



Convention on the Rights of the Child

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Committee on the Rights of the Child

Consideration of the reports submitted by States parties under article 44 of the Convention

Fifth periodic reports of States parties due in 2012

France*

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Contents

	<i>Paragraphs</i>	<i>Page</i>
Introduction	1–5	4
I. General measures of implementation	6–131	4
A. Implementation of the Convention	6–21	4
B. Arrangements in place to monitor implementation of the Convention and coordinate measures for the benefit of children.....	22–65	6
C. Allocation of resources	66–73	13
D. Data collection	74–94	14
E. Measures taken by France to improve awareness of the rights of the child....	95–121	17
F. Cooperation with civil society	122–127	21
G. International action	128–131	22
II. General principles	132–206	23
A. Non-discrimination	132–173	23
B. Best interests of the child and respect for the views of the child	174–186	29
C. Right to life, survival and development	187–206	31
III. Civil rights and freedoms	207–325	33
A. Birth registration.....	207–214	33
B. Access to personal origins	215–224	34
C. Freedom of thought, conscience and religion	225–236	35
D. Freedom of association and peaceful assembly	237–252	37
E. Protection of privacy.....	253–266	39
F. Access to appropriate information.....	267–285	41
G. Torture or other cruel, inhuman or degrading treatment or punishment	286–309	43
H. Follow-up to the United Nations Study on Violence against Children	310–321	46
I. Corporal punishment	322–325	48
IV. Family environment and alternative care	326–394	48
A. Family environment.....	326–331	48
B. Children deprived of a family environment.....	332–350	49
C. Adoption	351–366	52
D. Abuse and neglect.....	367–394	54
V. Basic health and welfare	395–483	57
A. Children with disabilities.....	395–405	57
B. Health and health services	406–433	59
C. Breastfeeding	434–438	64
D. Adolescent health.....	439–464	64

E.	Standard of living	465–483	67
VI.	Education, leisure and cultural activities.....	484–532	70
A.	Education	484–518	70
B.	Rest, leisure, recreation and cultural and artistic activities	519–532	75
VII.	Special measures of protection.....	533–673	77
A.	Child asylum-seekers and refugees and unaccompanied children	533–578	77
B.	Sexual exploitation, sale, trafficking and abduction	579–619	82
C.	Administration of juvenile justice.....	620–659	89
D.	Protection of witnesses and victims of crimes	660–671	93
E.	Children belonging to minority and indigenous groups.....	672–673	95

Annexes**

** The annexes may be consulted at the secretariat.

Introduction

1. On 20 November 1989, France signed the Convention on the Rights of the Child (“the Convention”), which had been adopted by the General Assembly of the United Nations, on 26 January 1990, and swiftly thereafter ratified it on 7 August 1990. In 1993, France submitted a very comprehensive initial report on the follow-up to the Convention, which was considered by the Committee on the Rights of the Child (“the Committee”) a year later, on 25 April 1994. Drawn up in 2002, the second periodic report of France was considered on 2 June 2004. The third and fourth periodic reports, which were submitted jointly in the form of a single document on 11 September 2007 (CRC/C/FRA/4), were considered by the Committee on 26 May 2009.

2. In accordance with the General Guidelines on periodic reports, the present report does not seek to go back over all of the information previously set out, but to describe developments, in terms of legislation and domestic practice, which have taken place since the third and fourth periodic reports were prepared, as well as to update the data previously supplied. The report also contains information on the follow-up to the Concluding Observations adopted by the Committee on 12 June 2009 and circulated on 22 June 2009 (CRC/C/FRA/CO/4).

3. The report provides an overview of the contributions from the ministries involved in implementing the Convention. The Government has also taken account of the comments set out by the National Consultative Commission for Human Rights (CNCDH), which includes, in particular, representatives of non-governmental organizations “NGOs”) active in the field of human rights, a number of which work in relation to the rights of the child.

4. As requested by the Committee in its Concluding Observations, the information on the Overseas Departments and Territories has been incorporated into the body of the report where answers are provided to the recommendations made in their regard, rather than in a specific annex.

5. The Government will be sure to keep the Committee informed, in the context of the issues raised prior to the hearing, of any developments that have taken place in the intervening period.

I. General measures of implementation

A. Implementation of the Convention

1. Reservations and declarations

6. When considering the third and fourth periodic reports of France, the Committee again requested the State party to withdraw its reservation and its two declarations.

7. The French Government can only refer back to the explanations already set out in its earlier reports. The lifting of the reservation regarding article 30 (on minorities) and withdrawal of the two declarations regarding articles 6 (right to life) and 40 (right of appeal in criminal matters) are still not on the agenda.

8. As regards the reservation regarding article 30, which is similar to that concerning article 27 of the International Covenant on Civil and Political Rights, it must be pointed out that, under French legislation, no group whatsoever, whether defined as of common origin, culture, language or belief, may be accorded collective rights. That does not, of course,

amount to a denial of French cultural diversity. Please see the third and fourth reports (paras. 7 to 9) for further clarification.

9. Turning to the two interpretative declarations, the French Government points out that they do not call into question the application of the Convention in France. One is designed to resolve an ambiguity in the drafting of article 6, as the right to life should not be interpreted as prohibiting intentional abortion in the circumstances provided for under the law. The other declaration concerning article 40 is very limited and now relates only to certain minor offences falling under the jurisdiction of the district courts which cannot be subject to appeal but do not, in any event, involve deprivation of liberty.

2. Legislation

10. Finally, the Committee has recommended (para. 11) that France should continue to take measures to ensure that the Convention, in its entirety, is directly applicable throughout the whole of French territory, and that all of the provisions of the Convention should be able to be directly relied upon by individuals before the national courts.

11. The Government would first point out that it is for the courts, and, more particularly, the supreme courts, namely the Council of State (*Conseil d'État*) and the Court of Cassation (*Cour de cassation*), to define the conditions in which the provisions of international treaties generally, and the Convention in particular, may be invoked within the domestic legal order.

12. There has been no significant decision extending the range of provisions with direct applicability since those cited in the last report, at annex III.

13. It remains the case that not all of the Convention's provisions give rise per se to rights for the benefit of litigants, as only those provisions which are sufficiently precise, clear and unconditional may be directly invoked by parties in the context of litigation.

14. It should, however, be pointed out that in its decision *GISTI* of 11 April 2012 (No. 322326), the Council of State redefined the criteria under which the provisions of a treaty must be deemed to have direct effect in domestic law, and thus bolstered the status of international conventions before the administrative courts.

15. Henceforward, as far as the administrative courts are concerned, a provision is directly effective where "its sole object is not to regulate relations between States" and "it does not require the adoption of an additional measure in order to produce effects in relation to individuals".

16. This new interpretation should lead the Council of State gradually to review its case law on the direct effect of several major treaties and of the Convention more particularly.

17. Moreover, the decisions handed down by the Council of State since the last report reveal the decisive influence of the Convention on administrative law in relation to minors, particularly as regards the attention given to the best interest of the child, freedom of expression and the protection of private and family life.

18. Most of the appeals in the context of which the Convention is relied upon before the Council of State concern the authorities taking account of the best interests of the child when decisions are taken in relation to the issuance of passports and passes, family reunification, the expulsion of foreigners and the refusal of visas. Their common feature is the importance accorded, pursuant to the provisions of article 3(1), of the Convention, to safeguarding the best interests of the child, with the court ensuring that the authorities have paid overriding attention to those interests. The concept of the best interests of the child has also been invoked in the context of cases pertaining to changes of name or regulatory instruments.

19. The Council of State also pays particular attention to the freedom of expression for minors (art. 13 of the Convention) (see the decision of 16 March 2011, *Société de Télévision 1*, No. 334289), as well as to the protection of children against interference in their private and family lives (art. 16 of the Convention).

20. At annex I, the Committee will find a more detailed description of the recent decisions of the Council of State concerning the application of the Convention.

21. That case law demonstrates the constant and overriding concern of the administrative court to take the requirements of the Convention into account when framing its decisions.

B. Arrangements in place to monitor the implementation of the Convention and coordinate measures for the benefit of children

1. Monitoring the implementation of the Convention

1.1 Government monitoring

22. Monitoring the coordination of ministerial measures designed to implement the Convention remains the responsibility of the ministers for the family and for the Overseas Departments and Territories at domestic level, and the responsibility of the minister for foreign affairs as far as international aspects are concerned. Those ministries work together, under the authority of the Prime Minister, to secure consistency in Government action.

23. In recent years, a number of reports covering areas falling under the Convention have been submitted:

- Report on adoption, a report commissioned from Mr. Jean-Marie Colombani by the President of the Republic and the Prime Minister, *Documentation française*, Paris, 2008;
- Report on the prevention of youth crime by Mr. Jean-Marie Bockel, Secretary of State for Justice, for the President of the Republic, November 2010;
- Report of the working group on the situation of isolated foreign minors, Ministry for Immigration, Integration and the National Identity and for Mutually-supportive Development, October 2009;
- Fifth report to Parliament on crime-prevention policy in 2011, Inter-ministerial Committee on crime prevention, April 2012.

1.2 Parliamentary monitoring

24. As matters stand, neither the National Assembly (*Assemblée nationale*) nor the Senate (*Sénat*) has a committee specializing in the rights of the child. Issues linked to the rights guaranteed under the Convention are taken into consideration by the various committees when considering the legislation put before them.

25. Parliament regularly intervenes in regard to matters pertaining to the rights of the child by way of information and investigation reports, or bills, thereby helping to nurture an extensive national debate, for example:

In relation to child protection, giving birth in secret and adoption:

- Report by the Senate's Finance Committee and Social Affairs Committee on the French Adoption Agency (March 2009);

- Report by Ms. Isabelle Debré, member of the Senate, on isolated foreign minors (May 2010);
- Report by Ms. Brigitte Barèges, member of the National Assembly, on anonymous births (November 2010);
- Report by Ms. Chantal Jouanno, member of the Senate, on the hypersexualization of children (March 2012);
- Annual report to Parliament and the Government by the National Observatory for Children at Risk (ONED);
- Information report by MM. Jean-Claude Peyronnet and François Pillet, members of the Senate, on secure educational facilities and penal establishments for minors (July 2011);
- Report by the Senate's Social Affairs Committee on "Family policy and child protection, the Quebec model" (June 2011);
- Report by Mr. Jean-Luc Warsmann, member of the National Assembly, on juvenile justice (June 2011);
- Report by Mr. Yves Lachaud, member of the National Assembly, on youth crime (June 2011);
- Parliamentary bill tabled by Ms. Tabarot, member of the National Assembly, on abandoned children and adoption (March 2012) adopted on first reading by the National Assembly;
- Parliamentary bill tabled by Ms. Martinez, member of the National Assembly, on communicating information on children at risk (adopted in the form of Act No. 2012-301 of 5 March 2012).

In relation to disability, there are many reports concerning children with disabilities:

- Report by the Parliamentary Office for the Evaluation of Scientific and Technological Decisions on how science and technology can help alleviate disability (drawn up by Ms. Bérengère Poletti, member of the National Assembly, 2008);
- Information report on the assessment of the departmental residential facilities for persons with disabilities, prepared in 2011 by Mr. Paul Blanc and Ms. Annie Jarraud-Vergnolle on behalf of the Senate's Social Affairs Committee;
- 2012 Information Report No. 635 (2011–2012) "Disability legislation: real progress but a lack of adequate implementation" by Ms. Claire-Lise Campion and Ms. Isabelle Debré on behalf of the Committee monitoring the implementation of legislation, lodged with the Senate on 14 July 2012.

In relation to combating poverty and social inclusion and integration:

- Report by Mr. Bernard Seillier, member of the Senate on "Combating poverty and exclusion: a shared responsibility" (2008);
- Report of the Committee for the Evaluation and Monitoring of Public Policies, submitted by MM. M. Heinrich and R. Juanic, members of the National Assembly: "Evaluating the results of social policies in Europe" (2011).

In relation to women's rights:

- Information report prepared on behalf of the Fact-finding mission for the evaluation of policies for the prevention of and to combat violence against women, chaired by

Ms. Danielle Bousquet, member of the National Assembly: “Violence against women: finally putting an end to the unacceptable” (2009);

- Information report prepared on behalf of the Fact-finding mission for the evaluation of policies for the prevention of and to combat violence against women, by Mr. Guy Geoffroy and Ms. Danielle Bousquet, members of the National Assembly: “Implementation of Act No. 2010-769 of 9 July 2010 on violence specifically directed against women, on conjugal violence, and the impact of such violence on children” (2010).

In relation to fact-finding:

- Report by Senator Paul Blanc to the President of the Republic on the education of children with disabilities (2011);
- Report by Mr. Jean-François CHOSSY, honorary member of Parliament, to the Prime Minister: “Moving from taking care of ... to taking account of” (2011);
- Report by Ms. Fort, member of the National Assembly, on “The victim as the focal point of action by the police services”, presented to Prime Minister François Fillon and Mr. Claude Guéant, Minister of the Interior, Overseas Territories, Territorial Collectivities and Immigration, February 2012;
- Government reports to Parliament on the implementation of the 2005 Act: February 2009 and February 2012.

1.3 Independent monitoring arrangements

26. When considering its third and fourth periodic reports, the Committee recommended that France should ensure the complementary role of the independent institutions monitoring the implementation of the Convention. It stressed the role of the Children’s Ombudsperson, in particular with respect to its individual complaint mechanism, and asked that it be provided with adequate financial and human resources to enable it to carry out its mandate effectively. The Committee also encouraged the Government to consult on draft legislation, on a regular basis, both the Children’s Ombudsperson and CNCDH.

1.3.1 The Defender of Rights and the Children’s Ombudsperson

27. A new institution, the Defender of Rights, has been incorporated into the Constitution since 23 July 2008 and was set up by basic law and ordinary law of 29 March 2011.

28. This independent institution combines the responsibilities of the Ombudsman of the Republic, the Children’s Ombudsperson, the High Authority to Combat Discrimination and Promote Equality (HALDE) and the National Security Ethics Committee.

29. The remit of the Defender of Rights is to defend individual rights and liberties in the context of relations with the authorities, to defend and promote the best interests and the rights of the child, to combat discrimination prohibited under the law and promote equality and to ensure that persons engaged in security activities abide by a code of ethics.

30. The Defender of Right enjoys significant powers to enable it to meet its responsibilities. It can receive individual complaints or take them up of its own initiative, and has significant powers of investigation enabling it to obtain all evidence, but also, where necessary, to interview individuals, and indeed carry out on-the-spot checks. It can make recommendations to resolve problems or violations of rights which have been referred to it or prevent them from recurring. The individuals or authorities concerned are required to inform it of the follow-up to its recommendations. In the absence of such

information, or if it considers that its recommendations have not been acted upon, the Defender of Rights may call upon the person concerned to take the necessary measures within a specific time; then, if its instructions have not been acted upon, it may draw up a special report that is addressed to the person concerned and published (together with the response of the person concerned). It may also assist the mediation process or suggest a compromise; it may also help the victim put together his or her case and identify the procedures best suited to it, including where an international element is involved. The Defender of Rights may refer the matter to the competent authority to have disciplinary action based on the evidence it has and which, in its view, justifies the imposition of a penalty. Here again, it must be informed of the action taken and may draw up a special report, which may be published in the absence of follow-up. It may also intervene in judicial proceedings in support of a complainant, by submitting written or oral observations, something the Children's Ombudsperson was specifically not permitted to do under the former legislation.

31. As well as dealing with individual complaints, the Defender of Rights adopts specific measures designed to prevent any violation of individual rights, seeking, among other things, to promote equality in the fields of employment, housing, education and access to goods and services, in both public and private sectors, by raising stakeholder awareness. It is also a proactive player, making recommendations to both public- and private-sector authorities.

32. These powers, which have been substantially enhanced compared with those of the previous institutions, particularly as regards the treatment of individual cases, are bound to be of benefit when it comes to protecting the rights of the child.

33. The Defender of Rights oversees three "colleges" which help it fulfil its responsibilities in relation to the defence and promotion of the rights of the child; combating discrimination and promoting equality; and compliance with a code of ethics in the field of security. The collegiate arrangement facilitates discussion and encourages the taking of decisions that are equitable and properly reasoned. The three colleges may be brought together to encourage a cross-disciplinary approach and sense of belonging to the institution. Each college is administered by an Assistant Deputy Chairperson who may stand in for the Defender of Rights and chair meetings.

34. Ms. Marie Derain, who retains the title of Children's Ombudsperson, is the Deputy Chairperson responsible for defending and promoting the rights of the child.

35. At territorial level, the Defender of Rights is represented by 450 delegates who are present in the departments of metropolitan France and the Overseas Departments and Territories. They take receipt of complaints and respond to all applications at regular clinics. They are available at various sites: prefectures, sub-prefectures, legal advice and law centres and one-stop shops for public services (*maisons de service public*).

36. Turning more specifically to the rights of the child, 32 young ambassadors for the rights of the child, serving the community, meet with minors throughout the school year to ensure that the Defender of Rights and Children's Ombudsperson have high profiles and to promote the rights guaranteed under the Convention. They are trained for this, and visit educational institutions that are happy to receive them, but also recreational facilities, specialist structures (hostels, institutes, secure educational facilities, etc.) and also child psychiatry services.

37. Moreover, every year, marking Universal Children's Day on 20 November, the Defender of Rights submits a report on the rights of the child to the President of the National Assembly and the President of the Senate. The first report on the subject was submitted on 18 November 2011. In that report entitled "Defending and promoting the rights of children in care", the Defender of Rights sets out a number of recommendations

designed to secure greater respect for the rights and interests of these children. The Defender of Rights was received by the President of the Republic on 21 November 2011, along with the Children's Ombudsperson.

38. The work of the Defender of Rights and of the Children's Ombudsperson is closely scrutinized and discussed in depth.

39. For instance, the subject of the above report on "Defending and promoting the rights of children in care" was taken up again on the occasion of the seminar marking the anniversary of the Act of 5 March 2007, jointly organized on 5 March 2012 by the Ministry for Solidarity and Social Cohesion and the office of the Secretary of State responsible for the family. Entitled "Has the act of 5 March 2007 improved the care of children placed in care?", the seminar focused on action taken in relation to children and their families, while devoting substantial attention to the analysis by the Children's Ombudsperson, Ms. Marie Derain, who spoke at one of the round tables.

40. The report by the Defender of Rights set out a number of proposals on the following themes: increasing the involvement and effective participation of parents; ending placement early; avoiding repeated disruption to the lives of young people by guaranteeing the stability and consistency of measures in all areas of the life of the child; organizing a consensus conference which making it possible to pool professional knowledge, methods and practices, compare them and produce recommendations; stepping up the process of collecting and following up information on children placed in care from the departments, the legal community, the health services and other services and players involved; supporting the development and guaranteeing the viability of the pilot establishments and services designed to meet the needs of children and young people with particular problems; giving fresh impetus to the initial and in-service training of all professionals and managerial staff at territorial level who are likely to be familiar with the circumstances of children at risk, by placing the emphasis on familiarity with the rights of the child and the conditions for their implementation; and coordinating the care of isolated foreign minors. On conclusion of the seminar of 5 March 2012, during which examples of good practice were described, attention was drawn to:

- The need to guarantee the stability and consistency of measures taken in relation to children and their families;
- The need for a personalized plan and monitoring, and for an assessment of situations, based on the plan for the child and the annual report of the situation, in order to provide the most appropriate responses;
- The need to ensure coordination between the various actors involved with the child and the family, guaranteeing consistency and continuity;
- The need to make vigorous efforts to secure the effective involvement of parents, and the need for an early end to placement.

41. Finally, a working group on the best interests of the child, set up by the Children's Ombudsperson, the deputy to the Defender of Rights, has brought together every month, since January 2012, a range of experts in the field (members of the judiciary, lawyers, academics, psychologists, childcare professionals, etc.). Taking as its starting point specific situations, relating in particular to the maintenance of family ties, the working group's remit is better to define the methodological approach and principal criteria to be taken into account to allow the whole concept to be better understood. Following its initial meetings which discussed the question of where children should reside and how family ties could be maintained if the parents separated, the working group is now considering the best interests of the child in cases of adoption.

1.3.2 *The National Consultative Commission on Human Rights (CNCDH)*

42. For a description of this body and its powers, please see the third and fourth reports (paras. 22 *et seq.*).

43. CNCDH often has occasion to suggest reforms or issue opinions, if a matter is referred to it or of its own initiative, on child-rights related issues or issues which affect children.

44. Since the last report, CNCDH has, for example, set out its views, largely of its own initiative, on:

- The Prison Act (6 November 2008);
- Educating children with disabilities (6 November 2008);
- The national mechanisms provided for by the Convention on the Rights of Persons with Disabilities (19 November 2009);
- Trafficking in and the exploitation of human beings in France (18 December 2009);
- The bill on immigration, integration and nationality (5 July 2010);
- The draft basic law on the Defender of Rights adopted by the Senate (6 October 2010);
- The bioethics bill (3 February 2011);
- The reform of the criminal justice system for minors (23 June 2011);
- Respect for the rights of “travellers” and migrant Roma in the light of the recent responses by France to the international bodies (22 March 2012);
- The planning bill relating to the enforcement of penalties (26 January 2012).

45. Like its annual report, the opinions and studies of CNCDH are available on its website (www.cncdh.fr).

2. **Coordinating measures for the benefit of children**

46. When considering its third and fourth reports, the Committee urged France (para. 13) to establish a body allocated sufficient resources and tasked with the overall coordination of the implementation of the Convention and its two Optional Protocols as between the national and departmental levels, so as to eliminate any possibility of disparity or discrimination in the implementation process.

47. The Committee also recommended the establishment of a commission for children’s rights in both the National Assembly and the Senate.

2.1 **Ministerial and inter-ministerial coordination**

48. Although, as part of the decentralization process, the departmental councils (*Conseils généraux*) (elected bodies at departmental level) have the pivotal role in terms of child-related policy (they allocate €6.4 billion to child protection), the Ministry for the Family remains, at national level, the main point of contact for those bodies dealing with children and the family.

2.1.1 *Establishment of the Directorate-General for Social Cohesion*

49. January 2010 saw the establishment, within the Ministry for the Family, of the Directorate-General for Social Cohesion which brings together, within a simpler and clearer organization, authorities which were previously engaged in related or similar fields,

including the Directorate-General for Social Action, the Inter-ministerial Delegation for the Family, the Women's Rights Department and the Inter-ministerial Delegation for Persons with Disabilities.

50. The Director-General for Social Cohesion performs the role of Inter-ministerial Delegate for the Family, taking over the responsibilities of the former Inter-ministerial Delegation for the Family, set up in 1998 in the context of the Conferences on the Family. The delegate prepares, facilitates and coordinates measures on family- and child-related policy, and also holds the legislative functions previously exercised by the Directorate-General for Social Action.

51. On that basis, the Directorate-General for Social Cohesion acts as secretariat for the High Council for the Family (*Haut Conseil de la famille* – HCF, 2009), as well as for the National Committee for Parenthood (2010).

52. The Directorate-General for Social Cohesion helps define family policy, coordinates the activity of the other relevant national authorities and monitors family policy. It is involved in the drafting of any legislation related to family policy, organizes the collection of information and commissions all of the studies needed to meet its responsibilities.

53. In point of fact, many ministerial departments have an input into family policy. In addition to family benefits and arrangements set in place for families, housing, basic welfare benefits, the tax system, health care, education and the judiciary all have a role in child-related public policies.

2.1.2 *Establishment of new inter-ministerial bodies*

The High Council for the Family

54. Set up in June 2009, HCF replaces the annual Conference on the Family and the High Council for the Population and the Family.

55. Chaired by the Prime Minister, it has a membership 53, including 8 representatives from the various ministries.

56. Its mandate is to facilitate public debate on family policy, make recommendations and proposals for reform and carry out reviews of the funding of the family branch of the social security system and its financial equilibrium.

The National Committee for Support to Parenthood

57. A governmental body attached to the Prime Minister, the Committee's brief is to contribute to devising, implementing and monitoring policy and support measures relating to parenthood defined by the State and the agencies of the family branch of the social security bodies.

58. Set up on 3 November 2010, it is chaired by the minister responsible for the family, with the National Family Allowance Fund (*Caisse nationale des allocations familiales*) acting as deputy.

59. In addition, at local level, efforts are made to secure a single system of departmental coordination of the support arrangements for parenthood: in 2012, a new inter-ministerial circular called on prefects to align local arrangements and actors so as to simplify local management and give greater prominence to policy for the support of parenthood.

2.2 Significant inter-ministerial action on children at risk

60. When considering the third and fourth reports, the Committee asked France (para. 15) to engage in broad dialogue and then formulate a national comprehensive strategy, accompanied by a national action plan for its implementation.

61. Rather than setting in place a single, comprehensive and exhaustive plan of that nature, which would be an extremely unwieldy undertaking, it seemed more appropriate to take the rights of children, as set out in the Convention, systematically into account when drafting public legislation and policies which could have an impact on children, and to introduce more specific action plans on issues that particularly merit this, and, more generally, to make sure that the reforms implemented are properly monitored.

62. An example of that approach is to be found in the work done on child protection in recent years.

63. For instance, to ensure that the Act of 5 March 2007 reforming child protection is properly implemented a monitoring committee was set in place. With the ministry responsible for the family the lead department, and involving, in addition to the different ministries concerned, the departments and the voluntary sector, the committee meets to monitor the application of the act and to propose improvements to the system.

64. Progress reports on specific issues are drawn up. For example, on 5 March 2012, a seminar was held for the various actors involved in child protection in order to determine whether the Act of 5 March 2007 had made it possible to improve the quality of the care provided for children placed in care. Similarly, a progress report (in the process of being transmitted to Parliament) has been prepared in regard to the implementation of the centralized system for collecting, processing and evaluating information that raises concern. The report shows that departmental units for data collection have been set up everywhere, as the departments have adopted the statutory cooperation agreements (with the judiciary as a matter of course and with the Ministry of Education in 90 per cent of cases).

65. The process of monitoring the application of the act is supplemented by continuing the review of a number of issues. For instance, at the request of the President of the Republic, the Secretary of State for the Family organized national consultations on vulnerable children during the first half of 2010. Their work involved many ministries and partners (representatives of the local authorities, associations, professions, experts, etc.) on subjects such as the transmission of information on children at risk, social work, support for parenthood, situations of insecurity and dangerous games). The measures adopted were the subject of ministerial consultation meetings in September 2010 and of a management and reporting system. The bulk of the measures have now been implemented: production of social work handbooks; establishment of a national committee to support parenthood; creation of a web portal for support to parents; and regulations laying down the procedures for transmitting information on children at risk between the departments in particular.

C. Allocation of resources

66. When it considered the previous report of France, the Committee recommended at paragraph 19 of its Concluding Observations that the maximum extent of available resources be allocated 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. It further recommended the introduction of budget-tracking from a child-rights' perspective and the regular conduct of child-rights' impact assessments to evaluate whether budgetary allocation of budget is sufficient and appropriate for the development of policies and the implementation of legislation.

67. A major share of the resources both of the State and of local administrations is devoted to the implementation of the rights of the child, whether in the form of funding for child-specific policies or of allocations for policies which are not specific to children but which have direct or indirect impact on them.

68. To the extent that many economic, social and other policies, including policies to combat poverty and inequalities, have a direct impact on children's lives without being exclusively dedicated to them, the total level of expenditure contributing to the implementation of the Convention is difficult to establish.

69. A number of points are worth highlighting, however.

70. In 2012, the budget of the Ministry of Education remains, at more than €61 billion, the largest component of the State budget, of which it accounts for more than one fifth. Special efforts are made for certain purposes, including, for example, school arrangements for children with disabilities, with a funding increase of 30 per cent compared with 2011 to €450 million.

71. Large sums are provided to support child protection within the judicial system: €772 million in 2012, representing an increase of 2 per cent over 2011 in spite of high pressure on budgets. This still represents only a proportion of the expenditure of the Ministry of Justice that has an impact on children.

72. At the Ministry for the Family, resources which relate to assistance for families and children form part of Programme 106, "Action for Vulnerable Families", which includes a total of €233 million for measures of two kinds: assistance to families in their parental role and protection for families and children. Here too it should be stressed that these resources represent only a part of what the State does to show national solidarity with vulnerable families. Provision takes a variety of forms, including the budget of the family branch of the social security service, earned-income supplement (*revenu de solidarité active*) for one-parent families and family tax-credits.

73. Similarly, in the case of local authorities, assistance for families and children is the third largest component of departments' expenditure on social programmes: €6.4 billion in 2010 (€104 per head of population), representing an increase of 1.3 per cent over 2009, while the numbers of beneficiaries increased by only 1 per cent. The largest items of expenditure are placements in institutions (49 per cent), followed by placements of children in foster homes (25 per cent). Action to support children's upbringing at home and in open settings accounts for slightly more than 6 per cent of expenditure, monthly allowances 5 per cent and specialized preventive measures 4 per cent. Expenditure on these items stood at €6.2 billion in 2009 and €5.9 billion in 2008, and is growing because of factors including the automatic effect of increases in the minimum wage and linkage with the pay of family care officers (*assistants familiaux*).

D. Data collection

74. At paragraph 21 of its Concluding Observations dated 22 June 2009, the Committee recommended the establishment of a harmonized nationwide system to collect and analyse data, disaggregated on the basis of 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 recommended that solely unidentified personal data should be entered and that the utilization of the collected data should be regulated by law in order to prevent misuse of the information.

1. Data protection legislation

75. In relation to these recommendations, the Government would remind the Committee that legislation protecting fundamental rights in connection with the collection and use of personal data already exists. The relevant legislation is Act No. 78-17 of 6 January 1978 concerning information technology, files and freedoms, which has been amended regularly to ensure that it remains fully relevant in the light of technological developments and the emergence of new causes for concern over data protection. An independent authority, the National Commission for Information Technology and Liberties (*la Commission nationale de l'informatique et des libertés* (CNIL)), which has extensive powers at its disposal, is responsible for ensuring that it is observed.

76. Consequently, whether in the public or private sector, those responsible for data processing can receive and process data only if they observe the requirements specified in the Act, and failure to comply with some of them can lay them open to criminal sanctions.

77. The Act establishes very precise rules governing the setting-up and operation of data processing arrangements. Data processing categorized as “at risk” or “sensitive” can be carried out only with the express authorization of CNIL, or after a decision by the competent minister following the publication of a reasoned opinion by CNIL. Other data processing is in principle required to be declared to the CNIL, except in cases expressly cited in the Act as exempt from authorization or declaration.

78. The nature of the data which it is permissible to collect and the ends for which it is and is not lawful to use them are precisely regulated. Certain categories of data, including those on origins, opinions, health, sexuality and criminal record, are subject to a particularly stringent level of protection.

79. The person responsible for processing the data is required to take every practical precaution with that data, including preventing damage or distortion and access by unauthorized third parties.

80. The Act of 6 January 1978 expressly provides a right for anyone to oppose the processing of data about them, and a right of access to data for everyone on whom data are collected. Everyone also has a right to ask for information which has been recorded to be altered if it is “incorrect, incomplete, ambiguous or out-of-date”. Arrangements for the exercise of these rights are of course appropriately adapted where the security of the State, defence or public safety are affected. To provide people with information and help them make applications, the CNIL published a practical guide in 2010 dealing with the right of access to data.

81. Breaches of a person’s rights resulting from data files or data processing that fails to meet the requirements imposed by the Act of 6 January 1978 are punishable by criminal penalties of up to five years’ imprisonment and a fine of €300,000. The same applies to the following:

- The processing of data where the formal procedures which are required as a prior condition by the Act of 6 January 1978 have not been followed (art. 226-16 of the Criminal Code);
- Failure by the person responsible for data processing to maintain its security, especially in the event of access by unauthorized third parties to the information (art. 226-17 of the Criminal Code);
- The collection of personal data by fraudulent, dishonest or unlawful means (art. 226-18 of the Criminal Code).

82. CNIL has powers to supervise any person who may engage in the automated processing of data, and has authority to carry out investigations. If non-compliance with the

requirements of the Act comes to its notice, CNIL itself is able, after all parties have been heard, to issue warnings, compliance orders or even penalties to those responsible for data processing. In 2010, CNIL carried out 300 inspections resulting in 3 warnings, 111 compliance orders and 5 financial penalties. Finally, in the event of a serious and immediate breach of fundamental rights and freedoms, the chairman of CNIL has the power to refer the matter to the courts to seek a ruling putting an end to the breach of human rights involved.

2. Establishment of a harmonized nationwide system to collect and analyse data

83. At present, France does not have a “harmonized nationwide system” centralizing data on all subjects covered by the Convention. Bearing in mind the breadth of the scope of the data potentially concerned, establishing such a system, which would have to be as comprehensive as possible for it to contribute genuine added value, would be an extremely burdensome undertaking, as much from the practical point of view as terms of the strict guarantees on matters such as the definition of data, anonymization, conditions of access and confidentiality that would have to be put in place in order to protect the rights of individuals.

84. Nevertheless, the public services in charge of the various child-related policies are doing their best to collect valid and relevant data on their areas of competence and are using their best efforts to improve the quality of their data collection arrangements, while complying with the legislation on the protection of personal data.

85. One example of these efforts is the collection of anonymized information on children at risk or potentially at risk.

86. ONED, whose task it is to combine the various data on children at risk into a coherent whole, cites every year, in its report to Government and Parliament, the numbers of minors and young adults who are benefiting from a child protection measure. At 31 December 2009, the number of minors was approximately 271,500, or 1.89 percent of all minors, and the number of young adults approximately 21,000, or 0.83 per cent of young people between the ages of 18 and 21.

87. These estimates are based on the data produced by the Directorate for Research, Studies, Evaluation and Statistics (*Direction de la recherche, des études, de l'évaluation et des statistiques*, a directorate of the Ministry for the Family, which publishes every year the results of a survey of the departmental councils concerning children benefiting from child welfare services. It relies also on data provided by the Directorate for the Protection of Young People in the Judicial System (*Direction de la protection judiciaire de la jeunesse* (DPJJ)) within the Ministry of Justice. Although they do not provide an exhaustive count of the number of children at risk or potentially at risk, the data from the Ministry of Justice allow the number of referrals to prosecutors' offices and children's judges involving children at risk to be identified, along with the number of measures financed by DPJJ.

88. The statistics of the Ministry of the Interior (*Fichier “État 4001”*) also provide an insight into the number of cases of violence against minors. In addition to the acts of violence recorded in these statistics, there are offences relating to the custody of minors, which show the extent of the problems confronting children whose parents break up acrimoniously.

89. Aside from the figures from these sources, France ceased to have precise statistical data available on entries to child protection arrangements, including the nature of the risks concerned, once the survey carried out by the National Observatory for Decentralized Social Welfare (*l'Observatoire national de l'action sociale décentralisée*) came to an end in 2006. The Act of 5 March 2007 on the reform of child protection fills this statistical gap

by providing for units in the departments to refer information giving rise to concern about children at risk or potentially at risk to ONED.

90. The nature of this information and how it is to be submitted are determined by decree.

91. The implementation of an initial decree of 18 December 2008 was quickly suspended following an opinion given by CNIL. CNIL took the view that the anonymized data which were to be submitted to ONED for statistical processing had to be listed specifically in a regulation, which was not the case, after the Higher Council for Social Work (*Conseil supérieur du travail social*) had given its opinion on the arrangements for the automated processing of the data requested for the monitoring exercise. CNIL recommended that items should be defined within the decree itself in the most objective terms possible. In addition, CNIL asked ONED to issue guidance to the departments concerning not only with their compliance with preliminary formalities in relation to CNIL, but also with their duties under the Act of 6 January 1978 in relation to security and confidentiality in the collection of data.

92. The first decree was replaced by Decree No. 2011-222 of 28 February 2011 organizing the transmission of information in anonymous form to the departmental monitoring services for child protection and ONED.

93. This decree, which was prepared after a process of consultation, limits the scope of the arrangements, since the only material to be transmitted to the monitoring services consists in information giving rise to concern which has actually led to child protection proceedings and hence been substantiated. Accredited by CNIL, the monitoring arrangements offer full guarantees in terms of the anonymization of data and are solely driven by the objectives of achieving improved knowledge of children at risk or potentially at risk and of making it easier to evaluate the coherence and coverage of the measures taken in their interests.

94. The first round of referrals to departmental monitoring services took place in April 2012. The available data collected by ONED in 2012 will be partial, with comprehensive data coverage being achieved in 2013.

E. Measures taken by France to improve awareness of the rights of the child

95. In response to the recommendation of the General Assembly of the United Nations, the French Parliament decided, in 1995, to treat 20 November as Universal Children's Day, commemorating the anniversary of the signature of the Convention on the Rights of the Child by 191 countries on 20 November 1989 and celebrating the defence and promotion of the rights of the child. On this occasion, a number of events are held by those active in children's affairs to raise the public profile of respect for children's rights. The day also provides an opportunity to promote wider knowledge of the text of the Convention.

96. Each ministry contributes to knowledge of and respect for the rights of the child within its own field of responsibility. Particular activities are also undertaken to raise awareness overseas by the public services and local authorities.

1. Ministry for the Family

97. The Ministry for the Family has continued to extend its awareness-raising and communications activities to promote the rights of the child and improve knowledge of them. For the twentieth anniversary of the Convention, an educational kit for children

consisting of a downloadable poster and booklet were made available on the Ministry's website.

98. In 2011, the Ministry made an information pack available on its website, including information about the Convention and its Optional Protocols, reports on their application and recommendations by the Committee on the Rights of the Child, with links to the sites of the United Nations Children's Fund (UNICEF) and the National Convention of Associations for Child Protection (*Convention nationale des associations de protection de l'enfant*). A joint communications initiative was run by the Minister and the associations to support activities at local level.

99. The training provided for under the Act of 5 March 2007 on the Convention on the Rights of the Child has been set in place, including for senior staff responsible for child protection at territorial level: as at June 2011, 80 per cent of departments had enrolled their staff for this training.

2. Ministry of the Interior

100. In the police service and the gendarmerie, both of which come under the auspices of the Ministry of the Interior, the distribution of information about the Convention is ensured through initial and in-service training.

101. First, staff awareness is raised during their induction, in particular during the training they receive on ethics and ethical practice and on dealing with vulnerable members of the public.

102. In-service training also incorporates content aimed at improving the understanding and handling of issues related to minors. There is specific training on a variety of themes, including taking statements from children, taking evidence from child victims and the implementation of child protection measures. This training may be delivered by internal training facilities, such as the national judicial police training centre of the gendarmerie, or by outside professionals working with or for children, including members of the judiciary and social workers. There are also common training courses for the police service and the gendarmerie such as the university diploma on "Problem adolescents" run by University of Paris V.

3. Ministry of Education

3.1 Teaching, the common core, communications and educational activities

103. The Convention on the Rights of the Child is explicitly cited twice as a reference document in the civics curriculum for secondary schools:

- In the first year of secondary school, in relation to topic 2: "Education: a right, a freedom, a necessity." The approach is to get students to think about types of discrimination which exist in access to education based on examples, both in France and the wider world.
- In the third year, in the topic "The exercise of freedoms in France", the Convention is a reference document, and the articles dealing with the right to freedom of expression, thought, conscience and religion are specifically quoted.

104. Knowledge of the Convention on the Rights of the Child also forms part, under pillar 6, "social and civic skills", of the "common core of knowledge", which sets out what every student must have learnt and mastered by the end of compulsory education at the age of 16:

“[...] To exercise their freedom, citizens must be enlightened. Mastering the French language and humanist and scientific culture prepares them for a responsible civic life. In addition to this essential knowledge, students must be familiar with:

- The Declaration of the Rights of Man and the Citizen;
- The International Convention on the Rights of the Child [...].”

105. As well as being part of the common core and official curricula, the Convention figures in the Ministry’s institutional communications infrastructure, both on the “general public” pages of its website and on Eduscol, its resource site for educational professionals.

- The Eduscol site provide comprehensive coverage of child protection, with reminders of both the legal and theoretical background, definitions and a reminder of the external training available to institutions. The introductory text opens with an initial mention of the Convention on the Rights of the Child (<http://eduscol.education.fr/cid50665/presentation.html>).
- Again on Eduscol, the Convention is given prominence on the page dealing with UNICEF and Universal Children’s Day (<http://eduscol.education.fr/cid59662/l-unicef-france.html#lien2>). The text of the Convention can be downloaded from the site.
- The Ministry’s site for the general public includes a presentation on the Convention to mark its twentieth anniversary, with special emphasis on the rights of the child in connection with teaching and educational activities (www.education.gouv.fr/cid49661/20e-anniversaire-de-la-convention-internationale-des-droits-de-l-enfant.html).
- Finally, the report of the Children’s Ombudsperson evaluating the application of the Convention can be downloaded from the Ministry’s site: www.education.gouv.fr/cid23751/convention-internationale-des-droits-de-l-enfant.html.

106. The Ministry’s educational initiatives include the competition for the René Cassin prize for human rights, which has been in existence since 1988 and is organized every year by CNCDH. The prize for 2009 took as its theme the rights of the child, with the announcement of the competition stating: “In 2009, particular attention will be paid to the rights of the child, in the context of the commemoration of the twentieth anniversary of the International Convention on the Rights of the Child (20 November 2009)” (www.education.gouv.fr/cid49968/remise-des-prix-des-droits-de-l-homme-rene-cassin-2009.html). The theme of equality between women and men has been selected for 2010–2011. The rights of the child, as enshrined in the Convention, to information, participation and freedom of expression are the topic of the 2012–2013 competition, inviting students to reflect on the conditions required if children and young people are genuinely to participate in the democratic working of society.

107. Information on the René Cassin prize for human rights is published each year in the *Bulletin officiel de l’éducation nationale* (Official Journal of the National Education Service), as is information on the “Children’s Parliament” organized with the National Assembly and on Universal Children’s Day.

108. Finally, an order dated 12 May (*Bulletin officiel de l’éducation nationale* No. 29 of 22 July 2010) defines the ten professional skills that teachers, librarians and principal school counsellors must acquire through training covering not only with knowledge but also the ability to apply it in practice, as well as professional attitudes. The first of the ten skills, “acting ethically and responsibly as an official of the State”, includes an explicit reference to the Convention on the Rights of the Child as an element of the knowledge to be acquired.

3.2 The framework agreement between the Ministry of Education, Youth and the Voluntary Sector and UNICEF France

109. The Minister for Education, Youth and the Voluntary Sector and the Chairman of the United Nations Children's Fund (UNICEF) France signed a new five-year framework agreement on 25 October last year as a sign of their shared determination to promote the rights of the child and better knowledge of the Convention in France.

110. Among the shared aims that the two partners have set themselves are: to improve education on sustainable development, the rights of the child and international solidarity, increase participation by young people, contribute to training and the provision of information in the Ministry's networks and carry out research in the educational field.

111. This framework agreement sets out a number of forms of collaboration between the national education service and UNICEF France, especially in the context of the record kept of each pupil's personal skills (*livret personnel de compétences*) and pillars 6 and 7 of the common core of knowledge and skills: "social and civic skills" and "independence and initiative".

112. In keeping with the undertakings given by UNICEF France, volunteers provided by each of its departmental committees make themselves available to head teachers to take part in lessons throughout the year by giving presentations and demonstrations, engaging in debates and in other ways.

113. Activities by UNICEF France under the agreement include the following:

- *Frimousses des écoles* ("cute little faces at school"), an educational project which helps teachers to make pupils between the ages of 6 and 12 aware of the rights to health and identity by making dolls from textiles.
- *Clubs UNICEF jeunes* (UNICEF youth clubs) in schools for students between the ages of 11 and 15. Run by teachers, the clubs are a way of bringing together young people who want a better understanding of the rights of the child, sustainable human development, the challenges facing developing countries and the activities of UNICEF.
- *Jeunes ambassadeurs* (young ambassadors), a programme for students in *lycées* between the ages of 15 and 18 who are concerned about injustices affecting children and the failure to respect their rights. The purpose of the programme is to raise awareness widely among the public, including the students' own peer group, about the rights and living conditions of children.
- Visits to the departmental committees of UNICEF France as observers or for work experience. The visits allow young people to find out about the scope of the work of the voluntary sector and the forms that it takes at local level, to increase their awareness of the challenges involved in humanitarian action and aid for development, and gives them an opportunity to explore a milieu in which career choices could be available to them.

114. In conclusion, there are many other voluntary associations working with children and adolescents on child-rights related issues, including: *ATD Quart Monde* (ATD Fourth World), *la Ligue des droits de l'homme* (Human Rights League), *Secours catholique* (Caritas France), *Secours populaire* and the International Catholic Child Bureau, as well as many local associations.

4. Ministry of Justice

115. Human rights issues are dealt with in the curriculum at the National College of the Judiciary, the National College of Registrars, the National School of Prison Administration

and the National School for the Judicial Protection of Young Persons. They form an integral part of the teaching of subjects including criminal law and procedure and the organization of the judicial system and of courses dealing with family issues.

116. In addition, as part of Universal Children's Day, the Ministry of Justice involves itself every year in the activities of the national and supranational associations working for the defence and protection of the rights of the child.

117. This annual day of commemoration provides members of the judiciary both on the bench and in prosecutors' offices with an opportunity to communicate very widely on the content of the Convention and how it applies in France, not only with those professionally involved in children's issues but also with the general public.

118. On Universal Children's Day on 20 November 2011, the Ministry of Justice also published an article on its website providing information for the public about the content of the Convention and its implications.

5. Overseas Departments and Territories

119. Promoting the rights of the child is a priority overseas as well as in metropolitan France. In most administrative areas, population numbers below the age of 20 are high. They account for 54 per cent of the total population in Mayotte, 33.9 per cent in Réunion, 30 per cent in Guadeloupe, 34.4 per cent in New Caledonia, 36 per cent in Polynesia, 39 per cent in Wallis and Futuna, 28.6 per cent in Martinique, 12.4 per cent in Saint Barthélemy, 26.3 per cent in Saint Martin and 7.6 per cent in Saint-Pierre-et-Miquelon.

120. Not all areas covered by the Convention fall within the responsibility of the Government, however, and the situation differs between administrative areas, depending on the laws which govern how responsibilities are shared with the State. Thus, by virtue of the organic Act of 19 March 1999, the Government of New Caledonia has competence in areas including education, social protection and public health and hygiene, and, by virtue of the Act of 27 February 2004, the Government of French Polynesia has competence for health, social protection and education.

121. The anniversary of the Convention is celebrated every year in the Overseas Departments and Territories. The event provides an opportunity to make the activities of the local child-protection authorities better known, and to reflect on problem areas in relation to children along with all the services of the State, voluntary associations and partner organizations such as the Family Allowances Fund.

F. Cooperation with civil society

122. When it considered the third and fourth reports, the Committee recommended that France strengthen 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 Committee's Concluding Observations and the preparation of the next periodic report.

123. Regulatory texts are developed in consultation with civil society. For example, in 2011 the decree setting the framework for the meeting spaces to be made available for parents able to see their children but not look after them in their home was subject to consultation with parents' associations.

124. Work is also being done with civil society in the context of organizations such as the National Committee for the Support of Parents mentioned in paragraph 57 above. For example, a working group on ways to improve relations between home and school was

convened in 2012, including representatives from families, professionals, parents, those running schools and services and associations working to defend the interests of the most disadvantaged.

125. In addition, civil society is associated with various events organized by the Ministry for the Family, including public consultations on vulnerable children and a seminar marking the anniversary of the Act of 5 March 2007.

126. Cooperation also takes the form of financial support to associations.

127. Finally, as with the preceding report, CNCDH, which includes representatives of associations and NGOs dealing both with general issues and with the defence of human rights, was consulted when the present document was being prepared and its comments were taken into account by the Government when the report was finalized.

G. International action

128. The commitment of France to the rights of the child is international in its scale and protecting children is one of the priorities for French foreign policy on human rights. France has of course ratified the Convention on the Rights of the Child, the first binding international legal instrument to give a definition of the child and enunciate a body of universally accepted, non-negotiable rights. France also ratified, in 2003, the 2000 Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography and the 2000 Optional Protocol on the Involvement of Children in Armed Conflict. France has ratified the United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. France has ratified the Conventions of the International Labour Organization which are relevant to combating child labour: the Minimum Age Convention and the Convention on Eliminating the Worst Forms of Child Labour. In the context of the Council of Europe, France has ratified the European Convention on the Exercise of Children's Rights. France is working to promote the universal ratification of these international instruments. France has, however, not yet signed or ratified the third Optional Protocol to the Convention, opened for signature in February 2012, which opens up an individual right of communication before the Committee on the Rights of the Child.

129. France actively supports UNICEF and fully shares its priorities, including child protection, the Millennium Development Goals, health and combating HIV/AIDS. France is also carrying out collaborative activities in support of children in third countries, seeking to strengthen the capacities of those involved locally and to induce them to adopt the same agenda. The total contribution of France for 2012 amounts to €13,240,000 at 25 July 2012: in addition to a voluntary contribution of €1,000,000, there is a further contribution of €8,500,000 targeted on programmes for maternal and child health (under the Muskoka Initiative of the G8), plus €3,290,000 for school attendance by girls in Burkina Faso, Mali and Niger and for the psychological, social and medical care of girls affected by the conflict in Côte d'Ivoire, as well as an emergency humanitarian payment of €400,000 for the food crisis in Niger and of €50,000 for Syria. The total contribution, which had reduced between 2005 and 2009, increased again between 2009 and 2012. Whilst the voluntary component is reducing, the reduction is offset in particular by the contribution targeted on the Muskoka Initiative and by the contribution towards school attendance by girls in West Africa. It should also be borne in mind that the contribution of the European Commission is an extension of the efforts of France, given that France contributes 16 per cent to the general budget of the European Union and is the fourth largest international contributor.

130. In keeping with these commitments, France is particularly deeply involved in international forums, on issues including measures to combat the recruitment of children by

armed groups. At the United Nations, France was involved early on in the creation, in 2005, of the Security Council Working Group on Children and Armed Conflict under Council resolution 1612 (2005), a Group which it chaired until 2009. The Working Group considers reports on the situation in countries which have been identified as problematic and makes recommendations in respect of governments or rebel groups there. Six categories of crimes against children in armed conflict have been defined and are followed up particularly closely. The work of the Group has allowed lists to be prepared which name and shame those responsible for the recruitment or use of child soldiers.

131. France also provided the initiative for the conference, “Free Children from War”, organized jointly with UNICEF in 2007 and attended by the Special Rapporteur, which led to the adoption of the Paris Principles and Paris Commitments. These defined specific measures for prevention, for combating impunity, for protecting children and reintegrating them into their family or community, and set out a number of fundamental principles to be observed in the struggle against the illegal recruitment of children by armed forces and armed groups.

II. General principles

A. Non-discrimination

1. The role of the Defender of Rights in combating discrimination

132. When considering the third and fourth reports, the Committee recommended to the French Government (para. 29) that it continue to support the role of HALDE in combating discrimination and promoting equality.

133. As set out above (para. 28), the responsibilities of HALDE have been taken over by the Defender of Rights.

134. In relation to its responsibility for combating discrimination, the Defender of Rights has the same extensive powers as in its other spheres of action (see paras. 30 and 31 above).

135. It is assisted in particular by a college responsible for combating discrimination and promoting equality, as well as by a deputy who is the deputy chairperson of that college.

136. The deputy responsible for combating discrimination is currently Ms. Maryvonne Lyazid.

137. The Defender of Rights may be approached by an individual acting on his or her own behalf who considers that he or she has been the victim of discrimination, or by an association that has been properly declared for at least five years at the time of the alleged discrimination and whose statutes include the objective of combating discrimination or assisting the victims of discrimination, together with the person who considers that he or she has been the victim of discrimination and with that person's consent.

2. The right of non-French families to receive child benefits

138. In its Concluding Observations of June 2009 (para. 29), the Committee urged France to implement the decision of the Court of Cassation on the right of non-French families to be granted child benefits.

139. A degree of clarification is required on this issue.

140. The right of non-French families to receive child benefits has long been recognized in French law, provided the family is legally resident.

141. So far as the French Government understands, the decisions cited by the Committee are those handed down on 16 April 2004 by the Court of Cassation sitting in plenary, and then on 6 December 2006 by the Second Civil Chamber, on the basis of article 512-2 of the Social Security Code in the version applicable before the entry into force of Act No. 2005-1579 of 19 December 2005. According to that version, article L. 512-2 of the Social Security Code merely set out that foreigners in possession of a residence permit were granted child benefit as of right, leaving it to a decree to determine the list of official documents and evidence confirming that foreign recipients and their child dependants for whom child benefit was requested had legally entered and were legally resident in France. That list appeared in articles D. 511-1 and D. 511-2 of the code.

142. In its above-mentioned decisions, the Court of Cassation took the view that making receipt of child benefit for the children, who were minors, of a foreigner legally resident in France subject to evidence that the children were legally resident constituted a disproportionate breach of the principle of non-discrimination and the right to the protection of family life and violated articles 8 and 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

143. However, article 89 of the Act of 19 December 2005 amended article L. 512-2 of the Social Security Code which, as now worded, provides that foreign nationals who are legally resident may apply for child benefit for their child dependants, provided that the child in question entered the country legally “in the context of the family reunification procedure” or, in particular, where the parents hold a temporary residence permit accorded on the basis of article L. 313-11-7 of the Code on the Entry and Residence of Foreign Nationals and the Right of Asylum (legalizing the administrative position of a foreign national illegally present in France on the basis of the protection of private and family life), provided that the children enter France at the latest at the same time as one of their parents in possession of the permit in question.¹

144. In its Decision No. 2005-528 DC of 15 December 2005, the Constitutional Council (*Conseil constitutionnel*) declared article L. 512-2 as now worded to be constitutional. It set out, in particular, that “the legislature intended to prevent a situation whereby the grant of child benefit for children who entered the country in violation of the rules governing family reunification rendered those rules ineffective and encouraged foreign nationals to bring their children into the country without any assessment of their ability to provide decent living conditions and housing which are the normal requirement in France, the host country; in reaching that view the legislature did not strike a manifestly disproportionate balance between the constitutional requirements at issue”.

145. For its part, by two judgments handed when sitting in plenary on 3 June 2011, the Court of Cassation found that the conditions governing the legality of a foreign child’s residence were of “an objective nature justified by the need, in a democratic State, to control the conditions for admission of children” and that they did not “disproportionately infringe the right to family life guaranteed by articles 8 and 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms”, and were not in breach of article 3(1) of the Convention on the Rights of the Child.

3. Combating racism, anti-Semitism and xenophobia

146. When considering the third and fourth reports, the Committee voiced its concern at the discrimination allegedly suffered by some children (children living in the Overseas Territories, child asylum-seekers or refugees, or child belonging to minority groups such as

¹ If this is not the case, the procedure for family reunification under ordinary law must be applied.

the Roma, travellers and religious minorities) and recommended that France should “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”.

147. The Committee also wished to be informed of the measures taken to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, as well as the measures taken to follow up on the 2009 Durban Review Conference.

148. While tensions may still exist here and there between the young and the not-so young, the French Government does not exactly perceive what inappropriate characterization and intolerance children and adolescents are generally suffering from within French society, particular at school — the institution of which they are the users — and in the media.

149. As regards the kind of discrimination that certain children or adolescents allegedly suffer, the Government would point out that the principle of equality underpins the French legal system, and that combating discrimination is consequently an integral part of French policy across the board.

150. In that connection, the Government notes that it accords major importance to the quality of the relationship between the police services and the population, particularly young people, and that it develops programmes to combat all forms of intolerance and xenophobia, especially in the context of following up the Durban Declaration.

3.1 Relations between the police and young people

151. The *Espoir-banlieue* (Hope for the suburbs) plan, set in place by a circular of 26 June 2008 from the Ministry of Housing and Town Planning and the Secretary of State responsible for urban policy, includes a section on “security” which has as one of its objectives to improve day-to-day relations between the police services and the population. Several measures have been taken in that regard: ensuring that police officers have a better knowledge of their districts before they take up their post; introducing a system of delegates whose role is to secure good relations between the police and the population; develop a system of local communication on police activity and give young people an attractive image of careers in the security services.

152. In an effort to improve exchanges and maintain confidence and reassurance in relations between young people and the police, the Minister of the Interior organized, in August 2009, a “dialogue between the police and young people” that brought together representatives of the police service, the gendarmerie and leading figures from associations working with young people from working-class districts and particularly young people of immigrant origin. The dialogue made it possible to compare views in a constructive spirit and to analyse the sort of instances where the ways in which the police intervene may prompt misunderstanding. On conclusion of the discussions, it was decided to set up five working groups on the following subjects: “Territories, conduct and professional practices”, “Building new mutual respect and learning to live together”, “Order, authority, law and security”, “Equality of opportunity and promoting diversity in the police services” and “Dialogue in crisis situations”. The Civil Service Inspectorate (*inspection générale de l'administration*) has been tasked with coordinating this activity.

153. In addition, on the occasion of the Internal Security Days (*Journées de la sécurité intérieure*) of October 2009, the focus was placed on the task of engaging in dialogue with young people to improve understanding between young people and the police services. In the week preceding that event, police officers and gendarmes went to meet young people in

a number of educational establishments, districts or facilities run by associations to tell them about the Internal Security Days and invite them to engage in or continue the dialogue during the event.

154. Finally, as regards in particular the measure relating to vulnerable children living in poverty or belonging to minorities, there is the partnership agreement, signed on 21 December 2007 between the Directorate-General of the Gendarmerie and HALDE, whose powers have been subsumed by the Defender of Rights (see para. 28 above). The aim of this cooperation is to combat more effectively discrimination of all kinds.

155. It should also be borne in mind that the Defender of Rights set in place, in late 2011, a working group on action taken by the police services, in homes, in the presence of children. The aim was to prevent that action having a traumatizing effect on children so that they are not left upset over the long term and do not retain a negative image of police officers or members of the gendarmerie.

3.2 Combating xenophobia and intolerance, particularly in schools, and the follow-up to the Durban Declaration

3.2.1 The national plan of action against racism and anti-Semitism

156. France remains actively engaged in the process of following up the 2001 Durban Conference. It was, for example, a very active player at the 2009 Review Conference.

157. At domestic level, France published, on 15 February 2012, a national plan of action against racism and anti-Semitism (2012–2014) which reflects the Government's resolve to combat all forms of discrimination based on origin, in accordance with its international obligations. The plan provides in particular for more rigorous enforcement of France's strict criminal legislation, raises awareness of racism and anti-Semitism, in particular on the Internet, and ensures that greater attention is paid to these issues in social, educational, cultural and sports' policies.

158. The inter-ministerial delegate responsible for combating racism and anti-Semitism, a office newly set up in 2012 to drive the policy of combating discrimination based on origin, on a day-to-day basis, has been tasked with implementing the plan of action, working with all relevant stakeholders.²

3.2.2 The role of CNCDH

159. Pursuant to Act No. 90-615 of 13 July 1990 penalizing any racist, anti-Semitic or xenophobic act, CNCDH is required to provide the Government annually with a report on combating racism on 21 March, the date chosen by the United Nations as the International Day for Elimination of Racial Discrimination. The annual report is made public and provides a real resource in terms of methodology and of capitalizing on good practice in relation to combating racism and following up the policy in place since 1990.

3.2.3 Measures in the field of education

160. The Ministry of Education vigorously promotes measures for the rejection of all forms of racism, anti-Semitism and xenophobia and for combating discrimination, as these are regarded as priority objectives of education.

² www.gouvernement.fr/gouvernement/plan-national-d-action-contre-le-racisme-et-l-antisemitisme-2012-2014.

161. Respect for oneself and for others (civility, tolerance, rejection of prejudices and stereotypes) is an integral part of core knowledge and skills. The new curricula take account of the major issues for our society: racism, anti-Semitism, xenophobia, the contributions of successive waves of immigration, relations with other people and understanding the world's diversity. At primary school, pupils are encouraged to think about self-esteem and causing hurt to anyone else is absolutely forbidden. At lower secondary level, civic education is based around the concepts of the human being and the citizen to prepare students to behave responsibly. For 12- and 13-year-olds, for example, the topic "Different but equal, equality of rights and discrimination" makes it possible to identify different forms of discrimination and demonstrate the consequences. In upper secondary schools (*lycées*), the teaching of civics, the law and social issues tackles the concepts inherent in human rights.

162. Combating discrimination involves the whole of the educational community. Since the circular at the beginning of the 2009/10 school year was issued, for example, internal regulations must set out the rejection of all forms of discrimination and define them clearly, as well as the prohibition on all discriminatory bullying that is damaging to human dignity. The same applies to insulting or defamatory language. The health and citizenship committees take part in implementing educational measures in establishments once they have analysed the local situation and set priorities. Upper secondary school councils initiate projects designed to encourage tolerance, self-respect and respect for others and their diversity.

163. A national campaign for the prevention of bullying in schools was launched by the Ministry of Education in January 2012. Devised with the help of child psychiatrists, experts in bullying and violence in schools, the Ombudsperson for the Ministry of Education and Higher Education, the aim of the campaign is to mobilize parents, teachers and educational professionals and thus make combating bullying in schools everyone's business. With €500,000 in funding, the campaign is essentially based on three films broadcast on the Internet and relayed in a short version lasting 20 seconds on all French television channels to raise public awareness and make people think by showing the cruel and commonplace nature of bullying in schools, and a website: www.agircontreharcèlementécole.gouv.fr designed to provide a real resource. Many public and private partners have wished to work with the ministry, by making resources available and publicizing the campaign. With a view to the long term, the campaign also provides, on a voluntary basis, for quality certification of establishments wishing to participate in the campaign, based on a good-practice charter "No bullying in my school" (*Pas de harcèlement dans mon établissement*). A national freephone number (0808 807 010), introduced in partnership with the association "L'École des parents" (School for parents) and teaching staff in the Ile-de-France, is available to pupils and families who are able to obtain the help of psychologists and legal and educational counsellors.

164. At the beginning of the school year, every educational region publishes its academic plan for in-service training which lists all of the training modules designed for teachers and members of the educational community. Combating discrimination generally, and racism, anti-Semitism and xenophobia more particularly, now forms part of a dedicated training module in practically all of the educational regions.

165. The academic training plans include modules on combating all forms of discrimination and stereotypes; sexual, sexist and homophobic violence; self-respect and respect for others, accepting differences and freedom of choice; the media and the law.

166. Associations working to combat racism are regularly enlisted to help in the process of in-service training for teachers, particularly in regard to managing situations of conflict and violent or discriminatory behaviour.

167. Efforts to prevent discrimination can also be based on international awareness-raising days: Universal Children's Day on 20 November; the International Day for the Abolition of Slavery on 2 December; Human Rights Day on 10 December; Holocaust Remembrance Day on 27 January; International Women's Day on 8 March; International Day for the Elimination of Racial Discrimination on 21 March; International Day of Remembrance of the Victims of Slavery and the Transatlantic Slave Trade on 10 May; the International Day against Homophobia and Transphobia on 17 May; and the International Day for the Eradication of Poverty on 17 October. The pathways of citizenship (*itinéraires de citoyenneté*), an innovative educational initiative managed and funded by the *Ligue de l'Enseignement* (League of Educators), which is based around the different days of remembrance or awareness-raising days on which action for citizens may be organized, are designed to offer and provide to actors in the field of education teaching and educational aids capable of addressing and encouraging active and participatory citizenship throughout the year (<http://itinerairesdecitoyennete.org/>). These events provide an invaluable opportunity to widen students' horizon of students in conjunction with those working in associations and institutions involved with the protection of rights. The educational teams are invited to devise teaching projects and to implement awareness-raising measures: outside speakers specializing in the field, the showing of films, exhibitions, etc.

168. Every year, events, competitions, commemorations and days or weeks of action are staged to supplement the teaching. They enable students to be involved in collective activities which foster understanding and tolerance. The thematic days resulting in projects in the educational establishments are published annually in the Ministry of Education's official journal.

169. Ambitious initiatives, which have become high points in the academic year, are carried out in some educational regions and even extend beyond the academic framework: the inter-schools competition *Droit au cœur* in Aix-Marseille region or the *Mois de l'Autre* in the Strasbourg region, for example. These are perennial events that are based on partnership (with the regions, for instance, or with the institutions, such as the Council of Europe, universities or associations, etc.).

170. A three-year agreement between the International League against Racism and anti-Semitism (LICRA) and the Ministry of Education, Youth and the Voluntary Sector was renewed, on 5 July 2011, around three main themes: the implementation of new measures increasing the accountability of students who commit racist, anti-Semitic or discriminatory acts, "mediation" measures within educational establishments and the establishment of a module on the risks of the Internet in terms of inciting racial hatred.

171. According to the new agreements, LICRA may, at the request of school heads, "take charge of implementing accountability measures adopted, in the context of a disciplinary procedure, in relation to one or more students for a racist, anti-Semitic or discriminatory act". "The measure shall be implemented, outside school hours, either in the establishment or elsewhere" and "shall be the subject of a formal undertaking between the director of the establishment, the student or students concerned, those exercising parental authority and the representatives of LICRA". Mediation measures are set in place "at the request of the regional education authority, regional inspectors who are directors of the Ministry of Education's departmental services or school directors dealing with situations of racism or anti-Semitism".

172. In addition, under an agreement entered into on 2011 with the Ministry of Education, the Shoah Memorial has undertaken to design a website on teaching the history

of Shoah for elementary, secondary and upper school teachers.³ Based on school curricula, the aim is to make available updated resources on the history and teaching of Shoah.

173. Finally, the 32 young ambassadors for the rights of the child (see para. 36 above), who fall under the responsibility of the Defender of Rights, meet with children and young people under 18 throughout the academic year to alert them to stereotypes and the prevention of racism.

B. Best interests of the child and respect for the views of the child

174. When considering the third and fourth reports, the Committee generally recommended (para. 36) that the best interests of the child should be taken into account at the various tiers of public action. It also recommended that France ensure that the right of the child to a hearing is widely disseminated, give due weight to the opinions and recommendations of the Children's Parliament in the context of legal reforms that have a direct effect on children, and encourage initiatives designed to create such institutions at the departmental and municipal levels.

1. Taking into account the best interests of the child

175. When drafting legal texts that have a direct impact on children, both the legislature and the regulatory authorities endeavour to take the best possible account of the interests of children, without underrating how difficult it may prove to be absolutely to identify those interests. It is important to point out here that the fact that a text contains no specific reference to the best interests of the child should not be generally construed as a failure to consider the impact of the texts on children, their welfare or other elements which could be caught by the concept of the best interests of the child.

176. Furthermore, and as has been set out, article 3(1) of the Convention is regarded by both the Council of State and the Court of Cassation as being directly applicable and able to be relied on by individuals before the courts. It must, therefore be taken into account by the authorities at both national and local level, in the context of their daily activity, and by the courts.

2. Respect for the views of the child

2.1 The right of children to be heard in procedures that concern them

177. Under article 388-1 of the Civil Code, in all proceedings relating to him or her, a minor capable of discernment may, without prejudice to the provision as to his or her intervention or consent, be heard by the judge or, where the interests of the child require it, the person appointed by the judge for that purpose. As France explained at the time in its report, since the introduction of Act No. 2007-293 of 5 March 2007 on child protection, a child who so requests must be heard. The judge must ensure that the minors have been informed of their right to be heard and to be assisted by a lawyer.

178. Following the introduction of the Act, procedural rules had to be adjusted.

179. Decree No. 2009-572 on the hearing of children before the courts provides that the obligation to inform minors of their right to be heard and to be assisted by a lawyer during the hearing resides essentially with those who have responsibility for the child on a daily basis, namely the parents, guardian or, where appropriate, the person or service with whom

³ www.enseigner-histoire-shoah.org/.

the child has been placed. A notice drawing attention to that requirement must be enclosed with the summons to the parties or notices to attend issued in the context of proceedings concerning children.

180. To ensure that the right of the child to be heard is effective, it is specifically laid down that the child's request to the judge can be made informally and at any stage in the proceedings. Moreover, respect for the interests of the child has led the regulatory authority to refrain from requiring the judge to provide an exhaustive report of the child's hearing. A simple summary may be furnished to enable the child to express him- or herself more freely. A circular of 3 July 2009 sets out that, in his or her decision, the judge must mention whether or not the child made use of the right to be heard.

2.2 The Children's Parliament

181. Organized annually, since 1994, by the National Assembly in partnership with the Ministry of Education, the aim of the Children's Parliament is not to involve children, who are by definition minors, in the drafting of legislation, which is the responsibility of the directly-elected representatives, who have by definition reached adulthood, but to prepare them for their future role as citizens when they become adults, and give them an insight into the legislative process. The Children's Parliament is also not involved in adopting "opinions" or "recommendations", as would be a consultative body or committee of the United Nations, for example.

182. The aim is therefore primarily educational. The Children's Parliament makes it possible to offer students at CM2⁴ level a "real-life" lesson in civics by enabling them to experience the role of legislators and practise it during the Children's Parliament. With that in mind, they are invited to draft, under the supervision of their teachers who accompany them in this exercise, a "bill", on conclusion of a debate which is designed to show them what democratic debate is all about, on subjects suggested to them of national interest. To give an example, in 2009–2010, on the occasion of the twentieth anniversary of the Convention, participating groups were invited to discuss the rights of the child and how to improve their implementation.

183. Since this is an exercise carried out by children, although supervised by adults and bringing in academic panels and a national panel made up of adults, the resulting "bills" are obviously always liberal and seek to find answers to problems that are clearly worth interest, but often lack legislative impact or precision, or indeed fall outside the scope of the law.

184. It follows that the "bills" adopted by the Children's Parliament are not always taken up in legislation. They are, however, always considered with interest, if only because they set out a point of view which can usefully be taken into account or reveal an original idea which may be put into effect but possibly in a different form.

185. In some case, however, the "bills" are taken up as actual bills by members of parliament, and, in some cases, where the legislative scope and precision of the children's so permit, they have resulted in an act adopted by Parliament. The following were, for example, directly based on bills drafted by the Children's Parliament: Act No. 96-1238 of 30 December 1996 on maintaining contact between siblings; Act No. 98-381 of 14 May 1998 allowing orphans to take part in the family council; Law No. 99-478 of 9 June 1999 designed to encourage respect for the rights of the child worldwide, particularly in relation to the purchase of school supplies; and Act No. 2000-197 of 6 March 2000 designed to strengthen the role of schools in preventing and detecting instances of child abuse.

⁴ Last year of primary school; the children are therefore usually aged 11.

186. Moreover, in many municipalities, and in the larger towns in particular, the municipal councils have set up “children’s municipal councils” or “young people’s municipal councils” which provide an opportunity for children to be introduced to local politics, promote dialogue between municipal leaders and children and young people and enable the latter to put proposals into effect or to suggest initiatives that enhance daily life.

C. Right to life, survival and development

187. When considering the third and fourth reports, the Committee recommended that France should use all available resources to protect the child’s right to life, including by reviewing the effectiveness of preventive measures. It also recommended the introduction of a systematic, independent and public review of any unexpected death or serious injury involving children, either in care or in detention and that its results should be used to enhance preventive measures.

1. As regards detention

188. Under article 44 of Act No. 2009-1436 of 24 November 2009, “[t]he prison authority must ensure that the physical integrity of every person in detention is guaranteed in both common areas and individual accommodation”.

189. According to article 59 of the act, “[t]he prison authority shall guarantee minors in detention respect for the fundamental rights of the child”.

190. Finally, according to article 40 of the Code of Criminal Procedure, “[a]ny duly constituted authority, public official or civil servant who in the performance of its or his or her duties learns of a crime or offence shall be required to advise the public prosecutor without delay and to transmit to the public prosecutor all relevant information, reports and documents”. Articles D. 280 and D. 281 of the Code of Criminal Procedure du Code set out those provisions in detail.

191. Pursuant to that legislation, the prison authority must report any death of a minor in detention, as well as any serious injury at the very least to the public prosecutor of the place of detention, so that an investigation can be launched immediately to establish the causes, take the necessary action, where appropriate at legal level, and learn the necessary lessons.

192. The matter must also be reported to the judge responsible for supervising the minor, whether at the investigation stage in the case of detainees or the enforcement of penalties in the cases of convicted persons. The judge in question will be a specialist children’s judge.

193. In addition, the prison authority must inform those persons exercising parental authority over the minor or his or her legal representatives of any incident occurring during the minor’s detention. That information requirement has the effect of making public the review of the conditions of the death of or serious injury to the minor in detention.

194. Since 2003, in prisons housing minors, the educators from the Judicial Protection Service for Young People and prison warders work together to care for minors. This partnerships provides a further guarantee of the effectiveness of reports of incidents occurring within the facility where minors are detained and, consequently, of their protection.

195. In case of suicide, serious violence or the violent death of a detainee, and a fortiori if that person is a minor, the Prison Inspectorate may be brought in to conduct an administrative investigation, both to identify the causes of the tragedy in order to prevent any recurrence and to establish whether any official failed in the performance of his or her duties.

196. Finally, the Inspector-General of Places of Deprivation of Liberty, an independent authority set up by Act No. 2007-1545 of 30 October 2007, is able, of its own initiative, to visit and monitor any situation and any prison facility, making it possible to conduct a methodical, independent and public review of the kind of incidents described above.

2. Social and medico-social sector

197. Since 2000, France has been implementing a policy of preventing and combating the institutional abuse of vulnerable individuals which takes the form of programmes, systems and procedures, some of which relate to minors.

198. They include the system for reporting unacceptable incidents and the inspection programme.

199. The improved identification and reporting of abuse makes it easier to bring the facts to light enabling State services to intervene swiftly to protect the most vulnerable individuals. In addition, analysis of the reports helps develop an understanding of abuse.

200. Exceptional or tragic events that occur in the social and medico-social sector are reported, as soon as possible, to the ministerial private offices and relevant central departments.

201. The centralized alarm mechanism (Directorate-General of Social Cohesion for social- and medico-social-related Alarms) is supplemented at local level by a watchdog system provided by the services of the State territorial network (Regional Health Agencies or Directorate-General for Social Cohesion depending on the sector concerned) in conjunction, if necessary, with the departmental services (agreements on reporting unacceptable incidents entered into with the department's social and medico-social establishments).

202. Where necessary, raising the alarm will trigger inspections and monitoring by the relevant services (see para. 206 below).

203. Stepping up monitoring and supervision of facilities means that State services can have a more regular presence in facilities, while supporting them in assessing and managing risks of abuse.

204. The exercise of the supervisory powers available to the authorities responsible for licensing facilities (departmental prefect, Director-General of the Regional Health Service, chair of the departmental council) constitutes a powerful means of combating and preventing abuse.

205. The prefect is generally empowered to monitor facilities and social and medico-social services in terms of the health and safety of the persons in their care.

206. The inspections are carried out by the Departmental Directorate for Social Cohesion in the case of the social sector and the Regional Health Agencies in the case of the medico-social sector, both in response to reports and complaints, possible in conjunction with the services of the departmental council, and on a preventive basis (multi-year programme for the identification of risks of abuse). Monitoring is also carried out by the Inspectorate-General for Social Affairs whose responsibilities include monitoring the social welfare services for children.

III. Civil rights and freedoms

A. Birth registration

207. In its Concluding Observations of 22 June 2009 (para. 42), the Committee recommended that France continue its efforts in regard to the registration of births, particularly in French Guyana.

1. A reminder of the circumstances in French Guyana

208. While the bulk of the population of French Guyana live in coastal areas, it also includes Amerindian peoples or “noirs-marrons” (Bushi-Nengi) in inland areas isolated by the Amazon Forest and living a traditional life. In an effort to resolve the specific problems of these people and meet their aspirations, the Act of 21 February 2007 made it possible to appoint a deputy prefect tasked with being their official contact person. The role of the deputy prefect is to take their expectations fully into account in the definition of public policies and to bridge both the geographical and the cultural gap.

209. The children of these peoples, in particular, experience difficulty in terms of access to public services generally, especially as regards civil status.

210. Until 1969, when the first river communes were established, there was no real civil status service in this region of French Guyana. The absence of land routes, the immense size of the Maroni valley region (500 km of river) and the Oyapock valley and their isolation have been the main obstacles to establishing a registry office. Living far away from the seats of civil administration, the inhabitants have not in fact always been able to be registered at birth.

2. New measures to remedy the problems of civil status

211. A number of measures have been taken to remedy the situation described above, with varying success.

212. Recently, in order to put an end to the isolation and facilitate access to State services, the State has organized regular outreach teams to meet with these isolated peoples. The teams are made up of officials capable of providing the relevant information, completing the necessary procedures, providing the requisite documentation and informing people of and explaining to them their rights. The people tell the officials about the difficulties they face (understanding forms, problems of translation, etc.).

213. The outreach teams are also tasked with identifying those administrative procedures that are not appropriate to the atypical character of certain situations in order to remedy this. For instance, traditional forenames are now registered by the French authorities without difficulty. If an individual is without civil status, he or she can always submit to the courts an application for a judgement establishing their date of birth.

3. Continuing efforts to resolve civil status problems in Mayotte

214. In its previous report (paras. 128 to 140), the Government set out the efforts undertaken to modernize civil status in Mayotte, particularly on the basis of the work of the Civil Status Review Commission (*Commission de révision de l'état civil*), set up by Order No. 2000-218 of 8 March 2000. The Commission's mandate was extended until April 2011 when the territory became a department. In 2010, the people of Mayotte were encouraged to seize the opportunity of an information campaign to increase the number of court referrals before the cut-off date (set at 31 July 2010 to make an application and April 2011 for applications to be processed). More than 100,000 cases were processed resulting in the

preparation of 320,000 certificates⁵ (of birth, marriage and death). It should also be borne in mind that over a period of 10 years, the State also supported the process of modernizing civil status by making a substantial financial contribution to help the municipalities to equip and organize themselves, as article 22 of Order No. 2000-219 of 8 March 2000 on civil status in Mayotte had provided for the State to make available to the municipalities computer equipment for that purpose, to handle both ordinary law and local law documentation.

B. Access to personal origins

215. When considering the third and fourth reports (para. 44), the Committee reiterated its previous recommendation concerning the adoption of all appropriate measures to enforce fully the child's right to know his or her biological parents and siblings, and stressed the need for new enquiries to be treated in a timely fashion.

1. Current state of the law

216. Pursuant to article 7 of the Convention on the Rights of the Child, which recognizes the right of the child, as far as possible, to know his or her parents, the Act of 22 January 2002 on access to personal origins, which was described in the previous report (paras. 223 *et seq.*) achieves a balance between a child's right to know its origins and mother's right to protection of private life.

217. That approach was upheld by the European Court of Human Rights in its judgements in *Odièvre* (22 February 2003) and *Kearns* (10 January 2008).

218. In a decision of 16 May 2012, the Constitutional Council found that the articles of the Welfare and Family Code concerning access to personal origins (L. 147-6) and anonymous births (L. 222-6), based on the above act, were constitutional. The Council notes that, through article L. 222-6, the legislature sought to avoid pregnancy and birth taking place in conditions likely to jeopardize the health of both mother and child, and to prevent infanticide or child abandonment. It therefore pursued the constitutional objective of protecting health. Moreover, through article L. 147-6, the legislature intended to make it easier for a child to know his or her personal origins.

219. Following the report of the parliamentary taskforce on anonymous births (Rapporteur Ms. Brigitte Barèges, November 2010) and the report that the Inspectorate-General for Social Affairs submitted to the minister responsible for the family in 2011, concerning the audit of the National Council for Access to Personal Origins (CNAOP), a review was launched within the relevant ministries to improve the admission to and support in maternity units of women giving birth anonymously, as well the provision of information to the professionals involved, particularly regarding the procedure for recording identity and the information left for the child.

2. Updating data

220. Over the period 12 September 2002 to 31 December 2011, CNAOP registered 5,500 applications for access to personal origin. A total of 4,866 cases were processed and definitively closed, that is 88.4 per cent. That rate is constantly increasing as a result of the efforts made by the General Secretariat of CNAOP to reduce the number of cases being processed and to introduce more effective software.

⁵ On average, a case relates to three or four individuals.

221. A total of 4,866 cases were processed and definitively closed. In 43.4 per cent of cases, it was not possible to find the information needed to identify the birth parent. In 13.3 per cent of cases, the birth parent refused contact. In 32.4 per cent of cases, the identity of the birth parent was provided (in 11.2 per cent of cases after the birth parent had agreed to come forward, in 10.6 per cent of cases following the death of the birth parent where that person had not refused permission, and in 10.4 per cent of cases as there was no request for anonymity).

222. In order to gain a better appreciation of the effects of the system for access to personal origin set in place by the 2002 Act, a study is currently in train on the quality of life of persons who found their biological parents as adults, through CNAOP, the quality of life of the adopted parents and that of birth parents. The outcome should be available in July 2013.

223. Following the 2010 report by Ms. Barèges on anonymous birth and the report that the Inspectorate-General for Social Affairs submitted to the Ministry for the family, in 2011, concerning the audit of the operation of CNAOP, a review was launched within the relevant ministries to improve the admission to and support in maternity units of women giving birth anonymously, as well the provision of information to the professionals involved, particularly regarding the procedure for recording identity and the information left for the child.

224. Finally, in order to gain a better appreciation of the effects of the system for access to personal origin set in place by the 2002 act, a study is currently under way concerning the quality of life of persons who found their biological parents as adults, through CNAOP, the quality of life of the adopted parents and that of birth parents. The outcome should be available in July 2013.

C. Freedom of thought, conscience and religion

225. In its Concluding Observations of 22 June 2009, the Committee drew attention, in relation to Act No. 2004-228 of 15 March 2004 prohibiting the wearing of signs or dress through which pupils conspicuously indicate their religious affiliation in public primary and secondary schools and *lycées*, to the need to respect the guarantees under article 14 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 in private, and to pay particular attention to avoiding discrimination on the grounds of thought, conscience or religion.

1. Secular nature of State and private education and taking account of religion

226. In France, State education is secular in nature. The State provides children and young people in State educational establishments with the opportunity to receive an education appropriate to their capabilities, with equal respect accorded to all religions. It takes all necessary measures to ensure that students in the State education system enjoy freedom of religion and of religious instruction.

227. For some 20 years, however, religions have become a significant topic of contemporary relevance. For that reason, it is necessary to teach students to recognize the many forms of religion, understand the diversity of religions and grasp their significance.

228. There is no specific course on religions, but they are included in the syllabuses for many subjects, such as history, literature, art history and philosophy, as they are factors in understanding our heritage and the world around us.

229. The report annexed to Framework and Planning Act No. 2005-380 on the Future of Education of 23 April 2005 stresses the importance of this teaching element in the different

areas of study: “in public-sector education, the dissemination of knowledge on and references to religions and their history must be organized respecting freedom of conscience and the principles of secularism and neutrality of the public service”.

230. The establishment of the Institut européen en sciences des religions (European Institute for the theory of religions) is a direct response to the recommendations contained in the report on teaching about religions in secular schools, submitted to the Minister of Education, in 2002, by Régis Debray: *Rapprocher les démarches pédagogiques et la recherche scientifique* (Science and teaching – bringing them together). Falling under the auspices of the Practical College of Higher Studies, the Institute is involved in implementing the teaching of religions at primary and secondary level. It offers initial training courses and in-service training to staff in the State education system. Its Internet site contains a virtual library offering abstracts of books edited in the light of syllabuses.

231. Finally, a national seminar entitled “Teaching about religions in secular schools” was organized on 21 and 22 March 2011 by the Ministry of Education in partnership with the Institute. The seminar provided an opportunity to review the issue; to discuss the cross-benefits to be gained from the study of religions and the new teaching of art history; to take stock of European experiences; and to suggest how coming up close and personal with works in museums and places of worship could be used in the classroom.

2. Act No. 2004-228 of 15 March 2004

232. The French Government would refer to its third and fourth reports (paras. 257 to 264) in relation to the description of the Act and its bases and objectives, as well as its initial application at the beginning of the 2004/05 school year. It applies only in the State education sector and covers all conspicuous religious signs.

233. The Government also wishes to stress that in a number of decisions handed down on 17 July 2009,⁶ the European Court of Human Rights confirmed that the restrictions provided for under the Act of 15 March 2004 were justified by the constitutional principle of secularism and were in tune with the European Convention on the Protection of Human Rights and Fundamental Freedoms.

234. More specifically, it emphasized the importance of the State’s role as the neutral and impartial organizer of the exercise of various religions, faiths and beliefs. It also reiterated that a spirit of compromise on the part of individuals was necessary in order to maintain the values of a democratic society. It noted that the ban on all conspicuous religious symbols in all classes of State schools was based on the constitutional principle of secularism, which was consistent with the values protected by the Convention and the Court’s case law, and agreed with the opinion of the French authorities that the permanent wearing of substitute headwear also constituted a manifestation of religious affiliation. It pointed out that the 2004 Act had to apply to the appearance of new religious symbols and also to potential attempts to circumvent the law. Finally, the Court considered the punishment of definitive expulsion was not disproportionate, as the pupils still had the possibility of continuing their schooling by correspondence courses. Consequently, it declared the application to be inadmissible as manifestly ill-founded.

⁶ *Aktas v. France* (application No. 43563/08), *Bayrak v. France* (No. 14308/08), *Gamaleddyn v. France* (No. 18527/08), *Ghazal v. France* (No. 29134/08), *J. Singh v. France* (No. 25463/08) and *R. Singh v. France* (No. 27561/08).

235. Those decisions followed two judgements of 4 December 2008⁷ which had found in favour of the rules on the wearing of any distinctive religious sign in State schools in France before the entry into force of Act No. 2004-228 of 15 March 2004.

236. Since 2005, the Act has been applied without problem: the regional education authorities are aware of only a few isolated cases of pupils who have attended school wearing a conspicuous religious symbol. Since the Act entered into force, there have been 33 judgements of the administrative courts on the substance, all of which rejected the application for the annulment of the definitive expulsion orders adopted under the Act. There is no case currently pending before the courts. During the 2008 and 2009 academic years, no disciplinary procedures were set under way, and no new dispute was reported for the 2009/10 academic year. No judgement on the issue was handed down by the administrative courts in 2011. Those figures suggest that a satisfactory balance has been reached.

D. Freedom of association and peaceful assembly

237. When considering the third and fourth reports (para. 49), the Committee recommended that France should reconsider or ban the use of high frequency ultrasound and flash ball devices and other harmful devices, and take measures to harmonize rules on freedom of association for children of all ages.

1. The use of high frequency ultrasound devices

238. The use of high frequency ultrasound devices (“mosquito” devices) to disperse congregating groups of young people has been found to be illegal by the ordinary courts, in an interim order of 30 April 2008, having regard to article R. 1334-31 of the Code of Public Health which prohibits any noise which “because of its duration, repetition or intensity is likely to prejudice the peace of the neighbourhood or human health in a public or private place”.

239. Consequently, there is no further need for the legislature to act, as this decision of the courts has put an end to the use of the device in France, a device which was never among the resources used by the French security forces.

2. The use of flash ball and other dangerous devices

240. The Committee is reminded that the States were encouraged to provide their police forces with equipment other than firearms, following the adoption of the basic principles on the use of force and firearms by law enforcement officials, at the eighth Congress of the United Nations for the Prevention of Crime and Treatment of Offenders, which took place in September 1990 in La Havana (Cuba).

241. In those circumstances, the police service and gendarmerie have equipped themselves with intermediate weapons, including defensive firearms that make it possible to neutralize a dangerous individual by firing a rubber ball with kinetic impact.

242. The term “defensive impact projectile” is commonly used to describe the Flash-Ball and 40x46 impact launchers used by the police service. While the professional standards governing their use are the same, they have differing technical characteristics. Consequently, there are different sets of rules governing their use.

⁷ *Dogru v. France* (application No. 27058/05) and *Kervanci v. France* (application No. 31645/04).

243. The use of these devices is strictly supervised in order to prevent any risk of bodily harm. Staff required to use them receive comprehensive and specific training designed to ensure that they are fully proficient from both a technical and a legal perspective (operating principle, safety rules, effects on the body, handling and procedures for deployment, use of devices, legal framework for use, firing, tactical intervention plans, etc.).

244. On completion of initial training, a staff member will be issued with an individual permit for the use of defensive impact projectiles. The continuing validity of the permit is contingent on mandatory annual in-service training reprising the technical and legal components of initial training, drawing attention, as a matter of course, to the principles that care must be taken in use.

245. In that regard, the rules of use are set down in detail in internal guidelines (Instruction PN/CAB/No. 5820-D of 31 August 2009 for the Directorate-General of Police and memorandum No. 73000 of 31 July 2012 for the Directorate-General of the Gendarmerie), which specify that police officers and members of the gendarmerie must take account of the condition of the person targeted in order to assess whether it is appropriate to use defensive impact projectiles. The aspects to be taken into account specifically include how vulnerable the person is, particularly in terms of their age. The relevant staff are therefore made aware of the consequences of using defensive impact projectiles against minors.

246. Despite this training in the conditions of use of these weapons, which are designed to avoid the use of firearms, a number of incidents have been reported, some of which have proved to be serious. All have been the subject of investigations and/or legal proceedings, accompanied, where appropriate, by disciplinary procedures. The incidents are closely monitored by the Defender of Rights, and taken into account in the context of a comprehensive review of the use of these weapons.

247. The Taser⁸ is another type of intermediate weapon used by the police and gendarmerie. As in the case of the weapons described above, its use is strictly supervised, and only officers who have been properly, trained, authorized and required to complete in-service training in order to retain their permit are able to deploy it. The use of this intermediate weapon is subject to the same assessments and ongoing analyses as defensive impact projectiles. In the case of the Directorate-General of Police, the most recent guideline on use is dated 12 April 2012 (replacing the earlier guidelines of 26 January 2009). In the case of the gendarmerie, the use of Tasers is governed by circular No. 13183 of 25 January 2006 which was updated for the third time on 5 July 2010.

248. It has yet to be established that this intermediate weapon has been directly responsible for a death or serious injury in France. However, following police action during which different weapons, including Tasers, were used to gain control of an individual who subsequently died, a judicial investigation is under way to determine the exact causes of death. The outcome of the investigation will be closely scrutinized.

249. Moreover, the Defender of Rights, who has already made recommendations concerning the use of defensive impact projectiles and Tasers in the context of cases referred to that body, has decided to make a study of the issue, the results of which are to be published in October 2012.

⁸ "Taser" is the name of a company manufacturing and marketing this type of weapon.

3. Rules on freedom of association

250. Since the last report, Act No. 2011-893 of 28 July 2011 on developing sandwich training and safeguarding career development has amended the Act of 1 July 1901 establishing the right to freedom of association, by inserting article 2*bis*, according to which: “Minors over the age of 16 may freely establish an association. Subject to the prior written agreement of their legal representative, they may take all measures appropriate to its administration, save for the disposal of property.”

251. Pursuant to these new provisions of law, minors aged 16 and above may now be elected chair or treasurer of an association and perform all the tasks involved in its day-to-day management.

252. However, pursuant to article 1124 of the Civil Code, which lays down the principle that non-emancipated minors may not enter into contracts, they do not have the capacity to take measures capable of permanently altering the association’s assets. That lack of capacity, which is not absolute, is justified by the best interests of the child.

E. Protection of privacy

253. In paragraph 50 of its Concluding Observations dated 22 June 2009, the Committee expressed concern about the collection of personal data about children, and in particular about the *Base élèves 1^{er} degré*. The Committee was concerned that this might be used for purposes other than those envisaged, and urged the French State, in general terms, to take all necessary measures to ensure that the gathering, storage and use of sensitive personal data were consistent with its obligations under article 16 of the Convention.

254. In France, if an information system processes personal data, it must implement the legal safeguards provided for by Act No. 78-17 of 6 January 1978 concerning information technology, files and freedoms. In consequence, CNIL is officially and systematically informed, before they are put into operation, of the specifications of the information systems of the Ministry of Education. Specifications are always extremely precise and for each system give CNIL all relevant information about the purposes of the system and those who are authorized to use or consult it. It is mandatory to inform persons recorded on the system that they have the opportunity to ask that an item of data about them should be corrected or removed. CNIL has the power, by any means at its discretion, including site visits, to verify that all arrangements governing confidentiality, practice and use are compliant with the Act and are observed.

255. It may be helpful to clarify that the purpose of the processing of personal data by *Base élèves* is the administrative and educational management of pupils in the primary stage, between the ages of 3 and 11; and, once data have been anonymized, to allow monitoring at national level of educational statistics and indicators. In nursery, elementary and primary schools, the administrative and educational management of pupils covers their enrolment, admission, removal, allocation to classes and progression to a higher class.

256. The data processing involved was the subject of a declaration to CNIL on 24 December 2004, in accordance with article 23 of the Act of 6 January 1978, before being deployed on a pilot basis in approximately 100 schools in five departments during 2005. Two amending declarations were made on 19 February 2008 and 3 December 2008 to take account of the cessation of recording data which had been perceived as sensitive.

257. The data processing currently in operation is the amended version of the original introduced by the Decree of 20 October 2008. It was extended to cover the national territory as whole at the beginning of the new school year in September 2009.

258. For clarification, *Base élèves 1^{er} degré* is the name of the software application. There is no single, centralized registry. There are as many databases as there are departmental educational authorities (30), and these databases do not communicate with each other. There is no connection with other records maintained by the State.

259. The nature of the data collected does not allow them to be used for purposes other than those referred to above, and this includes the detection of crime or migrant children in an irregular situation. The system includes solely the following data:

- The identity and personal details of the pupil (family name, forenames, sex, date and place of birth, address and national pupil identifier);
- The identity of the pupil's legal guardian or guardians (family name, forenames, relationship to the pupil, contact details, authorizations and school insurance details);
- Others to be contacted in an emergency or who are authorized to take charge of the pupil when leaving the school (identity, relationship to the pupil, contact details);
- The standing of the pupil (dates of enrolment, admission and removal, class, level and stage in the educational cycle);
- School-related activities (childcare arrangements, supervised study and school meals and transport).

260. The system does not, however, include any data on the following:

- The nationality and origin of pupils or their legal guardians;
- The family circumstances, profession or social standing of parents;
- Absenteeism;
- Special educational needs;
- Pupils' health;⁹
- Pupils' grades and level of attainment.

261. Data are not retained beyond the pupil's final school year in primary education.

262. Head teachers, Ministry of Education School Inspectors responsible for the school district and education authority inspectors who are directors of departmental services under the Ministry of Education have access to all of the data.

263. Mayors, at their request, and municipal officers responsible for educational affairs and individually appointed by mayors, within the confines of their responsibilities, are authorized to have access to the personal data needed to allow them to carry out their remit: data relating to the identity and the address of the pupil, the identity and address of parents or other legal guardians and of other persons to contact in the event of an emergency, or of persons responsible for after-school care, the grade in which the pupil is enrolled and

⁹ By its ruling, referred to above, of 30 June 2010, the Council of State censured the collection, in the first version of the information, of data on the assignment of pupils to special classes for integration at school (*classes d'insertion scolaire* (CLIS)). The ruling was to the effect that, because of the detail that they gave, the data made it possible to infer the nature of the illness or disability from which the pupils concerned were suffering, and were thus data relating to health, the processing of which should have been preceded by CNIL authorization. The Council of State has not, however, taken the same view in relation to the current version of the information, taking account of the degree of generality of the data collected. No measures to enforce the ruling were necessary, as the collection of data referring to particular categories of CLIS had already ended in 2008 on the decision of the Minister.

school-related activities. (Mayors are responsible for the management of school enrolment and for overseeing compliance with the mandatory education requirement to the age of 16, and for organizing school-related activities.)

264. The Ministry and its offices in the regions do not have access to *Base élèves 1^{er} degré*. They receive data which has been strictly anonymized, exclusively for statistical purposes.

265. Security arrangements guarantee that there is no access to files on the system for unauthorized persons. Specially-designed log-in arrangements ensure that a highly-secure, dual authentication procedure is complied with before the system can be accessed. Users must know a secret, four-digit code and have a personal log-in, which displays combinations of six figures which change once every minute, to arrive at their unique and dynamically-generated password for accessing the system.

266. Parents are informed of this data processing by note, or by notices in schools, and when they enter information on the relevant form. The form refers to their rights under the 1978 Act and specifies which data is mandatory and which optional, and the rights to access and correct the data. Parents are able to ask head teachers to check information about them and their children. They are also able to object, if they have lawful cause, to the recording of data on *Base élèves 1^{er} degré* about themselves or their children.¹⁰

F. Access to appropriate information

267. In paragraph 53 of its Concluding Observations dated 22 June 2009, the Committee recommended that France take measures to protect children from access to harmful information, including electronic and audiovisual exposure, and to exercise control on the accessibility of written, electronic and audiovisual media, including video and internet games harmful to children.

1. The media

268. On 21 February 2012, the Minister of Solidarity and Social Cohesion and representatives of media groups signed a charter entitled “The Protection of Children in the Media”. It refers to the body of rights guaranteed to children by the Convention and sets out commitments entered into by the media both on the media treatment of matters connected with individual children and on the issue of the hypersexualization of children.

269. The signatories from the media have committed themselves to take the best interests of the child into account as a matter of course in their treatment of any information about a child in difficulty, to weigh the consequences that the publication of any content concerning children might have, and not to publish articles or broadcast programming where there is evidence that this could harm their interests.

270. These commitments also address the necessity to obtain prior parental approval and the protection of the identity of a child in difficulty in circumstances including those where there is a risk of stigma following the broadcast or publication of material. On the issue of hypersexualized images of children, the signatories undertook to refrain from distributing such images, whether of boys or girls and whether in editorial or in advertising material; to refrain from distributing violent or sexist behavioural stereotypes; and to refrain from presenting instances of hypersexualization in a manner implying acceptance.

¹⁰ In its above-mentioned ruling of 30 June 2010, the Council of State partially annulled the Decree of 20 October 2008 to the extent that it expressly excluded this possibility.

271. In addition, the remit of the Higher Council for the Audiovisual Sector (*Conseil supérieur de l'audiovisuel*), an independent administrative authority, includes the protection of children. It pays particular attention to the protection of children against harmful content and pressure from advertising, ensuring the provision of programming suitable for the young and the protection of children's health. For these purposes, it has introduced a system for rating programmes on their suitability for the young (under 10, under 12, under 16 and under 18), related to time-slots in the broadcasting day, and run campaigns to raise parental awareness. It pays special attention to radio, where no programmes which could offend the sensibilities of listeners below the age of 16 must be broadcast between 6 a.m. and 10.30 p.m.

272. Every French or foreign short or feature-length film, and every trailer, intended for public showing must first be submitted to the Classification Council of the National Centre for Cinema and the Moving Image, which reports to the Ministry of Culture. The Council has 28 members and is composed of four colleges: representatives from ministries, cinema professionals, experts and young people. It classifies films in relation to certain themes (including the representation of violence, sex, criminal behaviour and dangerous practices) and classifies them by the ages for which they are authorized: unrestricted, or not suitable for the under-12s, under-16s or under-18s. Classifications may be accompanied by a warning.

2. The Internet and video games

273. France takes action at national and European levels and in partnership with the associations concerned with child protection and with private Internet and video-game businesses. Action often takes the form of charters, leaflets, Internet pages or sites, financial assistance or ministerial statements.

274. The aim is to inform, and raise the awareness of children and their parents by practical advice, for example on the installation of parental control software, and to encourage discussion within the family.

275. At present, parental control software is installed free and as standard on boxes provided by Internet service providers, both for computers and televisions, and on games consoles. It is also offered free by mobile phone operators. Parents can activate it if they so wish.

2.1 The Internet: parental control software and raising public awareness

276. Children are protected on the Internet by a two-pronged approach.

277. The first approach is to improve the tools that parents have at their disposal, including software applications for parental control. Accordingly, since an agreement concluded on 16 November 2005 with the Ministry for the Family, Internet service providers supply their subscribers with free parental control software. At the prompting of the Ministry, the French Agency for Standardization (*Agence française de normalisation*) developed, in consultation with all the partners concerned, an experimental standard for parental control software by January 2010. In parallel, the European Committee for Standardization is developing a European standard for parental control software due to be published at the end of 2012. Similarly, in conformity with the agreement signed on 10 January 2006 between the Ministry for the Family and the French association of mobile phone operators (*association française des opérateurs mobiles*), operators are offering free installation of parental control software on phones intended for minors.

278. The second approach needed is to make the public aware of the realities of the Internet.

279. For instance, at the request of the Ministry for the Family, the association *e-enfance* created an Internet site in late 2011 for parents (info-famille.netecoute.fr): this is complementary to the *Net écoute* initiative, which operates an Internet site and a free telephone helpline (0800 200 000). The association has also placed a downloadable Internet application on Facebook which allows users to report content which is shocking or violates privacy. A section dealing with child protection and the Internet also forms part of the “Family” pages of the Internet site of the Ministry.

280. Many pieces of guidance offering information and promoting increased awareness of the use of the media have been published by those involved. In September 2008, for example, the Ministries of Education and of the Family produced an information booklet and distributed it to 4.5 million pupils in schools.

281. The Ministry for the Family also supports awareness-raising activities with children and parents, most of them in schools, led by associations, such as the *Tour de France des établissements scolaires* (Schools’ Tour de France). This took place in 2011 in approximately 1,500 schools, colleges and *lycées* and delivered information sessions in which some 500,000 pupils and 100,000 parents got involved.

282. The public authorities are taking part in the working group, *Internet sans crainte* (Internet without Fear) on French projects for the protection of children on the Internet, financed under the “Safer Internet” programme of the European Commission, which made facilitated the creation in France of a helpline for parents and children (*Net Écoute*, 0800 200 000) and a reporting site (pointdecontact.net). The theme of the programme for 2012–2014 will be relations between parents and children.

2.2 Video games

283. Set up in December 2008, *PédaGoJeux* is a grouping of a number of institutional, professional and voluntary-sector partners, which aims: to provide parents and teachers with information about video games and their use; promote the European classification systems PEGI (Pan-European Game Information) and PEGI Online; through a dedicated Internet site, to promote parental control software; to distribute booklets; and to provide a presence at events connected with video games.

284. On 13 December 2011, the Minister for the Family signed an initial charter with distributors providing for information on the classification system to be given to parents at points of sale. A charter with online sellers of video games is in preparation.

285. An information item on the system of classification for video games was broadcast on all television networks in May 2012 following an agreement concluded with the Higher Council for the Audiovisual Sector.

G. Torture or other cruel, inhuman or degrading treatment or punishment

286. At paragraph 55 of its Concluding Observations in relation to the third and fourth reports, the Committee recommended that France should 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 be promptly and properly investigated, and that the perpetrators should be prosecuted and punished. It also recommended that France should further raise awareness and enhance training on the rights of the child for law enforcement officials.

1. Systems for supervising the treatment of detained children

287. The treatment of detained children is supervised partly by administrative authorities and partly by independent organizations.

1.1 Administrative and judicial supervision**1.1.1 National level**

288. Article D. 348-1 of the Code of Criminal Procedure tasks the Inspectorate-General of Social Affairs and the Regional Health Agency with ensuring compliance with the measures necessary for maintaining the health of detained persons and hygiene in prison establishments. To carry out their duties, the services monitor, and make all necessary checks on, compliance within prison establishments of public-health legislation and regulations.

289. In addition, the Inspectorate-General of Judicial Services, which coordinates the monitoring activities of all departments of the Ministry of Justice, conducts other forms of inspection, including issue-specific investigations which are often conducted alongside other inspectorates or monitoring units.

290. The Prisons Inspectorate is responsible for monitoring the prison service and the National School of Prison Administration. It carries out visits, investigations and monitoring, ensures that the laws and regulations in force are complied with and issues advice and instructions of all kinds.

291. The Inspectorate for the Protection of Young People within the Judicial System (*Inspection des services de la protection judiciaire de la jeunesse*) ensures, through inspection and audit, that the administrative, educational and financial activities of all entities involved in the protection of young people within the judicial system are monitored, regardless of status. It is able to carry out or take part in assessment work.

1.1.2 Regional and local level

292. At regional level, the Regional Health Agencies monitor the application of the Public Health Code.

293. In addition, the inter-regional Directorates for the Protection of Young People within the Judicial System have their own audit services.

294. Attached to every prison establishment is an assessment committee, composed of members of the judiciary, local authority representatives, representatives from the State services and other external actors working within the prison (voluntary associations, prison visitors and accredited chaplains); the committee is responsible for assessing the conditions under which the establishment is operating and, where necessary, for proposing measures of any kind for their improvement.

295. Every year, the president of the investigating division of the appeal court reviews the situation of persons held in pretrial detention. The public prosecutor also hears applications from detainees seeking to lodge an appeal. Finally, a joint report by the first president and chief prosecutor sets out annually for the Ministry of Justice the operation of the prison establishments within their jurisdiction and the service provided by the staff thereof.

296. In addition, the president of the regional court, the liberty and custody judge, the investigating judge, the judge responsible for the enforcement of sentences and the juvenile court judge visit every prison establishment within their territorial jurisdiction at least once every year. Acting as the judge responsible for the enforcement of sentences, the juvenile

court judge also has the authority to check the conditions in which minors are detained by carrying out unannounced spot-checks.

1.2 Other monitoring authorities

297. Act No. 2007-1545 of 30 October 2007, supplemented by Decree No. 2008-246 of 12 March 2008, established a Controller-General of places of deprivation of liberty (*contrôleur général des lieux de privation de liberté*) pursuant to the Optional Protocol to the Convention against Torture. The Controller-General is an independent institution with competence extending to all places of deprivation of liberty: it is required not only to determine that the fundamental rights of persons deprived of liberty are being respected, but also to prevent any breach of those rights. It has the authority to visit, at any time, any place in the territory of the Republic where persons are deprived of liberty. The Controller-General can take up cases referred by any natural person and by any legal entity whose objects are to protect fundamental rights and which considers that those rights are not being recognized by the organization or the operations of a service on the basis of conditions of detention, police custody, administrative detention or hospitalization. The Controller-General He may also take up cases of its own initiative. It makes recommendations and submits reports on visits to the relevant ministers, and makes an annual report to the President of the Republic. If shortcomings of a criminal or disciplinary character come to the notice of the Controller-General, they can be referred to the chief prosecutor or disciplinary authorities. By 1 January 2012, the Controller-General had made 14 recommendations and submitted four annual activity reports (for 2008, 2009, 2010 and 2011).

298. The Defender of Rights (see para. 27 *et. seq.* above) may be approached by detainees who consider themselves wronged as a result of administrative malfunction, discrimination or a failure to respect the code of professional ethics for the security services. The Defender also becomes involved when the best interests of the child are called into question.

299. An agreement was signed, on 8 November 2011, between the Defender of Rights and the Controller-General of places of deprivation of liberty providing for the pooling of information, including in cases formally referred to them, with a view to coordinating their intervention and action and avoiding both unnecessary duplication of measures in regard to detainees and offering detainees conflicting responses.

300. Finally, at supranational level, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment carries out, on average, a visit every two years to several establishments.

2. Investigation and prosecution in response to allegations of torture or inhuman or degrading treatment

301. While no provision of the criminal law specifically punishes acts of torture, barbarity or other acts of physical or psychological violence against a minor in detention, the French Criminal Code contains many provisions enabling public prosecutors to conduct criminal investigations when acts of this kind are reported to them.

302. Article 222-1 of the Criminal Code provides that “submitting a person to torture or acts of barbarity shall be punishable by 15 years’ imprisonment”.

303. Moreover, the penalties for intentional violence provided for by articles 222-9 to 222-13 of the Criminal Code are increased when committed by persons vested with public authority, such as a law-enforcement or prison officer.

304. Article 222-9 of the Criminal Code provides that: “Acts of violence that have resulted in permanent mutilation or infirmity shall be punishable by 10 years’ imprisonment and a fine of €150,000.” Article 222-10 of the Code increases the penalty to 15 years in circumstances including where the act of violence has been committed by a person vested with public authority or entrusted with the delivery of a public service in or in connection with the performance of his or her functions.

305. Article 222-11 of the Criminal Code provides that: “Acts of violence that have resulted in a total incapacity to work for more than eight days shall be punishable by 3 years’ imprisonment and a fine of €45,000.” Article 222-12 of the Code increases the penalty to 5 years’ imprisonment and a fine of €75,000 in circumstances including where the act of violence has been committed by a person vested with public authority or entrusted with the delivery of a public service in or in connection with the performance of his or her functions.

306. Article 222-12 of the Criminal Code makes acts of violence that have resulted in total incapacity to work for a period less than or equal to eight days punishable by 3 years’ imprisonment and a fine of €45,000 where they have been committed by a person vested with public authority or entrusted with the delivery of a public service in or in connection with the performance of his functions.

307. In order to include degrading treatment among the acts of violence at issue, the Act of 9 July 2010 created a new article 222-14-3 in the Criminal Code punishing violence of any kind, including acts of psychological violence.

308. Any allegation by a minor that he or she has suffered in detention acts of torture, cruel, inhuman or degrading treatment or acts of violence is dealt with as a priority by the prosecutor’s office to which the allegation is reported, which will ensure, as a matter of course, that a thorough investigation is carried out with a view to the prosecution and conviction of the perpetrator or perpetrators.

3. Staff training

309. For the training of law-enforcement officers, see paragraph 100 *et seq.* above concerning measures to improve awareness of the rights of the child.

H. Follow-up to the United Nations Study on Violence against Children

310. At paragraph 56 of its Concluding Observations dated 22 June 2009, the Committee recommended that France 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, to provide the Committee with information in the next periodic report on the measures taken, and to support the Special Representative of the Secretary-General on Violence against Children.

1. Data on violence against children

311. To date, and pending the collection of data under the monitoring arrangements for child protection established by Decree No. 2011-222 of 28 February 2011 (see para. 92 above), the number of children who are victims of physical and sexual violence is recorded by the Ministry of the Interior (*Fichier “État 4001”*) which collates the total number of offences established by the police services and gendarmerie. Annex II sets out figures for the most serious acts of violence against children, whoever the perpetrator. They include violence where the perpetrator is unknown although the violence occurs in a secure family

setting. The figures therefore only partially tie up with the statistics for the numbers of minors at risk.

2. Vigilance and the identification of minors at risk

312. The leading role in child protection lies with the president of the departmental council, who is responsible for collecting, processing and assessing information giving rise to concern about minors at risk or potentially at risk.

313. The Act of 5 March 2007 on the reform of child protection has contributed both to improving the arrangements of the departments for vigilance and the identification of minors at risk or potentially at risk, and to improving coordination of those arrangements with the judicial system. In each department, a unit has been established which is responsible for collecting, processing and assessing information giving rise to concern about minors at risk or potentially at risk. Those responsible for implementing child protection policies or contributing to their implementation are required immediately to refer any information giving rise to concern about a minor at risk or potentially at risk to the president of the departmental council or the head of the unit. The purpose of this is to enable the relevant services of the departmental council to assess the circumstances of the minor and to decide what protective or assistive measures could benefit minors and their families.

314. Once minors' circumstances have been evaluated, the departmental services are able to propose to them and their family an administrative protection measure set out in an agreement (support at home, educational support or a residential placement for the child), monitoring by the social services or financial assistance. If an administrative protection measure is insufficient, or cannot be put in place because the family refuses to accept the involvement of the child welfare service, or, indeed, it proves impossible to assess the situation, then once the minor is presumed to be at risk, the president of the departmental council must immediately refer the case to the judicial authorities (the public prosecutor) so that a judicial protection measure can, if necessary, be ordered.

315. The State also contributes to arrangements for vigilance and the identification of children at risk by financing the public interest grouping "*Enfance en danger*" (Children at risk) to the level of some €2.2 million per year. The group brings together all sorts of active participants in child protection (ministries, departmental councils and voluntary associations) under the sponsorship of the Ministry for the Family, and incorporates ONED and the national telephone helpline for children at risk (SNATED).

316. SNATED operates on a national basis, supplementing the departmental systems for dealing centrally with information giving rise to concern. There is a freephone number (119), which is available to the general public 24 hours a day and 7 days a week, taking calls about the circumstances of minors at risk or potentially at risk. Options available to the service include passing information received to the relevant departmental services, directly alerting the prosecutor's office or referring cases to the police services.

317. In 2011, SNATED took 583,139 calls, 20,798 of which led to immediate assistance being given and 11,616 to information being passed on: 36 per cent of calls concerned psychological violence, 25 per cent physical violence, 5.5 per cent sexual violence, 16.5 per cent gross negligence and 18 per cent inadequacies in the circumstances of the child's upbringing. In 95 per cent of cases, the presumed perpetrator came from the child's close family.

318. The helpline number 119 is accessible from the Overseas Departments and Territories. Certain overseas departments also have their own helpline (La Réunion and the Antilles). In 2010, the Overseas Departments and Territories accounted for 1.2 per cent of cases where immediate assistance was given and 1.9 per cent of cases where information

was passed on by SNATED. The Overseas Department in which most use was made of the 119 number in 2010 was La Réunion. Some departments in metropolitan France have also set up helplines of their own.

319. Finally, in March 2012 the Office of the Secretary of State for the Family lent support to a national campaign of prevention and awareness-raising entitled “A Child in Danger – Sound the Alarm!” (*Un enfant est en danger. Alertons*), an initiative taken and financed by voluntary associations for child protection as a reminder that everyone has an obligation to report to the competent authorities any abuse that may come to their notice.

3. Establishment of emergency protection procedures

320. Act No. 2010-769 of 9 July 2010 on violence specifically directed against women, on conjugal violence, and the impact of such violence on children established emergency procedures to provide protective measures for any person who is a victim of violence at the hands of their past or present spouse, partner or cohabitee as soon as such violence puts them or their children at risk.

321. Under the emergency procedure, the options open to the family judge include ordering measures as to how parental authority is to be exercised. The judge may thus limit the visiting rights of a violent parent or make them contingent on such visits taking place in the presence of a trustworthy third party or a representative of a suitable legal entity.

I. Corporal punishment

322. In its Concluding Observations, the Committee reiterated its previous recommendation that France should explicitly prohibit corporal punishment in all settings, increase awareness-raising in this respect and promote the value of education without violence.

323. Articles 222-12 and 222-13 of the Criminal Code severely punish “acts of violence committed against a minor below the age of 15 years by a lawful ascendant relative, whether natural or adoptive, or by a person with authority over the victim”. Where such acts of violence give rise to a complete incapacity for work lasting eight days or less, they are punishable by five years’ imprisonment and a fine of €75,000, and where they give rise to a total incapacity for work lasting more than eight days, by seven years’ imprisonment and a fine of €100,000.

324. The provisions therefore make it possible to punish any violence, even of the least severe kind, committed against minors by persons in authority over them.

325. In addition, combating corporal punishment falls within efforts to remedy the shortcomings in upbringing which often accompany it. This involves reconciling educational responses to corporal punishment with responses under the criminal law, and should make it possible to enable parents to fulfil their duties to bring up their children without recourse to violence by offering them, under judicial supervision, alternative approaches to parenting.

IV. Family environment and alternative care

A. Family environment

326. In its Concluding Observations of 22 June 2009, the Committee stressed the need to render appropriate assistance to parents and legal guardians in the performance of their

child-rearing responsibilities, particularly to families in crisis situations (as a result of poverty, lack of adequate housing or separation).

327. Assistance to families, and to families in difficulty more particularly, is based on both the social welfare system and the tax system.

328. A variety of measures are employed: basic welfare benefits, family allowances, and tax reductions and relief contingent on social situation.

329. France has a particularly well-developed general family policy, and the system of family allowances is specifically geared to combating family and child poverty.

330. Supplementing these generous measures, the National Family Allowances Fund and the network of family allowance funds play a pivotal role in conducting a policy to support the most vulnerable families. The social welfare measures that they take enable them to help prevent the kind of family problems that can have an impact on children.

331. Child welfare services, which are a departmental responsibility, are designed to provide material, educational and psychological support to children and their families facing the kind of difficulties that could seriously threaten their equilibrium. On that basis, the departmental councils provide a number of social welfare benefits for children, including assistance in the home, which may involve the payment of financial assistance, the assistance of an expert from the social and family intervention service or domestic help, support in relation to home economics and assistance from an education action service.

B. Children deprived of a family environment

332. When considering the previous report, the Committee voiced its concern at the number of measures, including separation, ordered by the judiciary, at the children's lack of contact and opportunities to meet with their families in such circumstances, and at the insufficient consideration given to the child's views and best interests. The Committee also set out a number of recommendations at paragraph 62 of its Concluding Observations of 22 June 2009.

1. Placement and protection orders

333. The French Government wishes to emphasize that children are removed from their family only on the basis of a court order, when the child is at risk and the various measures for providing assistance in the home are not sufficient to eliminate the risk. Indeed, whenever possible, children must stay within the family; that is why other measures are preferred to placement (support for the parents, financial assistance and educational measures at the parents' home). In addition, finding a solution within the wider family is the preferred option.

334. As regards children requiring alternative care, the Act of 5 March 2007 reforming child protection introduced new care procedures going beyond the choice between home and placement, and involving families as much as possible. These innovative measures make it possible to renew family support and suggest a response that is attuned to the child's needs (day care, exceptional care and periodic care, etc.).

335. Under the National Child Protection Financing Fund (*Fonds national de financement de la protection de l'enfance* – FNFPE) established by the Act of 5 March 2007, an initial invitation to tender was issued in late 2010 to support the innovative measures caught by the reform, and particularly the new forms of care. Open to the territorial authorities, their public bodies and associations, it focused on three main themes: the protection of children living in economic instability, support for families and caring for specific population groups. Forty-eight projects were selected for a three-year period

(2011–2013), with total funding of €6 million. The projects chosen are varied and of great significance; the quality of the projects demonstrates that those involved in child protection have espoused the progress made with the 2007 reform, as revealed by the measures to help mothers and children in vulnerable situations, to care for children with a range of problems under arrangements other than placement, and indeed measures to help young adults moving out of child protection.

336. Among the 48 Projects selected in 2011, FNFPE is involved in particular in promoting a variety of forms of alternative care to placement. For instance, one of the projects that has been selected involves keeping the child in his or her normal environment, but stepping up the intervention of the educational team at the parents' family home in order to rebuild, with the parents, the daily exercise of their parenting responsibilities. This arrangement is an alternative to placing children in a home or with a foster family; it strikes a balance between child protection and intensive support for parenting, by avoiding the trauma of separation and the risk of parental apathy.

337. The invitation to tender by FNFPE has also made it possible to fund sequential care projects (where the child is cared for and accommodated on a part-time basis), designed to avoid placement. Sequential care is geared to young people experiencing major difficulties in their relationship with their parents, and who therefore need regularly to have space from their family. The arrangement provides a response to periods of family crisis, thereby averting the risk of violence.

338. To support young people and their families at the end of a placement, FNFPE also subsidizes premises used to take in and accommodate young people placed with the children's social welfare service and their families to support both their return from placement and families in difficulty.

339. FNFPE also supports aid and support measures for young people leaving child protection arrangements. This involves, for instance, pilot day-care projects designed to give young people educational support and the opportunity of finding employment and becoming socially integrated, or arrangements designed to integrate, into educational boarding facilities, young people and adolescents monitored by social workers, who are leaving child welfare arrangements, so that the alternative solution of boarding in an educational establishment replaces care for young people within a facility.

340. Finally, in order to strengthen parent-child relations in situations of vulnerability, FNFPE is subsidizing the development of a parental centre. In the context of comprehensive care, accommodation for mothers is supplemented by a new day-care service for fathers designed to establish or strengthen relations with the child, once an assessment of the situation has shown that the father's visits are in the child's interest.

2. Taking account of child's point of view

341. As set out above (para. 177), article 388-1 of the Civil Code generally provides that in all civil proceedings relating to him or her, a minor capable of discernment may be heard by the judge or, where the interests of the child require it, the person appointed by the judge for that purpose; a child who so requests must be heard.

342. Where a tutelary assistance procedure has been set under way, the juvenile court judge must hear the father, mother, legal guardian, the person or representative of the service in whose care a minor capable of discernment has been placed (art. 1182 of the Code of Civil Procedure). The judge may also hear any other person whom he or she considers may make a useful contribution. A child capable of discernment may consult the case file, but must then be accompanied by father, mother or lawyer. If the parents refuse and the child has no lawyer, the judge will call on the president of the bar to appoint a lawyer to assist the child or authorize the welfare service responsible for the measure to

accompany the minor when he or she consults the file (art. 1187 of the Code of Civil Procedure). At the hearing, the judge must hear the minor, who has the right to appeal the decision.

343. Moreover, the Act of 2 January 2002 reforming Social Welfare and Social Medical Action provides for individuals taken into or cared for in social and medical-social establishments and services to be given a care record book including, among other things, a charter of rights and freedoms, the internal regulations and a listed of qualified staff members. The charter covers all social and medical-social establishments and services, including those dealing with children under child protection (children's homes and children's villages, etc.).

344. The charter of rights and freedoms includes provisions on the principle of non-discrimination; the right to appropriate care or support; the right to information; the right to freedom of choice; to informed consent and individual participation; the right to respect for family ties; the right to protection; the right to independence; the principle of prevention and support; the right to exercise civic rights; the right to practise religion; and, finally, the rights to respect for the dignity of the person and for privacy.

345. In addition, introduced by the Act of 5 March 2007, "Project child" makes the child the focal point of the protection system. Drawn up by the departmental services and parents, the document should make it possible to provide care very much tailored to the individual, by specifying the measures which will be taken in relation to the child and family, the objectives to be achieved and the time limit for their implementation. Many departments have taken up this resource, even though the major impact it has on practices and organizations means that it can be difficult to implement.

346. Finally, any child who considers that his or her rights are not being respected can take the case to the Children's Ombudsperson who works with the Defender of Rights.

3. Taking account of the best interests of the child

347. The juvenile court judge must take a decision with a strict view to the best interests of the child. If the child is to be placed in care, the relevant establishment must be chosen in the best interest of the child, to make it easier for the parents actually to visit and for the child to maintain contact with his or her siblings. If it is in the child's interests, the judge may decide not to reveal the name of the care facility.

348. If a minor does not have parental protection, the appointment of a guardian *ad hoc* ensures that the child has a representative to defend his or her best interests, whether in relation to civil or criminal matters.

4. Maintaining family ties

349. For several years now, France has had specific procedures designed to guarantee contacts between children and their parents when the latter are unable to maintain family contacts themselves.

350. Pursuant to articles 373-2-1 and 373-2-9 of the Civil Code, the family judge may use a meeting facility where the child's interests require this. The purpose may be to enable parents to restore ties with their child after a period of absence or to provide a reassuring and secure backdrop for children whose parents have been violent or have psychological difficulties.

C. Adoption

1. International adoption

351. In its Concluding Observations of 22 June 2009, (para. 64), the Committee recommended that France should ensure that cases of intercountry adoption are dealt with by an accredited body in full compliance with the principles and provisions of the Convention on the Rights of the Child and the 1993 Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption; that bilateral agreements replicating the standards of the Convention on the Rights of the Child and of the 1993 Hague Convention should be concluded with countries that have not ratified the latter Convention; and that authorization by the competent authority should become mandatory for domestic adoptions in French Polynesia and New Caledonia.

1.1 Encouraging families seeking intercountry adoption to use the services of an accredited body

352. France, which has ratified the 1993 Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, tries to encourage families seeking intercountry adoption to use the services of an accredited body.

353. The Intercountry Adoption Service, which is the central French body within the meaning of the 1993 Hague Convention, encourages the accredited adoption bodies to become more professional and develop further, on the basis, among other things, of the grant of subsidies or the signing of target and resource agreements, enabling them to help as many families seeking to adopt as possible. The same applies to the State agency, the French Adoption Agency, with which a target and management agreement has been signed.

354. The Intercountry Adoption Service also asks children's countries of origin to sign up to the 1993 Hague Convention and implement it effectively. That kind of lobbying takes place at seminars designed to raise awareness of the principles of the 1993 Convention and also during field visits abroad.

355. Consequently, France:

- Lobbied hard to get the Republic of Haiti to sign the Hague Convention, which it did on 11 June 2012;
- Staged a seminar raising awareness of the Hague Convention in Laos and Benin in May and June 2012;
- Carried out a specific mission, in March 2012, to Guinea Conakry, which had signed up to the Hague Convention but was yet to apply its provisions, following which it decided to put a stop to the individual adoptions that were still taking place;
- Organized, on 31 May 2011, a meeting with the diplomatic representatives, in Paris, of countries of origin which were not parties to the Hague Convention to promote the Convention;
- Helped finance a seminar for francophone African countries scheduled to take place in Dakar on 26 November 2012 under the auspices of the Permanent Bureau of the Hague Conference to pool experience of applying the Hague Convention and encourage observer countries to sign up to it.

356. There has consequently been a sharp rise in intercountry adoptions carried out with the assistance of agencies in recent years, increasing from 38.6 per cent in 2001 to 60.6 per cent in 2009, and then 69 per cent in 2011 (49 per cent through an accredited adoption agency and 20 per cent through the French Adoption Agency during that last year). Intercountry adoptions totalled 3,017 in 2009, 3,504 in 2010 and 1,995 in 2011.

1.2 Conclusion of bilateral agreements

357. On 18 November 2011, France signed with Russia, one of the main countries of origin of children adopted by French families, a treaty on cooperation in the field of adoption. The treaty is in the process of ratification by the parliaments of both States.

358. That agreement aligns the adoption procedures between France and Russia with the international standards of child protection, and the 1993 Hague Convention more particularly.

359. It specifically provides for the mandatory use of a body accredited by the two countries so as to provide better support to families seeking to adopt and better safeguard adoption procedures by enabling families to have a single point of contact and no longer have to depend on the sometimes costly and vague services of a local facilitator.

2. Domestic Adoption

2.1 Adoption in French Polynesia and New Caledonia

360. The French Government would refer the Committee to the presentation it provided in its last report (annex I, paras. 453 to 485), as there has been no change to the legislation.

2.2 Proposed legislation on neglected children and adoption

361. In its Concluding Observations of 22 June 2009 (para. 66), the Committee expressed concern at the draft law on adoption which is designed to facilitate national adoption of children in situations of parental neglect.

362. The draft legislation referred to in the last report has not been adopted.

363. Since then, consideration of the concept of parental neglect has continued. The issue revolves around the way in which parental neglect is assessed by the departmental services (child care) in relation to the children place in their care, and reliance on article 350 of the Civil Code concerning the court declaration that a child has been abandoned which may result. It seemed necessary to review the way in which professionals monitor a child in care and determine the child's relationship with his or her family.

364. In November 2009, the Inspectorate-General of Social Affairs produced a report on the conditions for recognizing parental neglect and its consequences for the child, which recommends, among other things, replacing the concept of "blatant lack of interest on the part of the parents" enabling the court to declare a child legally abandoned, by the more objective concept of "parental neglect".

365. Those recommendations were incorporated into the new bill on child neglect and adoption, which was debated by the National Assembly on 1 March 2012, but has yet to be adopted, and which in particular delinks a court declaration that a child has been abandoned from the chapter of the Civil Code on adoption and bases it on parental neglect.

366. In any event, the bill, which redefines, among other things, the procedure governing a court declaration that a child has been abandoned, takes account of the child's best interests. The child will have been removed from his or her parents before the procedure, which is designed to establish the parents' inadequacy, takes place. The establishment of parental neglect is seen as a measure to protect the child, who will be able to become a ward of the State and thus be provided with appropriate care. The bill is therefore entirely consistent with the principle that children should not be separated from their parents against their will. Furthermore, it should be made clear that a court declaration of neglect does not affect filiation.

D. Abuse and neglect

367. In its Concluding Observations of 22 June 2009 (para. 68), the Committee made a number of recommendations on this subject: allocating the necessary budgetary resources for the implementation of the Act on Child Protection; establishing mechanisms to monitor the number of cases of violence, sexual abuse, neglect, maltreatment or exploitation; enhancing access to justice for child victims of abuse and neglect; training professionals about their obligations in relation to domestic violence against children, abuse and neglect; and using the media to raise public awareness.

1. Resourcing child protection

368. The implementation of the Act of 5 March 2007, which was described to the Committee in the previous report (paras. 88 to 95), is a matter for the departments on the basis of the responsibilities for child protection devolved to them under the decentralizing legislation of 1983 and 1986.

369. As confirmed by the Council of State by a decision of 26 July 2011, the National Child Protection Financing Fund (art. 27 of the Act) is not required fully to offset the costs incurred by the departments in implementing the legislation, but merely to offset those costs in the amount available to the Fund.

370. The Decree of 17 May 2010 on the National Child Protection Financing Fund laid down the procedures for allocating resources between a set appropriation calculated on the basis of the department's financial capacity and the number of recipients of child care, and an appropriation specifically covering support measures under the reform, including pilot measures, on the basis of calls for projects in particular.

371. Since it was set up, the Fund has been resourced to the tune of €40 million, €6 million of which have been used for a call for projects (see para. 335 above).

372. On top of the €40 million come the €2.2 million disbursed annually by the State, matching the local authorities (departments), to the Public Interest Group "Children at risk" to help ONED meet its responsibilities for collecting and processing child-related data, particularly the operation of an emergency telephone service for children at risk.

2. Data collection

373. Please see paragraphs 83 *et seq.* above.

3. Access to the justice system through the offices of a guardian *ad hoc*

374. A guardian *ad hoc* is a natural or legal person appointed by a decision of the court in the context of civil or criminal proceedings, who acts in place of the legal representatives to exercise their rights on behalf and in place of the minor, and to provide appropriate and effective support throughout the procedure. The guardian *ad hoc* is the minor's temporary representative when the legal representatives are unable to perform that role.

375. *Legal responsibility:* the guardian *ad hoc* exercises the rights pertaining to the party claiming damages, including by suing for damages. He appoints a lawyer and applies for legal aid. He may lodge an appeal and request a legal measure. An example would be article 706-53 of the Code of Criminal Procedure according to which a guardian *ad hoc* may, in certain circumstances, be present during the hearing or cross-examination of a minor who is the victim of sexual abuse. These rights are exercised in conjunction with the appointed lawyer.

376. *Responsibility for providing support:* the guardian *ad hoc* is the victim's principal contact and supports him or her throughout the procedure. The guardian *ad hoc* keeps the

minor informed of progress in the procedure and stays at his or her side to provide moral support.

377. The guardian *ad hoc* establishes a relationship of trust with the child from the time that he or she is appointed, and the minor can contact or meet with the guardian as often as he or she wishes. The human dimension of the role appears paramount, since the guardian *ad hoc* must ensure that the child is respected, including, in particular, that proper consideration is given to what the child has to say and to the child's rights. The time necessary must be taken to explain to the minor the role of all those involved in the procedure (the investigating judge, the juvenile court judge, the lawyer, the guardian *ad hoc*, the childcare workers, etc.) and to listen to and answer all the child's questions and concerns, employing the kind of language appropriate to the child's age and level of maturity.

378. The child must be given the information required to understand the law, the conclusions of expert opinions and the court's decisions.

379. As the minor's representative, the guardian *ad hoc* must support the minor through all procedural acts and hearings, as well as during conversations with his or her lawyer. The guardian *ad hoc* must prepare the child for what the procedure will involve — something all too often poorly understood.

380. Guardians *ad hoc* maintain contacts with the medical and socio-educational sectors, and must not lose sight of the fact theirs is an educational and specific responsibility.

4. Training professionals working with minors

4.1 Initial and in-service training

381. The Act of 5 March 2007 provides for mandatory initial and in-service training concerning the rules on child protection — some of it applicable to all professional categories — for professionals working with children: physicians, medical and paramedical staff, social workers, judges and law officers, teachers, sports, cultural and recreational facilitators and members of the police service and the gendarmerie.

382. The content of the training is set out in detail in the Decree of 23 June 2009 on training in the protection of children at risk and covers, among other things, the Convention on the Rights of the Child.

383. As regards the specific training for the territorial officers (*cadres territoriaux*) who, on the authority of the president of the departmental council, take decisions in relation to child protection and determine how they are to be implemented, a Decree of 30 July 2008, supplemented by an Order of 8 October 2008, specified the duration, skills' coverage and methods of the initial and in-service training they receive. They must now undergo training lasting 240 hours, 30 of them working with professionals from other institutions and 40 hours of practical training in a child protection establishment other than their own. The training covers four skill sets: the capacity to view child protection and abuse prevention from an historical and philosophical perspective (with a focus on the Convention on the Rights of the Child); understanding the guiding principle underlying the theories and practices of the human sciences pertaining to children and the family; a complete understanding of the child protection system and the legislative and regulatory framework (rights of child and family, assessment of family circumstances, etc.); capacity to work within the child protection system (arranging participation and involvement of families, ethics and confidentiality, etc).

384. In addition, every year, the National College of the Judiciary holds very many in-service training sessions, some of them centred on the issues of juvenile offenders or

juveniles at risk. The training is designed for members of the judiciary or legal professionals but is also open to other professionals who habitually deal with minors, such as physicians, teachers or social workers.

385. The training which is open to a wide audience and takes a multidisciplinary approach includes:

- Justice and medicine: an essential dialogue: physicians and members of the judiciary are brought together to discuss and expand their knowledge in the field of medical accountability and promote improved mutual understanding.
- Sexual abuse of minors: a multidisciplinary approach is set out to identify the most appropriate legal, educational and therapeutic approaches to these complex situations.
- The way in which the justice system deals with abuse of minors with a view to identifying and dealing with such abuse, other than sexual abuse. In this training module, moreover, the shaken baby syndrome is dealt with in particular detail: medical data are presented and the problems of dealing with the issue within the justice system discussed. There is also discussion of the issue of genital mutilation.

386. An information and prevention leaflet designed for the wider public covers the “shaken baby” syndrome, which was discussed at a colloquy held, on 3 March 2006, in Paris by the Île-de-France Cranial Trauma Resource Centre.

4.2 Training at local level

387. Under local agreements concluded between the public prosecutor, the prefect, the Ministry of Education, the police and the gendarmerie on the prevention, reporting and approach to infringements committed in the school environment, which are often indicative of family domestic shortcomings or abuse, it became apparent that there was a need for the partners to establish a regular dialogue particularly by way of local training (within educational establishments but also at court premises or in the context of colloquies or themed training days), with the objective of gaining a better understanding of each partner’s area of responsibility. These occasions provide, among other things, an opportunity for members of the judiciary to present information that makes it possible to improve the quality of the reports submitted by an agent faced with circumstances of alleged violence against or abuse of a minor. They also provide an opportunity to compare the practices of the different professionals, engage in mutual briefings on the difficulties encountered by each professional group, as well as on the improvements needed, particularly in regard to the circulation and processing of information.

388. In addition, some prosecutor’s offices have distributed a procedural guide to help improve the quality of reports by heads of educational establishments.

389. As regards more specifically training for guardians *ad hoc*, an association called INAVEM provides training in the form of annual placements to enable guardians *ad hoc* to tackle their responsibilities in the most appropriate manner. The training modules combine legal expertise with presentations of the practices employed by the different participants. A feature of these sessions is the variety of participants (members of the judiciary, lawyers, experts and psychologists).

5. Using the media to raise public awareness

390. The State (Ministry for the Family) funds national awareness-raising campaigns launched by SNATED or, selectively, by national child protection associations.

391. Every year, for example, SNATED launches a national advertising campaign about the telephone number “119 children at risk”. The campaign makes it possible to send out a clear message about the purpose of 119, in order both to limit the number of inappropriate calls and also to ensure that the number is as widely recognized as possible by employing all communication resources. The communication is based on a message designed to draw attention to the fact that 119 “hello, children at risk”, which can be accessed 24/7, free of charge, throughout France (including the Overseas Departments and Territories), is a service that provides support, advice and guidance, and, after an evaluation, passes the information received concerning a child at risk or likely to be at risk, to the departmental services; respects caller confidentiality; appears on no itemized phone bill; is not a number intended for “snitching” but for finding a solution; and, finally, is an emergency social welfare service and any hoax call may prevent a serious caller getting through.

392. Since 2000, SNATED has had a publicly accessible website (www.allo119.gouv.fr), which sets out the objectives of 119 and provides information on abuse in a variety of forms. It also provides web forums on the issue. The site, which has experienced a constant increase in the number of hits since its creation, is so far basically used to obtain documentation on the call number. It is currently being updated to provide more accessible information.

393. Moreover, the media generally (press audiovisual media and Internet) provide an important channel of communication in relation to freephone 119. Partnerships have thus been cemented between the media and SNATED to enable a reminder of the existence of 119 and its purpose to be included almost as a matter of course in the context of articles or broadcasts on issues related to child protection. On 30 October 2008, a documentary on 119 was broadcast by France 2 a public-service channel. Entitled “119, how can I help?”, the film highlighted the service and the daily activity of its operators. The film made it possible to provide media coverage of the work of the service and flag up the significance of 119 as a possible resource where a child is at risk. The broadcast reached its audience and resulted in increased calls to the service.

394. Recently, the Ministry for the Family lent its support to the national campaign on abuse launched by two associations (*La Voix de l'enfant* and *l'Enfant bleu*). Launched in March 2012, the campaign was publicized in a television commercial broadcast on several French channels, as well as in some cinemas. Posters were distributed in a number of French towns and cities, and a website was set up (www.unenfantendanger.com) to tell the wider public about children at risk and encourage people to report abuse where necessary.

V. Basic health and welfare

A. Children with disabilities

395. In its Concluding Observations of 22 June 2009 (para. 70), referring to 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 made a number of recommendations on the care and integration of children with disabilities, and more specifically their education.

396. The Government would remind the Committee that France played an active part in negotiating the Convention on the Rights of Persons with Disabilities. The text partially mirrors the progress made in Act No. 2005-102 of 11 February 2005 concerning equal rights and opportunities, participation and the citizenship of disabled persons, with specific child-related provisions. The Act acknowledges the developing nature of the concept of

disability, which cannot merely be defined as deficiency or lack of capability, and takes account of the social disadvantages consequent on the social, material, human and technical environment in which persons with disabilities grow up. France signed the convention back in March 2007, and ratified both it and the optional protocol concerning individual communications on 31 December 2009. France also supported the accession of the European Union. The Defender of Rights has been appointed as the independent mechanism to promote, protect and monitor the implementation of the convention pursuant to article 33(2), and has involved CNCDH in the process.

397. The education of children and young people with disabilities is one of the main challenges of disability policy, defined by the above-mentioned Act of 11 February 2005 concerning equal rights and opportunities, participation and the citizenship of disabled persons, and the one in which progress is most perceptible. The Act actually goes further than the Act of 30 June 1975 and, rather than a right to education, sets out that all children have the right to attend school, as a matter of priority in mainstream schools, with responsibility for this falling to the Ministry of Education.

398. A child with a disability has, for example, the right to enrol at the educational establishment close to his or her place of residence, called the “reference establishment”. Depending on a child’s needs, that child may attend school full time, part time or on a shared-time basis, taking a number of approaches:

- Individually in a mainstream school without special support or with the assistance of a school carer (teaching assistant in particular) or medico-social support (special education service and home-care service in particular);
- Within group arrangements in mainstream education, in a class tailored to need by the Ministry of Education — a primary-level class for school inclusion (*classe d’intégration scolaire du premier degré*), a secondary-level local unit for school inclusion (*unité localisée d’inclusion scolaire dans le second degré*) — or in a specialist setting within the teaching unit of a health-care establishment or medico-social facility. In both cases, a qualified teacher supervises schooling.

399. To establish the form of education best-suited to the potential and specific needs of the child, the Act provides that the child’s circumstances must be assessed by the multidisciplinary team of the departmental centre for persons with disabilities, set in place under the new legislation. The assessment is put on a formal footing in the context of a personalized teaching project drawn up with the child’s parents (or legal representatives) and all professionals involved in the child’s education (teachers, establishment heads, psychologists, physicians, childcare workers etc.). A specialist teacher appointed as the contact person is pivotal to this arrangement; he or she is the main point of contact for the teams and parents, ensures that the child’s education progresses smoothly and as part of a coherent and uninterrupted process.

400. The education is organized as close as possible to the child’s place of residence. As a result of the new provisions, the question of whether to go down the route of mainstream education as opposed to that of special education (a concept thus abandoned) no longer arises, and it is possible to encourage complementary measures to benefit a child or young person with a disability. If, for instance, the child’s personalized teaching project provides for partial schooling in a health-care establishment or medico-social facility, the child will be enrolled in a mainstream school but close to the relevant facility. An agreement is thus entered into between the two establishments in question, and the contact teacher ensures that the child remains enrolled in the reference establishment which is explicitly named as such in the personalized teaching project.

401. In September 2011, 214,600 students with disabilities were enrolled in mainstream schools, that is to say a 60 per cent increase (133,828 in 2004), while, according to most

recent estimates, the medico-social and health-care establishments are educating 78,000 children (11,000 on a shared-time basis). Some 281,600 children with disabilities are thus being educated in France under the various methods in existence. This significant increase is witness to the proactive policy that France is applying in this area. In addition, at the beginning of the 2009–2010 school year, 69 per cent of children with disabilities in mainstream education were being taught as individuals compared to 31 per cent in the Ministry of Education's group arrangements. Finally, almost 90 per cent of children with disabilities in mainstream education are being taught full time within that system.

402. Since 2007, 1,467 additional specialist teaching posts have been earmarked for children with disabilities, that is an 11.8 per cent increase. At the beginning of the 2011/12 school year, there were almost 14,000 teachers looking after these students. In addition, at the beginning of that school year, more than 70,600 students were supported by a teaching assistant. That individual support is provided on the basis of some 25,900 full-time posts. In 2011/12, almost 2,300 secondary-level local units for school inclusion were opened, including 177 new units — an increase of 8.35 per cent over the preceding year. Teaching in primary-level classes for school inclusion is also being developed: there were 4,299 of them at the beginning of the 2011/12 school year, amounting to an increase in number of 105 (+2.5 per cent) compared to 2010. In parallel, the centres for supporting the education of young persons with a hearing disability, which were set up at the beginning of the 2010/11 school year, make it possible to educate in mainstream schools students who are deaf or have a hearing impairment.

403. Depending on their needs, these children may also benefit from support in mainstream schooling ranging from the support of a school carer to that of a medico-social facility, a service or establishment. Unsupported (without a school carer) individual schooling continues, however, to be the main approach, as almost 30.6 per cent of children with disabilities in mainstream education had the help of a school carer in 2010. Since 2001, educational resources adapted to the needs of students with disabilities have also been available to them.

404. Where it appears that the child's needs, as assessed by the multidisciplinary team of the departmental centre for persons with disabilities, will more appropriately be met if that child is cared for in a specialist facility, he or she will be educated in the teaching unit of an establishment, a medico-social facility or a health-care establishment (some 78,000 children in 2010, including 11,000 in mainstream on a shared-time basis).

405. The administrative courts ensure that the right to education of children with disabilities is respected by the State. The Council of State takes the view that "[i]t is the responsibility of the State, on the basis of its duty generally to organize the public education service, to take all of the measures and implement the requisite resources to ensure that, in the case of children with disabilities, their right and that duty are effectively implemented", as the authorities do not have merely an obligation to use their best endeavours in this field (Council of State, 8 April 2009, *Laruelle*).

B. Health and health services

406. When considering the third and fourth reports (para. 72), the Committee expressed concern at the deficiencies recorded in French Guyana in addressing serious health problems, such as malnutrition, tuberculosis, HIV/AIDS, and at the fact children not affiliated to the social security system in Mayotte apparently lack access to health care. The Committee set out recommendations concerning access to health care (para. 73), and called for deficiencies in the child health-care system in the Overseas Departments and Territories to be remedied.

1. HIV/AIDS and tuberculosis in French Guyana

1.1 HIV/AIDS

407. Indeed, French Guyana is by far the region worst affected by the HIV/AIDS epidemic. The rate of HIV infection is 1,124 per million inhabitants (261 new cases) compared with 97 per million for the French population as a whole.

408. The virus is mainly transmitted through heterosexual relations (more than 80 per cent). Equal numbers of women and men are affected, as are all age groups. More than 1 per cent of pregnant women are HIV-positive, making French Guyana a generalized epidemic zone as defined by the World Health Organization. In 2010, of the 1,570 cases of HIV/AIDS recorded since 2003, 13 children under the age of 9 and 77 young people between the ages of 10 and 19 were being monitored in French Guyana (French Institute for Public Health Monitoring).

409. Since 2004, the use of triple antiretroviral therapy has made it possible to reduce the risk of infecting newborns to less than 1 per cent, as in metropolitan France, but women have to be screened and referred to specialists in good time. The percentage of young people aged between 15 and 24 discovering that they are HIV-positive is higher than in the other Overseas Departments and than in metropolitan France: 14 per cent over the period 2003–2008. In French Guyana, two-thirds of those infected are foreign nationals (Haiti, Surinam, the Cooperative Republic of Guyana and Brazil), and many of them are diagnosed belatedly. In addition, and more generally, it is always hard for people to acknowledge that they are HIV-positive for fear of being stigmatized and rejected — both of which are common.

410. The national plan to combat HIV/AIDS and sexually transmittable diseases for 2012–2014 provides for a supplementary plan geared to the peoples of the Overseas Departments and designed to steer and support the specific measures called for by the situation in those territories in relation to HIV/AIDS and sexually transmittable diseases. The aims are, over five years, to reduce the rate of HIV infection by 50 per cent in the Overseas Departments of the Americas, and to reduce by 50 per cent, over 5 years, the percentage of individuals discovering that they are HIV-positive on developing AIDS.

411. The plan involves seven main strands:

- Boosting governance by making the Regional Coordinating Bodies for combating HIV/AIDS (*Coordinations régionales de la lutte contre le VIH*) the main points of contact for the Regional Health Agencies in defining and coordinating at regional level the implementation and monitoring of the measures under the national plan;
- Enabling the general population and the population groups most at risk to behave in a manner that will help combat the transmission of HIV/AIDS and sexually transmittable diseases by providing information; introducing health education measures, especially for young people; using new resources to promote a healthy lifestyle; supporting local associations and the overseas projects of national associations, meetings between associations and between the Regional Coordinating Bodies, as well as a national conference on HIV/AIDS targeted at the overseas populations under the auspices of the ministries responsible for health and the Overseas Departments and Territories; and by training health professionals and professionals from the relevant associations in the different approaches to prevention in the general population, in specific population groups and in those population groups whose behaviour puts them at risk;
- Improving HIV screening using strategies tailored to the circumstances of the Overseas Departments and Territories (screening extended to the whole population

and incorporated in the system of primary health care; reorganizing the systems of the Anonymous and Free Screening Centres and the Information, Screening and Diagnosis Centres for Sexually Transmittable Diseases; piloting sexual health centres; implementing screening at community level, etc.);

- Stepping up the medical care of individuals living with HIV/AIDS;
- Improving social care;
- Improving knowledge of trends in sexual conduct based on monitoring studies;
- Expanding regional cooperation with the other countries of the Caribbean and Indian Ocean.

412. Under the plan, the Regional Health Agency for French Guyana has established a regional health plan for French Guyana which provides for a number of measures in relation to HIV/AIDS: improving the encouragement of early screening; promoting the routine use of condoms by the population by launching campaigns targeted at the most vulnerable population groups; introducing prophylactic and health-promotion measures for target population groups (boatmen, drug-addicts, detainees, prostitutes and migrants) through local associations and health facilitators to encourage changes in behaviour; increasing measures to raise the awareness of seronegative groups of the dangers of unprotected sex; expanding cooperation between French Guyana and its neighbours; expanding screening provision by developing screening in outlying areas; developing a physical support system between the place of screening and the place of care (to steer patients to the outpatients' department, for example); organizing screening for sexually transmittable diseases and a campaign for their prevention (information about their impact on fertility); developing a cross-border network for health education and promotion; and improving medical care.

413. Access to condoms has significantly increased in French Guyana where a central purchasing body was set up in 2003, with a budget of €132,360 and 74 distributors; consequently, it is now possible to distribute four times more condoms than in 2003. Condoms are also distributed free of charge in schools and health-care establishments and to voluntary associations, etc.

414. Preventive teaching aids, as well as campaigns by the National Institute for Prevention and Health Education are designed specifically for French Guyana, and aids are also developed locally (audiovisual resources, Internet, leaflets, posters, photonovels, panel discussions (*scène forum*), AIDS information service telephone line, etc.). The advice on prevention is translated into different languages (English, Creole, Portuguese and so on).

415. The financial support provided by the Ministry of Health (Directorate-General for Health) to the national associations (Sidaction, AIDES, Chrétiens et sida) under the multiannual partnership facilitates genuine cooperation between the associations and the introduction of appropriate training on the ground.

416. In order to detect infection earlier, there is targeted communication addressed both to the population and to health professionals. Screening through Rapid Diagnostic Testing has been introduced in French Guyana, and screening in outlying areas is conducted by the associations (Aides sur le Fleuve Maroni and Médecins du monde in Macouria) and by the general practitioners (about 50 general practitioners mobilized to carry out rapid diagnostic testing through the KIKIWI network (town/hospital). French Guyana's Regional Health Agency is also planning to introduce general mobile regional screening to identify HIV/AIDS, diabetes and high blood pressure; this will make it possible to avoid the kind of stigmatization that would occur if there were mobile screening for HIV/AIDS exclusively.

417. There has been a spectacular improvement in medical care in Saint-Laurent where human resources have been increased, and which has a 90 per cent therapy success rate in the treatment of AIDS. There has also been an improvement in Kourou (82 per cent therapy success rate). In Cayenne, however, a rotation of medical staff has caused the rate to fall (78 per cent therapy success rate).

418. A major difficulty in French Guyana is the problems encountered by migrants in accessing rights. The delays in processing cases and the reform of State Medical Assistance mean that antiretrovirals are placing a heavy burden on the budget of Cayenne's hospital (€400,000 in 2010 and €750,000 in 2011). The Regional Health Agency is currently working with the social security fund to cut the delays in accessing rights.

419. The Regional Health Agency is stepping up cooperation with the neighbouring countries (Brazil and Surinam) as populations are very mobile, particularly because of the lure of gold washing in French Guyana. It is, for example, supporting an association working with prostitutes for the prevention of HIV/AIDS in Oyapock (Brazil). There is also an "INTERREG project" 2010–2012 — 75 per cent funded by the European Union — for cross-border cooperation in relation to Brazil, which seeks to reduce the impact of HIV/AIDS infection in the French Departments of the Americas and to minimize the consequences for the economic, social and health sectors. The programme has, for example, made it possible to create a coordinator post in the Oyapock basin, to set in place the territorial HIV/AIDS programme in St George and to develop further cooperation with Brazil (health week in June 2012).

420. Regarding more specifically prevention of the risk of transmission from mother to foetus and the desire for children, the programme has made it possible to set up an HIV reproductive health medical assistance unit for patients from the three French Departments of the Americas at the hospital centre in Pointe-à-Pitre.

421. Turning, finally, to research, a survey of social attitudes and behaviour "Knowledge, attitude, beliefs and practice" in relation to HIV/AIDS and other forms of sexual risk is being conducted in the French Departments of the Americas. In addition, a qualitative study, funded by the Directorate-General for Health and covering prostitution and the sex trade, HIV/AIDS and migration in border areas was conducted in French Guyana in 2011.

1.2 Tuberculosis

422. The situation concerning tuberculosis in the Overseas Departments is overall quite comparable to that of the departments in metropolitan France in terms of incidence or seriousness of the disease; the incidence is even lower on average than in metropolitan France.

423. However, French Guyana had a higher rate of tuberculosis (recorded in its territory regardless of patient nationality) than the national average.

424. Special efforts have therefore been made to reduce these health inequalities (including the creation of the Regional Health Agencies and retaining the Bacillus Calmette-Guérin (BCG) recommendation, etc.). Those efforts have led to a clear improvement in indicators. For example, annual recorded cases of tuberculosis, set out in the following table, are decreasing:

Department	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
973 Guyana	36.8	3.6	22.1	-	26.4	34.6	26.2	22.1	22.8	23.5	15.9
France as a whole	11.1	10.6	10.3	9.9	9.0	8.6	8.4	8.8*	9.0	8.2	8.1

2. Access to care in Mayotte

425. As part of the process of obtaining departmental status, which has been under way since 2011, new orders issued in 2011 and 2012 are gradually bringing Mayotte into line with metropolitan France in the social welfare and social security fields.

426. Access to care of unaffiliated children in Mayotte falls under the system set in place by the Order of 2004 (art. L. 6416-5 of the Public Health Code) which enables individuals without social insurance, including unauthorized foreigners in regard to whom State Medical Assistance does not exist in Mayotte, to receive hospital care.

427. The order of 31 May 2012 extending and adjusting the Welfare and Family Code provides clarification in relation to the care provided for minors and pregnant women without social insurance not specifically cited in article L. 6416-5 of the Public Health Code.

428. Two arrangements for exemption from charges have in fact been introduced in Mayotte, in the form of “vouchers”, to enable hospital doctors to provide care free of charge to patients who are not affiliated to the social security fund:

- “AGD vouchers” for conditions where a lack of care may result in a serious and lasting impairment to health (consultations, clinical examinations, treatment);
- “Pink vouchers” (in existence since August 2009) exempt patients under 18 from charges.

3. Improvement in the provision of care overseas

429. Moreover, efforts to bring the standards of public health-care establishments overseas into line with the provision in metropolitan France, as described in paragraphs 359 to 372 of the previous report (to which we would refer the Committee for the principal details), have continued.

430. For example, the 2012 National Hospital Plan helped finance the health centre for eastern Réunion and the construction of the new hospital for Saint-Pierre-et-Miquelon, which will be up and running in mid-January 2013, and will be contributing to the renovation of the two university hospital centres in Pointe-à-Pitre and Fort-de-France, which will start to be brought up to standard in terms of earthquake-proofing technology as soon as the requisite preliminary studies have been completed. Rebuilding the technical capacity of the university hospital centre in Fort de France is due to be completed in 2016, and reconstruction work on the university hospital centre in Pointe à Pitre should start in 2014.

431. In Wallis and Futuna, the 2007/2011 development contract included funding, through budgetary allocations from the Ministry for Overseas France, for work to bring facilities up to standard, make buildings secure as a matter of urgency and purchase equipment. Renovation work at the hospital was partially completed during the 2011 financial year.

432. In New Caledonia, the territorial hospital centre Gaston BOURRET is to be rebuilt at the single site of Kouti, as part of the construction of a multi-service medical facility that will also combine the new Pasteur Institute, a follow-up treatment and rehabilitation unit and a cancer treatment unit. The excavation work needed before work can start on the new buildings began in 2012 and project should be completed in late 2015.

433. In French Polynesia, the new territorial hospital centre, referred to in the last report, was delivered in September 2009. The State (Ministry of Health) provided technical assistance by dispatching two hospital consultants to ensure that this new facility is brought properly on stream.

C. Breastfeeding

434. In its Concluding Observations of 22 June 2009 (para. 75), the Committee recommended that France should fully implement the International Code of Marketing of Breastmilk Substitutes; continue to promote baby-friendly hospitals; and encourage breastfeeding to be included in nursery training.

435. Action by France in this regard is covered by the National Programme for Nutrition and Health and the Obesity Plan, which attach major significance to promoting breastfeeding in the overall context of measures designed to reduce social inequalities in relation to health.

436. In that context, the Government plans to implement measures based on an expert report commissioned by the Directorate-General for Health “Action plan on breastfeeding” produced in July 2010.

437. The measures include communicating to mothers, informing them and raising their awareness of how they can feed their new babies, including an objective look at breastfeeding to enable them to make a genuinely informed choice.

- *Communication and information:* a guide entitled “Guide to breastfeeding” was produced under the National Programme for Nutrition and Health and widely distributed. The aim is to respond to the questions which mothers-to-be may have in their minds and give them practical advice. In addition, the “nutrition from 0 to 3 years of age” guide will be republished and distributed. Financial support from the Directorate-General for Health to the French Coordinating Agency for Breastfeeding has been renewed to allow it to organize breastfeeding week in France.
- *Training:* training staff of health-care facilities about breastfeeding has been adopted by the Directorate-General for the Organization of Health Care as a fundamental element of training to be implemented in health-care facilities. All health professionals are covered by these in-service training programmes: not only paediatric nurses, but also gynaecologists and obstetricians, paediatricians, midwives, nursing assistants, nursing auxiliaries, dieticians, nurses and pharmacists.

438. Measures are also planned to ensure that maternity services actually provide women with the right to personalized and objective information that allows them to make their choice. Establishments fulfilling those conditions must record this in the certification process. A guide to certification was published, in 2011, by the High Authority for Health, accompanied by a specific guide concerning the early bond between mother and child and setting out general points about breastfeeding.¹¹

D. Adolescent health

439. When considering the third and fourth reports (para. 77), the Committee made a number of recommendations for the purpose of continuing to address the problems of mental health and substance abuse in relation to adolescents.

440. The data relating to the under-25s suggest that most young people are in good health. And indeed some 95 per cent of them say that they are in good or very good health,

¹¹ www.has-sante.fr/portail/jcms/c_1194326/populations-specifiques;
www.has-sante.fr/portail/jcms/c_980837/certification-themes;
www.has-sante.fr/portail/jcms/c_411178/preparer-et-conduire-votre-procedure-de-certification.

aware that, for 12 to 25 year-olds, being in good health does not mean never being unwell but being “sound in mind and sound in body”.

441. Of special concern, however, are some disorders linked to psychological ailments (ranging from malaise and anxiety to more serious conditions such as depression, suicidal thoughts, attempted suicide and suicide, but also violence endured or inflicted and disorders of the digestive tract) or high-risk behaviour in relation to sex, to the use of psychostimulants or when on the roads, as they are particularly linked to this period of life.

1. Mental health

442. Suicide is the prime cause of death among young adults (25 to 34 years of age) and the second most common cause of death among 15 to 24 year-olds; 13 per cent of attempted suicides among young people occur among homosexuals and are linked to homophobic discrimination.

443. Published in September 2011, the national programme of suicide-prevention measures sets out specific measures for prevention, improvement of care, the training of professionals and a better understanding of suicide among minors and young adults.

444. In terms of prevention, action needs to be taken as early as possible, and this involves expanding knowledge of suicide as well as encouraging the acquisition of specific skills, on the part of both parents and children, based, among other things, on providing information on mental health addressed to young people and those close to them.

445. The national programme therefore provides for a number of preventive measures:

- Updating a parental guide;
- Informing the wider public about depression;
- Measures designed to provide information on suicide using the means of communication that young people themselves employ, including raising awareness of the issue among administrators and moderators of social networks and of the forums most visited by young people;
- Measures to prevent homophobic behaviour and its consequences for young people between the ages of 11 and 20, including the distribution and promotion of a teaching aid (DVD);
- Improved provision of distance mechanisms designed to prevent suicides and prevent/promote mental health;
- A study of listening practices in health-care telephony is under way and a brochure on distance aids to health has been produced and distributed by the National Institute for Prevention and Health Education.

446. In terms of identifying and caring for individuals at risk, professional practices in regard to some population groups need to be updated, as in the case of adolescents. Recommendations on treating depression in adolescents are currently being prepared by the High Authority for Health.

447. Training for professionals will be developed by producing a guide to the diagnosis of psychological ailments and developmental disorders in children and adolescents, designed for medical and welfare professionals working in educational establishments. Training for staff in the State education system will include education in psychological ailments and suicide risks. Depending on the professionals involved (physicians, nurses), these training modules are prepared and conducted by the School of Higher Studies in Public Health, the academic authorities and the Regional Health Agencies.

448. A better understanding of suicide and suicide risks is a specific element in the programme: epidemiological data was published by the Institute for Public Health Monitoring in the 13 December 2011 issue covering suicide of the weekly epidemiological bulletin. The analysis of attempted suicides based on the in-patient care data of the programme of medicalization of information systems in medicine, surgery and obstetrics shows that hospital stays in the case of attempted suicides in adolescents aged between 15 and 19 are the most prevalent, bordering on 43 per 10,000 (compared with 16.9 per 10,000 for the general population).

449. Centres for adolescents have been established since 2008. In 2011, there were 102, 7 of them in the Overseas Departments and Territories. Their remit is:

- To care for adolescents by providing them with the services most appropriate to their needs and expectations, and providing far more generally information, advice and assistance in developing a life project;
- To facilitate contact between professionals and families faced with health or behavioural problems in adolescents;
- Act as a resource centre in a given area for all stakeholders involved with adolescents.

450. The programme for setting up these centres for adolescents is to be evaluated in terms of their establishment; and a specific study will be made of their impact on mental health care.

451. This system is supplemented by “reception and counselling centres for young people”. They take the form of a local network that is subsidiary to the responses provided under ordinary law. The aim is to provide unconditional and free counselling at appropriate times to adolescents and young people encountering particular difficulties (malaise, suffering, self-defeating behaviour, risk-taking, behaviour leading to dependency), and to their parents. In late 2008, there were 240 structures and 160 outposts of reception and counselling centres for young people nationwide.

2. Drug addiction, tobacco and alcohol

452. France has continued to act to tackle the problems of drug addiction among adolescents throughout the territory, as recommended by the Committee.

453. With that in mind, the action taken by France in this area fell under the 2008–2011 governmental plan to combat drugs and drug addiction, which attached major significance to preventing drug use, particularly in adolescents.

454. One of the plan’s objectives was to triple the number of young people able to benefit from the assistance of consultation centres for young users.

455. There are around 300 of these structures established since 2004 nationwide. They provide preventive measures and medical care and offer support to young people who use psychoactive substances and their parents. Set up within the centres for care, support and the prevention of addiction, their remit is to provide information in the early stages of use and initiate short-term care or onward referral if necessary.

456. New facilities have been set up in regions that were under-supplied and existing provision expanded in better-provided regions. By 1 January 2010, all departments in metropolitan France had at least one consultation centre for young users.

457. Since 2011, efforts have been under way to make these facilities more proactive in order to improve networking and the pooling of knowledge, but also to steer their activity, as matter of priority, towards prevention and early intervention. To support professionals in

this process, training in early identification and local action in relation to young people has been developed.

458. Finally, to prevent children taking opioid substitution treatment accidentally, methadone packaging has been made more secure.

459. In addition to the measures taken to prevent drug addiction, France has stepped up its action to prevent young people becoming addicted to tobacco and alcohol.

460. For instance, Act No. 2009-879 of 21 July 2009 reforming hospitals and concerning patients, health and the territories banned aromatized cigarettes which were a way of introducing young people to smoking, and the sale of tobacco to under-18s.

461. In addition, the Act tightened the legislation on supplying alcohol, banning the sale of alcohol to under-18s, the supply of alcohol free and unlimited for commercial purposes or in principle in return for a flat-rate payment (open bars), the sale of alcoholic drinks in service stations from 6 p.m. to 8 a.m., where the sale of chilled alcohol is in any event prohibited at any time.

462. The Act also introduces a training requirement for the sale of takeaway alcohol at night, curbs distance selling, equated with takeaway sales, as well as happy hours. As part of the training process, attention is drawn to the ban on sales to minors.

463. Finally, although the advertising of alcohol on the Internet is permitted in certain circumstances, it is banned in sports arenas and sites primarily used by young people.

464. The biennial conference on the health of young people, "Experimental behaviour-excessive behaviour: the consumption of alcohol and other psychoactive substances", organized by the ministry with responsibility for health in December 2011, flagged up the value for preventive purposes of support arrangements at festivals and concerts on the model of the "night watchmen" (*Veilleurs de soirées*). The authorities back this kind of arrangement.

E. Standard of living

465. In its Concluding Observations dated 22 June 2009, the Committee made recommendations on ending child poverty, help for families and the enforceable right to housing.

1. Child poverty

1.1 Measurement and trends

466. In 2007, France took the decision to adopt a general target for poverty reduction over five years (2008–2012), supplemented by a number of issue-specific targets including a specific target for combating child poverty. The Decree of 20 May 2009 on the measurement of poverty defined indicators which have been put in place. There are three indicators for the reduction of child poverty.

- The rate of poverty among those aged under 18, measured in monetary terms over time;
- The rate of poverty among those aged under 18, measured in monetary terms in relation to the threshold of 60 per cent of equivalized median income;
- Differences by social category between the percentage of adolescents with at least two untreated decayed teeth.

467. The report submitted by the Government to Parliament in October 2011 on follow-up to the target of reducing poverty by one third over five years shows that child poverty, especially in single-parent families, remains a cause for concern.

468. The rate of poverty measured in monetary terms over time has seen positive change, standing at 15.7 per cent in 2009 compared with 16.7 per cent in 2007. In contrast, the rate of poverty measured in monetary terms in relation to the threshold of 60 per cent of equivalized median child income has increased in line with that in the general population, from 17.3 per cent in 2008 to 17.7 per cent in 2009, equivalent to 2.4 million children. The increase was more marked in single-parent families. Almost one third of those concerned are in poverty in the monetary sense, 2.3 times more than in the general population. The rate of poverty among single-parent families increased between 2005 and 2009 from 29.7 per cent to 30.9 per cent.

1.2 Public policies

469. The public authorities have based their action for 2008–2012 on three general principles.

Facilitating access for families to their ordinary-law rights, while providing specific support for the families in greatest difficulty

470. France has a system of social welfare benefits and contributions which has a proven effect in reducing differences in income levels. The financial redistribution involved reduces by one half the differences in income between the worst-off and best-off 20 per cent of the population. Family benefits as a whole account for one half of all expenditure on social welfare benefits and make a contribution of 26 per cent to the reduction in inequalities in standard of living. Means-tested benefits make a contribution to redistribution which is smaller (10 per cent), but more directly targeted at less well-off households.

471. In addition, to make it easier to reconcile family and working life, France is committed to developing arrangements that give access to all to suitable childcare provision for children aged 3 or under. In this connection, the public authorities have launched a plan for 2009–2012 which should allow 200,000 additional childcare places for young children aged 3 or under to be funded, while at the same time developing innovative forms of childcare, for example the provision of care outside the usual times.

472. Beyond these systems for universal provision, which are to be retained, targeted arrangements intended for families facing the greatest difficulties, including single-parent families, are also being developed. For example, a specific measure known as “enhanced earned-income supplement” (*revenu de solidarité majoré*) has been put in place to offer selective help with childcare to single parents when resuming work. This builds on general arrangements for earned-income supplement (*revenu de solidarité active*), which was introduced in 2010 and is a social benefit that guarantees minimum income levels by supplementing the incomes of those in the least well-paid employment, and so contributing to the reduction of disparities in income levels to the advantage of the poorest. In addition, since the implementation of an agreement on objectives and management action for 2009–2012, the family branch of the social services has undertaken to implement arrangements offering a comprehensive range of assistance to single-parent families in receipt of the earned-income supplement. The arrangements for delivering these services focus in particular on the national common core of information, support and advice provided for single-parent families on earned-income supplement and on the priority given to those receiving enhanced earned-income supplement for access to childcare establishments for young children.

Preventing and anticipating poverty

473. Making access to education and training easier for children from less well-off families, in order to give all children equal opportunities for success and integration into society, is one of the secondary targets which form an integral part of the overall target for poverty reduction. Several measures which contribute to this target have been put in place since 2007, including the provision of two hours of personalized help for pupils who are having difficulties with learning at school. The “parents’ box” (*mallette des parents*), a measure piloted in the Créteil departmental education authority and designed to make the meaning and importance of school more comprehensible to those parents who are least familiar with the French system, was also extended to 1,300 lower-level secondary schools at the beginning of the new school year in 2010.

474. Social assistance for families and support for parenting take various forms and are undertaken by a range of those involved and thus contribute to preventive measures. Organization at departmental level for providing support for parenting, an area of policy which combines both general and more targeted provision, has recently been reorganized to make it simpler and more logical by strengthening links between the whole range of partners involved, in line with the national reform of the system for piloting arrangements for providing parenting support.

Introducing a more nuanced interpretation of poverty into the range of analyses to inform action by the public authorities

475. Public consultations on vulnerable children, launched on 16 February 2010 by the Secretary of State for the Family (see para. 65 above), included a workshop on how to take account of social risk. The workshop, which lasted from March to the end of May 2010, resulted in the submission of a report to the minister, on 16 June 2010, as part of a feedback day.

476. The National Observatory for Poverty and Exclusion (*l’Observatoire national de la pauvreté et de l’exclusion sociale*) has for several years been making strenuous efforts to carry out surveys of the causes of poverty, in an effort to improve understanding of issues including the transmission of poverty from one generation to the next. It has recently held a colloquium under the title, “Living in Poverty as a Child”, presenting a survey carried out by three departmental observatories seeking an improved understanding of the extent of child poverty circumstances and their impact on children’s living conditions.

477. The Higher Council for the Family has also included this approach in a cross-cutting fashion into the work for which it is responsible.

2. Housing and access to housing

478. The Act on the enforceable right to housing was already described in Annex VII to the last periodic report of France (page 226). In this connection, having at least one child who is a minor is one of the criteria which allow applicants to be regarded as being in priority need and entitled to the urgent allocation of housing (art. R. 441-14-1 of the Building and Housing Code).

479. Housing for pregnant women and single mothers with children under the age of 3 is a responsibility of the departmental councils in the context of children’s social services. This responsibility is reaffirmed in article 68 of the Act of 25 March 2009 on mobilizing for housing and against exclusion.

480. The State also finances places in residential centres (for emergencies, respite and reintegration) for single women accompanied by children over the age of 3.

481. In the context of the implementation of the national project for recasting housing policy, a number of activities should make it easier to identify less well-off households with children in care and to propose new pathways for public action.

482. The outcome of the monitoring process reveals that, at 31 December 2011, 8,366 households which had been accommodated in a residential centre had moved on to accommodation. For the Overseas Departments, figures are currently available only for Martinique, where 58 households moved on to intermediate accommodation and 32 to standard housing.

483. The “Sobail” initiative is a specific example of this policy. This is an initiative, accredited and financed by the State, allowing families which were previously accommodated to occupy transitional premises to give them an opportunity to “re-learn” how to be a good tenant and to allow them access, after 18 months, to a permanent tenancy. A voluntary association, selected and financed by the State, rents a dwelling from a landlord for a period of three years, provides letting and repair services and takes responsibility for restoring the property to its original condition on expiry of the lease. The family living in the apartment concerned contributes 25 per cent of its resources to the voluntary association.

VI. Education, leisure and cultural activities

A. Education

484. At paragraph 81 of their Concluding Observations on the third and fourth reports of France, the Committee made a number of recommendations on education, including vocational training and guidance.

1. Action to reduce the effects of children’s social background on their achievement in school

485. The priority education policy developed by the Ministry of Education is built around the principle of giving more to those with greater needs. The fact that the same level of attainment is expected from all pupils creates an obligation to help those pupils who are most distanced from school life. Accordingly, extra resources are allocated to schools whose communities are experiencing social and educational difficulties, without any distinction based on the ethnic origin of pupils and whether or not they belong to a racial minority. The priority education policy affects 15.8 per cent of primary school pupils and 19.7 per cent of pupils at lower secondary level. There is a network for achievement at school (*Réseau de réussite scolaire*) in which 785 lower secondary schools and some 4,600 primary schools take part, accounting for a million pupils in total.

486. Although this policy is part of the response of France to the need to improve achievement at school by pupils who come from the most challenging social and economic backgrounds, the results of the policy evaluation conducted in 2010, after the relaunch of the 2006 model of priority education and its reorganization into networks, do not indicate a substantial enough reduction in the differences between the achievement levels of pupils benefiting and not benefiting from the policy.

487. New aspirations are therefore being introduced into the priority education policy through the ECLAIR programme (“primary and lower-secondary schools and *lycées* for aspiration, innovation and achievement”), established at the beginning of the new school year in 2011. Covering of 325 secondary schools (297 lower secondary and 28 *lycées*), and 2,189 primary schools right across the national territory, accounting in all for

500,000 pupils, or 5 per cent of the total, this arrangement uses networks to promote collaboration between the primary and secondary stages of education to encourage continuity in the school experience, along with the development of teaching methods and organizational arrangements that must adapt to pupils' needs. The creation and deployment of units in which teamwork can thrive are fostered by a positive approach to the empowerment of staff and recruitment on the basis of skills' profiles. Teaching skills and the ability to get knowledge across are at the heart of action by the teams to boost equality of opportunity.

488. Each departmental education authority is also developing educational priority policies of its own which address local needs.

489. The educational process has progressed more smoothly in schools which have benefited from the priority education policy, and numbers repeating a year have fallen more markedly in these schools than in the past, although the aim of eliminating repetition completely has yet to be fully achieved. Numbers repeating a year in schools benefiting from the policy are close to those in schools outside it, and the number of pupils in schools under the policy who are lagging behind by at least one but not more than two years remains significant.

490. There are other arrangements in place in schools for providing support and assistance which are designed to promote equality of opportunity. As a priority, they are intended for pupils who have specific educational needs, or come from localities where there are social and economic difficulties, or both. Schools need to encourage the talents of pupils, including pupils in difficulty, by making school careers a more individual experience and one which is better adapted to pupils' needs.

491. One approach to this is the educational assistance scheme (*accompagnement éducatif*), which is available in all lower-secondary schools, but is offered in particular in primary schools within the priority education policy. This is a supplementary educational service which provides pupils who volunteer for it with assistance, including help with work at school or with homework.

492. The *internats d'excellence* scheme offers boarding places to pupils who are motivated to find the right conditions, whether material, educational or socio-cultural, that will allow them to achieve their full educational and personal potential through a project based on structured teaching and education.

493. In addition, networks known as *cordées de la réussite* (climbing to success) are available to young people from modest backgrounds who may find that their educational ambitions are being restricted by their social or geographical origins. They provide stronger links between the worlds of school, higher education and work through mentoring and cultural activities.

494. Some pupils may find themselves in conflict with their school for a variety of reasons. If they have started down the track leading to rejection of their school and of the educational process itself, and are at risk of social alienation or of dropping out of school, indications of which may take the form of extreme passivity as well as of unjustified absenteeism, then, after first being offered the benefit of the full range of assistance and support available at school, they may be offered a temporary residential place on a bridging programme where special teaching is provided. A personalized training programme is offered, based on an individual assessment of the pupil's skills and level of educational attainment measured against the common core of knowledge and skills.

495. For the most disruptive secondary-school pupils at lower secondary level, whose behaviour prejudices the proper functioning of the class or the school, *établissements de réinsertion scolaire* (school reintegration facilities) were introduced at the beginning of the

new school year in 2010. When possible, pupils are offered a residential place. In the context of a programme devised by the staff as a whole for the education and nurture of the young people concerned The purpose of these facilities is to convey to them the importance of respecting the rules of social and school life, to encourage them to master the common core of knowledge and skills and to offer them a way of re-engaging with the learning process.

496. These arrangements are designed to involve young people in a course of general, technological or vocational training, while furthering the aim of socializing them and educating them in citizenship.

497. Efforts are made to improve parental involvement, given their important role in the educational success of their children. Generally speaking, the teams dealing with the education and nurture of pupils set up a dialogue with parents. The relevant legislation and regulations recommend that the arrangements for the internal running of schools should be set out and explained at meetings at the beginning of the new school year. Each teacher will explain, for their subject, the aims and working methods for the year. Meetings during the course of the school year should provide parents with the opportunity to be brought up to date with their children's progress. Special policies for assisting and supporting families are provided, especially for families located furthest away from the school.

498. In addition, the national education service encourages the partnerships which contribute to its overall initiative for the attainment of equality of opportunity and the provision of a broader range of pathways to excellence, especially for pupils within the scope of the priority education policy.

2. Efforts to reduce repetition and dropping-out rates without penalizing parents

499. Current arrangements for dealing with unjustified absenteeism by a pupil rely on a graduated response by the school.

- Contact by the school head with the family and the pupil;
- A warning to those legally responsible for the child concerned, reminding them, while at the same time indicating the sources of support available to them, of their legal obligations and the sanctions that they risk: formal referral to the president of the departmental council and being reported to the mayor (on the first occasion of four half-days of absence without legitimate cause during a 30-day period);
- Summoning those responsible for the child to a meeting, and making a formal referral to the service responsible for the payment of family allowances for payment of the percentage of the allowances payable in respect of the child to be suspended (on the second occasion when there have been four half-days of absence without legitimate cause during a period of 30 days);
- Cancellation of the payment of those allowances for the month concerned when there have been four half-days of absence without legitimate cause during the month.

500. These arrangements are designed to induce parents to accept their responsibilities and are currently under evaluation.

501. Parents also have the opportunity to benefit from assistance with parenting to help them to support their children. More particularly, the "parents' box"¹² aims to strengthen

¹² This is an initiative by the national education service which aims to strengthen the links between school staff and parents, and to mitigate difficulties which may arise in communications, given the

the links between school staff and parents, and to mitigate difficulties which may arise in communications, given the complexity of the educational system and its organization and operation. It is also designed to encourage parents to follow their children's progress at school more closely, with beneficial results. The *École d'Économie de Paris* (School of the Economy, Paris) compared classes benefiting from this measure with other classes at the end of a school year in the Créteil departmental education authority, which piloted the arrangement, noted extremely positive effects: greater involvement of parents as volunteers, a very noticeable improvement in the behaviour of children and a significant fall in absenteeism.

502. For those reasons, it has been decided to extend the initiative to a quarter of lower secondary schools nationwide from the beginning of the new school year in 2010.

503. The way in which figures have changed in the period 2000–2011 indicates a consistent reduction in the rate of repetition of years in secondary education: in the *sixième* (first year of secondary education) from 9.4 per cent to 3.2 per cent; in the *troisième* (fourth year of secondary education) from 6.6 per cent to 4.3 per cent; and in the *deuxième* (first year of *lycée*) from 15.4 per cent to 9.5 per cent. The picture is similar in primary education. The issue of repetition is being closely scrutinized by the Ministry of Education. Generally speaking, evidence suggesting that, on the whole, repetition, and especially repeating a year early in a pupil's school career, is not productive, along with a desire to reduce the number of students leaving school without a qualification, has led the ministry systematically to promote educational measures offering alternatives to repetition. In some cases, by contrast, repetition can be helpful, offering the child an opportunity and cannot be equated with a breach of a child's rights.

3. Limiting the use of exclusion

504. Disciplinary procedures are being reformed in secondary schools in an attempt to reaffirm respect for rules and limit the use of temporary class and school exclusions, and permanent school exclusions, to reduce drop-out rates. The emphasis is on disciplinary measures which induce pupils to accept responsibility.

505. Since 11 September 2011, to make exclusion an exceptional measure once again, temporary exclusion from school may no longer last for more than eight days: previously, it could last for up to a month. Temporary exclusion from class for a period of no longer than eight days has been added to the range of disciplinary measures available: during the period of exclusion, the pupil concerned continues to be provided for in school.

506. The aim of disciplinary measures aimed at getting pupils to accept responsibility is to involve them outside school hours in cultural activities, or activities connected with social solidarity or involving educational training. These may take the form of a task to be completed outside school. They can be proposed as an alternative to measures involving temporary exclusion from class or school.

507. A *vademecum* on getting pupils to accept responsibility is available to the educational community. It makes clear that the symbolic and educational scope of the measure must, as a priority, focus on making good damage caused to property or the harm inflicted on another pupil. For example, in cases where a classmate has been insulted, the pupil being punished may be given a study task to complete which has a connection with

complexity of the educational system and its organization and operation. It also aims to encourage parents to follow their children's progress at school more closely, with beneficial results. Three discussions are organized with parents. Tools are provided for the use of the discussion organizers (files containing supporting information and a DVD).

the insult employed; or, where an alarm has been set off, the pupil may be required to reflect on putting others in danger or given an opportunity to meet workers involved in protecting public safety. The *vademecum* gives examples under the headings: harm to people; harm to property; and other misdemeanours.

508. Educational committees have been set up. Their remit is, on the one hand, to look at the circumstances of any pupil whose behaviour is poorly adapted to the rules governing school life and to try to identify an educational response, and, on the other, to follow up the application of preventive measures, measures of support and measures based on making the individual accountable, as well as alternatives to a disciplinary sanction.

4. Expanding vocational education and training for children who have left school without qualifications

509. There are various forms of employment contracts which allow young people to alternate work of a vocational nature with training. These offer the best guarantees of entry to the workplace, securing jobs for 80 per cent of the young people concerned.

510. In January 2011, the Government adopted the target of significantly increasing the number of young people on contracts alternating training with work (from 600,000 to 800,000 by 2015). A number of approaches were prioritized during the 2010 and 2011 financial years designed to contribute to this target. In late December 2011, 600,000 young people were in contracts alternating work and training as part of apprenticeships or vocational courses. Over one year, 25,000 additional contracts entered into by young people were registered.

511. The Act of 28 July 2011 concerning arrangements for the extension of alternation and to increase security in vocational training extends the scope for using these contracts to new categories of employment (interim and seasonal occupations and domestic work), and simplifies arrangements, making them easier for both employers and employees. An “alternation portal”, opened in October 2011, is designed to put employers, potential employees and centres training apprentices into contact with one another, as well as to simplify processes and administrative procedures for recruiting young people on alternating contracts.

512. The Finance (amendment) Act of 29 July 2011 raised the mandatory quota to be met by undertakings for employing young people on alternating contracts to 4 per cent of overall employee numbers. The 2012 Finance (amendment) Act boosted the measure in relation to undertakings with more than 250 employees by increasing the quota from 4 per cent to 5 per cent from 2015. The measures have also reduced the rate of the contributory levy for alternance in proportion undertakings’ efforts to recruit young people under alternating contracts. The increase in compulsory recruitment is accompanied by the introduction of a bonus for employers who exceed their bare legal obligation. At the same time, arrangements for monitoring the tax and the surcharge are to be reformed.

513. In addition, the State has established a new form of financial assistance for small and medium-sized enterprises with fewer than 250 employees, to allow the recruitment, between 1 March 2011 and 31 December 2011, of one additional young person under an apprenticeship or vocational training contract, with the financial assistance extending until 30 June 2012.

514. In partnership with the regional councils, “objective and resource contracts” (*contrats d’objectifs et de moyens*) for the modernization of apprenticeship training have supported extension of the range of training available through a financial injection of €1.4 billion during their first five years (2005–2010). The second generation of such contracts for the modernization of apprenticeship training, signed for the period 2011–2015, is

designed to raise the number of apprentices to a target of more than 580,000 by 2015 (compared with 423,000 at the end of 2009) at a total cost of €1.7 billion over the period.

515. The “Investments for the Future” programme is providing an additional allocation of €500 million to increase the independence of young people in training by increasing the supply of suitable housing (€250 million) and by tailoring training arrangements more closely to needs (€250 million). At the end of May 2012, €182 million has been committed to 40 selected projects. The 35 centres for apprenticeship training, which have had their projects selected, have a total capacity of more than 30,000 places and the resources allocated to them should allow more than 10,000 additional young people to be taken on under alternating contracts.

516. In addition a plan, *Agir pour la jeunesse* (Action for the Young), set out in September 2009 ways in which educators, trainers and those working to engage young people could combat dropping-out at school with the help of support centres. There are 377 centres in operation for monitoring and supporting young people who have dropped out, led by 121 staff from the departments who can provide personalized solutions through training or reintegration plans.

517. The social partners have also made employment for young people a priority, as attested by the National Inter-professional Agreement signed on 7 April 2011 on assistance to young job-seekers in gaining access to employment. In that connection, the Joint Fund for the Protection of Vocational Training is making available the resources needed to a ceiling of €30 million for support payments and is relying, for coordination of the implementation of the framework agreement in the regions, on the Employment and Vocational Training Agency of the Ministry of Employment. The provisions of the agreement include a requirement for 20,000 young people who have dropped out of school to be given assistance locally.

518. A year after the signature of the agreement, it was possible to present a positive initial assessment to the joint steering committee for the National Inter-professional Agreement on 30 March 2012. The national monitoring committee, composed of the Employment and Vocational Training Agency General Delegation for Employment and Professional Training of the Ministry of Employment, the National Council for Local Action and the National Union for Local Action (for youth employment) was able to confirm, on 30 June 2012, that improved and individually-adapted assistance had been provided by those bodies to more than 18,600 young people who had dropped out of school, and that more than 1,000 had found employment or training leading to a qualification, or had returned to their original training.

B. Rest, leisure, recreation and cultural and artistic activities

519. The Committee recommended, at paragraph 83 of its Concluding Observations, that children should be guaranteed access to extra-curricular activities.

520. For information on the French legal framework for these matters, see paragraphs 526-527 of the last report.

521. Collective arrangements for looking after children (*accueils collectifs de mineurs*, (ACMs)), which include group holiday accommodation, places for leisure activities and scout camps, give them opportunities for a variety of activities and new experiences, for meeting other children and for discovering new horizons. Through contact with others in the course of play and physical and cultural activities, children and young people learn tolerance and respect for their differences. For this reason, every child and young person, without discrimination, must have access to high-quality, educational leisure activities of a kind which guarantees their physical and moral safety.

522. The ministry responsible for young people maintains the framework of laws and regulations which apply to ACMs, ensures that it is observed and encourages improvement in the quality of the arrangements that ACMs provide.

523. The majority of ACMs are provided by voluntary associations and local authorities. Each is structured around an educational aim of a kind appropriate to the organizing body and an educational project prepared by team leader. The project document must cover how the psychological and physical needs of participants are to be met; details of the kinds of activities to be provided; where appropriate, how the needs of children with health problems or disabilities are to be catered for; and how communication with families about the arrangements is to be handled.

524. Some projects offer innovatory approaches to education and instruction which may aim to emphasize inter-generational issues or respect for the rhythms of life, or to improve the integration of young people in circumstances of exclusion. The Act of 11 February 2011 concerning equal rights and opportunities, participation and citizenship for groups with disabilities asserts the principle of non-discrimination and access for all to common rights. Accordingly, every minor, whatever their disability, must be able to take part in ACMs of all kinds.

525. On leadership, the ministry responsible for young people accredits the organizations which deliver training leading to the group leadership diploma (*brevet d'aptitude aux fonctions d'animateur*) in ACMs and to the director's diploma, and awards these diplomas. It also awards vocational diplomas in leadership which are organized in a cross-cutting fashion with the diplomas in sports training awarded by the Ministry of Sport. This training gives young people the opportunity to get involved in working alongside children, to train for a job which gives them responsibility and to learn teamwork imbued with a shared, dynamic ethos. Financial assistance is available for young people who want to take up training courses leading to the group leadership diploma or the director's diploma.

526. An information note has been sent to all local offices for young people's services about dangerous games, including the "choking game" (*le jeu du foulard*). The circular has contributed to the protection of children and raised awareness of the issues concerned among group leaders and supervisory staff.

527. A campaign entitled *les sports de nature, tous dehors* (Sport and Nature, Everybody Outside!) was conducted to promote activities of this kind to various audiences, including the ACMs. It showed the educational interest that residential holidays and outdoor activities can provide, both through building children's independence and helping them learn to live with others.

528. Measures to improve educational quality in the ACMs allow specific topics connected with child protection and the training of staff working with children to be addressed. Their purpose is to take better account of children's expectations and needs, to enhance their well-being and so to strengthen respect for their rights.

529. A survey of emotional life and intimacy among minors in accommodation for group activities was carried out in 2011 by the National Institute for Youth and Community Education. A working group will be formed in 2012 to work on these sensitive issues, dealing more particularly with the question of sexual violence between minors.

530. A guide dealing with youth leadership and the prevention of addiction, also prepared in 2012 by the Directorate of Young People, Community Education and the Voluntary Sector of the ministry responsible for young people, will be put online shortly on the ministry's Internet site. This is a tool designed for trainers involved in training, whether or not vocational, related to youth leadership, which will improve training for leaders on the prevention of addiction among young people. It will equip youth leaders to deal more

effectively with children in difficulty or encountering problems with addiction, and thus to improve their protection.

531. Work is under way jointly with the Ministry of Culture on the theme of prompting or strengthening partnerships between ACMs and libraries, the purpose being to provide children with play-based ways to be introduced to reading.

532. The local authorities have also developed a great many ways of providing support for measures to give support to children in their spare time. The diversity of these arrangements, in combination with a certain quality of adaptability and the proximity of local authorities to local people, make for arrangements which are particularly well-adapted to realities on the ground.

VII. Special measures of protection

A. Child asylum-seekers and refugees and unaccompanied children

533. A number of general remarks need to be made before responding to the Committee's recommendations in this area.

534. The President of the French Republic, elected on 6 May 2012, has committed himself to "follow a new policy on migration which is responsible and founded on clear, just and stable rules". This policy will fully reflect international commitments on matters including asylum, will show concern for humanitarian considerations and will demonstrate resolve in the struggle against illegal immigration and clandestine activity while protecting legal immigration. Along the lines of the overview given by the Prime Minister in his general-policy speech on 3 July 2012, the Government has begun a review of the measures to be taken to pursue these new objectives. At the date on which the Government is submitting its report to the Committee, decisions on these measures have yet to be taken and, for this reason, it can do no more than set out the legislation currently in force.

535. The question of foreign minors, and especially unaccompanied minors in particularly vulnerable circumstances, is a very sensitive issue to which the Government is devoting its full attention. It will be dealt with responsibly, and keeping in mind that protecting the best interests of the child must be paramount.

536. Taking special account of children's circumstances has led the Minister of the Interior, by a circular dated 6 July 2012, to require house arrest, rather than administrative detention, to be used in the cases of families with children which are in an irregular situation and are to be removed from French territory.

537. Other questions concerning unaccompanied minors will be considered in the same spirit. The review will take place within the framework of work on these issues which is being carried out at European level: in May 2010, the European Commission produced an action plan for the period 2010–2014 on unaccompanied minors, which was adopted by the Council in June. The plan contained three main strands: prevention, programmes for regional protection, reception and the identification of sustainable solutions. Child protection and the principle of the best interests of the child are an integral part of all measures under the plan.

1. Unaccompanied minors in waiting zones

538. When considering the third and fourth reports of France, the Committee expressed certain concerns about these minors at paragraphs 84 to 85 of its Concluding Observations, and went on to recommend that France should:

- Take all necessary measures to allow the decision of placement in waiting zones to be challenged;
- Systematically appoint a guardian *ad hoc* as required by its domestic law;
- Ensure the access and availability of adequate psychological assistance to unaccompanied children and to children in the waiting zones and protect them from exploitation, in particular through strict surveillance of access to these zones;
- Ensure, with due consideration of 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.

1.1 Challenge against placement in waiting zones

539. In keeping with the law, the initial decision of placement in a waiting zone must be given in writing by the administrative authority, state how it was arrived at and extend for no more than four days (art. L. 221-3 of the Code on the Entry and Residence of Foreign Nationals and the Right to Asylum). Like any administrative decision, it can be challenged before the administrative court, which has the authority to quash it. The Committee should bear in mind that the decision to refuse entry (which underlies the decision on placement in a waiting zone) can also be the subject of an application to the administrative court for annulment.

540. Beyond four days, retention in a waiting zone can be authorized only by the liberty and custody judge, for a duration which may not exceed eight days (art. L. 222-1 of the Code). In exceptional circumstances, or in the event of a deliberate attempt by the foreigner concerned to obstruct his or her departure, retention in a waiting zone beyond 12 days following the initial decision on placement can be renewed by the liberty and custody judge. The Code also provides for a regime governing the disapplication of time limits in relation to applications for asylum (art. L. 222-2)

541. The decisions of the liberty and custody judge must be taken after hearing the person concerned, who can be represented by counsel, appointed by the court if necessary.

542. Orders made by the liberty and custody judge for retention in a waiting zone are open to appeal before the first president of the court of appeal (art. L. 222-6).

543. These arrangements apply whether or not the person concerned is a minor, except that minors have the assistance of a lawyer chosen by the guardian *ad hoc* (see below), or, failing that, appointed by the court. The guardian *ad hoc* can also request to see the case file and to have the assistance of an interpreter.

1.2 The appointment of a guardian *ad hoc*

544. Systematic arrangements for the appointment by the public prosecutor, as the relevant judicial authority, of a guardian *ad hoc* to assist the minor while in the waiting zone and help to represent the minor in administrative and judicial proceedings is provided for by law (art. L. 221-5 of the Code).

545. Compliance in practice with this arrangement has been difficult because there are not enough guardians *ad hoc*.

546. Since 2009, however, and the arrival on the scene of a second voluntary association to supplement the Red Cross, the position has improved markedly and almost 95 per cent of unaccompanied children have the assistance of an a guardian *ad hoc* early on following their arrival in France. The French authorities intend to maintain their efforts on this issue.

1.3 Psychological assistance and protection against exploitation

547. At Roissy Airport, where almost 95 per cent of unaccompanied minors arrive, they have been cared for, since July 2011, in their own waiting zone, which is strictly separated from the waiting zone for adults and which has a capacity of six places.

548. An agreement provides for the French Red Cross, and Red Cross staff who are skilled in dealing with children's issues and humanitarian protection, to run this facility and provide assistance to the minors concerned. The Red Cross maintains a presence 24 hours a day, 7 days a week. The agreement with the Red Cross also provides for a psychologist to be present for 25 hours a month. If the guardian *ad hoc*, the Red Cross or medical staff in the waiting zone considered it necessary, in particular cases, to provide psychological assistance of a specific type for a minor outside this period of attendance, steps would be taken to do so.

549. Very close attention is paid to ensuring that unaccompanied minors are not at risk of falling victim to exploitative gangs. This is one of the reasons why no systematic right of entry for unaccompanied minors exists and why each individual case is subject to very thorough investigation. In the presence of the guardian *ad hoc*, the minor is given a hearing, the purpose of which is to obtain accurate information on origins, how the minor's present situation was reached and his or her prospects. This interview makes it possible to understand the real motives for the minor's arrival in France and to identify any possible criminal offence that may have been committed which needs to be brought to the attention of the law enforcement authorities.

1.4 *Non-refoulement*

550. In keeping with the principle of *non-refoulement* guaranteed by article 3 of the Convention against Torture, no unaccompanied minor seeking entry to France, who, according to the interview regarding their circumstances referred to in the preceding paragraph, or from consideration of an application for asylum if made, would be exposed, if returned to the country of origin, to treatment which contravened that Convention, and in particular to a risk of being trafficked, will be returned to that country.

551. The many players involved in the waiting zone (including officers of the border police, members of the judiciary, the guardian *ad hoc*, the Red Cross and protection officers of the French Office for the Protection of Refugees and Stateless Persons, if an application for asylum has been made), and the procedures which apply, guarantee that this principle is effectively implemented.

552. Should it appear that removal would expose a minor to risks of this kind, that minor will be admitted to French territory and referred to a specialized centre where the minor will benefit from suitable protection measures.

2. Determining age

553. At paragraph 88 of its Concluding Observations, the Committee requested that France use methods other than a bone test for determining age.

554. The legal guarantees which are linked to the status of a minor make it necessary, where there are doubts about a person's declaration of their age, to undertake verification.

555. The legal status of minor can, in the first instance, be attested by documentation produced by a foreign national on civil status, which, in keeping with the Civil Code, will in principle be treated as authoritative.

556. If, however, other factors show that such documents are irregular or forged or do not correspond with reality, or if there is no documentation, there is no alternative to a medical assessment.

557. The medical assessment is commissioned by the relevant judicial authority (the prosecutor's office). In general, it is carried out by doctors in a hospital setting. It consists of an examination of the bones, comparing X-rays of the left hand and fist with examples in a reference guide, a practice known as the Greulich and Pyle method. This examination can be accompanied by a physical examination including the taking of measurements and supplemented by assessment of the progress of puberty and a comprehensive dental examination.

558. It should also be emphasized that, under a Ministry of Justice circular of 14 April 2005, whenever there is doubt as to age, the benefit of doubt must be in favour of the minor.

559. While this method seems the most reliable in the current state of scientific knowledge, the French Government pays very close attention to any recommendations which may be made on the subject and to developments in scientific knowledge and methods.

560. This question is to be addressed in the context of the inter-ministerial working group and the European developments mentioned above: in its action plan for unaccompanied minors, the European Commission stresses the crucial nature of the question of determining age and calls for a common approach by member States. This review is in train.

3. Family reunification

561. At paragraph 91 of its Concluding Observations dated 22 June 2009, the Committee recommended that France should reduce the length of family reunification procedures for refugees, ensure that the implementation of DNA testing does not create additional obstacles to family reunification, recognize the *Kafalah* system in the context of family reunification and implement the case law of the Council of State of 24 March 2004.

3.1 Family reunification for refugees

562. Those benefiting from international protection (refugees and those with subsidiary protection) are not subject to the rules which apply to other foreign nationals in relation to family reunification. Conditions relating to length of prior residence in France, resources and housing are not enforceable in their case. The right to family reunification is guaranteed as soon as the genuine nature of the family relationship between the person with international protection and the family members in the country of origin is established.

563. This right takes the material form of a grant of a visa for entry to France. In 2010, 4,467 visas were granted on this basis, and 3,449 visas were granted in 2011.

564. Since 2009, the family reunification procedures for refugees have been reviewed to reduce the time limits for the consideration of applications. The application process has been simplified, the information provided has been improved and measures have been taken to take account of the difficulties that families can be exposed to in certain countries of origin.

565. The time taken to issue visas continues to depend on the diligence shown by the individuals concerned in providing evidence confirming their relationship with the refugee and on the reliability of local information about civil status. In countries where information on civil status is reliable and where the local services respond quickly to requests from diplomatic and consular posts, the visa may be issued within a few weeks or months. This takes longer in cases where proof of filiation or relationship is harder to provide. Although

it is possible for the level of proof required to be treated flexibly in some cases, it cannot be dispensed with altogether, as this would risk encouraging fraud which could work against the interests of the child.

3.2 DNA testing

566. The Act of 20 November 2007 made it possible for applicants for long-stay visas to apply for identification by genetic fingerprinting to provide evidence of filiation with a mother.

567. This provision was to be the subject of a decree by the Council of State, adopted after taking advice from the National Consultative Committee on Ethics, providing for the conditions for its implementation. The decree has not been made and the legislative provision has therefore yet to take effect.

3.3 Family reunification and *Kafalah*

568. The right of persons of foreign origin to family reunification is recognized under the Constitution.

569. Under French law, family reunification can apply to a foreign national's spouse, and children of the foreign national or the spouse who are minors under the age of 18 and whose filiation has been legally established, whether the children are legitimate, natural or adopted.

570. In addition, under a Franco-Algerian agreement of 27 December 1968, as subsequently amended, children of whom the Algerian national has legal custody by virtue of a decision of the Algerian judicial authority (*Kafalah*) are also eligible for family reunification.

571. In those circumstances, even if conditions under statute law are not met, bearing in mind that, under French law, international conventions take precedence over statute law, the administrative authority, acting under the supervision of the courts, cannot refuse family reunification or the rights to entry and to residence when, in the particular case, such refusal would cause disproportionate harm to the right of those concerned to respect for their private and family life or would breach the requirements of article 3(1) of the Convention on the Rights of the Child.

572. It was on this basis, and having regard to a review of the particular circumstances of the individual case, that the Council of State took the view in its decision of 24 March 2004, cited by the Committee, that family reunification could not be refused, even in the absence of a line of filiation between the child and the applicant, in the case of a child who had been the subject of a decision on *Kafalah* by a Moroccan court. In the case in question, the child had been abandoned by the mother and had no paternal filiation, and the intention of the couple making the application was to provide in France the home of which the child was deprived in Morocco.

573. The approach in every case of this sort is therefore to carry out an objective assessment of the circumstances of the child, bearing in mind that the principle of respect for the best interests of the child, based on the requirements of article 3(1) of the Convention on the Rights of the Child, is just as binding on the administrative authority when it is dealing with an application for family reunification (Council of State, 1 December 2010, No. 328063, *Ms. Naili*, married to *Hocini*) as when it is ruling on an application for an entry visa to France (Council of State, 9 December 2009, *Sekpon*, No. 305031).

574. In general terms, the Council of State has repeatedly ruled that it is, in principle, in the best interests of a child to live with the person who, by virtue of a decision of a justice

system which gives rise to legal effects in France, is the person exercising parental authority. In that regard, it has found that judicial *Kafalah* is part of the decisions of foreign justice systems which have a bearing on the delegation of parental authority and which give rise to legal effects in France.

575. There is therefore a presumption that it is in the best interests of the child to live with the person who exercises parental authority. An application to the administrative authority, the aim of which is to permit a child to be reunited with a French or foreign national to whom parental authority has been delegated, cannot, as a general rule, be rejected by relying on arguments based on the proposition that it would be in the best interests of the child to stay with parents or other family members.

576. The presumption in favour of the best interests of the child is valid only for judicial *Kafalah*. It is not valid for “notarized” *Kafalah*, which has been established before a notary. In that circumstance, it is for the applicant to prove that it is in the best interests of the child to live with the person exercising parental authority (Council of State, 22 October 2010, *Ms. Fournel*, No. 321645).

577. In rejecting an application, the administrative authority may, provided that to do so would not cause disproportionate harm to the right of the person concerned to respect for private and family life, invoke the prejudice to public security that would result from giving the child access to the national territory, or arguments to the effect that, taking into account circumstances including resources and the living conditions of the person vested with parental authority, the conditions into which the child would be received were incompatible with the child’s best interests (see, for example, Council of State, 23 December 2011, *Mr. Ghezala*, No. 331996).

578. However, were the material and financial conditions necessary for the child’s reception by the person vested with parental authority met, and in the absence of prejudice to public security, the administrative authority makes an error of judgement if it refuses the child residence or entry to French territory.

B. Sexual exploitation, sale, trafficking and abduction

579. At paragraph 93 of its Concluding Observations dated 22 June 2009, the Committee recommended that France adopt further measures to combat the trafficking of children for sexual and other exploitative purposes, and to collect data in order to determine the measures to be taken to combat these problems, including in the Overseas Departments and Territories.

580. The adoption of new measures to combat the trafficking of children for sexual and other exploitative purposes is not necessary, as the provisions in force and the weapons already available in the arsenal of the French criminal justice system include many provisions which ensure that people committing such offences can be prosecuted and punished.

581. In keeping with its policy of active cooperation with the special procedures of the United Nations, France addressed an open invitation to all special rapporteurs in 2002. This led to the visit in autumn 2011 of the Special Rapporteur on the sale of children, child prostitution and child pornography, Ms. Najat Maalla M’Jid. In her report,¹³ distributed on 29 February 2012, she welcomed the commitment of France and its high level of mobilization. Points that she noted included the fact that France had an extensive arsenal of

¹³ www.ohchr.org/EN/Issues/Children/Pages/CountryVisits.aspx.

legal measures in tune with the main international and regional instruments, and effective decentralized arrangements for prevention and protection.

582. The Special Rapporteur also noted that some challenges remained: the build-up of legislation and the current trend towards a punitive approach were likely to jeopardize the achievements of a solid legislative framework that had made it possible to set in place very detailed child protection arrangements. She noted that children, often the most vulnerable children from dysfunctional and/or insecure families, slipped through the safety net. Unaccompanied foreign minors seemed to be the most disadvantaged and the most vulnerable to all forms of exploitation. Despite all of the efforts made by the authorities and the high degree of mobilization by civil society, care of children remained fragmented and uneven, depending on the department, and suffered in the opinion of the Special Rapporteur from a lack of intersectoral cooperation. The social welfare services were swamped, and their capacities to take in and support children were overwhelmed.

583. The Special Rapporteur therefore made a number of recommendations.

584. On legislation, the Special Rapporteur recommended that the French Government:

(a) Incorporate all of the texts of the legislation on child protection in a single practical guide to make it easier to understand and implement them.

(b) Ensure the full implementation of the solid range of legal instruments in place designed to protect minors, particularly the Act of 5 March 2007 reforming child protection.

(c) Protect what had been achieved in relation to justice for minors by opting for the educational approach in preference to an exclusively punitive approach, including in the case of children who, although they had committed offences, were the victims of networks of exploitation or trafficking.

(d) Ensure that a restrictive policy on migration was not prejudicial to the protection of unaccompanied foreign minors, who were the most vulnerable to all forms of abuse and exploitation. Establishing minority must not solely be based on the not very reliable practice of bone tests; similarly, unaccompanied foreign minors who had established an educational or occupational project in France must not be deported because they had reached the age of majority.

(e) Speed up the process of reforming the adoption system in France to encourage national adoptions, particularly by means of the bill on abandoned children and adoption, tabled in that connection in September 2011; and review the procedures for issuing approval for adoption by the departmental councils.

(f) Improve the professionalism of the accredited adoption agencies.

(g) Issue the decree making it possible to implement the proposed system for reporting online instances of sexual tourism submitted by OCRVP (*Office central pour la repression des violences aux personnes*) and drawn up jointly with the network ECPAT (End Child Prostitution in Asian Tourism).

(h) Ensure that children's involvement in the judicial process was consistent across the board, in order to prevent re-victimization.

(i) Speed up judicial procedures and simplify procedures for the granting of asylum.

(j) Systematize training for police officers, gendarmes and members of the judiciary, while providing them with the necessary resources, in order to harmonize practices and guarantee that children are effectively protected.

585. As far as policies and strategies are concerned, the Special Rapporteur strongly encouraged the French Government to adopt a cross-cutting approach with the focus on the rights of the child, designed to establish a national strategic framework for child protection. The departmental child protection strategies would then become a variant of this national strategic framework, thus constituting integrated regional child protection systems that were harmonized and consistent with international rules and standards. In order to achieve this, the Special Rapporteur recommended:

- (a) Mapping all of the programmes and actors involved in child protection in order to identify: (i) good practices and then pass them on; (ii) duplication in order to secure synergy of action and complementarity; and (iii) inefficiencies and disparities in order to remedy them;
- (b) Defining the areas of competence and responsibility of each stakeholder: (i) by establishing effective intersectoral coordination arrangements; and (ii) by introducing accountability arrangements for each area of intervention;
- (c) Introducing a centralized, standardized and reliable system for the collection and processing of data, aggregated by age, gender, profile, status and a clear description of the nature of the crime committed against the child;
- (d) Devising child protection indicators, on a participatory basis, with all stakeholders;
- (e) Establishing rigorous monitoring and evaluation procedures concerning: (i) the implementation of the national strategy; (ii) its regional variants; (iii) the extent to which the child protection indicators had been achieved; and (iv) the impact of the strategies on the situation of children and their rights;
- (f) Determining the resources needed and timetable for implementing the national framework and its regional variants;
- (g) Maintaining the level of resources allocated to child protection despite the constraints imposed by the current economic climate;
- (h) Embarking upon a process of inclusive consultations with all stakeholders with a view to preparing the fifth periodic report to the Committee on the Rights of the Child.

586. France is playing very close attention to these findings and recommendations. An inter-ministerial working group has been set up to: (i) define the role of each of the services concerned; (ii) identify the most suitable territorial organization; and (iii) ensure better coordination between those involved, so as to provide better care for the young people concerned while respecting their rights and equality of treatment.

1. Sale of children

587. The Optional Protocol to the Convention on the Rights of the Child, adopted by the General Assembly of the United Nations on 25 May 2000, was signed and ratified by France on 5 February 2003 and came into force on 5 March 2003.

588. While French law does not contain a specific provision prohibiting “any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration”, as defined in the Protocol of 25 May 2000, these acts are criminal offences in French law in the context of the sale of children, inciting the abandonment of children and procuring the abandonment or adoption of children, including in the case of pregnant mothers. The act of inciting for profit the parents or one of the parents, whether by gifts, promises, threats or abuse of authority, to abandon a child,

whether born or unborn, is punishable by six months' imprisonment and a fine of €7,500 (art. 227-12 of the Criminal Code).

589. Similarly, acting for profit as an intermediary between a person wishing to adopt a child and a parent wishing to abandon a child, whether born or unborn, is punishable by one year's imprisonment and a fine of €15,000 (art. 227-12, para. 2, of the Criminal code).

590. Finally, the same penalties apply to acting as an intermediary between a person or couple wishing to acquire a child and a woman who agrees to bear that child with the intention of transferring it to them. When this is done habitually or for profit, the penalties are doubled (art. 227-12, para. 3, of the Criminal Code).

591. As the following table demonstrates, statistics from the national criminal records office show a very small number of offences under article 227-12 of the Criminal Code leading to convictions between 2008 and 2010.

Article	Offences giving rise to convictions		
	2008	2009	2010
Article 227-12 of the Criminal Code	4	0	0

592. In addition, French law treats as criminal offences the act of offering, transferring or receiving a child, whatever the means employed, for the following purposes.

- Sexual exploitation of the child (with prosecution for rape, sexual assault or sexual abuse in the case of the person committing the sexual acts and for procurement in the case of the intermediary);
- The sale of the child's organs (arts. 511-2 to 511-5 of the Criminal Code);
- Submitting the child to forced labour (with prosecution for working conditions contrary to human dignity or for complicity in such offences (arts. 225-14 to 225-16 of the Criminal Code);
- Prostitution (with prosecution for aggravated procurement or the prostitution of minors: see paras. 599 *et seq.* below).

2. Child prostitution

593. French law specifically punishes both the person who has recourse to child prostitutes and the person who profits from it as a procurer. In addition, it protects the minors concerned themselves, in that, once they engage in prostitution, even on an occasional basis, they are regarded as children at risk.

594. The voluntary child-protection associations play an essential part here. They can sue for damages in criminal proceedings under article 2-3 of the Code of Criminal Procedure, which can be particularly useful when victims of prostitution are not parties to the procedure or have disappeared.

2.1 Prostitution of a minor

595. Article 225-12-1, paragraph 1, of the Criminal Code, established by Act No. 2002-305 of 4 March 2002, makes "soliciting, accepting or obtaining, in return for remuneration or a promise of remuneration, sexual relations with a minor who engages in prostitution, even if not habitually" punishable by three years' imprisonment or a fine of €45,000.

596. In addition, article 225-12-2 of the Criminal Code provides for penalties to be increased to five years' imprisonment and a fine of €75,000 when the offence is committed habitually or in relation to more than one person; when the person has been put in touch with the perpetrator via a communications network for the distribution of messages to an unrestricted public; when the acts are committed by persons in the abuse of their functions; and when the person committing the acts has deliberately or negligently put the life of the person on whom the acts are committed in danger or has committed violence against that person. When a minor under the age of 15 is involved, the penalties are increased to seven years' imprisonment and a fine of €100,000.

597. Article 225-12-3 provides that: "[w]here the offences referred to in articles 225-12-1 and 225-12-3 are committed abroad by a French national or by a person habitually resident on French territory, French law is applicable notwithstanding the second paragraph of article 113-6 (requirement of dual criminal liability) and the provisions of the second sentence of article 113-8 (complaint by the victim or official accusation) do not apply".

598. Statistics from the national criminal records office in the following table show a small but relatively constant number of offences under articles 225-12-1, 225-12-2 and 225-12-3 of the Criminal Code leading to convictions between 2008 and 2010.

<i>Article</i>	<i>Offences giving rise to convictions</i>		
	<i>2008</i>	<i>2009</i>	<i>2010</i>
Articles 225-12-1, 225-12-2 and 225-12-3 of the Criminal Code	23	18	24

2.2 Tougher enforcement action against procurers

599. Article 225-7-1 provides that procuring is punishable by 10 years' imprisonment and a fine of €1.5 million when committed against a minor.

600. It is punishable by 15 years' criminal imprisonment and a fine of €3 million when committed against a minor under the age of 15.

601. It should be borne in mind that non-aggravated procuring is punishable by 7 years' imprisonment and a fine of €150,000.

602. Statistics from the national criminal records office set out in the following table show a small but steadily growing number of convictions for offences under article 225-7 and 225-7-1 of the Criminal Code for the last three years for which figures are available.

<i>Article</i>	<i>Offences giving rise to convictions</i>		
	<i>2008</i>	<i>2009</i>	<i>2010</i>
Articles 225-7 and 225-7-1 of the Criminal Code	21	34	34

2.3 The protection of minors engaging in prostitution

603. Any minor engaging in prostitution, even occasionally, is deemed to be at risk and comes under the protection of the children's judge by virtue of the educational assistance procedure (art. 13-II of Act No. 2002-305 of 4 March 2002).

3. Child pornography

604. The child concerned may either be one who receives a pornographic image or one who appears in it.

605. This is why the law prohibits both child pornography and the distribution of pornographic images to minors.

3.1 The protection of minors against harmful content

606. Article 227-24 of the Criminal Code punishes “the production, transport or distribution, by whatever means and however supported, of a message bearing a violent or pornographic character or a character seriously violating human dignity or inciting minors to engage in games putting them physically at risk, or trafficking in such a message, where the message may be seen or perceived by a minor”.

607. Act No. 2007-297 of 5 March 2007 has extended the application of the second paragraph of article 227-24 to Internet communications, enabling the responsibility of Internet site hosts, under Act No. 2004-575 of 21 June 2004 promoting confidence in the digital economy, to be brought into play.

608. Act No. 2007-297 of 5 March 2007 also amended the Act of 17 June 1998 concerning the prevention and punishment of sexual abuse by establishing a system of self-regulation which applies to communications using information technology: it is preventive in its aims and the costs involved are born by professionals in the sector. When a document created by decipherable electronic means in either digital or analogue mode represents a risk to young people owing to its pornographic character, the data medium and each unit into which it is subdivided must contain in visible, legible and indelible form the warning “provision to minors prohibited”.

609. Act No. 2007-297 of 5 March 2007 also bolstered the powers of the public authorities, which are able to prohibit the offering, giving, hiring or sale of documents of a pornographic character to minors, exposing them to public view in any place whatever and promoting them through publicity by any means whatever.

610. Failure to comply with these requirements and prohibitions is punishable by one year’s imprisonment and a fine of €15,000.

611. In addition, evading or attempting to evade these provisions by changes in titles or data medium, by manipulation in the presentation or advertising of the material or by any other means is punishable by two years’ imprisonment or a fine of €30,000.

612. Statistics from the national criminal records office in the following table show a small but relatively constant number of offences under article 227-24 of the Criminal Code leading to convictions between 2008 and 2010.

<i>Article</i>	<i>Offences giving rise to convictions</i>		
	<i>2008</i>	<i>2009</i>	<i>2010</i>
Article 227-24 of the Criminal Code	70	71	63

3.2 The protection of minors against child pornography

613. Article 227-23 of the Criminal Code protects, not only minors who are victims, but also the image of minors in general.

614. It provides for the punishment of conduct related to the distribution of images of a paedophilic character to combat the representation of minors as sex objects.

- Paragraph 1 provides for the prosecution of acts of fixing, recording or transmitting the image or a representation of a minor having a pornographic character with the

objective of distributing it. These acts are punishable by five years' imprisonment and a fine of €75,000.

- Representations having a paedophilic character include paedophilic montages produced from photographs of children, but also images which are wholly virtual in character, including drawings and virtual montages.
- Paragraph 2 makes it a criminal offence to offer, supply, distribute, import or export or cause to be imported or exported by any means whatever an image or representation of a minor having a pornographic character, and makes such acts punishable by five years' imprisonment and a fine of €75,000.
- Paragraph 5 makes it a criminal offence, not only to possess such an image or representation, but also, since the Act of 5 March 2007, to view such images in a habitual fashion. The penalty is two years' imprisonment and a fine of €30,000.
- The last paragraph of the article creates a presumption of minority: ("... the provisions of this article apply to the pornographic images of a person whose physical appearance is that of a minor, unless it is proved that the person was over 18 on the day his or her picture was taken or recorded"), thus placing the burden of proof on the possessor of such images.

615. Statistics from the national criminal records office record a large number of convictions where offences under article 227-23 figure as the principal offence in the extracts of judgements entered in police records. The number of these convictions has, however, been steadily falling since 2008, as the table below shows.

Article	Convictions (principal offences)		
	2008	2009	2010
Article 227-23 of the Criminal Code	965	819	778

3.3 A general provision to combat, among other things, child pornography and the prostitution of minors: article 227-28-3 of the Criminal Code

616. Article 227-28-3 is an unprecedented provision in French law, as it punishes the attitude of someone who presses a person to commit an offence involving a minor, even when the offence is in the end neither committed nor attempted.

617. The article punishes "the act of making offers or promises to a person or of offering them gifts, presents or advantages of any kind as an inducement to them to commit one of the following crimes or offences on a minor", when the offence concerned is neither committed nor attempted.

- Rape and sexual assault;
- Procuring and offences to which it gives rise;
- Corruption of minors;
- Child pornography;
- Sexual abuse.

618. That offence is punishable by three years' imprisonment and a fine of €45,000 if the act which has not been committed or attempted may constitute an offence. The penalties are increased to seven years' imprisonment and a fine of €100,000 when the offence avoided constitutes a crime.

619. According to statistics from the national criminal information office, there was no conviction on the basis of article 227-28-3 of the Criminal Code between 2008 and 2010.

C. Administration of juvenile justice

620. When considering the third and fourth reports of France, the Committee expressed concern in relation to juvenile justice at paragraph 94 of its Concluding Observations. The Committee emphasized the need to ensure that international juvenile justice standards are fully implemented (para. 97), and recommended that France should:

- Strengthen preventive measures and avoid stigmatization;
- Increase resources for the criminal justice system;
- Use detention, including police custody and pretrial detention, as a measure of last resort and for the shortest possible period of time;
- Ensure that, when detention is used, it is carried out in compliance with the law and international standards;
- Refrain from treating children between 16 and 18 years of age differently than children below the age of 16;
- 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.

621. The Committee also recommended (at para. 99) that France should establish a minimum age of criminal responsibility, not below the age of 13.

622. The legislation in force is set out below. Some of the mechanisms involved are currently subject to evaluation or review. When the Committee provides its list of issues for the hearing, the Government will keep it informed of any developments since the submission of the present report.

1. Minors and the criminal justice system

623. The Committee will find statistics on minors and the criminal justice system at annex III.

624. Statistics show that the response rate of the criminal justice system (of the total number of prosecutable cases, the proportion giving rise to a prosecution, or successfully dealt with by an alternative procedure or process of settlement provided under the system) has improved over the past decade to 93.9 per cent today compared with 77.1 per cent in 2001. The extension of accelerated procedures has contributed to this development.

625. For less serious offences, the response of the system may take the form of an alternative measure to prosecution: the number of such measures has increased by 21 per cent in five years.

626. It should be stressed that, when minors are convicted of a crime, the courts make priority use of educational measures: out of 67,334 sentences handed down, 40 per cent were reprimands, referrals to parents and discharges without penalty, and 20 per cent were educational measures in the strict sense. Penalties involving imprisonment represented no more than 7.7 per cent of the sentences handed down.

2. Prevention

627. It seems disproportionate, to say the least, to speak of a lack of comprehensive national policy on the prevention of delinquency in France.

628. Many public policies contribute, directly or indirectly, to the pursuit of this objective.

629. For example, the public-health and health-care services and other public authorities pay particular attention to the consumption of psychoactive substances by adolescents, as that is the time of life when the first experience of taking such substances, legal or not, is acquired and regular use may begin. It is also an established fact that many offences by minors are triggered by excessive consumption of alcohol.

630. Accordingly, the Act of 21 July 2009 reforming hospitals and concerning patients, health and the territories introduced into the Public Health Code article 3342-1, which prohibits the sale or free provision of alcoholic drinks to minors, even when aged over 16; forbids the admission of minors to premises where alcohol is sold; and prohibits the practice of “open bars”.

631. Measures to combat addiction among young people thus continue to be a priority for Government action, making prevention the priority and not systematic prosecution.

632. A circular from the Minister of Justice and Freedoms, dated 16 February 2012, concerning improvements in the handling of drug use issues by the justice system, points out that the response of the judicial system to breaches of the criminal law must be guided by the personal and family situation of the minor, taking account of information obtained in the course of the case, and that it must remain predominantly educational and health-centred in nature.

633. Quite apart from the justice system, the local councils for security and the prevention of delinquency (*Conseils locaux de sécurité et de prévention de la délinquance*) can include groups tasked with handling a particular theme or subject, which may well be delinquency among minors. More generally, the local council for security, which is chaired by the mayor and includes the public prosecutor and the prefect, provides the framework for collaboration on priorities in efforts to combat insecurity and prevent delinquency in the municipality. Required by an Act of 5 March 2005 in municipalities with more than 10,000 inhabitants or containing a significant urban area, the councils are a forum for exchanging information, for encouraging community action and for following up the local security contract.

634. Finally, support for parenting provides a further means of preventing criminality among minors. Parents having difficulties within their family can be helped in the context of the councils for family rights and duties set up by the mayor under articles 9 and 10 of the Act of 5 March 2007 concerning the prevention of delinquency, or can be parties to a parental responsibility contract put in place by the president of the departmental council under article L. 222-4-1 of the Social Welfare and Family Code.

3. Pretrial detention of minors

635. Minors who offend are placed in pretrial detention only if there is no alternative.

636. Reliance is placed on measures which may be based on education or coercion or a combination of the two. Accordingly, a range of measures with an educational focus will be chosen as interim measures by the juvenile court judge, such as release under supervision pending trial, the various measures involving placement (in hostels and secure or closed supervisory centres), measures of restorative justice or day activities, an option introduced by the Act of 5 March 2007 concerning the prevention of delinquency. Only if these

measures prove insufficient in the light of the personality of the minor and the acts committed can other measures which are more coercive, though still alternative to pretrial detention, be ordered, such as placement under judicial supervision or, in the case of minors over the age of 16, house arrest under electronic surveillance.

637. The placement in pretrial detention of minors aged between 13 and 16 can be ordered only if the offence is punishable by a criminal penalty or if a minor has wilfully breached obligations under the terms of judicial supervision, which include complying with placement in a closed supervisory centre.

638. The two-year maximum period for pretrial detention, moreover, applies only to more serious offences, that is, offences of a criminal nature committed by minors aged over 16.

639. Overall change in the measures ordered prior to judgement in the case of young offenders is shown in the following table.

	2006	2007	2008	2009	2010
Pretrial detention	948	1 040	1 042	847	1 019
Judicial supervision	3 605	4 277	4 449	4 828	5 694
Release under supervision, placement, restorative measures	18 367	20 162	20 580	22 203	22 883
Social enquiries, IOE, ¹⁴ specialized care	7 734	7 722	7 989	8 178	7 560

640. Only 3 per cent of these measures in 2006 and 2.7 per cent in 2010 took the form of pretrial detention.

4. Differing treatment of minors aged 13–16 and aged 16–18

641. Article 2 of the Order of 2 February 1945 on young offenders affirms the principle that the aim should be to educate rather than to punish, whatever the age of minors and their degree of maturity.

642. In addition, if the court, taking account of the circumstances in which the offence was committed and of the personality of the accused, decides to impose a penalty on a minor, it must take account of diminished criminal responsibility, as provided for by articles 20-1 to 20-9 of the Order, whether or not the minor is aged under 16.

643. Consequently, the juvenile court and juvenile assize court cannot impose on minors aged over 13 a penalty of deprivation of liberty exceeding half of the maximum period, or a fine exceeding half of the maximum level or €7,500 (arts. 20-2 and 20-3 of the Order of 2 February 1945).

644. In addition, the provisions of article 132-23 of the Criminal Code concerning the period of unconditional detention, during which a convicted offender's sentence cannot be modified until the expiry of a minimum period provided in law or ordered by the court, do not apply to minors.

645. Similarly, article 122-8 of the Criminal Code makes no distinction of age in providing that minors who are capable of discernment are criminally responsible for offences, whatever the degree of seriousness, of which they have been found guilty, only in accordance with the specific conditions set in an act which determines the measures of protection, assistance, supervision and education to which they can be subject.

¹⁴ *Investigations et orientations éducatives*, “educational investigations and guidance”.

646. It should also be emphasized that the specialist judge dealing with young offenders is the juvenile court judge, who guarantees the continuity of educational measures. Article 8 of the Order of 2 February 1945 offers a choice to the juvenile court judge, who, when taking up a criminal case, can decide to proceed with it either in keeping with the rules of the Criminal Code or to proceed by the informal route a procedure which is much more flexible and compatible with the overriding need to take special kinds of approach in dealing with youth offending. The judge has the option of using the informal route whatever the age of the minor.

647. The mandatory rules safeguarding the interests of minors are the same for all as regards the obligatory presence of their lawyer at all stages of the procedure, the constant presence of their legal representatives, the restriction of publicity about court proceedings, the reduction of maximum penalties because the individual concerned is a minor and the general conditions of imprisonment which apply.

648. French law nevertheless maintains some differences between the treatment of minors aged from 13 to 16 and those aged over 16, in respects including criminal procedure.

649. These differences, which do not under any circumstances amount to applying the same judicial processes as to an adult, are justified by the fact that the degree of maturity is judged to be higher in minors aged over 16, who are considered more accountable for their actions.

5. Expanding the use of reintegration and alternative measures to deprivation of liberty

650. To begin with, article 2 of the Order of 2 February 1945 sets out the principle that the priority should be to educate rather than to punish in dealing with offending by minors. Accordingly, at every point from the discovery of the offence to any measure finally ordered by the court, the system must consistently ensure that the first consideration is the choice of educational measures which are suited to the personality of the minor and calculated to favour the minor's reintegration.

651. The Act of 10 August 2007 strengthened measures to combat reoffending, including juvenile reoffending, by introducing a regime of minimum penalties, but the courts are able to depart from these where there are special reasons to do so.

652. This is only one aspect of criminal justice policy for minors.

653. The Act of 5 March 2007 concerning the prevention of delinquency introduced a legal framework asserting the priority to be given to preventive measures, which is not called into question by the Act of 10 August 2007 referred to above. The Act gives formal recognition to practices which local players have been applying for a number of years. The measures introduced by the Act include new alternatives to prosecution including training courses on civic responsibility, and criminal settlement procedures.

654. In addition, new legal provisions promoting educational measures have recently been adopted. The Act of 26 December 2011 introduced contracts of service in an EPIDE (public establishment for defence integration). The remit of these facilities includes providing places as an alternative to prosecution or as a condition of probation under a suspended sentence to minors aged between 16 and 18 who have committed offences of a less serious kind. The introduction of this measure increases the diversity of the range of responses to crime available to the juvenile court judge, relying as it does on a dual approach combining prevention with social reintegration which has already proved its worth. The EPIDE programme is based around three modules: behavioural and civic

education; general training to bring educational basics up to scratch; and drawing up and carrying out vocational plans.

655. In 2010, juvenile court judges and the juvenile courts gave 7,634 decisions excluding minors from prosecution or criminal responsibility, that is to say dismissals of cases, acquittals or quashed proceedings.

656. The number of measures and sentences pronounced on minors found guilty was 67,334, a reduction of 5 per cent compared with the preceding year. Reprimands, referrals to parents and discharges constitute the main judicial response (27,424 decisions or 40.7 per cent), followed by educational measures in the strict sense: 11,524 measures of release under supervision, judicial protection, placement and restorative measures, plus almost 1,922 educational sanctions (20 per cent of the total).

657. Penalties of kinds not specific to minors (26,464, or 39.3 per cent of the total) were as follows: 12.6 per cent were unconditionally suspended sentences, 6.6 per cent sentences suspended subject to probation, and 7.7 per cent sentences of imprisonment. Fines accounted for 5.5 per cent of sanctions imposed and alternative penalties (community service, citizenship course, etc.) for 6.9 per cent.

6. Minimum age of criminal responsibility

658. No specific age threshold for the criminal responsibility of minors is set in French law, as the judge makes a case-by-case assessment of the capacity for discernment of the minor concerned, but minors under the age of 13 can be subject only to reprimands or protective measures. In no circumstances can they be convicted to serve a sentence.

659. French law sets strict limits on the nature of the judicial responses that the juvenile courts can employ. Responses are adapted to the age of the minor concerned: educational measures at any age, educational sanctions from the age of 10 and educational penalties from the age of 13. The aim of the legislature is that the priority should be to employ a response which is educational in nature.

D. Protection of witnesses and victims of crimes

660. At paragraph 100 of its Concluding Observations dated 22 June 2009, the Committee recommended that France should ensure, through adequate legal provisions and regulations, that all children who are victims or witnesses or both of crimes (abuse, domestic violence, sexual and economic exploitation, abduction, and trafficking), and witnesses of such crimes, are provided with the protection required by the Convention.

1. Protection of minors during judicial proceedings

661. When minors' own legal representatives are not capable of ensuring that their interests are represented, or when they themselves are the accused, minors' access to justice is secured by the judicial appointment of a guardian *ad hoc*.

662. It is mandatory for a lawyer to be designated to provide assistance to minors who have been victims of crimes such as acts of torture or barbarity, or any offences of a sexual nature, when they are interviewed by the investigating judge.

663. To avoid aggravating the moral and psychological harm done to minors who have witnessed or been victims of a criminal offence, they are as far as possible interviewed by specialist investigators trained in receiving testimony from children. In principle, the hearings take place on the premises of specialist teams, which are arranged in ways designed to put children at ease. Children are often provided with toys and drawing materials, partly for their enjoyment, but also to enable them to express themselves more

freely using toys as aids to communication (for example, using dolls in connection with proceedings concerned with sexual abuse).

664. Video recording of the evidence of victims who are minors, which is mandatory when they are victims of sexual offences, also allows a record to be made, so that they do not have to repeat the detail of the acts of which they have been victims. If the child's account is sufficiently clear and detailed, the investigating judge will be able to avoid arranging direct confrontation between minors and the adult whom they are accusing. All courtrooms in criminal and assize courts now have screens enabling this evidence to be shown. If it is impossible for technical reasons to make a recording, this is mentioned in the official record of the interview, which must specify the nature of the technical problem.

665. With, and at the initiative of, the association *La Voix de l'enfant*, voluntary associations involved in child protection are involved in creating and co-financing interview rooms in hospitals for minors who are victims of sexual or other abuse. The rooms provide the necessary space, time and scope for the investigators to make an audiovisual record of the minor in the best possible conditions. Expert psychological and medical support is also provided. Children and their families are looked after by staff who have the right skills and are referred, if necessary, to other appropriate sources of support.

2. The right to be safe

666. French law caters for the protection of minors who are victims or witnesses of crime who may be targeted with threats or reprisals during the judicial process.

2.1 Witness safety

667. Articles 706-57 *et seq.* of the Code of Criminal Procedure provide for protection to be given to any witness of criminal offences who is able to provide evidence which is relevant to proceedings by offering them, when authorized by the public prosecutor or investigating judge, the opportunity to declare as their home address the address of a police station or brigade of the gendarmerie. In this case, the personal address of the witness who is a minor is kept on a confidential register.

668. In addition, in procedures in relation to a crime or offence punishable by at least three years' imprisonment, special arrangements apply in cases where the giving of evidence by a person covered by article 706-57 of the Code could gravely endanger the life or physical safety of the person or of their family or close associates. On receipt of a formal referral stating the reasons from the public prosecutor or the investigating judge, the liberty and custody judge may authorize the person's statements to be recorded without their identity appearing on the main case file. The decision by the liberty and custody judge, which does not show the person's identity, is appended to the formal record of the witness interview, which does not include the person's signature. The identity and address of the person are included in a second copy of the formal record of the interview signed by the witness, which is filed on a dossier separate from the main case file, and which also contains applications of the kind referred to in the preceding paragraph. The identity and address of the person are recorded in a numbered and initialled register which is disclosed to the regional court.

669. The safety of the minor is also safeguarded by article 144.2 of the Code of Criminal Procedure, which allows an accused to be summoned and placed in pretrial detention to prevent pressure on witnesses or victims or their families.

2.2 Protection of victims

670. When a minor is a victim of criminal offences within the family unit, in circumstances including habitual violence, acts of torture or sexual offences, the public

prosecutor, if informed of criminal acts harming the minor, may act on his own initiative, in an emergency, to place the minor in residential care. This protects the minor, not only against any repetition of the acts, but also against any risk of pressure or reprisals. Placement can also be ordered by a juvenile court judge to whom a formal referral has been made for a ruling on an educational measure.

671. Finally, the Act of 9 July 2010 on violence specifically directed against women, on conjugal violence, and the impact of such violence on children introduces new provisions allowing the family judge to make a protection order if violence within a couple is putting children at risk. The measures contained in such an order can include the concealment of addresses for the purpose of protecting the victim from any risk of reprisals or harassment: the party seeking the order is then able to adopt the address of their lawyer or of the public prosecutor as their home address for the purposes of all civil proceedings. The family judge can also order measures preventing a defendant from making contact in any manner whatsoever with specified persons, including children. Breaching this prohibition is a criminal offence.

E. Children belonging to minority and indigenous groups

672. At paragraph 102 of its Concluding Observations dated 22 June 2009, the Committee recommended that France should ensure that minority groups and indigenous peoples of Overseas Departments and Territories benefit from equal enjoyment of their rights and that children receive the possibility to validate their cultural knowledge without discrimination. It further urged France to take measures to eliminate all discrimination against children belonging to minority groups, in particular in regard to their economic and social rights.

673. On this subject, see annex II to the third and fourth reports, dealing with the approach of France to the question of minorities, which has not significantly changed.
