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## مجلس حقوق الإنسان

### الدورة الأربعون

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البند ٣ من جدول الأعمال

تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

## زيارة إلى فرنسا

### تقرير المقررة الخاصة المعنية بحقوق الأشخاص ذوي الإعاقة\*

موجز

أجرت المقررة الخاصة المعنية بحقوق الأشخاص ذوي الإعاقة كاتالينا ديفانداس - أغيلار زيارة إلى فرنسا في الفترة من ٣ إلى ١٣ تشرين الأول/أكتوبر ٢٠١٧. وفي تقريرها عن الزيارة، تبحث المقررة الخاصة في القضايا المتصلة بحقوق الأشخاص ذوي الإعاقة في فرنسا القارية في ضوء القواعد والمعايير الدولية لحقوق الإنسان. واستناداً إلى المعلومات التي جمعت قبل الزيارة وأثناءها وبعدها، تسلط المقررة الخاصة الضوء على التقدم الذي أحرزته فرنسا في حماية حقوق الأشخاص ذوي الإعاقة على صعيد تشريعاتها، وسياساتها وبرامجها منذ أن صدقت على اتفاقية حقوق الأشخاص ذوي الإعاقة في عام ٢٠١٠. وتشدد أيضاً على الثغرات القائمة والمجالات التي تحتاج إلى تحسين، وتقدم توصيات بهدف تعزيز الجهود التي تبذلها الحكومة لتغيير المجتمع الفرنسي وتقديم التدابير والحلول الشاملة لجميع الأشخاص ذوي الإعاقة على قدم المساواة مع غيرهم.

\* يعمم موجز التقرير بجميع اللغات الرسمية. أما التقرير نفسه، المرفق بهذا الموجز، فيُعَمَّم باللغة التي قُدِّمَ بها وبالفرنسية فقط.



الرجاء إعادة الاستعمال

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## Annex

### Report of the Special Rapporteur on the rights of persons with disabilities on her visit to France

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## **I. Introduction**

### **A. Programme of the visit**

1. The Special Rapporteur on the rights of persons with disabilities visited France, at the invitation of the Government, from 3 to 13 October 2017 to assess the measures taken by the authorities to implement the Convention on the Rights of Persons with Disabilities. She also sought to determine the impact of such efforts on the level of enjoyment of persons with disabilities of the rights enshrined in the Convention, and to identify challenges and gaps in protection in order to formulate concrete recommendations.

2. At the national level, the Special Rapporteur met with the Minister of National Education; the Secretary of State in charge of persons with disabilities; the President of the National Consultative Council of Persons with Disabilities; the Secretary-General of the Interministerial Committee on Disability; two presidential advisers; the Director General of the National Solidarity Fund for Autonomy; and senior representatives of the Ministries of Justice, Solidarity and Health, Labour and National Education. She also met with representatives of several independent institutions: the National Consultative Commission on Human Rights; the Office of the Ombudsman; the Inspectorate General of Places of Deprivation of Liberty; and the Audiovisual Media Board. At the provincial level, she met with representatives of departmental and territorial authorities, including several directors of the departmental centres for persons with disabilities and regional health agencies, and the President of the National Association of Departmental Directors of Social Action and Health.

3. The Special Rapporteur visited Paris, Lyon, Marseille and Avignon, where she met many persons with disabilities and their organizations, including persons with psychosocial disabilities and autistic persons, organizations working on issues related to disability and service providers. In Paris she visited the psychiatric infirmary of the Prefecture of Police of Paris and Romain Rolland middle school, which has an autism teaching unit. In Lyon, she visited Le Vinatier psychiatric hospital, Pierre de Lune medico-educational transitional institution and Halte de Montaberlet day-care facility for "children without a solution". In Marseille, she visited Housing First, an inclusive housing project targeting homeless persons with psychosocial disabilities, Coin Joli Sévigné middle school and the Service for Special Education and Home Support. In Avignon, she visited several psychiatric services of Montfavet Hospital, including the "unit for difficult patients".

4. Because of the size of the country and the complexities of the French system, the Special Rapporteur focused on the situation of persons with disabilities in Metropolitan France only, and has been unable to look into their situation in the French territories and overseas departments.

5. The Special Rapporteur thanks the Government of France for the transparency, openness and excellent cooperation extended to her prior to and during the visit. She is grateful to the Secretary of State in charge of persons with disabilities and the Secretary-General of the Interministerial Committee on Disability for coordinating her visit. She particularly thanks all the persons with disabilities and their organizations who shared their situations, concerns and desire for change.

### **B. Context**

6. France is a semi-presidential regime, a republic governed by a democratically elected president and a prime minister. It plays an influential global role as a permanent member of the United Nations Security Council, the North Atlantic Treaty Organization, the Group of Seven, the Group of 20, the European Union and other multilateral organizations.

7. France is ranked 21 out of 188 countries and territories in the 2015 human development index, classifying it in the very high human development category among the

world's top income countries. With public expenditure representing 56.5 per cent of gross domestic product in 2016, France has one of the highest levels of government expenditure among member countries of the Organization for Economic Cooperation and Development (OECD); its social protection system represented 43 per cent of government expenditure, followed by health care at 14 per cent.<sup>1</sup> In 2015, 14.2 per cent of the population lived below the poverty line. In 2016, the poverty rate, or the ratio of the number of people whose income fell below the poverty line, was 0.081.<sup>2</sup>

8. According to the National Institute for Statistics and Economic Studies, in 2016 the population of France stood at approximately 66.98 million. Of this population, 48.5 per cent were male and 51.55 per cent were female, with 22.1 per cent below 18 years of age. For persons with disabilities, there is a serious lack of sociodemographic data and statistics disaggregated by disability. The national census did not include questions on disability. The most recent health and disability survey, which dates back to 2008, estimated that there were 12 million persons with disabilities. An earlier survey conducted in 2007 estimated that 9.8 per cent of the population had a disability and 11.7 per cent had important functional limitations.

## II. Situational analysis and achievements

### A. Legal framework

9. France ratified the Convention on the Rights of Persons with Disabilities and its Optional Protocol in 2010. The Government made an interpretative declaration on the meaning of the term "consent" in relation to article 15 of the Convention in the context of biomedical research, and stated its interpretation that article 29 allows for certain restrictions of the right to vote. The Special Rapporteur encourages the Government to withdraw these interpretative declarations.

10. France has ratified every other international human rights treaty, with the exception of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Moreover, France is not yet a State party to the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, administered by the World Intellectual Property Organization. According to article 55 of the French Constitution, international conventions, including the Convention on the Rights of Persons with Disabilities, have a supra legal status and can be directly applied by national courts.

11. In May 2016, France submitted its first national report to the Committee on the Rights of Persons with Disabilities, which will be considered in the course of 2019. France was reviewed by the Human Rights Committee in 2015 and by the Committee on the Rights of the Child in 2016. Both bodies made specific recommendations concerning the rights of persons with disabilities. On 15 January 2018, the country was also examined as part of the universal periodic review, including on disability issues. France committed to strengthen its efforts to uphold the rights of persons with disabilities, accepted eight disability-related recommendations and partially accepted one recommendation focusing on the right of persons with disabilities to vote (see A/HRC/38/4, para. 145.252). France has issued a standing invitation to special procedures of the Human Rights Council and regularly hosts visits by these independent experts.

12. At the regional level, France has ratified the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) and other human rights treaties of the Council of Europe. Between 2004 and 2014, the Council of Europe repeatedly noted that France was not compliant with its obligations under the European Social Charter concerning access to education, schooling and vocational training

<sup>1</sup> See OECD, "Government at a glance 2017", Country Fact Sheet, France.

<sup>2</sup> See OECD, "Poverty rate", OECD Data. Available from <https://data.oecd.org/inequality/poverty-rate.htm> (accessed on 2 August 2018).

for autistic children. France is also bound by the Council of Europe Disability Strategy 2017–2023 and by the European Disability Strategy 2010–2020 of the European Union. According to information received, France is supporting the adoption of a new additional protocol to the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine, which allows for the involuntary placement and treatment of persons with psychosocial disabilities, in stark contradiction to the provisions of the Convention on the Rights of Persons with Disabilities. The Special Rapporteur strongly encourages the Government to revise its position on this issue.

13. At the national level, respect for human rights and combating discrimination is at the core of the French Republic, as enshrined in the Declaration of the Rights of Man and of the Citizen of 1789, the Constitution of 1958 and Law No. 2001-1066 of 16 November 2001 on the fight against discrimination. The Criminal Code also prohibits discrimination on multiple grounds, including disability.

14. The normative framework on disability rights is based primarily on Law No. 2005-102 of 11 February 2005 on equal rights and opportunities, participation and citizenship of persons with disabilities, and its subsequent amendments. With the adoption of this law, which predates the Convention on the Rights of Persons with Disabilities, France has taken measures to promote the access of persons with disabilities to information and communication, social protection, health, employment and education. However, this and other laws are not fully compliant with the Convention, as explained in section C below.

## **B. Institutional and policy frameworks**

15. In recent years, the Government has made efforts to address inequalities and discrimination faced by persons with disabilities through the adoption of laws, policies, programmes and public initiatives. For instance, the 2013–2017 plan against poverty and for social inclusion and policies on access to employment, health care, education, housing and family assistance address the needs of the most vulnerable. France has also adopted specific disability plans, including a plan for people who are deaf or hard of hearing (2010–2012), a visual disability plan (2008–2011), a national framework for rare diseases (2014–2018) and four autism plans.

16. When he was elected in May 2017, the President of France, Emmanuel Macron, declared that disability would be a priority of his five-year term of office. Further to this commitment, the post of Secretary of State in charge of persons with disabilities and her office have been placed directly under the Prime Minister, a road map on disability with key objectives for the next five years was adopted by the Interministerial Committee on Disability in September 2017, a fourth plan on autism was adopted in April 2018 and planning has started for a national disability conference in 2019.

17. The Secretary of State in charge of persons with disabilities is the main government focal point on disability issues. In accordance with article 33 (1) of the Convention on the Rights of Persons with Disabilities, the Interministerial Committee on Disability is the governmental coordination mechanism that facilitates action of the disability focal points within the ministries. Furthermore, the Government has designated the Ombudsman, in cooperation with the National Consultative Commission on Human Rights, civil society and the National Consultative Council of Persons with Disabilities, as the independent mechanism to monitor the implementation of the Convention, as required by article 33 (2). The National Consultative Council of Persons with Disabilities itself is the mechanism established to consult with civil society, including persons with disabilities and their organizations, in accordance with article 33 (3) of the Convention.

## **C. Issues to be addressed in the area of legal and policy harmonization**

18. While acknowledging the country's comprehensive legal framework, the Special Rapporteur notes that Law No. 2005-102 of 11 February 2005, on equal rights and opportunities, participation and citizenship of persons with disabilities, is not fully

compliant with the Convention and is less comprehensive. By way of example, the law does not refer to core rights such as the rights to life, liberty and security of the person, nor the rights to equal recognition before the law and to enjoy legal capacity on an equal basis with others. Moreover, the definition of disability in article 2 (modifying article L114 of the Social Action and Family Code) focuses on the impairment, instead of a person's interaction with the environment and existing barriers, and should therefore be revised. In relation to access to online communications, article 47 of the law focuses on access to public services only and does not include private ones. Also, the provision of "reasonable accommodation", as required by the Convention, is not recognized under this law except in the area of employment. The law should be revised entirely to ensure its full compliance with the Convention.

19. The Special Rapporteur is concerned about certain legal provisions that are not in line with article 12 of the Convention, which recognizes the full legal capacity of persons with disabilities. These include articles L5 and L200 of the Electoral Code on the suspension of the right to vote for specific persons under guardianship and forbidding persons under full or partial guardianship (*tutelle* or *curatelle*, see para. 60 below) to stand for election and be elected. Other legislation that is not in line with article 12 includes several provisions of the Civil Code (e.g., art. 414-1 on "persons of sound mind"; art. 414-3 on "persons suffering from a mental health condition"; arts. 425 and 428 on judicial protection measures; and art. 475 on guardianship regimes), the Code of Criminal Procedure (e.g., art. 256 prohibiting protected adults from being jurors of a court of assizes); the Code of Civil Procedure (arts. 1213 and 1229 on procedures to establish guardianship regimes), and the Public Health Code. The Special Rapporteur encourages the relevant legislative authorities to undertake a comprehensive review of the entire normative framework in order to complete the process of legal harmonization, in accordance with article 4 of the Convention.

20. Moreover, the Special Rapporteur notes that France has failed to take full account of the change of paradigm introduced by the Convention. The majority of the public authorities she met referred directly to the provisions of Law No. 2005-102 of 11 February 2005 and were not familiar with the innovations introduced by the Convention. She encourages the Government to ensure that all public policies, including disability-specific ones, adopt a human rights-based approach to disability, and aim to remove barriers that impede the effective and full participation of persons with disabilities on an equal basis with others. She also urges the authorities to increase the awareness, knowledge and capacity of all government officials, civil servants, service providers and civil society to implement articles 4 (1) and 8 of the Convention; and to engage in a wide-scale public awareness campaign on the Convention and the rights-based approach to disability.

21. The Special Rapporteur acknowledges the adoption of a national road map on disability on 20 September 2017. While this was a significant step, she regrets that it does not use the Convention as a framework to define the State's obligations on the rights of persons with disabilities. Moreover, it should go hand in hand with the adoption of a comprehensive national disability policy, time-bound benchmarks and effective implementation plans at the departmental and territorial levels, along with the necessary budgetary and fiscal measures. Stronger coordination among the relevant ministries tasked to mainstream and implement disability provisions within their institutions should be given priority, including through the prompt nomination of full-time disability and accessibility focal points within each ministry, cabinet and departmental administration.

### **III. Challenges and opportunities identified in France**

#### **A. Accessibility**

##### **1. Accessibility to the physical environment**

22. The State's policy on accessibility is governed by Law No. 2005-102 of 11 February 2005, under title IV (accessibility). The Special Rapporteur observed that many public and private infrastructures in France are still not accessible to persons with disabilities, with

strong disparities between the regions she visited. The adoption of Law No. 2015-988 of 5 August 2015 postponed by up to nine years the initial deadline of 1 January 2015 to make all infrastructure and transport accessible, and allowed for several derogations and exceptions, including for new public buildings. For instance, as of 1 May 2016, out of 1 million establishments open to the public only 300,000 were fully accessible.<sup>3</sup>

23. The Special Rapporteur received many complaints about the daily challenges that persons with disabilities face to move around and access basic services such as health care and education due to the lack of accessibility. Barriers to accessing public transport are a major challenge, which impinges on the right of persons with disabilities to live independently and to participate fully in all aspects of life. For example, public transport is not accessible, or only partially in some cases, to the diversity of persons with disabilities in Paris and Marseille. In Marseille, persons with physical disabilities rely upon *Mobi Métropole*, a door-to-door public service upon request, which is, however, unable to meet the high demand for transport, thus resulting in waiting lists of up to one week. The 2024 Olympic and Paralympic Games in Paris are a major opportunity to make the capital city fully accessible to all persons with disabilities. However, efforts in this area should be extended to the entire country, including the overseas territories, as soon as possible.

## 2. Access to information and communication

24. Law No. 2005-102 of 11 February 2005 recognizes French sign language as an official language, in article 19 under title IV (accessibility) and in article 75 under title VI (citizenship and social participation) related to choice of language in school. This official recognition is also included in articles L112-3 and L312-9-1 of the Education Code. Yet, despite this official recognition, the use of French sign language remains very limited in practice due to the lack of trained interpreters, including in basic public services. According to the information received, there are only some 400 qualified interpreters in France for an estimated population of 120,000 deaf and 360,000 hearing impaired persons. In many areas, especially in the countryside and overseas territories, this service is unavailable. Moreover, critical awareness-raising campaigns on issues such as the prevention of cancer and communicable diseases, public health and reproductive rights, are generally not accessible to the diversity of persons with disabilities, particularly deaf, deaf-blind and autistic persons and those with intellectual disabilities, which renders many of them health illiterate.

25. In terms of access to information and communication, article 47 of Law No. 2005-102 only requires public services, not private companies, to make their online services accessible, which is contrary to article 9 of the Convention. Despite this law, the majority of the State's official websites are not accessible to the diversity of persons with disabilities. Article 74 of the same law requires that all programmes on public and private television channels whose average annual audience is above 2.5 per cent must be accessible to deaf persons and persons who are hard of hearing, and that for channels with an annual audience below 2.5 per cent, between 20 to 40 per cent of their programmes must be accessible to these audiences. The Special Rapporteur was pleased to learn about efforts made by the Audiovisual Media Board to introduce the use of captioning and audio-description in national television, on both public and private networks. She was also informed that the daily television news was provided in French sign language several times a day. In 2009, the Board also established the diversity barometer. Published once a year, this barometer measures diversity on television according to four criteria: socio-occupational category; gender; perceived origin; and disability. The data for 2017 shows that persons with disabilities remained largely invisible on television, with only 0.63 per cent of individuals on television perceived as having a disability.<sup>4</sup>

26. The Special Rapporteur was informed that easy-to-read and understand formatting was rarely used in providing information, and noted that the use of alternative and

<sup>3</sup> See France, Ministry of Social Affairs and Health, « 2016 : Les chiffres clés du handicap », p. 5 (in French).

<sup>4</sup> Conseil supérieur de l'audiovisuel (Audiovisual Media Board), « Baromètre de la diversité de la société française : Résultats de la vague 2017 », p. 18 (in French).

augmentative technology remained extremely underused and unknown. She was also alarmed to learn that, in the country of Louis Braille, the use and teaching of his system is becoming less common, partly due to the more widespread use of audio technologies. While recognizing the importance of such technologies, the use of Braille is fundamental to address blind literacy and is perhaps the most important contribution of France to the global disability community. If blind persons no longer learn and use Braille, illiteracy rates in French among this population will grow.

## **B. Participation of persons with disabilities**

### **1. Political participation**

27. The Special Rapporteur is very concerned that the right to vote and to stand for elections is intrinsically linked to legal capacity for persons with disabilities in France. In fact, article L5 of the Electoral Code provides that when initiating or renewing a guardianship measure, a judge may suspend the right to vote of a protected person. Data collected during the visit indicates that 17 per cent of persons with disabilities under full guardianship measures (*tutelle*) are deprived of their right to vote. Moreover, article L200 of the Electoral Code does not allow persons under full or partial guardianship (*curatelle*) to stand for election and be elected.<sup>5</sup> The Special Rapporteur urges France to revoke both articles of the Electoral Code, which discriminate against persons with disabilities. She welcomes President Macron's announcement to the French parliament on 9 July 2018 concerning the restoration of the right to vote for persons under guardianship regimes.

28. Beyond legislative restrictions, prejudices and stereotypes about persons with disabilities, particularly those with intellectual disabilities, hamper the effective implementation of their right to vote. The Special Rapporteur received reports of difficulties encountered by persons under full or partial guardianship regimes to register on the electoral lists, as some municipalities ask for the signature of their legal representative, even though this is a strictly personal act. She was also informed of presidents of polling stations who had denied persons with intellectual disabilities the right to vote.

29. Article L62-2 of the Electoral Code stipulates that polling stations and voting technologies must be accessible to persons with disabilities, regardless of the type of impairment. However, in practice, the measures to implement this principle focus primarily on physical accessibility, resulting in the inaccessibility of electoral campaigns and polling stations for the diversity of persons with disabilities. For example, access to electoral campaigns is a challenge for persons with intellectual disabilities. The Special Rapporteur highlighted the importance of securing access to information and communication for persons with disabilities, including those with intellectual disabilities, and improving their participation in future elections.

### **2. Participation in decision-making processes**

30. In relation to participation in decision-making processes, the National Consultative Council of Persons with Disabilities is an advisory body responsible for ensuring the participation of persons with disabilities in the development and implementation of policies concerning them. The Special Rapporteur noted the efforts of this body to make consultations more inclusive by including some persons with disabilities and their organizations; however, the traditional consultations with organizations representing the interests of persons with disabilities, such as service providers and parents' associations, continue to be prevalent and to have the most influence in the process of decision-making. In this context, the Special Rapporteur finds that more significant efforts are needed to consult primarily with and widen the representation of organizations of persons with disabilities in this body, including autistic persons, persons with psychosocial disabilities, persons with intellectual disabilities and deaf and deaf-blind persons. The Special Rapporteur also notes with concern that the National Consultative Council has no operational budget to enable its proper functioning.

<sup>5</sup> See paragraph 60 below for the difference between *tutelle* and *curatelle*.

31. Article L114-2-1 of the Social Action and Family Code requires that the Government convene a national conference on disability every three years, with the participation of organizations of persons with disabilities, service providers, institutions providing social care and medical treatment, local departments of social policy and other actors, to discuss future policy measures directly impacting on the lives of persons with disabilities. As the Government plans the next national conference on disability, the Special Rapporteur highlights that consultations should not be limited to the capital city, but conducted across France, including in its overseas departments and territories.

32. The Special Rapporteur noted that generally the voices and opinions of persons with disabilities themselves are rarely taken into account in mainstream or disability-specific policy and decision-making processes, since they are currently not equally represented in such forums. As required by article 29 of the Convention, she encouraged the Government to promote and support the establishment of organizations of persons with disabilities from all disability sectors, including those with intellectual, developmental, psychosocial and multiple disabilities, who are currently underrepresented by existing organizations.

33. Moreover, women and girls with disabilities are mostly invisible and forgotten in public policies that often do not refer to disability and gender. Similarly, children and youth with disabilities are not sufficiently involved in consultations with organizations of persons with disabilities. There is also no cross-cutting disability approach in gender equality or youth policies. The Government of France should take measures to increase the meaningful participation of women and children with disabilities in all decisions affecting them.

34. More efforts are also needed to make consultations accessible, including by guaranteeing the accessibility of all facilities, procedures and information related to public decision-making and consultations and by providing capacity-building.

### C. Education

35. Law No. 2005-102 of 11 February 2005, Law No. 2013-595 of 8 July 2013 and the Education Code recognize the right of every child to inclusive education and enable the implementation of measures to improve access to mainstream education for children with disabilities. According to data from the Ministry of National Education, in the school year 2017/18 there were some 320,000 children with disabilities enrolled in mainstream primary and secondary schools, of which some 92,525 benefited from the support of specialized units for school inclusion and another 150,000 were assisted by school assistants. Some 47,500 other children received support services from non-profit organizations, such as the Service for Special Education and Home Support financed by the Ministry of Solidarity and Health. The Special Rapporteur was also informed about the inclusion of some 700 autistic children in inclusive kindergartens between 2014 and 2017.

36. Despite these measures, children with disabilities enrolled in mainstream schools face multiple barriers to access education on an equal basis with others. This is not only due to the lack of accessible infrastructure, but also because there is no specialized training for regular teachers and school assistants, and no curricular adaptations and accommodation in the classrooms, which affects the quality of education. Additionally, there is a proliferation of actors and non-profit organizations providing support to children with disabilities in school, which leads to overlaps and lack of coordination. To overcome these challenges, the Special Rapporteur encourages the Government to shift from the current individual focus requiring children with disabilities to adapt to the school system, to a global focus aimed at transforming the education system to receive children with disabilities in an inclusive manner.

37. The Special Rapporteur learned about an additional 81,000 children in specialized medico-social services and institutions under the responsibility of the Ministry of Solidarity and Health and managed by non-profit organizations who do not attend a regular school. She expresses grave concern about the situation of these children placed in segregated residential medico-social institutions, as they do not receive quality education on an equal basis with others. Even more worrisome, according to unofficial estimates, there are reportedly some 12,000 so-called "children without a solution" in France, and up to 40,000

autistic students, who receive no education at all. This is unacceptable given the levels of wealth and capacity of France. The Special Rapporteur regrets that there is no official data on the number of children with disabilities excluded from the school system, and that once children are referred to a medico-social institution their progress is no longer tracked by the Ministry of National Education. The Special Rapporteur strongly urges France to close the existing medico-educational institutions, to include all children with disabilities in regular schools with the required support, and to place all current financial and human resources for the education of children with disabilities solely under the responsibility of the Ministry of National Education.

38. Students with disabilities also reported barriers to access higher education, including universities and grandes écoles (prestigious institutions of higher education). For instance, deaf students must pay for their own sign language interpreters in order to follow classes, and are not reimbursed in full. While acknowledging the strong commitment of the Minister of National Education to continue the process of transformation towards inclusive education, she urges his Ministry and the Ministry of Higher Education, Research and Innovation to adopt time-bound plans for the progressive implementation of an inclusive quality education system across France, and to provide learners with disabilities with the support needed to access education on an equal basis with others. The plans should entail adjusting the physical environment to make all universities and grandes écoles accessible, adapting educational materials and learning methodologies, training teachers and providing learners with disabilities with the required support and reasonable accommodation, including sign language interpretation, audio and Braille materials, personal assistance and note taking, as well as support during extracurricular activities.

39. France should also ensure that university students with disabilities have access to the same curricula and opportunities on an equal basis with other students, including the possibility to participate in academic exchange programmes, such as the Erasmus programme. In this regard, France could take a lead role in promoting, within the European Union, the full accessibility of such programmes to all students with disabilities, and the maintenance of benefits for such students while abroad to meet their disability-related costs.

#### D. Work and employment

40. Law No. 87-517 of 10 July 1987 on the promotion of employment for persons with disabilities, Law No. 2005-102 of 11 February 2005, Law No. 2008-126 of 13 February 2008 and the Labour Code are among the main laws regarding the organization of public employment services in France. Persons with disabilities seeking employment have to register with the public employment service, *Pôle emploi*, and can be referred to specialized services, like *Cap emploi*.

41. In accordance with Law No. 2005-102 of 11 February 2005, private and public sector employers with a workforce of at least 20 people must recruit a minimum of 6 per cent of workers with disabilities. According to official data from the Ministry of Labour, while this quota is almost met in the public sector, with persons with disabilities accounting for 5.17 per cent of the workforce, in the private sector the percentage of workers with disabilities is only 3.4 per cent. Private companies that do not meet this quota must pay a fine to the Fund Management Association for the Integration of Persons with Disabilities, which then distributes the funds to other companies for the inclusion of persons with disabilities in their workplace through training and other incentives. There is a similar fund for the public sector – the Fund for the Integration of Persons with Disabilities in the Civil Service – managed by the Ministry of Public Action and Accounts.

42. Despite those efforts, according to official data, in 2015 only 35 per cent of persons with disabilities had access to the labour market, while the unemployment rate for this population group stood at 19 per cent, or twice that of the general population.<sup>6</sup> Persons with

<sup>6</sup> Ministry of Social Affairs and Health, 2016. « Les chiffres clés du handicap », p. 3 (in French).

disabilities seeking work are generally less skilled and older than jobseekers without disabilities, and only have access to less well paid jobs requiring less qualified workers.

43. The Special Rapporteur welcomes the initiatives undertaken by authorities to improve access to jobs for persons with disabilities, including through the adoption of multi-stakeholder national agreements and regional plans, and the provision of labour inclusion services. However, she was surprised to learn that the concept of reasonable accommodation,<sup>7</sup> which is fundamental to combat discrimination in the workplace, is practically unknown. More efforts are required to enable the effective inclusion of persons with disabilities in the workplace, including by providing the necessary accommodations to guarantee the recruitment and career development of persons with disabilities. She also encourages the authorities to do more to ensure the promotion of persons with disabilities in their careers, once they have access to employment.

## E. Social protection

44. France allocates significant financial and human resources to social protection programmes and services for persons with disabilities, amounting to €39.5 billion per year.<sup>8</sup> Its social protection system covers a wide range of contributory and non-contributory benefits targeting persons with disabilities, including an allowance for persons with disabilities and a disability compensation benefit, among many others. In September 2017, as part of the Government's road map on disability, the Interministerial Committee on Disability announced a progressive increase in the allowance for persons with disabilities from €811 to €900 monthly by November 2019, which is still below the poverty line in France.

45. While welcoming the increasing social investment and attention given by the Government to persons with disabilities, the Special Rapporteur notes that the French social protection system is highly complex and fragmented. On the one hand, the multiplicity of offers, services and structures makes it difficult for persons with disabilities to navigate the system. On the other hand, the services are extremely compartmentalized and often overlap, which prevents the optimization of solutions to meet the needs of persons with disabilities. When a gap is identified, the system responds by creating new services rather than integrating them into existing services or expanding their coverage. Moreover, the assessment process to determine disability status and eligibility for related benefits is very complex and does not adopt a human rights-based approach. In fact, multidisciplinary teams assess a person's "level of incapacity" and develop individual disability compensation and support plans. While this is done in coordination with the person concerned (or their legal representative), in practice this system does not allow persons with disabilities to have a real interaction with the teams, thus limiting their choice and control over the benefits and services they receive.

46. This makes coordination among stakeholders difficult, despite efforts by the departmental centres for persons with disabilities to serve as a "one-stop shops" for all services. For instance, although these centres provide disability assessments and determinations, individual compensation and support plans and financial benefits to persons with disabilities to access support services and technical aids, there are significant delays in processing disability assessments and requests for benefits, which can take up to one year, leaving persons with disabilities without support in precarious situations.

47. The Special Rapporteur was informed that, as the State does not reimburse in full the cost of assistive devices or technical aids, persons with disabilities must contribute with a co-payment, which in some cases can be very high, placing them at risk of poverty or obliging them to opt for cheaper solutions that do not meet their specific needs. For

<sup>7</sup> Article 2 of the Convention defines reasonable accommodation in a broader sense beyond the workplace.

<sup>8</sup> National Solidarity Fund for Autonomy (*Caisse nationale de solidarité pour l'autonomie*), 2017. « Les chiffres clés de l'aide à l'autonomie », p. 8 (in French).

instance, the co-payment for hearing aids or wheelchairs can be as high as 40 to 70 per cent of the total cost to the person. Likewise, persons with disabilities use part of their disability allowance to cover the costs of personal assistance and other forms of human aid, thus reducing their income for general expenses. The State should provide essential assistive devices and technical aids for free, and make all other assistive devices progressively more affordable. In the meantime, it should take into account the extra cost of living that persons with disabilities have when calculating and allocating benefits, including the disability compensation benefit.

48. It is also a matter of concern that almost 90 per cent of institutions and services for persons with disabilities are run by non-profit organizations with limited governmental planning and guidance, and that the majority of them favour residential and institutional solutions instead of community living and inclusion. It is essential to replace segregated and paternalistic solutions with State-driven social protection responses that promote active citizenship, social inclusion and community participation. Moreover, France should regulate the offer and quality of services for persons with disabilities to ensure their compliance with the Convention.

49. The Special Rapporteur urges France to ensure that its social protection system guarantees access to appropriate community-based services, devices and other assistance for disability-related needs across its territory.

## **F. Living independently in the community**

50. Despite the existence of a legislative framework that aims in principle to promote autonomy and access to independent living,<sup>9</sup> in practice France continues to promote the placement of persons with disabilities, especially those considered to have “severe disabilities”, in institutions. Many interlocutors in charge of disability support the view that persons with disabilities should be provided with special separate services, including in residential institutions, in order to provide them with the best care, protect them from any possible harm, stigma and discrimination, and allow them to be safe in the company of their peers with disabilities. In line with this view, current efforts to address the needs of persons with disabilities in France are highly specialized, segregated and compartmentalized, with a strong focus on addressing impairment rather than on transforming society and the environment to ensure accessible and inclusive services and community-based support for all persons with disabilities.

51. The Special Rapporteur is extremely concerned about the very high number of persons with disabilities living in institutions across France. Approximately 100,000 children and 200,000 adults with disabilities reside in a broad range of institutionalized settings. The majority of these institutions are financially supported by the State and run by non-profit organizations, including parents’ organizations. Although these institutions differ in size, name and set-up, they all restrict liberty, segregate and isolate individuals from their communities, deny their choice of and control over living and support arrangements and significantly restrict their day-to-day decisions. Some parents who oppose the institutionalization of their children with disabilities are intimidated and threatened and, in some cases, lose custody of their children, with the children being forcibly institutionalized or subject to administrative placement.

52. Despite these alarming figures, the demand for places in residential institutions exceeds the existing supply and is on the rise. This is due to the Government’s inability to provide alternative independent living arrangements for persons with disabilities, including a sufficient number of quality support services in the cities and communities where they live, and the lack of social awareness of the rights of persons with disabilities to live independently in the community. As a result, at least 6,500 French persons with disabilities, including 1,500 children, are currently placed in residential institutions in Belgium, far

<sup>9</sup> See, for instance, Law No. 82-526 of 22 June 1982, article 459-2 of the Civil Code, Law No. 2005-102 of 11 February 2005 and article R821-5-2 of the Social Security Code.

away from their families and friends. Urgent measures must be taken to address this situation and find suitable long-term human rights-based solutions in France.

53. The Special Rapporteur stresses that there is no such thing as a “good institution” as they all impose a certain type of living arrangement that limits the individual’s capability to live a good life on an equal basis with others. Persons with disabilities, including those with high support needs, must have the opportunity to live in their communities, to choose their place of residence and with whom they live. She welcomes initiatives such as Housing First, which provides individual housing and support to homeless persons with psychosocial disabilities in Marseille, showing that it is possible to provide personal housing arrangements and community-based support in a cost-effective manner, while respecting the rights of the individuals concerned. She is pleased that, as of 2018, Housing First will be scaled up and rolled out in up to 20 French cities over the next four years. She encourages the Government to scale up other community-based alternatives that are respectful of the rights and dignity of persons with disabilities in accordance with the Convention.

54. The Special Rapporteur urges the Government to adopt a concrete action plan to progressively close all existing institutions and to transform the current supply market of services for persons with disabilities into community-based services, including adequate housing. The deinstitutionalization of children with disabilities should be a priority, and the Government should strongly consider establishing a moratorium on new admissions.

## G. Health

55. The Public Health Code regulates access to health care and includes disability as a prohibited ground of discrimination. The Special Rapporteur is concerned that article L2123-2 of this Code allows for the sterilization of persons with psychosocial disabilities without their consent in certain situations, and allows judges, family members and guardians to consent to sterilization procedures on their behalf. United Nations human rights instruments, bodies and entities have recognized that the forced sterilization of persons with disabilities constitutes discrimination, a form of violence, torture and other cruel, inhuman or degrading treatment (see A/72/133, para. 30).

56. Law No. 2002-303 of 4 March 2002 on patients’ rights and the quality of the health-care system provides persons with disabilities with specific rights with regard to access to health care. However, in practice, persons with disabilities experience real difficulties in accessing health-care services in France, including access to HIV/AIDS and reproductive health services, especially outside of urban areas. According to a 2012 survey of beneficiaries of welfare benefits, the 1.1 million beneficiaries of the allowance for persons with disabilities have less access to general medicine and dental care services than the general population.<sup>10</sup>

57. During the visit, the Ministry of Solidarity and Health was in the process of developing the National Health Strategy 2018–2022, in consultation with the National Consultative Council of Persons with Disabilities and organizations of persons with disabilities. The Strategy, adopted at the end of 2017, aims at improving access to health care for persons with disabilities and older persons as close as possible to their homes, including by improving the accessibility of health-care facilities, developing telemedicine and home hospitalization, facilitating access to dental care and other general services and developing targeted prevention and health education campaigns.

58. The strategy also seeks to improve the provision of mental health services, including by promoting the creation of peer support groups for persons with psychosocial disabilities, fighting stigma and discrimination and enabling persons with psychosocial disabilities to access the labour market and professional training. Additionally, in June 2018 the Minister for Solidarity and Health announced a new “road map for mental health and psychiatry” to

<sup>10</sup> France, Directorate for Research, Studies, Evaluation and Statistics, *Enquête sur les bénéficiaires de minima sociaux*, 2012 (in French).

improve the living conditions and social inclusion of persons with psychosocial disabilities. However, some organizations of persons with disabilities claim they were not consulted in the development of this road map. While acknowledging these policies, the Special Rapporteur notes that they must be coupled with directives for their implementation and an adequate budget. The challenges faced by persons with disabilities in the area of mental health are discussed in section H below.

59. In relation to autistic persons, the Special Rapporteur expresses concern that there is little to no data in France on autism, which makes it very difficult to inform and design adequate rights-based policies and responses. In spite of four successive autism plans, autistic children are still offered inefficient therapies, overmedication and placement in psychiatric hospitals and institutions, including in Belgium. Moreover, the use of “packing”, the practice of wrapping autistic children and psychotic adults in extremely cold wet sheets for experimental purposes, continues to be widespread. Professionals trained in internationally recognized therapies and development and education programmes are scarce and not covered by the health insurance system.

## **H. Denial of legal capacity, deprivation of liberty and involuntary treatment**

60. In France, a very high number of persons with disabilities have their legal capacity removed or restricted. According to data provided by the Ministry of Justice, in 2015 at least 385,000 persons with disabilities were placed under full guardianship (*tutelle*) and 360,000 under partial guardianship (*curatelle*). Individuals under *tutelle* lose the power to exercise their rights and must be represented by a guardian to carry out civil acts; individuals under *curatelle* retain the power to exercise most of their rights but need to be assisted or authorized by a third party to carry out certain civil acts. The Special Rapporteur was informed that persons with disabilities, particularly autistic persons and those with intellectual and psychosocial disabilities, are systematically placed under such regimes, for instance to facilitate procedures for accessing social benefits or being placed in institutions.

61. It is important to note that the French legal framework for adult protection, reformed by Law No. 2007-308 of 5 March 2007, contemplates other less restrictive measures such as judicial protection, enduring power of attorney, personalized social support and judicial support. Although these measures represent an alternative to guardianship regimes that support the exercise of legal capacity by persons with disabilities, their use remains marginal due to poor awareness and training among judges and lawyers, and a lack of awareness among families and the general population.

62. Equal recognition for the legal capacity of persons with disabilities is a core obligation under article 12 of the Convention on the Rights of Persons with Disabilities, which covers both the capacity to be a rights holder and to act in accordance with the law. In reality, far from being protected, persons under guardianship in France are deprived of their rights and are at risk of abuse and institutionalization. France needs to urgently review its legislation to eliminate all regimes of substituted decision-making and ensure that supported decision-making alternatives are available to all persons with disabilities, regardless of the level of support they may require to take informed decisions.

63. The Public Health Code allows for the involuntary hospitalization and treatment of persons with psychosocial disabilities. Modified by Law No. 2011-803 of 5 July 2011, it regulates the conditions and procedures for psychiatric care without consent, which could be carried out on an outpatient basis or take the form of full or partial hospitalization, at the request of a third party or of a State representative. The Code was further revised by Law No. 2013-869 of 27 September 2013, requiring the judge to review any measure of full hospitalization no later than 12 days after admission. Through Law No. 2016-41 of 26 January 2016, the use of isolation and restraint was further regulated and reduced so that such measures can only be used as a last resort and their use has to be recorded in a register (see art. L3222-5-1).

64. These legislative reforms are insufficient and the situation of persons with psychosocial disabilities remains a concern. During the visit, the Special Rapporteur was

informed that many persons with psychosocial disabilities receive psychiatric care without consent for prolonged periods of time. Opportunities to challenge their hospitalization are limited because judges rely heavily on doctors' assessments and people are afraid to attend the hearings with the judges as they are not sufficiently informed of their purpose and are not aware that it is in their interest to attend. Because of this situation, in conjunction with the lack of support and alternatives to isolation and restraints to manage crisis situations and the lack of community-based services, many persons with disabilities remain in psychiatric hospitals for long periods while others are later transferred to long-term residential institutions where they stay for the rest of their lives.

65. Furthermore, the Special Rapporteur has received serious allegations of abuse and degrading treatment against persons with disabilities under involuntary psychiatric care. Practices reported include the use of seclusion and restraints, the practice of "packing" for autistic persons and electroconvulsive therapies. She was also informed of cases of psychological and sexual abuse, and threats of involuntary hospitalization made by medical personnel. For example, people under outpatient psychiatric treatment have reported the imposition of curfews and mobility restrictions under threat of forced hospitalization. Involuntary outpatient treatment, however, is not judicially reviewed. In March 2018 the Inspector General of Places of Deprivation of Liberty issued a public warning regarding the alarming situation and inhumane treatment at the psychiatric unit of the Saint-Etienne University Hospital (Loire), due to the widespread use of seclusion and restraints, among other practices.

66. Against this background, the Special Rapporteur urges France to review its legal framework regarding involuntary psychiatric care to ensure that all health-care interventions are provided on the basis of free and informed consent. She is keen to learn more about the new plan of action to reduce involuntary psychiatric treatment, announced by the Ministry of Solidarity and Public Health in June 2018, which entails the creation of an observatory for the rights of psychiatric and mental health patients. She hopes the Government will translate this plan into concrete measures and time-bound benchmarks, with a view to eradicating all coercive practices in psychiatric services in the near future. Moreover, she was pleased to hear about the pilot initiative of a crisis centre for persons with psychosocial disabilities in Marseille. She encourages the Government to scale up other community-based alternatives in line with the Convention.

67. The Special Rapporteur visited the psychiatric infirmary of the Prefecture of Police of Paris, a forensic public facility that holds persons with psychosocial disabilities or mental health conditions for up to 48 hours by decision of a police commissioner where the person is thought to present an imminent danger to public safety following a medical examination. Its establishment, regulated by article L3213-2 of the Public Health Code, derives from a competence attributed to the Chief of Police in 1872 which is nowadays unnecessary, given that public hospitals regularly receive cases of psychiatric emergencies. She recommends that the Government places this facility under the responsibility and monitoring of the public hospital service, with a view to its closure in the near future.

## I. Access to justice

68. Notwithstanding the provisions of Law No. 2005-102 of 11 February 2005, which require, for instance, that deaf persons must be provided with adapted communication means of their choice before the administrative, civil and criminal courts (art. 76), access to justice for persons with disabilities remains a challenge in France. The Special Rapporteur was informed that persons with disabilities are confronted by several barriers, such as the inaccessibility of some court premises and the lack of procedures for accommodating persons with disabilities, including documentation in accessible formats. Consequently, very few persons with disabilities seek remedies in court to claim their rights.

69. Moreover, judges and other professionals working in the field of administration of justice are not trained on the Convention on the Rights of Persons with Disabilities and do not know how to engage with the diversity of persons with disabilities. For instance, autistic and deaf women often do not file complaints for abuse they have experienced,

including sexual violence, owing to the stigma attached and discrimination by judicial authorities who see them as unable to instruct a lawyer or to stand trial. According to the National Bar Council there are only six lawyers in France who know sign language.<sup>11</sup>

70. The Special Rapporteur urges the National School of the Judiciary to include international human rights law and the Convention in its curriculum, and to train personnel currently working in the administration of justice on disability rights. She also encourages the judiciary to develop protocols and guidelines for procedural and age-appropriate accommodation for persons with disabilities.

#### IV. International cooperation

71. In line with article 32 of the Convention, French official development assistance should be accessible to and inclusive of persons with disabilities. According to the information received, this is currently not the case. The Special Rapporteur encourages the Government to ensure that the French Development Agency, which is present in 109 countries through a network of 85 branches and finances more than 3,600 development projects, includes the rights of persons with disabilities as a cross-cutting conditionality in all its programmes and strategies. France could also use its presidency of the Group of Seven in 2019 as an opportunity to further promote this agenda internationally.

#### V. Conclusions and recommendations

##### A. Conclusions

72. **France is a country with a strong tradition of republican and democratic values resting on the ideals of freedom, equality and fraternity, which should guide the full inclusion of persons with disabilities in all areas of life. Disability policies in France need to embrace these ideals, endowing all persons with disabilities with more opportunities to live the lives they choose to live.**

73. **The Special Rapporteur noted the commitment and political will of the current administration to protect and guarantee the rights of persons with disabilities in France. While this is a step in the right direction, significant changes must be made to ensure that the Government's efforts in this area are comprehensive and sustainable.**

74. **France allocates significant financial and human resources to services for persons with disabilities. However, current efforts to address the needs of persons with disabilities are highly specialized, segregated and compartmentalized, with a strong focus on addressing impairment rather than on transforming society and the environment to ensure accessible and inclusive services and community-based support for all persons with disabilities. Such segregated responses not only perpetuate a false picture of persons with disabilities as objects of care instead of subjects of rights, but also contribute to their isolation from mainstream society, and prevent and delay government efforts to implement the systematic and profound environmental changes necessary to remove attitudinal, physical and communication barriers.**

75. **France needs to carefully revise and transform its system to be able to truly provide inclusive responses and solutions for all persons with disabilities, manage and allocate resources more efficiently and provide specialized services and support in the community on an equal basis with others. To make this shift, France needs to adopt a human rights-based approach to disability and truly embrace the spirit and principles of the Convention. This approach should be integrated into all policies, strategies, programmes and responses from the central to the local levels, so as to transform**

<sup>11</sup> See *Annuaire des avocats de France*. Available at [www.cnb.avocat.fr/annuaire-des-avocats-de-france](http://www.cnb.avocat.fr/annuaire-des-avocats-de-france) (in French).

society entirely and make all human rights accessible to and inclusive of persons with disabilities.

76. The Special Rapporteur looks forward to a continued dialogue and collaboration with the State and other actors on the implementation of her recommendations, so that France can make the shift necessary to create a truly inclusive society.

## **B. Recommendations**

### **General**

77. The Special Rapporteur recommends that the Government:

(a) Ensure the collection of data relating to the situation of persons with disabilities, disaggregated at a minimum by sex and age, to inform public policies, and to include questions on disability in the next population censuses and all national surveys;

(b) Undertake public awareness-raising campaigns on the rights of persons with disabilities to sensitize the media and the public to combat stigma and prejudice against persons with disabilities and promote a positive image of disability in France.

### **Legal and institutional framework**

78. The Special Rapporteur recommends that the Government:

(a) Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled;

(b) Reconsider its position on the adoption of an additional protocol to the Convention on Human Rights and Biomedicine that contravenes the provisions of the Convention on the Rights of Persons with Disabilities;

(c) Withdraw its interpretative declarations on articles 15 and 29 of the Convention on the Rights of Persons with Disabilities;

(d) Conduct a comprehensive legislative review to fully harmonize the French normative framework with the provisions of the Convention, including by revising Law No. 2005-102 of 11 February 2005 and revoking discriminatory provisions of the Electoral Code, the Civil Code, the Code of Civil Procedure, the Public Health Code and mental health legislation;

(e) Review the road map on disability adopted by the Interministerial Committee on Disability in 2017 to make it a comprehensive national disability policy, with time-bound benchmarks and effective implementation plans at all departmental and territorial levels;

(f) Ensure that all public policies, including disability-specific ones, adopt a human rights-based approach to disability and aim to remove barriers that impede the effective and full participation of persons with disabilities;

(g) Enhance coordination among all ministries tasked to mainstream disability within their institutions, including through the prompt nomination of full-time disability and accessibility focal points within each ministry, cabinet and departmental administration;

(h) Increase the capacity of government officials, civil servants, service providers and civil society to implement the Convention and engage in a wide-scale public awareness campaign on the rights-based approach to disability.

## Accessibility

79. The Special Rapporteur recommends that the Government:

- (a) Accelerate and complete the process of transformation of the physical environment as soon as possible, as required by Law No. 2005-102 of 11 February 2011, across the country, including in overseas territories;
- (b) Adopt decrees and regulations to make public transport available, accessible and affordable for the diversity of persons with disabilities, and allocate funds and adopt a time-bound plan for their implementation;
- (c) Make critical public health campaigns accessible to the diversity of persons with disabilities.

## Participation

80. The Special Rapporteur recommends that the Government:

- (a) Make the entire electoral process accessible to and inclusive of the diversity of persons with disabilities;
- (b) Train all stakeholders in the electoral system on the right to vote of persons with disabilities, including training of electoral organizers and polling station staff on electoral accessibility and the reception and support of persons with disabilities in polling stations;
- (c) Widen consultations and the representation of organizations of persons with disabilities within the National Consultative Council of Persons with Disabilities and allocate an operational budget to this body for its proper functioning;
- (d) Prioritize consultations with the diversity of organizations of persons with disabilities, instead of service providers, including in the next national conference on disability, and in the development and implementation of laws and policies that directly or indirectly concern them. This could be done by organizing accessible consultations across the country and conducting training programmes to build their capacities;
- (e) Support the creation of organizations of persons with disabilities and respect their independence, and promote the participation of organizations belonging to specific groups, such as deafblind persons and persons with intellectual and psychosocial disabilities;
- (f) Eliminate obstacles to the effective and full participation of persons with disabilities in the conduct of public affairs.

## Education

81. The Special Rapporteur recommends that the Government:

- (a) Adopt a time-bound plan for the progressive implementation of an inclusive quality education system, through adjustments to the physical environment, adaptation of educational materials and learning methodologies and teacher training, and that it provide the necessary support and accommodation for all students with disabilities, including those with multiple disabilities;
- (b) Train all teachers, education professionals and school assistants on providing inclusive education and individual support, creating inclusive and accessible environments and giving due attention to the specific situation of each child;
- (c) Close the existing medico-educational institutions and include all children with disabilities previously in these institutions in regular schools, with the required support;
- (d) Adopt measures to facilitate and ensure the access of all children with disabilities to appropriate support in inclusive regular schools, including those children considered "without a solution", for instance by locating the Service for

**Special Education and Home Support and other specialized services on the school premises, avoiding duplications with the specialized units for school inclusion;**

(e) **Transfer all financial and human resources and responsibilities for the education of children with disabilities from the Ministry of Solidarity and Health to the Ministry of National Education;**

(f) **Provide learners with disabilities with the support needed to access higher education on an equal basis with others, including the possibility to participate in academic exchange programmes abroad.**

#### **Work and employment**

82. **The Special Rapporteur recommends that the Government take measures to enable the effective inclusion of persons with disabilities in the work place, including by providing the necessary accommodations to guarantee the recruitment and career development of persons with disabilities.**

#### **Social protection**

83. **The Special Rapporteur recommends that the Government:**

(a) **Ensure that the social protection system enables access to appropriate community-based services, devices and other assistance for disability-related needs to persons with disabilities;**

(b) **Provide essential assistive devices and technical aids for free, progressively make all other assistive devices more affordable and consider the extra costs of living borne by persons with disabilities when allocating benefits;**

(c) **Ensure that the social protection system promotes active citizenship, social inclusion and community participation, instead of segregated solutions for persons with disabilities.**

#### **Living independently in the community**

84. **The Special Rapporteur recommends that the Government:**

(a) **Make the deinstitutionalization of persons with disabilities a priority and strongly consider establishing a moratorium on new admissions;**

(b) **Progressively close all institutions and transform the existing supply market of services for persons with disabilities into community-based services, including adequate housing, following a time-bound plan;**

(c) **Expand personal housing arrangement initiatives providing support in the community for persons with disabilities to all major cities in France.**

#### **Health**

85. **The Special Rapporteur recommends that the Government:**

(a) **Improve access to health care for persons with disabilities as close as possible to their homes, through comprehensive rights-based medical care, including access to HIV/AIDS and reproductive health services;**

(b) **Assess the situation of autistic children and develop an efficient system for early identification to facilitate the design of appropriate strategies and health programmes.**

#### **Deprivation of liberty, denial of legal capacity and involuntary treatment**

86. **The Special Rapporteur recommends that the Government:**

(a) **Guarantee the exercise of legal capacity to all persons with disabilities, by repealing all forms of formal and informal substituted decision-making;**

- (b) Promote the use of judicial protection, enduring power of attorney, personalized social support and judicial support, including through the training of judges and lawyers and general public awareness campaigns;
- (c) Take immediate measures to stop the institutionalization, forced treatment and forced sterilization of persons with psychosocial and intellectual disabilities and autistic persons in psychiatric hospitals and units;
- (d) Forbid the forced institutionalization or administrative placement of autistic children, and take measures to ensure that parents are no longer subjected to reprisals when refusing the institutionalization of their children;
- (e) Review the legal framework regarding involuntary psychiatric care to ensure that all health-care interventions are provided on the basis of free and informed consent, including by allowing intensive home support without constraints;
- (f) Invest in the development of community-based services that are respectful of the rights and dignity of persons with disabilities;
- (g) Place the psychiatric infirmary of the Prefecture of Police of Paris under the responsibility and monitoring of the public hospital service with a view to its closure.

#### Access to justice

87. The Special Rapporteur recommends that the Government:

- (a) Include modules on international human rights law and the Convention in the curriculum of the National School of the Judiciary and train all personnel working in the administration of justice on the rights of persons with disabilities;
- (b) Make all justice proceedings accessible to the diversity of persons with disabilities, including through the provision of legal aid and information in accessible formats, sign language interpretation and protocols for procedural and age-appropriate accommodation.

#### International cooperation

88. The Special Rapporteur recommends that the Government mainstream the rights of persons with disabilities in all the programmes, strategies and projects of the French Development Agency and make disability a conditionality to receive official development assistance.

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