. 1-3) of the Convention)

Children with disabilities

69. The Committee welcomes the adoption of the Law No. 2005-102 of 11 February 2005, which enshrines the equal right to education and enrolment in school for children with disabilities in accordance with article 23 of the Convention. However, it is concerned at the high number of children with disabilities who, in practice, attend school only a few hours per week. While welcoming the establishment of additional posts for specialized assistants (*auxiliaires de vie*), the Committee expresses concern at the instability in contractual arrangements and insufficient training opportunities. The Committee further notes some deficiencies with regard to specialized care, in particular for children suffering from multiple disabilities, access to leisure and cultural activities, as well as the lack of structures in Mayotte, Wallis and Futuna which hampers the implementation of aforementioned law.

70. In the light of the Convention on the Rights of Persons with Disabilities and the Committee's general comment No. 9 (2006) on the rights of children with disabilities, the Committee recommends that the State party:

(a) Take all necessary measures to ensure that legislation providing access to education, as well as programmes and specialized assistance for children with disabilities, are effectively implemented and ensure the full enjoyment of their rights under the Convention on the entire territory of the State party, including in Overseas Departments and Territories;

(b) Develop early identification and intervention programmes;

(c) Provide training and stability for professional staff working with children with disabilities, such as medical, paramedical and related personnel, teachers and social workers;

(d) Develop a comprehensive national strategy with appropriate gender sensitivity for the inclusion of children with disabilities in the society;

(e) Undertake awareness-raising campaigns on the rights and special needs of children with disabilities, which encourage their inclusion in society and prevent discrimination and institutionalization.

Health and health services

71. While the Committee notes the efforts of the State party to tackle inequalities in access to health services by strengthening, on a departmental level, child and mother health-care services and making compulsory a medical check-up for children at the age of 6, 9, 12 and 15. However, it is concerned that inequalities among various regions and among children from disadvantaged backgrounds, remain a problem. It further expresses concern at shortages of qualified medical personnel and insufficient resource allocation, in particular for carrying out the compulsory check-up.

72. The Committee also expresses concern at the deficiencies of child healthcare in French Guyana to address serious health problems, such as malnutrition, tuberculosis, HIV/AIDS, and at the lack of access to health care for children who are not affiliated to the Social Security System in Mayotte.

73. The Committee recommends that inequalities in access to health services be addressed through a coordinated approach across all departments and regions and that the State party remedy the shortage of medical personnel. It further urges the State party to eradicate deficiencies in child health care in the Overseas Departments and Territories.

Breastfeeding

74. The Committee, while appreciating the progress made in recent years in the promotion and support of breastfeeding in the State party, is concerned that implementation of the International Code of Marketing of Breast-milk Substitutes continues to be inadequate and that aggressive promotion of breast-milk substitutes remains common.

75. The Committee recommends that the State party fully implement the International Code of Marketing of Breast-milk Substitutes. The State party should also further promote baby-friendly hospitals and encourage breastfeeding to be included in nursery training.

Adolescent health

76. The Committee is concerned, despite the efforts made by the State party to develop mental health programmes and services for adolescents, such as centres for adolescents, at the low level of adolescent well-being, which includes problems such as eating disorders and addictions, exposure to risks of sexually transmitted disease (STD) and suicides and attempted suicides. The Committee is further concerned at the incidence of substance abuse by adolescents in the State party, including in Overseas Departments and Territories.

77. The Committee recommends that the State party continue to address the issue of mental health and substance abuse by adolescents across the State party, including by:

(a) Strengthening mental health and counselling services ensuring that they are accessible and sensitive to adolescents in all jurisdictions, including the Overseas Departments and Territories;

(b) Studying the root causes of these problems in order to provide targeted preventive measures;

(c) Providing children with accurate and objective information on toxic substances, as well as support to those attempting to abandon their use or dependency.

Standard of living

78. The Committee welcomes the Government's commitment to end child poverty by 2020, as well as its allocation of additional resources to the National Fund for Family Allowances (*Caisse nationale des allocations familiales*). However, it remains concerned at the high number of children living in poverty and at the significant higher rate of children from immigrant background living in poverty. The Committee further recalls the observations made by the Independent Expert on minority issues during her visit to the poorest suburbs (*banlieues*) of major cities of the country on the clear concentration of poverty in such suburbs due to discrimination and exclusion (A/HRC/7/23/Add.2, para. 43). While welcoming the efforts made by the State party to address the phenomenon of sub-standard housing, it expresses concern at the delays in implementing the new enforceable right to housing (*droit opposable au logement*), as well as the insufficient budget allocation for its implementation.

79. In accordance with article 27 of the Convention, the Committee recommends that the State party:

(a) Adopt and adequately implement the legislation aimed at achieving the target of ending child poverty by 2020, including by establishing measurable indicators for their achievement;

(b) Prioritize in this legislation and in the follow-up actions, those children and their families in most need of support, including children from immigrant background;

(c) Ensure swift implementation of the enforceable right to housing (*droit opposable au logement*), including by allocating sufficient budgetary resources.

7. Education, leisure and cultural activities (arts. 28, 29 and 31 of the Convention)

Education, including vocational training and guidance

80. The Committee notes with appreciation the numerous efforts of the State party in the field of education, in order to guarantee the objectives set out in the Convention. The Committee nevertheless is concerned at:

(a) The high number of school drop-outs and repetition rates as well as at the new Law of 31 March 2006 penalizing the parents, including those facing economic hardship, for their child's failure to attend school;

(b) The persistence of significant inequalities with regard to school achievement of children living with parents in economic hardship. Several groups of children encounter

problems being enrolled in school or continuing or re-entering education, either in regular schools or alternative educational facilities, and cannot fully enjoy their right to education, notably children with disabilities, children of Travellers, Roma children, asylum-seeking children, dropouts and non-attendees for different reasons (sickness, family obligations etc.), and teenage mothers;

(c) The increasing youth unemployment due to insufficient educational and vocational support to enter the labour market.

81. The Committee recommends that the State party:

(a) Continue and strengthen its efforts to reduce the effects of the children's social background on their achievement in school;

(b) Strengthen its efforts to decrease dropout and repetition rates without penalizing parents;

(c) Expand vocational education and training for children who have left school without certificates, enabling them to acquire competencies and skills in order to increase their work opportunities;

(d) Invest considerable additional resources in order to ensure the right of all children to a truly inclusive education which ensures the full enjoyment to children from all disadvantaged, marginalized and school-distant groups;

(e) Use the disciplinary measure of permanent or temporary exclusion as a means of last resort only, reduce the number of exclusions and include social workers and educational psychologists in school in order to help children in conflict with school.

Rest, leisure, recreation and cultural and artistic activities

82. The Committee observes that only a few children are reportedly involved in cultural or artistic extra-curricular activity. The Committee is further concerned that the steady reduction in playgrounds may have the effect to push children into gathering in public open spaces, which may be punishable, according to the Law on internal security of 18 March 2003, if exercised in halls of apartment buildings.

83. The Committee recommends that the State party strengthen its efforts to guarantee the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and arts. The State party should pay particular attention to provide children, including those with disabilities, with adequate and accessible playground spaces to exercise their right to play and to leisure activities.

8. Special protection measures

(arts. 22, 30, 32-36, 37 (b)-(d), and 38-40 of the Convention)

Asylum-seeking, refugee and unaccompanied children

84. While welcoming the establishment of the working group on unaccompanied children, the Committee is deeply concerned at the situation of unaccompanied children placed in the

waiting zones of French airports. Furthermore, it is concerned that the decision of placement cannot be challenged, that the legal requirement of the appointment of an ad hoc administrator is not systematically applied and that there is no psychological assistance available for these children particularly vulnerable to exploitation. The Committee also expresses concern that children are often returned to countries where they face risk of exploitation without a proper assessment of their condition.

85. The Committee also expresses concern at the lack of a systematic inclusion of unaccompanied minors into systems of social services, education and language schools, as well as the absence of a clear legal status for unaccompanied children admitted on the territory of the State party.

86. Taking into account the Committee's general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin, the Committee urges the State party to:

(a) Take all necessary measures to enable the decision of placement in waiting zones to be challenged;

(b) Systematically appoint an ad hoc administrator as required by its domestic law;

(c) Ensure the access and availability of adequate psychological assistance to unaccompanied children and to children within the waiting zones from exploitation, in particular through strict surveillance of access to these zones;

(d) Ensure, with due consideration to the best interests of the child, that children in need of international protection and at risk of being re-trafficked, are not returned to the country where this danger exists.

87. The Committee is further concerned that despite the negative assessment the National Consultative Committee on Ethics for Health and Life Sciences on the use of bone test to determine the age of the person, the State party continues to use this method.

88. The Committee reiterates its previous recommendation and urges the State party to introduce recent methods of age determination which have been proven to be more accurate than the determination by bone test currently in use.

89. The Committee takes note of the acknowledgment by the State party of the problematic length of family reunification procedures for recognized refugees, but reiterates its concern at the lack of comprehensive information on such procedures, their length, as well as at the limited possibilities for children to assert their right to family reunification when they arrive in France. It further expresses concern at reports of family separation due to the deportation of parents and at the Law No. 2007-1631 of 21 November 2007 on the control of immigration, integration and asylum, which imposes on recognized refugees more restrictive criteria for family reunification, including DNA testing and language proficiency.

90. The Committee is also concerned at the fact that the institution of the *Kafalah* recognized by international law and by the Convention is not applied in the State party within the context of

family reunification and at the lack of implementation of the jurisprudence of the Council of State (*Conseil d'État*) of the 24 March 2004, which considered that the decision made by the French local authorities to prevent a child from entering France to join her *Kafalah* parents infringed the right to private and family life.

91. The Committee recommends that the State party:

(a) Continue its effort to significantly reduce the length of family reunification procedures for recognized refugees;

(b) Adopt all appropriate measures to ensure that the implementation of DNA testing, as a way to establish filiation, does not create additional obstacles to family reunification, and that the use of such method is always subject to the prior informed consent of the applicant.

(c) Recognize the *Kafalah* system within the context of family reunification and give effect to the jurisprudence of the Council of State (*Conseil d'État*) of the 24 March 2004.

Sexual exploitation, sale, trafficking and abduction

92. The Committee notes the establishment of cooperation agreements with some countries of origin of children trafficked for sexual or other exploitative purposes. However, the Committee expresses concern at the high number of children subjected to exploitation, including trafficking and who enter or travel through France for the purposes of theft, begging and prostitution.

93. The Committee recommends that the State party adopt further measures to combat trafficking of children for sexual and other exploitative purposes. It further recommends that the State party intensify its efforts to collect data on the extent of sexual exploitation and sale of children, in order to determine the adequate measures to be taken to combat these problems, including in the Overseas Departments and Territories.

Administration of juvenile justice

94. The Committee is concerned at the lack of comprehensive national policy on the prevention of delinquency and at the lack of financial and human resources allocated to the juvenile justice system. The Committee reiterates its concern over the legislation and practice in this field, which tend to favour repressive over educational measures, especially with respect to the reforms introduced by the Law No. 2007-1198 of 10 August 2007 strengthening the fight against recidivism of adults and juveniles and allowing children to be tried as adults. In particular, the Committee is concerned that in cases involving juvenile offenders between the age of 16 and 18, suspected of having committed a serious criminal offence of violent and/or sexual nature:

(a) The principle of mitigation of punishment (*principe de l'atténuation de la peine pour mineurs*) can be dismissed for first offenders by a motivated decision of the judge;

(b) Such principle is not applied to repeat offenders between the age of 16 and 18 and can only be reinstated by a specifically motivated decision of the judge;

- (c) Minimum mandatory prison sentences are applied in case of recidivism.

95. The Committee observes some positive changes, in particular with regard to the significant increase in the number of secure supervision centres (*centres éducatifs fermés*) for children between 13 and 16, of penitentiary establishments for minors (*établissements pénitentiaires pour mineurs*), with the purpose to replace the children's wards in the places of detention for adults. However, it expresses concern over the high number of deprivations of liberty among children and the continuing existence of children's wards in places of detention for adults.

96. The Committee further expresses concern at the amendment of Law No. 2004-204 of 9 March 2004, which allows for the placement of children between 16 and 18 suspected of organized crime and terrorism under police custody (*garde à vue*) for up to 96 hours, not in full compliance with procedural safeguards.

97. The Committee urges the State party to ensure that juvenile justice standards are fully implemented, in particular articles 37 (b), 40 and 39 of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules). In particular, the Committee urges the State party to, while taking into account the Committee's general comment No. 10 (2007) on the administration of juvenile justice:

(a) Strengthen preventive measures, such as supporting the role of families and communities in order to help eliminate the social conditions leading children to enter in contact with the criminal justice system and take all possible measures to avoid stigmatization;

(b) Increase and ensure sufficient and adequate allocation of financial, human and other resources for the criminal justice system;

(c) Use detention, including police custody (*garde à vue*) and pre-trial detention as a measure of last resort and for the shortest possible period of time;

(d) Ensure that when detention is carried out, it is done so in compliance with the law and international standards;

(e) Refrain from treating children between 16 and 18 years of age differently than children under the age of 16;

(f) Expand the use of reintegration and alternative measures to deprivation of liberty, such as diversion, mediation, probation, counselling and community services and strengthen the role of families and communities in this regard;

(g) Ensure that persons below 18 years of age in conflict with the law have access to free legal aid as well as to an independent and effective complaints mechanisms;

(h) Improve training programmes on relevant international standards for all professionals working with the criminal justice system.

98. The Committee also remains concerned that the State party has not established a minimum age of criminal responsibility.

99. The Committee recommends that the State party establish a minimum age of criminal responsibility, in line with article 40, paragraph 3 (a), of the Convention and with the recommendation made, inter alia, by the Children's Ombudsperson, not under the age of 13 and requiring the child's capacity of discernment.

Protection of witnesses and victims of crimes

100. The Committee also recommends that the State party ensure, through adequate legal provisions and regulations, that all children victims and/or witnesses of crimes, e.g. children victims of abuse, domestic violence, sexual and economic exploitation, abduction, and trafficking and witnesses of such crimes, are provided with the protection required by the Convention and that it take fully into account the United Nations Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (annexed to Economic and Social Council resolution 2005/20 of 22 July 2005).

Children belonging to minority or indigenous groups

101. The Committee notes with appreciation the measures taken by the State party to promote cultural, religious and linguistic diversity, outlined in the Annex II of the State party report. The Committee also takes note of the position of the State party with regard to its reservation to article 30 of the Convention and reiterates its concern that equality before the law may not be sufficient to ensure equal enjoyment of rights of minority groups and indigenous peoples of Overseas Departments and Territories, who may face de facto discrimination. It further expresses concern over the lack of validation of cultural knowledge transmitted to children belonging to minority groups, in particular Travellers and Roma children, and the discrimination they face, in particular with regard to economic, social and cultural rights, including right to adequate housing and standard of living, education and health.

102. The Committee recommends that the State party ensure that minority groups and indigenous peoples of Overseas Departments and Territories enjoy equal enjoyment of their rights and that children receive the possibility to validate their cultural knowledge without discrimination. It further urges the State party to take measures to eliminate all discrimination against children belonging to minority groups, in particular with regard to their economic and social rights.

9. Ratification of international human rights instruments

103. The Committee welcomes the ratification of the Convention for the Protection of All Persons from Enforced Disappearance on 23 September 2008 and of the Optional Protocol to the Convention against Torture on 11 November 2008.

104. The Committee recommends that the State party proceed to the ratification of the Convention on the Rights of Persons with Disabilities and its Optional Protocol, as well as the Convention on the Protection of the Rights of All Migrant Workers and Members of

Their Families. It further recommends that the State party ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

10. Follow-up and dissemination

Follow-up

105. The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia by transmitting them to the Parliament and relevant ministries of the Government and of the devolved administrations for appropriate consideration and further action.

Dissemination

106. The Committee further recommends that the combined third and fourth periodic report and written replies submitted by the State party and related recommendations (concluding observations) that it adopted be made widely available in the relevant languages, including through Internet (but not exclusively), to the public at large, civil society organizations, youth groups and children in order to generate debate on and awareness of the Convention, its implementation and monitoring.

11. Next report

107. The Committee invites the State party to submit its fifth periodic report, by September 2012. This report should not exceed 120 pages (see CRC/C/118).

108. The Committee also invites the State party to submit an updated core document, in accordance with the requirements of the common core document in the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents”, approved at the fifth Inter-Committee Meeting of the human rights treaty bodies in June 2006 (HRI/MC/2006/3).
