



**Convention on the
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**WRITTEN REPLIES BY THE GOVERNMENT OF FRANCE
TO THE LIST OF ISSUES (CRC/C/FRA/Q/4) PREPARED BY
THE COMMITTEE ON THE RIGHTS OF THE CHILD IN
CONNECTION WITH THE CONSIDERATION OF THE
THIRD AND FOURTH PERIODIC REPORTS OF FRANCE
(CRC/C/FRA/4)***

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Additional information requested by the Committee on the Rights of the Child in connection with the consideration of the third and fourth periodic reports of France on the implementation of the Convention on the Rights of the Child

PART I

Question 1: Preparation of the report and dissemination of the Committee's concluding observations

(a) The preparation of the periodic reports of France is a collective ministerial undertaking, coordinated by the Ministry of Foreign and European Affairs. The preparation of these reports, for the Convention on the Rights of the Child (hereinafter "the Convention") as for all instruments requiring a follow-up mechanism, involves the participation of technical State services, independent authorities, non-governmental organizations (NGOs) and associations.

For the third and fourth reports, the Ministry of Foreign and European Affairs asked the ministries concerned with the application of the Convention for their contributions, taking into account the previous recommendations of the Committee on the Rights of the Child (hereinafter "the Committee"). This report therefore brings together contributions from the ministries involved in the application of measures concerning the rights of the child.

The Ministry of Foreign and European Affairs has also called upon the National Consultative Commission for Human Rights (CNCDH), which includes representatives of NGOs and associations, concerned with general interests and with the rights of the child, and the Children's Ombudsman. A first meeting was held on 4 April 2007, at which the Government informed the CNCDH of the procedure to be followed and exchanged views on subjects and issues requiring priority attention. A second meeting was held on 10 July 2007 to discuss the draft report submitted by the Government.

At the time it consulted the ministries, the Government also consulted the Children's Ombudsman, the High Authority to Combat Discrimination and Promote Equality (HALDE), the French Adoption Agency, and the National Council on Access to Personal Origins, which were informed of the schedule and methodology applied for the preparation of the periodic report and of the possibility of opting for their own form of contribution.

The final report submitted to the Committee takes account of the comments made in the course of those consultations.

(b) The Committee's concluding observations are circulated to all ministerial departments involved in the implementation of the Convention. The Government also met the CNCDH after its hearing with the Committee on the Rights of the Child regarding the initial reports on the implementation of the two Protocols additional to the Convention.

In addition, the websites of certain ministries (such as the Ministry of Foreign and European Affairs, the Ministry of Labour, Social Relations, Family, Solidarity and Urban Affairs) and independent authorities (such as the Children's Ombudsman) contain pages specifically about the rights of the child that all refer to the Convention and its two Protocols and their follow-up mechanism. The information provided on these websites varies, and may include

a presentation and/or the full text of the Convention and its Protocols, explanations concerning the follow-up mechanism, online access to the Committee's recommendations and links to other sites, including the United Nations.

In addition to this official information, relevant information on the subject is made available to the public by specialized associations.

Question 2: Direct applicability of the Convention since 2005

The provisions of the Convention do not all in themselves give rise to rights for individual litigants. Some articles are worded so that the obligations they set out apply only to States. Only provisions that are considered sufficiently precise, clear and unconditional may be directly invoked by plaintiffs in court. The recognition of the direct applicability of the Convention by the Council of State and the Court of Cassation is therefore selective.

After 2005, domestic courts continued to apply some articles of the Convention directly¹ (such as article 3, paragraph 1) and further extended applicability to more articles (such as articles 7, paragraph 1, 12, paragraph 2, and 20, paragraph 3). The case law of the Council of State also reflects the decisive influence of the Convention on administrative law applicable to children. Details of these advances in terms of case law are given in annex 1.

Question 3: Coordination and resources

1. Coordination mechanisms and human and financial resources

As indicated in previous reports, monitoring the coordination of ministerial measures for the implementation of the Convention is still entrusted to the ministers responsible for the family² and for overseas departments³ as regards domestic measures, and to the minister responsible for foreign affairs as regards international aspects. These ministries act in concert in order to give the necessary consistency, under the authority of the Prime Minister, to the Government's actions.

¹ See table given in annex 3 to the third/fourth report.

² Decree No. 2008-304 of 2 April 2008 on the appointment of the Secretary of State for the Family: "*Ms. Nadine Morano, Secretary of State for the Family, shall be in charge of all matters concerning the family and children ...*".

³ Order of 9 July 2008 on the organization of the general delegation for overseas departments: "*The public policies department shall service, organize and coordinate all public policies conducted abroad.*" In particular, it shall "*participate, with the other ministries concerned, in the design, preparation and implementation of policies specifically intended for the overseas departments*".

The French authorities are unable, on the other hand, to specify precisely what human and financial resources are devoted to the implementation of the Convention, insofar as they are incorporated within broader programmes. Budgets are not allocated individually to every international instrument that is ratified.

2. Implementation of the Act of 5 March 2007 reforming child protection

2.1 Implementing decrees

Some provisions of the Act should be further expanded in implementing decrees. Those which have already been adopted or are being drafted include the following:

- **Decree No. 2008-1422 of 19 December 2008 organizing the transmission of information in anonymous form to the Departmental Monitoring Service for Child Protection (ODPE) and the National Monitoring Service for Children at Risk (ONED)**

This decree, which implements article 12 of the Act of 5 March 2007, organizes the transmission of information concerning children at risk or potentially at risk to the Departmental Monitoring Service for Child Protection (ODPE) and the National Monitoring Service for Children at Risk (ONED). The aim is to circulate information on children at risk, on the work of departmental reception units, on the processing and evaluation of reports giving rise to concern and on the work of child protection services, as well as to facilitate an analysis of the consistency and continuity of measures taken to assist children in need of protection.

In practice, according to data published by ONED, this information gathering system has already been set up by 68 departments, in several cases even before the law has been promulgated. The Act of 5 March 2007 also provides for the introduction of a specific protocol for the processing of the data once obtained. This protocol concerns all institutional participants, such as law officers and child protection workers.

The fourth annual report of ONED, dated December 2008, analyses the introduction of the units in charge of gathering and evaluating disturbing information provided for in the Act of 5 March 2007. It highlights the way the new system clarifies the assignment of tasks, facilitates the exchange of information and ideas among the actors involved and enhances efficiency in the handling of the data obtained.

- **Decree No. 2008-774 of 30 July 2008 on the training of territorial officers in charge of child protection**

This decree, which implements article 25-III of the Act of 5 March 2007, establishes the duration of and rules governing the training of territorial officers and the scope of their authority. The decree of 25 September 2008 specifies the content of training provided under article D.226-1-2 of the Social Action and Family Code. This specialized training lasts 240 hours and focuses on knowledge of and the implementation of the Convention. The texts of these two decrees are given in *annex 2*.

- **Decree No. 2008-1486 of 30 December 2008 on the placement of minors and legal aid for the management of family budgets**

This decree concerns the procedure applying to the placement of minors for periods of more than two years, and the procedure applying to legal aid for the management of family budgets. It also gives the list of persons authorized to apply to a judge for an order to pay family benefits to a family benefits officer.

- **Decree on child protection training for persons referred to in article L 542-1 of the National Education Code**

The Act of 5 March 2007, in article 25-I, provides for the development of shared training, both initial and in-service, for all professionals working in contact with children (such as judges, social workers, teachers, police and gendarmerie officials, doctors, medical and paramedical personnel, or sports, culture and leisure instructors). This decree is currently being finalized.

- **Decree on the National Child Protection Financing Fund**

Under article 27 of the Act of 5 March 2007, this fund is intended both to provide State compensation for expenses arising from the application of the law, in accordance with rules and criteria established by decree, and to finance specific actions related to the reform conducted by departments and defined by agreement. Rules governing the administration of the fund by a management committee will also be set out in a decree. At present the draft decree is awaiting approval by the Prime Minister.

- **Ordinance on the application of the provisions of the Act of 5 March 2007 in the overseas collectivities**

Under article 40 of the Act of 5 March 2007, the Government may take whatever measures are necessary by ordinance to adapt the provisions of the law to French Polynesia, New Caledonia, Wallis and Futuna and Mayotte. The draft ordinance is in course of preparation.

2.2 Practice guides

The Government recalls that five practice guides explaining the reform, drafted by thematic working groups, were published in the first half of 2007. These guides have been available on the website of the Ministry of the Family⁴ since May 2007. They should be brought up to date and regularly reviewed in the course of 2009.

3.3 Progress report

In accordance with article 13 of the Act of 5 March 2007, a progress report on the new centralized arrangements for collecting, handling and evaluating disturbing information

⁴ Now the Ministry of Labour, Social Relations, Family, Solidarity and Urban Affairs.

concerning children is due for submission to Parliament. This process, conducted in consultation with the ministries in charge of justice and family affairs and the National Monitoring Service for Children in Danger, is currently under way.

3.4 Submission to Parliament of the report required under article 44 (b) of the Convention on the Rights of the Child

In accordance with article 26 of the Act of 5 March 2007, the Government must submit the report required under article 44 (b) of the Convention on the Rights of the Child to Parliament at three-yearly intervals, indicating the measures taken by the Government to give effect to the rights recognized in the Convention and the progress achieved in that respect. This report is therefore due in 2010.

Question 4: Training for professionals working with and for children

As explained in the third/fourth periodic report, the French authorities are seeking to strengthen the training on human rights in general and the rights of the child in particular available to professionals working with and for children.

General training for professionals

The Act of 5 March 2007 reforming child protection makes training in child protection rules **compulsory** for all professionals working with and for children.

The Act institutes **specific training for local authorities** who take decisions related to the protection of children on behalf of the President of the General Council and determine the way they are to be implemented. The content of this training, its duration (240 hours) and its operating rules were set out in a decree of 30 July 2008 (see the reply to question I.3 above), supplemented by a decree of 25 September 2008. The Convention on the Rights of the Child is an integral part of this training.

The Act also provides for the development of **shared training, both initial and in-service, for all professionals working in contact with children**, including doctors, medical and paramedical personnel, social workers, judges, teachers, sports, culture and leisure instructors, and police and gendarmerie staff. The content of the training, which is specified in a decree that is currently being finalized, also covers knowledge of the Convention on the Rights of the Child.

It may be recalled that the teachers of professional diplomas, ranging from level V (Certificate of Professional Aptitude (CAP) in early childcare, Diploma of Occupational Studies (BEP) in health and social careers) to level III (Advanced Technician Diploma (BTS) in family social welfare), are obliged to introduce their students to the texts on children's rights and protection currently in force. In their sections on "Legal status of the child and the family", both the CAP in early childcare and the BEP in health and social careers include material on the principles enshrined in the Convention on the Rights of the Child.

Specialized training for law enforcement officials

Specialized training is provided both during initial courses given in the national gendarmerie and police academies and during in-service training.

In the case of **initial training**, courses on human rights are taught throughout the training, and are followed by training modules shared by the High Authority to Combat Discrimination and Promote Equality (HALDE) and the National Ethics and Security Committee (CNDS). In 2007, the national gendarmerie and the national police concluded partnership agreements with the High Authority to deliver these courses.

Questions related more specifically to juvenile offenders or juvenile victims are broached several times in courses on general criminal law (particularly the question of the reduction or exemption of penalties for minors), on special criminal law (with regard to aggravated penalties in the case of under-age victims), on judicial police procedures (such as special police custody rules and guidance on the interviewing of child victims) and on administrative police procedures (disappeared persons, sale of alcohol, courses on child protection).

In the case of **in-service training**, several modules on problems specifically related to minors are included in gendarmerie and police courses. For example, 130 police officers each year attend a course specifically concerned with violence against children. Similarly, 180 gendarmes are trained each year in the techniques used for interviewing children, with contributions from the association *Enfance et partage* (children and sharing). Part of the training on childhood problems is compulsory, as in the case of police officials recently assigned to the minors' brigade (the compulsory course on sexual violence against children is attended by 150 police officials each year).

Specialized training for members of the armed forces

For many years the French armed forces have attended courses in the law of armed conflict, which cover the rules relating to the prohibition of the recruitment and use of children in armed conflicts, as part of both initial training (module on the law of armed conflict given in military academies⁵) and in-service training (for officers attending courses in the higher education centres of each force, the military training academy or those leading to the technical certificate).

This type of teaching is given throughout professional careers. Special attention is paid to the training of lawyers, who will sooner or later be called upon to advise command staff in the field or to disseminate or explain the rules applying to the use of force to soldiers (annual

⁵ The teaching in French military academies is given by specialists, such as officials of the legal affairs directorate and teachers specially assigned to academies like the special military academy of Saint-Cyr. Outside contributors are also called on, such as university teachers or staff of the International Committee of the Red Cross (ICRC).

two-week course organized by the legal affairs directorate of the Ministry of Defence and the army general staff,⁶ cooperation with foreign academies or institutes,⁷ etc.). General staff exercises organized as part of military training cover the legal aspects of all military operations.

Specialized training for law professionals and prison staff

Questions dealing with human rights and more specifically the rights of the child are covered in student courses 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 are also part of the training on criminal law, criminal procedure and judicial organization and courses dealing with family matters.

For example, in-service training and occupational adaptation courses for prison staff working in juvenile quarters or in establishments for minors also teach the principles enshrined in the Convention, including the interests of the child and the maintenance of family links. Plans are currently being considered for shared training projects with the National School for the Judicial Protection of Young Persons.

Specialized training for teaching staff

The Convention is part of the common culture represented by the common core of knowledge and competences.⁸ Since 1990, it has been included in all school curricula from primary school down to the penultimate grade of secondary⁹ (in civic, legal and social education courses). Civic education teachers must set aside 30 per cent of their course time each year to the study of children and their rights. International Children's Day provides an opportunity for primary and secondary school teachers to organize many activities around this theme.

In view of these teaching requirements, the study of the Convention is necessarily included in the initial and further training of teachers. Thus the Order of 19 December 2006 on teacher training specifications in university training institutes expressly stipulates that teachers must be familiar with the Convention on the Rights of the Child by the end of their training. Courses are given nationally as part of the initial and further training provided by the Higher School of National Education, and locally as part of teachers' academic training plans.

⁶ Since this training course was last given in 2008, the course has been improved, with an extension from one to two weeks and the participation of a French delegation from the ICRC and academic staff.

⁷ Such as the International Institute of Humanitarian Law in San Remo, Italy, or the legal course of the NATO school in Oberammergau (Germany).

⁸ *Bulletin Officiel* No. 29 of 20 July 2006.

⁹ Children between the ages of 6 and 16.

Question 5: Helpline for children

1. National helpline for children at risk (SNATED)

As indicated in previous reports, the national helpline for abused children (*SNATEM*) that was set up in 1989 became the national helpline for children at risk (*SNATED*) under the Act of 5 March 2007 on child protection, which gave it extended terms of reference.

Steps were taken to ensure access to the service for children throughout the country (through advertising, by making the service toll-free and by ensuring continuity).

Since March 1997, the service has been operating on a simplified 3-digit call number, 119. This number must be displayed in all premises receiving children. Its emergency call status (granted by decree in July 2003) ensures that it is accessible free of charge to everyone, even on mobile telephones and from overseas departments, on a permanent basis (365 days a year and round the clock). The number 119 never appears on the listed calls of telephone invoices.

Calls are dealt with according to a structured system. On average 2,200 calls are received every day. The response takes the form of listening, advising, informing and in some cases passing information on to the relevant services of the *départements*. The system is divided into three types of task:

- *Initial reception*: calls are received by a team of professional telephonists, who explain the service and forward the calls to the advisory team.
- *The advisory team*: consists of 50 professionals with varying specializations (including psychologists, lawyers and social workers), who have a knowledge of the pathologies related to ill-treatment and are familiar with institutional, administrative, judicial and social procedures. This team assesses the calls and passes information as necessary on to the General Councils (6,239 referrals in 2008). In many cases they are able to provide immediate assistance by responding individually, giving advice on local services or providing specific information on request (23,605 calls in 2008).
- *Coordination*: all these professionals are supervised by a team of coordinators, who provide a link between 119 calls and the social services of the *départements*.

SNATED is financed equally by the State and the *départements*. The regulatory share paid by each *département*, which is mandatory, varies according to the size of its population and (cf. articles L. 226-10 and 11 of the Social Action and Family Code).

For 2009, the SNATED budget is estimated to amount to 3,329,062 euros. The table below shows the annual expenditure of SNATED from 2004 to 2009.

Year	SNATED operating costs (in euros)
2004	3 284 824
2005	3 131 413
2006	2 951 976
2007	3 227 193
2008	3 301 745
2009	3 329 062

2. The introduction of European call numbers 116.111 and 116.000

In compliance with Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services, member States have been requested to reserve the national numbering range beginning with “116” for services of social value.

In decisions 2007/116/CE of 15 February 2007 and 2007/698/CE of 29 October 2007, three numbers in particular were identified, including 116.000 for “hotlines for reporting missing children”, and 116.111 for “child helplines”, which assist children in need of care and protection and connect them up with the relevant services, even in emergency situations.

The number 116.111 should be operational by the end of 2009. It is to be managed by the Public Interest Group Children at Risk (*Enfance en danger*) (*GIPED*) on account of the experience the latter has already gained in the area of telephone assistance through its management of “119” calls. The statutes of GIPED should be amended shortly in order to take account of the extended tasks assigned to SNATED.

The number 116.000 should be operational by May 2009. Calls will be managed by the National Institute for Victim Support and Mediation (*INAVEM*), and the files on missing children by the Children’s Foundation. An inter-ministerial agreement¹⁰ to this effect was signed in February 2009.

Question 6: Databases

1. Data concerning children at risk

As indicated in the third/fourth periodic report, Act No. 2007-293 of 5 March 2007, which makes the President of the General Council responsible for collecting, handling and evaluating disturbing information on children at risk or potentially at risk, also provides for the data to be forwarded to the Departmental Monitoring Service for Child Protection (ODPE) and the National Monitoring Service for Children in Danger (ONED). The nature of these data and the procedures applied for their use are given in *annex 3*.

¹⁰ Between the Ministry of Labour (State Secretariat for the Family), the Ministry of Justice and the Ministry of the Interior.

2. Files used by law enforcement agencies

The main files used by law enforcement agencies containing personal data on children are listed in *annex 4*. They are the STIC file (*système de traitement des infractions constatées*) on reported offences, the local “Canonge” database (which stores anthropometric photographs and descriptive features of suspects¹¹), the FAED automated fingerprint database (*Fichier automatisé des empreintes digitales*), the FNAEG automated DNA database (*Fichier national automatisé des empreintes génétiques*) and the FPR wanted persons file (*Fichier des personnes recherchées*).

3. Ministry of Justice files

Two Ministry of Justice files hold data on children: the national criminal record and the judicial file on perpetrators of sexual or violent offences (*FIJAIS*). These are listed in *annex 5*.

4. Files used by the Ministry of National Education

(a) Preschool and primary school (*base élèves 1er degré*) pupil database

The preschool and primary school pupil database system is defined in the ministerial order of 20 October 2008 (*annex 6*). It may be recalled that, compared with the initial version of this data system, many types of data - such as the nationality of pupils, their education in the language and culture of origin, their family situation, the occupation and social category of parents, the children’s special educational needs and absenteeism - were withdrawn after discussions with parents’ associations.

This file is intended to facilitate the task of the public education service (art. L. 111-1 of the Education Code) and compliance with the principle of compulsory schooling (arts. L. 131-1-1 and L. 131-2 of the Education Code). It is applied in public and private nursery, elementary and primary schools, and in primary school districts, school inspectorates and town halls on request for data concerning them.

It is aimed at facilitating:

- The administrative and educational management of preschool and primary school pupils (registration, admission, dismissal, class assignments, promotions to higher classes)
- The management and piloting of primary school teaching in preschool and primary school districts and school inspectorates
- Educational and national piloting (in terms of statistics and indicators)

The personal data collected are recorded and stored in education databases until the end of the calendar year in the course of which the pupil leaves primary school. A pupil’s personal data

¹¹ A person is considered suspect if significant or matching clues make it appear likely that the person has perpetrated an offence as an author or accomplice.

may be accessed only by the principal of the school where the pupil is registered, the national education inspector of the district to which the pupil belongs, and the school inspector, the director of departmental national education services where the pupil is registered. The regional education office and *a fortiori* the Ministry's central office have access only to statistical data derived from these bases.

Parents and legal guardians may have access to and rectify data under article 8 of the order. On the other hand, since schooling is compulsory in France for children between the ages of 6 and 16 (article L. 131-1 of the Education Code), parents may not object to a school collecting data on their child. A right of objection would in any case not appear to be compatible with the object of the system.

The Ministry of National Education has attached particular importance to the security of data. An accurate authentication system is currently nearing completion for all users of the preschool and primary school pupil database. In addition, access to the application was from the start protected by a login/password mechanism, which was considered adequate by an external audit carried out during the experimental phase.

Question 7: Places of deprivation of liberty

(a) Summary of the findings and recommendations following visits to juvenile detention facilities

As this duty was added only recently, in the second half of 2008, the Controller General of Places of Deprivation of Liberty visited only one prison establishment for children (the Quiévreachain EPM centre on 15 and 16 October 2008). On the occasion of visits to 17 prison establishments between September and December 2008, however, minors' quarters, where there were any, were inspected with particular attention.

To date no specific recommendation has been made public concerning the conditions of detention applied to minors. The visit to the Quiévreachain EPM did, however, result in a few recommendations to the Minister of Justice, which may or may not be confirmed by subsequent visits to other establishments. The recommendations focus chiefly on the geographic location of establishments, which should be accessible for family visits and help to maintain family links, on the need for carefully supervised disciplinary procedures, as well as on the need to improve medical care for detained minors (by making medical records more accessible), and to ensure that care and financial assistance continue to be available after detention (including anti-smoking treatment).

(b) Specific information on measures taken to remedy the problems that arise in juvenile detention facilities (suicide, overcrowding, violence and so forth)

Three juvenile detainees committed suicide in the course of 2008, following a period of three years, from 2005 to 2007, with no suicides. The figure was one suicide per year from 2002 to 2004.

The prevention of suicide among juvenile detainees is a priority. A working group was set up in June 2008, attended by the director of the prison administration, the director of the judicial protection of young persons and the director general of health, in order to put forward proposals.

The working group met four times in order to draw up a new assessment chart of suicide risk and suicide-prone behaviour, with the participation of various experts (including a child psychiatrist, psychologists, medical officers, a judge, the director of a juvenile detention centre and the director of the educational service of a juvenile detention centre). The new chart, entitled “*Collected information for assessing suicidal tendencies among juvenile detainees*”, was released on 23 October 2008 and circulated with instructions for use to the directors of juvenile detention centres and the directors of establishments with “minors’ quarters” (see *annex 7*). The chart will be completed and more detailed recommendations will be added after the group of experts has held its meeting in December 2008.

Six new juvenile detention facilities have been opened to cater specifically for the 13 to 18 age group of minors, with the aim of focusing on the educational requirements of young detainees in order to give them the best chances on leaving detention. The timetable in the detention facilities, from 7.30 a.m. to 9.30 p.m., is designed so as to keep inmates out of their cells as much as possible. Minors are accommodated in individual cells in housing units with not more than 10 places. In addition to the traditional family visiting rooms, youngsters are allowed access to the telephone. In this respect the Controller General of Places of Deprivation of Liberty supported the idea of allowing use of the telephone according to the “white list” principle (whereby only numbers listed by the administration may be called).

On 1 February 2009, 694 minors were held in detention for 1,098 places available, which means an occupancy rate of 63 per cent.¹²

According to the statistics available to the director of the prison administration of the Ministry of Justice, between 2005 and 2009, the numbers of cases of abuse occurring among minors amounted to 8 in 2005, 5 in 2006, 15 in 2007 and 10 in 2008. By 1 March 2009, 4 cases were reported for the current year.

By agreement between the prison administration, the office of judicial protection of young persons, and the ministries of education and health, a closer system of supervision has been introduced in “minors’ quarters” and in juvenile detention centres. The new system of closer and personalized supervision should reduce not only the risk of suicides but also the risk of violence by making it possible to adapt conditions to the development of the minors involved.

(c) Investigations into the deaths of minors in detention since 2004

Five minors have died in detention since 2004: 1 suicide in 2004, 1 death in 2006, 3 suicides in 2008.

¹² Data supplied by the prison authorities.

Each of these suicides gave rise to an inspection by the prison authorities. The inspection reports did not find any blame attributable to members of staff, or any lapses in the supervision and control of detainees, whether from the point of view of their conditions of detention or that of actions by prison staff. They did, however, lead to several recommendations, with a view *inter alia* to improving the circulation of information between the actors concerned, initiating medical care as soon as possible after internment, using and improving tools for detecting and analysing suicide risks (see the reference above to the new assessment chart for evaluating suicide risks among juvenile detainees), ensuring that families are notified as soon as minors are interned and initiating a joint follow-up analysis after every suicide.

In addition, investigations may be ordered in the event of the death of a juvenile detainee, as in the case of adult detainees.

In the first place, in the absence of any suspicious elements at first sight, inquiries are systematically initiated into the causes of death pursuant to article 74 of the Code of Penal Procedure. These inquiries, which may be conducted by a prosecutor or by an investigating judge, allow whatever investigations are necessary to be conducted in order to determine whether the death in question resulted from a criminal offence.

If it is considered that the death was caused by a criminal act, whether intentional (as in the case of intentional homicide or violence causing death unintentionally), or unintentional (such as unintentional homicide or failure to assist a person in danger), criminal investigations are ordered, usually by an investigating judge. It may be noted that a case may be referred to the investigating judge by the public prosecutor, or in the event of the latter's refusal, directly by a third party affected by the event, such as a member of the family or other person, by means of a complaint accompanied by criminal indemnification (*partie civile*) proceedings, if necessary against a named person.

Question 8: Measures taken within the scope of the Optional Protocols

The Government wishes to reply as follows regarding the measures taken in response to the Committee's concluding observations on the initial reports of France on the implementation of the Optional Protocols to the Convention, concerning the sale of children, child prostitution and child pornography (in particular paragraphs 19, 23 and 25) and concerning the involvement of children in armed conflict (in particular paragraphs 8, 15 and 18).

1. Optional Protocol to the Convention on the sale of children, child prostitution and child pornography

1.1 Illegal international adoption and sale of children

The recommendations given in paragraph 19 of the Committee's concluding observations are reflected in French legislation in the form of the prohibition of human trafficking (articles 225-4-1 and 225-4-2 of the Criminal Code), of incitement to the abandonment of a child and of acting as an intermediary for pecuniary gain in the abandonment or adoption of a child (article 227-12 of the Criminal Code).

As the Government indicated to the Committee in its initial report on the implementation of the Protocol,¹³ the offence of trafficking in persons¹⁴ perpetrated against minors (punishable by 10 years' imprisonment and a fine of 1,500,000 euros), introduced under Act No. 2003-239 of 18 March 2003 on internal security, makes it possible in practice to penalize the sale of children in cases where the accommodation or reception of a child is aimed at abusing or exploiting the child or forcing the child to commit offences.

Acting as an intermediary to unlawfully obtain consent to the adoption of a child, in violation of international legal instruments on adoption, is punishable as an offence under article 227-12 of the Criminal Code, which punishes incitement to abandon a child (six months' imprisonment and a fine of 7,500 euros), as well as acting as an intermediary for purposes of adoption (one year's imprisonment and a fine of 15,000 euros).

While these penalties cannot be applied against foreign nationals committing the offence abroad, any intermediaries or future parents involved who are resident in France may be prosecuted on French territory, if necessary as accomplices. Moreover, if only one of the elements constituting the offence is committed on French soil, all the perpetrators involved are liable to prosecution in France.

For example, in the case of a sale of Bulgarian children, an investigation was initiated on 9 July 2004 by the prosecutor with the regional court of Bobigny. The case before the criminal court lasted from 22 January to 2 February 2007. The organizers or intermediaries in the trafficking of newborn children received prison sentences ranging from one year to six years and were forbidden entry to French territory. Most of the parents buying the children were given suspended sentences of six months' imprisonment. Parents who committed the offence with several children received sentences of two years' imprisonment, of which one was suspended.

1.2 International assistance and cooperation

The aim of initiatives in the framework of international cooperation and bilateral relations with developing countries is to deal effectively with the phenomenon of human trafficking as a whole.

The French Government thus encourages government actors and civil society, including the police, judicial authorities, international organizations and NGOs, to combine their efforts by networking. This makes it possible to organize information events for civil society (such as seminars or talks), or training for judges and police officials aimed at combating criminal

¹³ See in particular paragraphs 17-19 and 24-25 of the initial report of France.

¹⁴ Defined as the recruitment, transport, transfer, accommodation or reception of a person, in exchange for remuneration, the promise of remuneration or any other consideration, in order to place that person at the disposal of an identified or unidentified third party, for the purpose of either allowing the commission against the person of the offences of procuring, sexual aggression or assault, the exploitation of mendicancy or working or living conditions inconsistent with the person's dignity, or to compel the person to commit any crime or offence.

networks and trafficking, and discussions about assistance to victims and their reintegration in society (on the occasion of seminars, for instance). Most of these initiatives do not draw any distinction between children and adults.

Human trafficking may also be combated by strengthening police and judicial cooperation, in particular through the French network of internal security attachés¹⁵ (91), liaison officers (65), technical court assistants¹⁶ (33) and liaison magistrates (15).

Another key point of this policy is **assistance for victims and their reintegration** in Europe, Africa and Asia. The details of activities conducted by France in this area are given in *annex 8*.

1.3 Unaccompanied foreign minors

The Committee's recommendation in paragraph 25 concerning the protection of child victims is more specifically concerned with **unaccompanied foreign children at State borders**.

It is worth mentioning in the first place that on the initiative of the Ministry of Immigration **a working group** has just been set up to deal with the question of unaccompanied foreign minors. This inter-ministerial working group, which will include several NGOs, possibly specialized in child protection and the law of foreigners, and international organizations, such as UNHCR (Office of the United Nations High Commissioner for Refugees) and UNICEF (United Nations Children's Fund), will consider all issues in this area, particularly those mentioned by the Committee on the Rights of the Child in its concluding observations. One matter that will be looked into in particular is the question of unaccompanied minors applying for an entry permit at the frontier, and possibly seeking asylum.

A number of the points raised in paragraph 25 of the Committee's concluding observations need to be clarified.

Appeals

According to French law (article L. 221-1 *et seq.* of the Code on the Entry and Residence of Foreigners and the Right of Asylum (CESEDA)), placement in a holding area, which may be decided by the administrative authority for a period of up to 96 hours, is an administrative decision which may be appealed before an administrative tribunal. This appeal may be lodged as an urgent application, which, if granted by the judge, has the effect of suspending proceedings.

¹⁵ The network of internal security attachés serving with embassies undertakes technical cooperation activities (such as training courses or seminars) not only with the countries in the priority solidarity area (54 countries) but with other countries in Asia, Latin America and Europe.

¹⁶ These are judges, registrars, barristers and lawyers who are working on aspects related to human trafficking, such as instituting a form of juvenile justice or assisting resettlement in the country of origin.

Beyond the 96-hour limit, keeping the person in custody for eight days must be authorized by a liberty and custody judge, who is also the only one authorized to extend the holding time for a further eight days. Each decision taken by the liberty judge, either to place a person in the holding area or to extend the holding time, is open to appeal before the president of the appeal court. In any case, the procedure offers many safeguards, such as allowing a foreigner to see his file, or to be assisted by an interpreter if necessary, and by a lawyer, who may be designated, or the right to a court hearing. Minors, who are assisted by an ad hoc administrator, have the same rights.

Alongside these remedies, which are more concerned with placement in holding areas, there are other appeal procedures available to challenge a refusal of entry to French territory. Such a decision may be appealed before an administrative judge or by urgent application, which allows a quick decision and, if successful, will suspend implementation of the decision to refuse entry. In the case of a refusal of entry for **asylum**, since the introduction of Act No. 2007-1631 of 20 November 2007 there has been the possibility of lodging a fully suspensive appeal before the administrative judge, in compliance with the instructions of the European Court of Human Rights (judgement in the *Gebremedhin v. France* case of 26 April 2007).

Assistance for unaccompanied foreign minors

According to the law (article L. 221-5 of the Code on the Entry and Residence of Foreigners and the Right of Asylum (CESEDA)), every foreign minor is entitled to be assisted by an ad hoc administrator responsible for assisting the minor and securing his or her representation at all stages of the procedure.

This ad hoc administrator, who is designated by the public prosecutor, will come from an association that is active in the fields of law governing aliens or child protection (such as the Red Cross or France Terre d'Asile). Every effort is made to ensure that this legal obligation, introduced for the purpose of protecting the rights of the child, is fulfilled. The judge in charge of liberties who is responsible for supervising the procedure must ensure that it is correctly applied and may reject or annul the placement of a minor in the holding area if it is not in accordance with the law.

Under the Order of 2 September 2008 on the costs of criminal justice for forensic medicine, interpretation and the ad hoc administrator, the fixed sum paid to ad hoc administrators appointed to deal with unaccompanied foreign minors has been increased from 50 per cent to 200 per cent, depending on which stages of the procedure they take part in.

Special attention is paid to minors placed in holding areas, while their request for asylum or their situation is being examined, so as to ensure that each case is duly considered from a humanitarian and psychological point of view.

At present, minors under the age of 13 are lodged in a hotel and accompanied by a nurse. This arrangement is about to change, however, and accommodation is to be provided in a separate sector of the holding area, run by the Red Cross, under the terms of an agreement arrived at with the public authorities. Minors who are older than 13 stay in the holding area in a

section set aside for families and receive special care. Apart from the ad hoc administrator, the association working in the holding area offers these minors humanitarian assistance, while security staff exercise appropriate supervision.

Medical care may also be provided. The French authorities, in view of the risk of these unaccompanied minors becoming the victims of trafficking or exploitation rings, take every care while the minors' situation is being considered and they are being kept in the holding area.

Non-return (*non-refoulement*) of unaccompanied foreign minors in need of protection

In accordance with the principle of *non-refoulement* established in the Geneva Convention relating to the Status of Refugees and in article 3 of the Convention against Torture, no unaccompanied minors applying for entry to France, for whom it appears on careful examination that they would be exposed, in the event of returning to their country of origin, to persecution or to inhuman or degrading treatment and especially to exploitation or trafficking, may be sent back to that country.

If it appears from examination of the cases that there is a need for protection in France, the minors will be allowed entry and will be sent to a reception centre specializing in the care of minors (the Taverny Care and Advice Centre), where they will receive all the necessary legal, humanitarian, medical and psychological assistance, pending placement in an institution run by the child welfare services or in the care and advice centre for unaccompanied asylum-seeking minors (located in Boissy Saint Léger). In no event may a minor be left unaccompanied and unprotected on French territory as a result of an entry application.

If the need for protection in France cannot be established, it may be decided to refuse entry, but the French authorities will then ensure that the minor is properly returned to his or her family in the country of origin, in appropriate conditions of security.

Social and legal protection of unaccompanied foreign minors

The Act of 5 March 2007 reforming child protection expressly states that child protection is also aimed at preventing any difficulties which may arise for minors temporarily or definitively deprived of the protection of their families and providing them with the care they need (article L. 112-3 of the Code for Social Action and the Family), especially unaccompanied foreign minors.

The care provided for these minors, under the child protection laws, is initially in the hands of the *départements* authorities, who are responsible for child protection, since the courts in principle exercise only a subsidiary jurisdiction in such matters.

In the event of an emergency, where the legal representatives are *unable to give their consent*, the minor will provisionally, for five days, be taken into the care of the child welfare service, who must notify the public prosecutor. After that time has elapsed and if the consent to temporary care has not been obtained from the legal representatives, the service will notify the public prosecutor, who, if it is considered necessary, may order urgent placement

(article L. 223-2 of the Code for Social Action and the Family). The placement must then be followed, within eight days, by an application for educational assistance lodged with the competent children's judge.

The public prosecutor acts as a filter (in accordance with article 375 of the Civil Code) and will forward the application for educational assistance to the children's judge only if the minor is in danger or is assumed to be at risk (according to article L. 226-4 of the Code for Social Action and the Family). When the case is reported, the public prosecutor may also refer the matter to the judge for family affairs for the purpose of placing the unaccompanied foreign minor under guardianship or seeking a transfer of parental authority.

2. Optional Protocol to the Convention on the involvement of children in armed conflict

2.1 Recruitment in the armed forces

With regard to the recommendations in paragraph 8, as stated above, the French Government believes that French legislation in this respect complies with the rules of the Convention and the Protocol on the involvement of children in armed conflict, in view of the safeguards applied to the voluntary admission of candidates who have not reached the age of 18.

It may be noted that in practice no minor under the age of 18 may take part in any operation abroad, on account of the duration both of the probation periods stipulated in contracts (six months) and of the initial training provided (from four to seven months at least depending on the type of training). Furthermore, the Foreign Legion does not currently have any minors within its ranks, despite the legal possibility of recruiting from the age of 17.

In order to improve understanding of and respect for the Convention and its Protocol, a directive was passed forbidding the use of military personnel under the age of 18 in the armed forces and related units on 24 September 2007.¹⁷

2.2 Status of students at military educational establishments

Further to the information already supplied to the Committee on this question, the Government would like to add that, as previously announced,¹⁸ the status of technical education students in the air force has been governed since 12 September 2008 by the provisions of Decree No. 2008-936, which has increased by 1 year to 16 the minimum age of entry. While military pupils are subject to the provisions relating to military discipline, college rules may depart from these provisions.

It is also worth pointing out that students at military colleges are civilians and thus are never subject to the statutory and disciplinary provisions applied to military personnel.

¹⁷ Directive No. 13524/DEF restricting the use of military personnel aged under 18 years in the armed forces or related units of 24 September 2007.

¹⁸ Replies dated 30 August 2007 to the Committee's list of issues.

2.3 International assistance and cooperation

Since 2008 France has been conducting a multi-year cooperation project worth 2 million euros to improve the protection of children in armed conflicts in the African region of the Great Lakes (Burundi, Uganda, Democratic Republic of the Congo) as well as in the region of Central and Eastern Africa (Central African Republic, Sudan, Chad).

In these two regions, activities are organized around three components: protection and assistance (aimed at facilitating the long-term resettlement of children who have been the victims of armed conflict); prevention and awareness (aimed at combating the use of children in armed conflicts and protecting their rights); and strengthening the abilities of communities and the authorities to manage the welfare of child victims.

This project is being run by two regional cooperation experts, one of whom has been based in Kinshasa since December 2007 and the other of whom will shortly take up his duties in Khartoum.

In addition, France recently signed a participation agreement with UNICEF in the Democratic Republic of the Congo (for €700,000). The project, entitled “Support for activities to prevent the recruitment of children and to resettle children affected by armed conflict in the Democratic Republic of the Congo”, is due to last 18 months and is aimed at ensuring the social and economic resettlement of children released from armed forces and groups by supporting and strengthening community-based child protection mechanisms.

Lastly a young associate expert has been attached to the UNICEF office in Kampala (Uganda) since April 2008 to deal specifically with children connected to armed forces and groups.

2.4 Unaccompanied foreign minors

The French authorities are aware of the importance, pointed out by the Committee in paragraph 18 of its concluding observations, of providing appropriate protection to unaccompanied asylum-seeking refugee and migrant children, who have been exposed to considerable violence in their countries of origin and who may have been recruited or used in armed conflicts.

Such situations may be identified at the time applications are made for entry to France or for asylum at the frontier, at the time a request for asylum is examined by the French Office for the Protection of Refugees and Stateless Persons or while the children are being housed in a reception facility for young migrants or one of the establishments devoted to the care and accommodation of unaccompanied minor asylum-seekers (such as the above-mentioned Taverny Care and Advice Centre or the advice centre for unaccompanied asylum-seeking minors located in Boissy Saint Léger).

In these facilities, personal assessments are made and suitable medical and psychological care is provided according to circumstances by specialized staff, for as long as necessary. This action is backed up with legal aid and resettlement assistance through education.

In particular, the Centre for the Care and Guidance of Unaccompanied Minor Asylum-Seekers (*CAOMIDA*) is specialized in care for young asylum-seekers. It takes in young persons referred to it either by the child welfare services, or by the Taverny Centre run by the Red Cross, which deals with unaccompanied minors arriving at Roissy airport, or by the Paris reception centre for unaccompanied minors run by the association *France terre d'asile* (France, land of asylum), and looks after them for a period of 12 to 18 months, until such time as they can be taken over by the ordinary law child welfare services, subject to very careful psychological handling.

It may be added that the social care provided to these young persons by the social welfare services may be extended beyond the age of 18, up to the age of 21, as part of programmes for “young adults”.

The question of the way foreign minors are dealt with and the social, educational and psychological care provided for them is one of the issues to be looked into by the working group on unaccompanied foreign minors, which has just been set up by the Minister for Immigration (see section 1.3 above) with a view to improving the system.

Question 9: Priority issues

On this point the Committee might like to refer to the other replies given by the Government, especially with regard to the prevention of ill-treatment (implementation and evaluation of the Act of 5 March 2007 reforming child protection), the prevention of suicides among detained minors (to be dealt with by an inter-ministerial working group with contributions by several NGOs), or schooling for pupils with disabilities (protecting the right to schooling of children with disabilities).

The Government also wishes to draw attention to the particular effort which is being made to improve the efficiency of priority education, in order to achieve greater equity in school. The main objective in this area is to reduce the differences in the school results achieved by pupils who are included in priority education and those who are not. Generally speaking, the national education system uses on average 15 per cent more resources per pupil in priority education, which amounted to a cost of close to 1,094 million euros in 2009.

Priority education is now based on two types of networks: the “ambition success” national networks and the “school success” networks run by the academic authorities.

There are currently 254 “**ambition success**” **networks**, which include almost 260,000 primary school children and 122,700 secondary school students (about 5 per cent of the school population). Initial results have been encouraging insofar as the gap between the success rates at the *brevet* exam of “ambition success” students and non-priority education students has been reduced by 2.8 points. This policy rests on achieving more consistency between primary and secondary schools, a closer connection between time spent on school and out-of-school activities and better support for children experiencing difficulties.

The **school success networks** concern about 800,000 primary and 400,000 secondary school students (15 per cent of the total population).

A further addition to the education system has been the “*Espoir banlieues*” plan for suburban areas. In order to ensure real equality of opportunities in schools, not less than eight key measures have already been implemented or are in the course of implementation (see *annex 9*).

PART II

New bills or legislation

1. Act No. 2007-1198 of 10 August 2007 on laying down more rigorous measures to prevent reoffending by adults and minors

In order to reduce the likelihood of repeated offences, the Act of 10 August 2007 on laying down more rigorous measures to prevent reoffending by adults and minors has introduced minimum prison sentences in the Criminal Code for all crimes and serious offences punishable by at least three years of imprisonment if recommitted, while laying down the circumstances under which the courts might allow exceptions.

Under the terms of this Act, courts may adapt the sentence handed down to individual cases. Thus in the case of a simple repeated offence (reoffending for the first time or committing a second offence which is less serious than the first), an exception may be allowed in the light of “*the circumstances of the offence, the personality of the perpetrator or the assurances offered by the latter of successful resettlement or reintegration*”. On the other hand, in the event of aggravated recidivism (second repetition of the most serious offences), the condition laid down is that the offender must offer “*exceptional assurances of successful resettlement or reintegration*”.

This special rule applies more especially (articles 132-19-1, subparagraphs 7 to 12, of the Criminal Code) in the case of sexual assault or violence, and also in the case of serious offences punishable with 10 years’ imprisonment. In these cases, the only penalty that the judge can hand down is one of imprisonment. Provided that reasons are given, the judge may, however, reduce the term of imprisonment below the minimum legal threshold in cases where the offender offers exceptional guarantees of subsequent resettlement or reintegration.

In this respect, the new provisions will apply to offences related to child pornography, referred to in article 227-23 of the Criminal Code, and those related to the exploitation of child prostitution, covered by article 225-12 of the Code.

The same Act introduces an amendment to the Ordinance of 2 February 1945 on juvenile delinquency. It maintains the principle of the reduction in penalties for minors in the case of minimum penalties established by the Act. This reduction in penalties is disallowed only in the case of minors aged between 16 and 18 who are found guilty of repeated violent or sexual crimes, as legally defined. The reduction in penalty may, however, be reinstated by the judge, provided that reasons are given. The Act also notes that educational measures and sanctions cannot be taken into account in cases of reoffending (since only sentences count as an initial term).

The Constitutional Council considered that this Act does not derogate from the principles of necessity and the personalization of penalties, and does not infringe the constitutional requirements pertaining to juvenile justice. On the last point it noted that the Act derogates from the principle of reduced penalties for minors only as a matter of exception, when certain serious offences have been committed for a third time, and that the court holding jurisdiction remains at liberty to decide otherwise. The Council recalled also that it was absolutely clear in the Government's intentions and in parliamentary discussions that the court with jurisdiction would still be able to order an educational measure, even for a reoffending minor,¹⁹ under the Ordinance of 2 February 1945 on juvenile delinquency.

2. Decree No. 2007-1151 of 30 July 2007

This decree extends legal aid to the appointment of lawyers to assist minors prosecuted before the police court or the *juge de proximité* (local magistrate) for offences within the four lowest categories of summary offences. This reform will allow juvenile offenders to receive the assistance of a lawyer, paid for by legal aid, regardless of the gravity of the offence for which they are being prosecuted (minor offence, major offence or serious crime).

3. Adoption bill

An adoption bill is currently being drafted and should be tabled before Parliament in the first half of 2009. In order to offer children the most favourable outlook in life, it aims to take more account of, detect and deal with situations of parental neglect. The child protection service must draw up a report each year on the situation of the children in its care, in which it must mention any case of blatant neglect on the part of parents, in order if necessary to initiate declaration of abandonment proceedings. The public prosecution office may also apply to the regional court in order to obtain such a declaration. The effect should be to speed up the formalities required for granting a child the status of ward of the State, which can lead to the child being adopted if it is in his or her interest.

The bill is also aimed at improving the assistance offered to persons wishing to adopt a child by providing them with full information on the implications of adoption.

4. Prison bill

With this bill, which is currently under discussion in Parliament, France intends to comply with European rules concerning juvenile detainees, with particular reference to European prison rules. The bill takes account of the special nature of juvenile detainees and the need to adapt their treatment, in compliance with recognized fundamental children's rights.

Since 2002, the French Government has placed the emphasis on more recruitment and training of security staff dealing with minors, more cultural, sporting and socio-educational activities, better accommodation and more scope for the action of educators in the field of judicial child protection in juvenile establishments and prison establishments with juvenile quarters.

¹⁹ Decision No. 2007-554 DC - 9 August 2007.

New institutions

1. Controller General of Places of Deprivation of Liberty

The function of Controller General of Places of Deprivation of Liberty was instituted by Act No. 2007-1545 of 30 October 2007, supplemented by Decree No. 2008-246 of 12 March 2008. The task of this new independent administrative authority is to “*supervise conditions of care and transfer of persons deprived of liberty, in order to ensure that their fundamental rights are protected*”.

The Controller General may “*visit at any time, within the territory of the Republic, any place where persons are deprived of liberty by decision of a public authority, as well as any health establishment accommodating patients hospitalized without their consent ...*”. His supervisory duties cover almost 5,800 places of internment, including prisons, police custody premises, court cells, holding centres, airport waiting areas, customs holding cells, psychiatric hospitals and escort vehicles. Any physical or legal person (such as associations) working for the defence of fundamental rights may bring to the Controller General’s attention facts or situations falling within the scope of his duties.

Mr. Jean-Marie Delarue was appointed Controller General on 11 June 2008.

2. High Family Council

The High Family Council was instituted by Decree No. 2008-1112 of 30 October 2008. It is chaired by the Prime Minister and is aimed at encouraging public debate on family policy, at making family policy more effective within a renewed framework of agreement, and putting forward recommendations and proposals in the light of social, economic and demographic developments. It may be called upon to consider any issue by the Prime Minister or the Minister in charge of family affairs. It is made up of representatives of the State, local authorities, social security bodies, the family movement, social partners, parliamentarians and qualified personalities.

3. Inter-ministerial Committee on Adoption

An Inter-ministerial Committee on Adoption was established by Decree No. 2009-117 of 30 January 2009 for the purpose of coordinating government action in this field. Under the authority of the Prime Minister, it includes all the ministries concerned, such as Interior, Foreign Affairs, Justice and Family, which chair the committee by delegation. Its task consists in coordinating, monitoring and assessing adoption policy, and supervising action taken in this field.

4. Specialized law enforcement services

The Government would like to update its last periodic report on this point.

National Police services specialized in the protection of minors carry out judicial inquiries whenever children or adolescents are subjected to certain types of abuse (ill-treatment or sexual abuse) and act preventively in the case of inquiries by the social services, searches for runaway minors or absenteeism from school.

In 2007, the central directorate for public safety ran 135 minors' protection brigades (compared with 120 in 2005, including 7 for the department of Ile-de-France), with a workforce of 725 officers (compared with 642 in 2005). In constituencies without a service of this kind, the tasks concerned are carried out by one or more specialized police officers within the minors' police.

If a minor is involved in association with an adult, the local public security services can call in the minors' brigade, which may be able to detect disturbances in the family background, difficulties of integration and behaviour indicative of habitual violent conduct.

In addition, the public security service directorate in each *département* has a young person's referral officer (*réfèrent-jeunes*), whose activities are networked with "local police-young persons' contact points" (*correspondants locaux police-jeunes*) in the constituencies. By facilitating the exchange of information, this arrangement allows a more individual and more rigorous approach to judicial, educational and social monitoring of juvenile delinquents.

These referral officers take an active part in the preparation and monitoring of plans to combat and prevent violence in schools, in accordance with the inter-ministerial circular of 1 August 2006. To assist their work, 1,005 contact persons have been appointed in schools (compared with 995 in 2005), in application of the protocol of agreement signed on 4 October 2004.

In the National Gendarmerie, units specializing in the prevention of juvenile delinquency were set up in 1997.

These juvenile delinquency prevention units, of which there are 43 operating in the national territory (including 39 within the metropolitan territory), are responsible for preventing delinquency committed by or against minors. They are deliberately based outside the area of territorial and search units, in order to emphasize their preventive purpose, but they are equipped for taking down statements from children that can be used in judicial inquiries.

A Ministry of the Interior circular of 22 February 2006 gives instructions on how to deal with minors, whether they are victims, witnesses, suspects or have simply been stopped for questioning, in the course of police operations and when they are placed under the responsibility of police or gendarmerie services.

Newly implemented plans of action, programmes, policies and projects

1. Plan of action on adoption

This plan, which was submitted on 27 August 2008 by the Secretary of State for the Family and the Secretary of State for Human Rights, has two aspects, one national and one international. In addition to the above-mentioned bill, a series of actions have already been initiated, such as the opening of a government Internet site on adoption, the build-up of a reference system for professionals concerning situations of abandonment, the notification and issue of approvals, the constitution of a humanitarian cooperation fund and the development of specific medical consultations for the case of children adopted abroad.

2. Adolescent centres development programme

It may be recalled that the purpose of adolescent centres is to offer a broad range of services in one place to adolescents and their families, according to their needs, especially in terms of health requirements and career planning assistance. The programme, which was launched in 2006, will continue in 2009 in order to achieve full coverage of the national territory. With 71 adolescent centres financed in 2009,²⁰ all regions should be covered.

Although there are no adolescent centres in a third of the *départements*, these are mostly in rural or semi-rural regions. In other words, in practice a majority of adolescents already have an adolescent centre within reach, bearing in mind that some particularly sensitive *départements*, such as Ile-de-France, have several adolescent centres.

The Government (that is, the Ministries of Health and Family) is hoping to set up new adolescent centres in areas where there are none in 2010.

3. New measures for combating child pornography

It may be recalled that the Ministry of the Interior, Overseas and Local Authorities, the Ministry of Justice, the Ministry of Defence and the Ministry in charge of Family Affairs have developed a unified system of reporting by Internet users of all child pornography-related sites (<https://internet-signalement.gouv.fr>). This system, which was inaugurated on 14 February 2008, has been extended since January 2009 to all forms of illegal material found on the Internet (such as racist or anti-Semitic content). The government site also offers advice to parents and children concerning Internet use.

The Central Office for Combating Information and Communication Technology Crime follows a preventive policy in cooperation with several ministries and child protection associations or institutions, with a view to reaching out to a new category of victims, namely Internet users, both parents and children.

In addition to the reporting system, the French authorities have developed specific tools for combating child pornography, such as the CALIOPE database, which records all illegal child pornography material collected by gendarmerie and police investigators.²¹

With this database the gendarmerie and police experts can establish comparisons and identify victims and perpetrators shown on the pictures. It may be added that only the military personnel of the national gendarmerie and the active police staff of the National Centre for

²⁰ In September 2008, 56 projects received funding, to which 15 more projects will be added in 2009.

²¹ In order to stock the base, under article D. 47-8 of the Code of Criminal Procedure digital copies of all child pornography content seized in the course of house searches by investigators must be sent to the national centre for analysis of child pornography pictures (CNAIP) within three months.

analysis of child pornography pictures (CNAIP) have access to the content of the database. The CALIOPE database also supplies data to the international bank of images of the sexual exploitation of children run by the International Criminal Police Organization (ICPO-Interpol).

The French Government also takes preventive measures, especially to warn children of Internet dangers and to negotiate the introduction of systems to block access to sites with Internet suppliers. In order to block access to child pornography sites, at the request of the Secretariat of State for the Family, the Internet Rights Forum prepared an agreement with Internet access suppliers to draw up a technical report offering possible solutions for adoption in France. The objective is to introduce this type of blocking system in the first half of 2009.

Alongside those measures, other preventive actions are conducted for specific target audiences. For instance, under the aegis of the Ministry of National Education and State Secretariat for the Family and on the occasion of the start of the school year, more than 4.5 million information sheets were distributed to primary school pupils. These offer children and parents eight essential rules for making children's surfing of the Internet safe, and remind them of the relevant Internet address <https://internet-signalement.gouv.fr>. This document may of course be consulted and downloaded on the site of the State Secretariat for the Family.

The further opening of the www.média.famille.gouv.fr site in December 2008 has encouraged parents to be more vigilant and has helped make children more aware of the dangers of illegal or inappropriate pictures, shown on any kind of medium (including television, the Internet or video games). The site has been visited more than 15,000 times between January and March 2009. Lastly, on 4 March 2009, the Government set up a commission to draft a report on the theme of "Family, Education and the Media" by June 2009.

4. Strategic national project of the Directorate of Judicial Protection for Young People

The 2008-2011 multi-year programme of the Directorate of Judicial Protection for Young People focuses the directorate's activities in the area of care for juvenile delinquents. It aims to improve the quality of the care provided and the investigations undertaken at the request of the courts into the personality and family situation of minors, as well as to initiate a pedagogical audit of educational facilities.

In this respect, the Decree of 9 July 2008 reforming the organization of the Ministry of Justice makes the Directorate of Judicial Protection for Young People responsible for coordinating all matters relating to juvenile justice within the Ministry.

New bills or legislation relating to the reform of the Order of 2 February 1945 on juvenile justice and the major changes considered, including the planned review of the minimum age of criminal responsibility

The objective of the committee on the reform of the Order of 2 February 1945 on juvenile justice set up on 15 April 2008, chaired by Professor Varinard and made up of parliamentarians, practitioners and academics, was to ensure a better understanding of the rules applying to minors, to reinforce the accountability of minors and to review the procedure and criminal rules applied to minors.

The report handed in by the committee on 3 December 2008 lists 70 proposals for reforming juvenile criminal justice. Public debate has focused on some of these proposals put forward by the Varinard Committee.

The main doubts centred on the determination of the age of criminal responsibility. In the light of the average age applied by many European countries²² and the recommendations made on several occasions by the Human Rights Committee in its concluding observations, the committee proposed establishing the age of criminal responsibility at 12 years' old, whereas under present legislation any minor of sound judgement may be found guilty of an offence regardless of age.

For both crimes and offences, the committee proposed lowering the age of imprisonment in criminal matters, currently set at 13 years, to 12 years for crimes (*crimes*) but raising it to 14 for serious offences (*délits*).

Concerns have also been voiced regarding the reported removal of educational measures from criminal justice. The Varinard Committee recommended incorporating them within educational sanctions in general rather than doing away with them altogether.

The debate also centred on the possibility of setting up a criminal court for recidivist minors aged between 16 and 18 and for young adults. Should the proposal be accepted, its implementation must in any case comply with the relevant constitutional principles, which would ensure suitable procedures, a specialized composition of the court, the same sanctions as those available to other juvenile jurisdictions and a transition period for the criminal treatment of young adults.

It may also be noted that several of the proposals are in line with France's international commitments, such as, for instance, the removal from the courts of less serious offences, improving trial delays by limiting the time taken up by procedures or introducing deadlines, and reaffirming the need to take account of a minor's personality.

The conclusions of the report, which are not binding for the Government, provide a basis for discussions concerning the drafting of the Code for Juvenile Criminal Justice (CJPM), which is to replace the Order of 2 February 1945. The work also takes account of the more general reform of criminal procedure decided by the President of the Republic.

The effects on children of the new Act No. 2004-439 of 26 May 2004 on parental separation procedures

The object of the Act of 26 May 2004 is not only to simplify divorce procedures but also to make them more peaceful by extending the scope of family mediation to divorce procedures. It

²² Ten in Switzerland and the United Kingdom, 12 in the Netherlands, 14 in Germany, Spain and Italy.

did not change the rules introduced by the Act of 4 March 2002 on parental authority, as set out in the periodic report (paras. 276 et seq), in the event of the separation of a child's parents. Those rules remain applicable.

PART III

Question 1: Budgetary resources

(a) The budget allocated for the visits by the new Controller General of Places of Deprivation of Liberty to juvenile correctional institutions

It is not possible under the Finance Act to identify the budget specifically allocated to visits to juvenile institutions. Similarly, there is no way of identifying the resources made available to the Controller General according to the age of the people concerned by the visits.

It may be said, however, that so far, out of the 14 visiting controllers, two have been particularly involved in the area of child protection. Also the objective of the 150 annual visits to places of deprivation of liberty includes some 20 visits to juvenile centres or services, while it is stipulated that special attention must be paid to the treatment of minors in police custody premises.

(b) The budget allocated (2006-2008) for non-governmental organizations to disseminate knowledge of the rights established in the Convention

Within the total amounts allocated to non-governmental organizations for human rights, it is difficult to identify those specifically devoted to disseminating knowledge of the Convention. It may nevertheless be worth pointing out that a grant of 50,000 euros was paid to the French Council of Human Rights Associations (COFRADE) in 2006 to finance an inquiry into 15 years of implementation of the Convention. The inquiry led to the publication and dissemination among national and regional institutions and the media of a report entitled "*Human rights ... room for improvement*", dealing with five major themes concerning the family, education, health, justice and protection.

COFRADE also received a grant of 10,000 euros in 2008 to finance the launch of a new Internet site, in order to make the Convention better known and to encourage discussions with all the actors concerned (young people, parents, educators and relay associations).

More broadly speaking, as regards the knowledge and promotion of judicial rights, it is worth reporting that the State has granted aid worth 11 million euros to associations, including the Voice of the Child, the Association for Protection against Sexual Assaults and Offences (APACS) and Aid to Parents of Child Victims (APEV).

(c) The reinstitution of civil status in Mayotte following the establishment of a Review Commission on 8 March 2000

Since the entry into force of the Order of 8 March 2000 on civil status, children with personal civil status under local law have had their status established in accordance with the rules of ordinary law. Such children are declared at the town hall where they are born by their parents, who give them the father's name and freely chosen first names.

The issue of civil status arises only for children born before 8 March 2000 and who do not therefore have a civil status that is the same as the one applied in metropolitan France. The Government is making every effort to ensure that children obtain a reliable civil status without delay. By the end of 2008, the Secretary of State for Overseas France, concerned at the situation described by the Children's Ombudsman in her annual report, had asked the prefect to put forward proposals for completing the introduction of a civil status that meets the expectations of Mahorais having local civil status.

This will depend on the Civil Status Review Commission (CREC) being allowed to complete its task as soon as possible. Since it was launched in 2001, the commission has dealt with 52,344 applications from adults and has issued 65,000 civil status registrations, including almost 40,000 birth certificates. It has dealt on average with 10,500 cases a year. About 16,000 more cases are still pending. It is estimated that 60 per cent of the people having a status under local law have lodged an application with CREC.

The rules of procedure applied for the CREC Commission were drafted with a view to ensuring a greater degree of legal security for the civil status formalities of Mahorais under local law, but in practice the rules are causing excessive delays in the investigation of cases. In order to assist Mahorais who still do not have a civil status registration issued by the Commission with their difficulties, more attention is being paid to urgent cases and the summary processing of cases with only material errors is now possible, thanks to the entry into force of Decree No. 2008-157 of 21 February 2008. In order to improve efficiency still further, the Government is about to propose more changes of procedure. For instance, decisions may need to be taken no longer by the Commission as a whole, but only by the President, who is a judicial magistrate. The latter would have the possibility of seeking technical advice (from the prefecture or from *cadi* courts) in any particular case if necessary.

Support is also to be provided to Mayotte communes, which will be paid a subsidy for three more years to pay for training courses for their staff and the maintenance costs of computer equipment newly installed in their premises.

In addition, a committee, consisting of the various parties involved (representatives of the Government, the High Court of Appeal, the General Council, the 17 communes and the Association of Civil Status Officers), will be set up in Mayotte to coordinate activities.

Question 2: Children's Ombudsman

The reply given by the Children's Ombudsman to the Government on this point may be consulted in annex 10.

The Children's Ombudsman is represented by 55 territorial correspondents in metropolitan France and overseas French territories (with the exception of Wallis and Futuna and Saint-Pierre and Miquelon), before local institutions, organizations and associations specializing in children's affairs. The territorial correspondent for Mayotte was appointed in December 2008.

Question 3: International adoptions

The table below summarizes the updated information requested by the Committee regarding international adoptions in the period 2006-2008.

	2006	2007	2008
Countries members of the Convention of The Hague	1 264	1 192	913
Non-member countries	2 713	1 970	2 358
Total	3 977	3 162	3 271

Question 4: Violence in schools

Measures for combating violence in schools are based on three objectives: better knowledge of the phenomenon, the introduction of prevention facilities in schools and the development of partnership policies.

1. Better knowledge of violence in schools

With respect to violence in schools, the French authorities found that 53,763 offences were committed in 2008 in metropolitan France (compared with 54,736 in 2007).²³ In the overseas territories, the national gendarmerie noted 2,271 offences of this type in 2008 (compared with 2,100 in 2007).

A new system has been introduced to record serious acts of violence and to uniformize available data. The **SIVIS survey** (School Security Information and Monitoring System) was introduced at the beginning of the 2007 school year and replaced the old SIGNA system, that was used from 2001 to 2006 (see *annex 11*).

Among the most recent data, for the school year 2007/08, the following are worth noting:

- State secondary schools reported on average 11.6 serious incidents per 1,000 pupils
- Violence also affects other establishments; while 4 out of 10 have no incidents to report over one term, the worst affected are the *collèges* and vocational *lycées*
- Eight out of 10 acts of violence consist of personal assaults, in most cases verbal and mostly against members of staff
- Pupils were responsible for 85 per cent of all incidents, only 15 per cent of which were caused by outsiders

²³ As some statistical tools of the national police were altered in 2005 and introduced in 2006, the data for the latter year are not relevant.

An experimental **survey of victims** has been launched by the Ministry of National Education in conjunction with the International Observatory on Violence in School.

2. Prevention measures taken in schools

The first means of prevention consists in implementing a high quality education policy. Schools have to ensure that all their pupils are successful and are able to acquire the knowledge they need to build up their adult life. The following measures should serve this objective:

- Refocusing the school system on its prime goal, which is the mastery of basic knowledge with the establishment of a common core of knowledge and skills throughout the compulsory schooling cycle
- Providing personalized assistance to alleviate the difficulties encountered by pupils, starting with primary school; two hours a week could be set aside for this assistance. A further personalized programme could be introduced to assist success in studies in primary and secondary schools
- Emphasizing assiduity and combating absenteeism
- Ensuring the proper functioning of disciplinary procedures
- Developing special reception facilities for pupils, with after-school educational accompaniment and an “open school” policy during school holidays
- Introducing bridging facilities in order to withdraw temporarily from school pupils who have entered a phase of school rejection and social marginalization and to readmit them to a training course
- Generalizing health and citizenship education committees (CESC), which prepare plans for the prevention of violence
- Setting up support facilities for members of staff and pupils who have been the victims of violence
- Conducting awareness and training campaigns for members of staff on the practice of “dangerous games” and violent behaviour, which often takes place out of school but which can have a significant impact on the school community

3. Developing partner policies

The measures taken to combat violent behaviour rely not only on academic policies and structured school projects but also on organized partnerships that take account of the competencies of each partner.

Many partnerships are already operational between ministries. These may consist, for instance, in preventing and reporting racist or anti-Semitic behaviour in schools and punishing

offences when they occur (tripartite agreement of 13 September 2004 between the education, interior and justice ministries), or preventing and reducing violence in secondary schools (protocol of agreement of 4 October 2004 between the education and interior ministries).

In addition, an inter-ministerial circular agreed jointly on 16 August 2006 by the education and interior ministries is currently being implemented, with the issue of three information papers to educational teams. Under this plan:

- **Shared security diagnoses** are drawn up on the basis of the situation in individual schools. A guide to this effect has been made available online on <http://eduscol.education.fr>. A list is given there of recommendations on how to improve the protection and surveillance of schools, especially by taking precautions against the risk of intruders. By 31 December 2008, 1,521 diagnoses had been completed.
- **Operations to ensure the security of the immediate vicinity of schools** are regularly conducted, either at the request of school principals or on the initiative of police and gendarmerie services.
 - School year 09/2006 - 06/2007: 24,532 security operations
 - School year 09/2007 - 06/2008: 30,159 security operations
- **“Police-security” correspondents** are appointed to serve as contacts for school principals. The success of this type of system will very much depend on close acquaintanceships and daily contacts between those concerned. These correspondents, of whom there were 1,005 by 31 December 2008, help with the establishment of diagnoses and security operations conducted around school buildings
- **Inter-institutional training courses** are held in the academies based on common teaching material for education, police, gendarmerie and judicial staff

In addition, certain programmes are run by the security forces, within the framework of similar partnerships, such as the **“police-youth contact points”** programme. The tasks of the staff involved, who are appointed either by the *départements* or by the constituencies, are to provide recognized and identified contacts for all the administrations, services and partner organizations they work with, and to advise the police on the operations undertaken to combat juvenile delinquency in consultation with other specialized officials.

The tasks of the **“Anti-drug police trainers”**, on the other hand, consist partly in training their colleagues in the special techniques for combating drug trafficking and drug use (through a better knowledge of the relevant professional practices and of recent developments in the area of legislation and drug trafficking and drug use practices), and partly in providing information to a variety of audiences (chiefly young people, parents and teachers) to remind them of the law and

to draw attention to the dangers and effects of the main drugs consumed.²⁴ Similar action is conducted by the gendarmerie with their “**anti-drug training instructors**”, who are sometimes assigned to the juvenile delinquency prevention brigades.

Question No. 5: Entry into the labour market of young people over 15 years of age

Employment policies for young people²⁵ are focused primarily on providing support to them, in particular by helping them to forge a genuine career path. The aim is to speed up the transition to stable employment or the acquisition of a professional qualification, for those not possessing one.

Within the framework of the 2004 Social Cohesion Plan, the work done by the network of local branches and the implementation of the Social Integration Contract (CIVIS) programme, in conjunction with the broadening of apprenticeship opportunities, are two key instruments for helping young people to enter the labour market.

- **Local branches:** this network comprises 485 structures, employing 11,000 salaried workers. Nearly one million young people were interviewed at local branches in 2006. Among them, 470,000 young people, of whom 71,000, or 15 per cent lived in “sensitive urban zones” (ZUS), were interviewed for the first time and nearly one out of two, or 487,000 young people, were recruited for at least one job or training programme during the year.
- **Social Integration Contract (CIVIS):** as mentioned in the third and fourth reports, this contract is intended to assist 800,000 young people, from 16 to 25 years of age, in finding steady employment over the five years of the plan and to reduce the gaps in access to the labour market. As at the end of December 2008, 663,500 young people had entered the programme (42 per cent of them had no professional qualification and 91 per cent had not obtained the baccalauréat qualification). A total of 397,000 young people have now completed the programme, 40 per cent of whom have a steady job.
- **Apprenticeships and the Contract for Working Life:** alternation between work experience and training remains one of the best ways for young people to enter the labour market: the rate of employment six months after the end of a contract is approximately 60 per cent for apprenticeships and 75 per cent for the Contract for Working Life. Apprenticeships have been broadly expanded since the launching of the Social Cohesion Plan and, at the start of 2008, approximately 430,000 young people (total reserve) were working as apprentices as against 368,000 at the end of 2004.

²⁴ The “anti-drug police trainers” work within the health and citizenship education committees, with the aim of providing a link between the representatives of government services and policies conducted among schoolchildren to prevent drug use and high risk behaviour.

²⁵ These policies concern not only minors, but also young people, aged generally from 16 to 25 years.

Also worthy of mention is the **Autonomy Contract** for young people seeking employment and living in a zone covered by an Urban Social Cohesion Contract (CUCS). The Autonomy contract was launched in the second half of 2008 and will reach the stage of full implementation in 2009. It is part of the “*Espoir banlieue*” plan, the employment section of which comprises three measures: support for the creation of businesses in neighbourhoods classified as “sensitive”, signing of a “national commitment to employ young people in sensitive neighbourhoods” by major companies, and a four-year pilot project involving autonomy contracts for 45,000 young people living in zones covered by urban social cohesion contracts.

Question No. 6: Statistical data on education

In response to the Committee’s question, it should first of all be recalled that under the system of compulsory education up to age 16, the decentralized services of the national education system are obliged to educate all pupils in that age range.

Within this context, approximately 6 per cent of young people (or nearly 45,000 in each generation) finish their initial education without a qualification, in the sense of the French classification of education levels, namely, without having reached the level of the Certificate of Professional Aptitude (CAP) or the Diploma of Occupational Studies (BEP), or without having been admitted to a general and technical *lycée*.

The French Ministry of National Education and its ministerial partners are devoting all their attention to those who leave school without a qualification or diploma. Efforts are being made to identify them systematically. In particular, the “*Base élèves 1er degré*” (see question I.6 above) should make it possible to establish precise statistics for the use of education authorities and the central bureau of the Ministry of National Education, so that they can monitor more closely data trends in relation to pupils who leave school without a qualification or diploma.

It should nevertheless be made clear that such data cannot, as the Committee requests, be used to distinguish between children in terms of their membership in a minority, however that term may be interpreted. In that regard, article 1 of the Constitution of 1958 lays down the principle according to which “*France shall be an indivisible, secular, democratic and social republic. It shall ensure the equality of all citizens before the law, without distinctions on grounds of origin, race or religion*”. French law thus does not recognize the concept of minority, but ensures the equality of all before the law and permits every person to affirm freely his or her beliefs as an individual rather than as a member of a group. There is consequently no question of distinguishing between pupils on the basis of their belief or origin.

This constitutional framework is itself based on a broad national consensus, which has led, for example, to the withdrawal from the “*Base élèves 1er degré*” of certain data, such as the nationality of pupils. Article 4 of the Decree of 20 October 2008 instituting the database (see I.6 above) thus provides that “*no data concerning the nationality or racial or ethnic origin of pupils and their parents or legal guardians may be registered*”.

Having set out this framework, the Government can now provide the following information in response to the Committee’s questions:

Question No. 6 (a): Children with disabilities

The Act of 11 February 2005 on equal rights and equality of opportunity and the inclusion and citizenship of disabled persons establishes the right to education, to be provided in mainstream schools as a priority, of disabled children and adolescents. By virtue of this right, disabled pupils are enrolled in the school closest to their home, which becomes their “*principal school*”.

Nevertheless, under the new law, this type of education is not compulsory in the event that the disabled child or adolescent requires, occasionally or over the long term, another kind of service than that provided by the principal school. For example, when a specially adapted arrangement is needed in order to satisfy adequately the educational capacities and needs of the pupil, the child can be educated part-time or full-time in another educational establishment which has classes for primary-level integration, a teaching unit for secondary-level integration, or a healthcare or medico-social institution. Out of 260,000 disabled children, **235,000** are currently benefiting from one or the other of these educational arrangements.

1. Estimation of the number of children with disabilities in school

The trend towards enrolling disabled children in mainstream schools has been reinforced since the entry into force of the Act of 11 February 2005. In 2008, more than 170,000 disabled children were enrolled in public or private schools, which represents an increase of 80 per cent since 2002.²⁶

This development can be explained by an increased emphasis on placement in mainstream schools, increased awareness of childhood disabilities and better support systems for disabled children at school. Measures taken in this regard include the use of teachers who serve as a central point of contact (there are now 1,180 such teachers) and help to ensure consistency in the application of each disabled child’s personal education plan, the possibility offered to 35,431 pupils of getting help from a classroom auxiliary or educational assistant, and an investment of 10 million euros to provide disabled pupils with educational materials adapted to their needs, thereby facilitating the learning process and helping them to become more independent at school.

Education for disabled children is being developed in particular in **mainstream classes**, where 110,800 pupils are enrolled at the primary and secondary levels. Among them, 84 per cent attend school full time.

Provision of care for disabled children has also been reinforced in the national education system’s **special structures**: 51,215 pupils are being educated in “collective” classes, and of that number, some 39,600 are in classes for primary-level integration and some 11,500 are in teaching units for secondary education.

²⁶ Annual study by the Ministry of National Education.

Approximately 70,000 children receive instruction within the medico-educational establishment to which they have been admitted,²⁷ where the instruction is provided by teachers appointed by the national education administration, and approximately 19,000 children attend classes part-time in the regular school system.

Nearly 56 per cent of the children and adolescents receiving instruction in integrated classes within medico-social establishments are between 11 and 16 years of age, and 22 per cent are under 11 years of age.

Lastly, approximately 800 young disabled persons receive distance instruction.

The increase in the number of disabled pupils receiving instruction has been accompanied by longer courses of study for them and higher levels: the number of pupils at the secondary level has increased nearly by one-third in four years. For example, the number of pupils enrolled in general and technical or vocational *lycées* rose from 8,086 to 9,136 between 2006 and 2007, or an increase of more than 13 per cent in one year.

2. Estimation of the number of disabled children not in school

According to DREES, 16,000 disabled children have not yet been enrolled in school, in particular because there is no possibility for them to receive instruction at home or in the medico-social establishment where they are receiving care. This figure is not as straightforward as it seems since the absence of instruction for children in medico-social establishments does not mean the absence of all learning. Educational activities aimed at the development of cognitive functions and social and independent skills are in fact provided by educational and therapeutic teams in these establishments.

The absence of instruction is essentially related to the degree of the child's disability (restrictions on autonomy): 94 per cent of children being taken care of in establishments suffer from multiple disabilities, and 78 per cent of those with profound and severe mental retardation do not receive instruction.

Question No. 6 (b): Evaluation of the implementation of Act No. 2004-228 of 15 March 2004

In this domain, the legislature has sought to give priority to dialogue and education. It takes a largely pragmatic approach and assigns those working in the field responsibility for securing observance of the law and penalizing any infringement of it. For example, it sets in place a preliminary stage of dialogue with a pupil in breach of the law, which must be arranged and led by the head of the establishment in conjunction with the management team and the education teams. It is only at the end of that phase that disciplinary action can, if necessary, be

²⁷ According to "Studies and results", a study published in March 2007 by DREES [*Direction de la recherche, des études, de l'évaluation et des statistiques*], 2,100 medico-educational establishments provided services to approximately 108,000 children and adolescents in 2006.

taken. If the decision of the Disciplinary Council is to exclude, the educational authorities are to examine with the pupil and his or her parents the conditions in which he or she will pursue his or her schooling.

In accordance with the provisions of the Act, an evaluation of its implementation was undertaken a year after its entry into force, in July 2005. According to the report by Ms. Chérifi (at that time mediator for the national education administration and responsible since November 1994 for handling questions raised in connection with the “headscarf” issue), the number of religious signs reported in 2004-2005 was 639,²⁸ an amount representing less than 50 per cent of the signs reported the previous year. A total of 592 cases were settled through dialogue, and 48 pupils appeared before the Disciplinary Council, which led to 47 exclusions and one reinstatement. Most of the pupils concerned agreed to stop wearing the religious sign in question (496 pupils). In 96 cases, the pupils voluntarily left their school (instruction by correspondence in 71 cases; enrolment in a private school or abroad).

During the 2005/06 school year, only three pupils, including one Sikh pupil, brought an appeal aimed at annulling the decision to exclude them permanently. During the 2006-2007 school year, only two pupils, both belonging to the Sikh religion, entered such an appeal.

These figures indicate that the principles of the Act have been broadly accepted by pupils and their families. They demonstrate also that fears with regard to the exclusion of some young girls from the educational system have not been borne out by the facts.

The Government wishes to emphasize once again that pupils excluded in application of this Act are not, as a result, deprived of access to education and training: they must be referred to the director of education or the education authority inspector so that they can take the necessary steps to provide for the pupils’ enrolment in another establishment or a public centre for instruction by correspondence.²⁹ Those who are not subject to compulsory school attendance can also enrol at the National Centre for Distance Learning to pursue their education. In any case, pupils always have the possibility of pursuing a private education, which may be religiously denominational, and local authorities contribute to the cost of this from public funds.

Question No. 7: Updated information on the number of family reunifications

Family reunifications under ordinary law (number of visas issued for that purpose)

- 2004: 21,552
- 2005: 20,956

²⁸ The signs were all Islamic headscarves, with the exception of two large crosses and 11 Sikh turbans.

²⁹ Article 5 of Decree No. 85-1348 of 18 December 1985; article L. 131-2 of the Education Code.

- 2006: 15,872
- 2007: 17,228
- 2008: 16,169

In accordance with the law (article L. 421-4 of the Code on the Entry and Residence of Foreigners and the Right of Asylum - CESEDA), a decision concerning a request for family reunification must be delivered within six months. In the absence of an explicit decision within that time limit, the party concerned may lodge a complaint with the administrative court. The time taken may nevertheless turn out to be longer in practice owing to the needs of the investigation (verification of housing conditions and resources, information relating to civil status). The French authorities are striving to reduce the amount of time needed to process requests in this area.

Visas issued to family members reunited with refugees

- 2004: 1,851
- 2005: 2,561
- 2006: 2,863
- 2007: 3,231
- 2008: 4,366

Considerable progress has been made in the handling of refugees' requests for family reunification and the investigation process now takes about four to six months (as against 14 months in 2004), except in cases where an investigation is needed to verify the civil status and family relationships of the persons concerned.

Question No. 8: Statistical data on children in conflict with the law

(a) Police custody of minors disaggregated by duration and sex

In metropolitan France in 2008, 933 female minors were placed in police custody by the **National Gendarmerie** (as against 838 in 2007 and 806 in 2006), and 158 were held in extended police custody beyond the initial deadline of 24 hours (as against 132 in 2007 and 130 in 2006). Among male minors, 14,000 were placed in police custody (as against 12,533 in 2007 and 10,031 in 2006) and 2,921 were held in extended police custody (as against 2,917 in 2007 and 2,347 in 2006).³⁰

³⁰ With regard to the overseas departments and territories, 44 female minors were placed in police custody in 2008 (as against 40 in 2007 and 24 in 2006) and three were held in extended

Analogous data cannot be obtained from the statistics collected by the **National Police** because breakdowns by age (minors/adults) and sex are only available for suspects.³¹ The figures contained in table No. 3 (number of minors held in police custody, disaggregated by sex, for the period 2005-2008), obtained through extrapolation from the proportions observed among suspects, are provided for information only and indicate only approximate levels of magnitude.

Table 1**Number of suspects since 2005 disaggregated by age and sex**

	2005	2006	2007	2008
Total number of suspects	1 066 902	1 100 398	1 128 871	1 172 393
Minors	193 663	201 662	203 699	207 821
• Male	167 433	173 560	175 115	177 772
• Female	26 230	28 102	28 584	30 049
Adults	873 239	898 736	925 172	964 572
• Male	737 419	760 866	785 729	817 405
• Female	135 820	137 870	139 443	147 167

Source: Etat 4001 annuel, Direction Centrale de la Police Judiciaire (DCPJ).

Table 2**Number of persons held in policy custody since 2005 disaggregated by length of time**

	2005	2006	2007	2008
Total number of persons held in police custody	498 555	530 994	562 083	577 816
Over 24 hours in police custody	404 701	435 336	461 417	477 223
Maximum of 24 hours in policy custody	93 854	95 658	100 666	100 593

Source: Etat 4001 annuel, Direction Centrale de la Police Judiciaire (DCPJ).

policy custody (the same number as in 2006 and 2007). With regard to male minors, 1,347 were placed in policy custody (as against 1,202 in 2007 and 762 in 2006) and 282 were held in extended police custody (as against 170 in 2007 and 148 in 2006).

³¹ A person is considered to be a suspect if strong or corroborated evidence make it likely that he or she may have been involved in an offence, either as its perpetrator or as an accomplice.

Table 3

Number of persons held in police custody since 2005 disaggregated by age and sex
(→): Extrapolation from table 2 using the proportions of age and sex set out in table 1

	2005	2006	2007	2008
Over 24 hours in police custody	404 701	435 336	461 417	477 223
Minor suspects	73 461	79 781	83 260	84 594
• Male	63 511	68 663	71 577	72 362
• Female	9 950	11 118	11 683	12 231
Adult suspects	331 240	355 555	378 157	392 629
• Male	279 720	301 011	321 160	332 725
• Female	51 520	54 544	56 996	59 904
Maximum of 24 hours in policy custody	93 854	95 658	100 666	100 593
Minor suspects	17 036	17 531	18 165	17 831
• Male	14 729	15 088	15 616	15 253
• Female	2 307	2 443	2 549	2 578
Adult suspects	76 818	78 127	82 501	82 762
• Male	64 870	66 142	70 067	70 135
• Female	11 948	11 985	12 435	12 627

Source: Etat 4001 annuel, Direction Centrale de la Police Judiciaire (DCPJ) and recalculation by the Direction de la Protection Judiciaire de la Jeunesse (DPJJ).

(b) Minors of 16 to 18 years of age tried as adults, including since the adoption of the Act of 10 August 2007

• Status as at 24 February 2009

Juvenile courts of first instance

The Act of 10 August 2007 was applied to 438 reoffending minors. Among them, 189 received the mandatory minimum sentence (*peine plancher*), which corresponds to a rate of application of the minimum sentence of 43.2 per cent. Forty-four minors received the minimum unconditional prison sentence (23.3 per cent of the sentences). The public prosecutor's office brought an appeal against 25 sentences, or an appeal rate of 10 per cent.

Courts of appeal

Twenty-one minors, to whom the minimum sentence was applicable, were sentenced as reoffenders. Eight minors received the minimum sentence, bringing the rate of application of the minimum sentence to 38.1 per cent. Four minimum unconditional prison sentences were delivered, or one sentence out of two.

(c) **The number of reported cases of abuse or ill-treatment of children at the time of their arrest or detention, and follow-up to these cases**

No offences of this kind committed by officers of the national *Gendarmerie* have been brought to the attention of the complaints and discipline division of the National *Gendarmerie* (Technical Division) or of the *Commission nationale de déontologie de la sécurité* (CNDS).

With regard to members of the national police force, it is not possible on the basis of current data to distinguish minors from among the alleged victims of abuse or ill-treatment. Nevertheless, the number of disciplinary sanctions imposed for violence against minors committed by police officers in the exercise of their duties amounted to 1 in 2005, 2 in 2006, 6 in 2007 and 4 in 2008.

Lastly, there have been no cases of minors in detention being ill-treated by prison staff. If such an incident were to occur, it would be the subject of a disciplinary hearing or even, as appropriate, criminal proceedings.

Question No. 9: *Updating of statistical data contained in the report on the follow-up to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*

With regard to **child pornography**, 1,000 alerts are received monthly by the Central Office for Combating Information and Communication Technology Crime. More than 12 per cent of these alerts concern child pornography sites and give rise to investigations in France or abroad. In 2008, 1,910 different examples of child pornography were identified.

In terms of **prostitution**, for the year 2006, the Central Office for Combating Human Trafficking reported a figure of 1,218 victims of procuring, including 27 minors, in a single inventory. The table below presents the figures in this area for the past several years:

	2004	2005	2006	2007	2008
Minors victims of procuring, in the framework of procedures established by the national police services	67	64	27	24	23

It should be recalled that under French law, proceedings may be brought against clients of under-age prostitutes. In 2004, 52 legal proceedings were brought against clients of under-age prostitutes; 19 proceedings were brought in 2005; and five were brought in 2006. A new provision, article 225.12-1 of the Penal Code, extends to age 18 the scope of measures of protection against the prostitution of minors. It reads as follows: “*Any sexual act committed without violence, constraint, threat or surprise, in exchange for remuneration, on the person of a minor shall be punishable by 10 years in prison and a fine of €200,000 (1.3 million francs).*”

Sentences entered in the judicial record relating to acts that may be classified as sexual exploitation of minors are presented in annex 12. It should however be noted that when the sanctioned acts have been committed against minors, the precise number of minors concerned by the sentence is not entered in the judicial record (for example, one sentence may be delivered for acts involving several child victims, but their number is not counted).

List of Annexes

- 1. Direct applicability of the Convention on the Rights of the Child since 2005**
- 2. Decree No. 2008-774 of 30 July 2008 on the training of national child protection officers and Order of 25 September 2008 on the content of that training (available from the Secretariat)**
- 3. Data concerning children in danger**
- 4. The main databases relating to minors used by the police**
- 5. Ministry of Justice files**
- 6. Decree of 20 October 2008 establishing a database of personal data relating to the supervision and management of pupils in primary school**
- 7. Utilization of the new suicide risk assessment table adapted to minors in detention (available from the Secretariat)**
- 8. Measures for assisting and reintegrating victims**
- 9. “Education” section of the “*Espoir banlieue*” plan**
- 10. Reply to the Committee’s questions by the Children’s Ombudsman**
- 11. The new information system on violence**
- 12. Sentences entered in the judicial record for acts that may be classified as sexual exploitation of minors (available from the Secretariat)**

Annex 1

Direct applicability of the Convention on the Rights of the Child since 2005

I. The high national courts have increased the number of articles of the Convention on the Rights of the Child that are directly applicable before them.

1.1 The Council of State and the direct effect of article 12 (2) of the Convention

In its decision *Mme A.*, No. 291561, of 27 June 2008, the Council of State recognized the direct applicability of the provisions of article 12, paragraph 2, of the Convention on the Rights of the Child, by virtue of which: “[...] *the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law*”.

The case law of the Council of State is now in harmony with that of the Court of Cassation (Judgement No. 02-20613 of 18 May 2005).

1.2 The Court of Cassation and the direct effect of article 7 (1) of the Convention

By a judgement of the First Civil Chamber, No. 05-11.285, of 7 April 2006, the Court of Cassation recognized the direct effect of article 7 (1) of the Convention: “*Whereas, according to Article 7 (1) of the Convention of New York of 26 January 1990 on the Rights of the Child, applicable directly before the French courts, the child has, from birth and in so far as possible, the right to know his or her parents*”.

1.3 The Court of Cassation and the direct effect of article 20 (3) of the Convention

By a judgement of the First Civil Chamber, No. 08-11.033, of 25 February 2009, the Court of Cassation makes reference to article 20, paragraph 3, of the Convention, which mentions that alternative care may take the form of the *kafalah* of Islamic law. It considered that, in the case in point, the refusal of the complainant’s request for adoption was well founded in as much as “*the kafalah is expressly recognized by article 20, paragraph 3, of the Convention of New York of 26 January 1990 on the Rights of the Child, as ensuring, in the same way as adoption, the best interests of the child*”.

II. The Convention on the Rights of the Child exercises a decisive influence on administrative law relating to minors.

The case law of the Council of State bears witness to the application of the Convention in fields as varied as the treatment of minors in detention, the protection of the health of foreigners or the escorting of individuals to the border.

2.1 Impact of the principles of the Convention on French prison law

French administrative case law has been marked by major decisions relating to prison affairs. In that regard, the Convention on the Rights of the Child played a key role in a section judgement handed down by the Council of State on 31 October 2008 (CE, 31 October 2008, French Section of the International Observatory of Prisons, No. 293785).

The administrative court, on that occasion, considered that article 1 of Decree No. 2006-338 of 21 March 2006, amending the Code of Penal Procedure and relating to solitary confinement of prisoners, should be annulled with regard to minors. Under its provisions, the same solitary confinement regime was applied to adults and minors.

While recognizing that the Convention, in particular its articles 3, paragraph 1, and 37, was not generally opposed to the application of a solitary confinement regime to children, the court underlined the fact that the Convention obliges the State Party to “*adapt the prison regime of minors in all its aspects to take account of their age*” and to “*accord primary attention to the best interests of the child in all decisions relating to them*”. For those reasons, the Council of State has made the use of a solitary confinement regime for minors subject to the adoption of specific modalities, taking into account “*the age, the detention regime, its duration, the conditions of its prolongation, in particular the moment when medical advice is sought*”.

The aforementioned decree did not respect those requirements and consequently failed to take into account the provisions of the Convention on the Rights of the Child.

2.2 The Convention on the Rights of the Child and protection of the health of foreign minors

The Council of State has also recognized the importance of the Convention in the field of protection of foreign minors. By a decision dated 7 June 2006, No. 285576, *Association Aides et autres*, the administrative court quashed the decrees of 28 July 2005 relating to State medical aid since, under their provisions, such aid was dependent on a minimum length of residence of the minors concerned.

The aforementioned decrees had been issued in application of article 97 of the revised Finance Act of 30 December 2003, which amended article L.251-1 of the Social Action and Families Code, thus making the provision of State medical aid to foreigners contingent on their having been in France for an uninterrupted period of at least three months.

The Council of State considered that such provisions failed to meet the requirements of paragraph 1 of article 3 of the Convention on the Rights of the Child because “*these stipulations [...] prohibit any restrictions on the access of the children [...] to the care necessary to their health*”.

2.3 The Convention on the Rights of the Child and administrative measures relating to escort back to the border

The Convention is frequently cited by complainants before the administrative courts in matters relating to escort back to the border.

To take only one example, the Council of State annulled an escort order, on the grounds that it violated the provisions of article 3, paragraph 1, of the Convention on the Rights of the Child (CE, 7 April 2006, *Mme A.*, No. 274713). The Convention thus can block an order to escort to the border the mother of a child born in France, whose father, holder of a residence permit, has assumed effective responsibility for it: *“the fact, uncontested by the préfet, that this Haitian national, holder of a residence permit, assumes the effective responsibility for two French children and the son he had with Mme A., is sufficient to block the execution of the measure to escort Mme A. to the border, in the light of the provisions of article 3 (1) of the international Convention on the Rights of the Child.”*

Annex 3

Data concerning children in danger

The purpose of Act No. 2007-293 of 5 March 2007 for the reform of child protection is to enable close monitoring of minors about whom information giving rise to concern has been reported, in order to gain a better understanding of the child's prospects and to assess the relevance of child protection measures. The Act also aims to ensure that departmental monitoring services are able to fulfil their mission of analysing data concerning children in danger in the *département*, thereby facilitating the formulation of opinions and proposals on implementation of the departmental policy of child protection.

The nature and modes of transmission of the data gathered by the President of the General Council and communicated to the Departmental Monitoring Service for Child Protection (ODPE) and the National Monitoring Service for Children in Danger (ONED) are laid down in Decree No. 2008-1422 of 19 December 2008 "*organizing the transmission of anonymous data to the Departmental Monitoring Service for Child Protection and the National Monitoring Service for Children in Danger*".

The information to be transmitted to ODPE and ONED comprises, first of all, data relating to the minor in question: his or her anonymous number (generated by irreversible encryption), the date, source and nature of the information giving rise to concern, the sex and date of birth of the child, and the follow-up to that transmission.

In the event that an evaluation has been made of the minor's situation, the President of the General Council also transmits, in addition to the date of and follow-up to the evaluation, information concerning the child's filiation, the persons who are responsible for the child (relationship to the minor, sex, date of birth, date of death, number of individuals in the home, including the number of minors), contacts with his or her parents, his or her grade in school and the nature of the danger to the child and the person at the origin of it.

If the minor has benefited from one or more social protection measures, the President of the General Council also transmits the nature of such measures, the dates of the decisions and of the start and end of the measures, the person or institution implementing such measures and the reason for their termination. The same type of information must be gathered and transmitted when the measure is renewed or modified or in the event that the minor is brought to the attention of the judicial authorities.

This data, which remains anonymous, is transmitted by the President of the General Council on 15 May each year. It is kept for three years after the individual concerned has attained his or her majority. A representative sample of 20 per cent is nonetheless kept for study and research purposes.

In return for the transmission of data, the National Monitoring Service for Children in Danger sends the results of the data processing to the President of the General Council as well as to the *préfet*, the education authority inspector, the departmental director of judicial protection for youth, the president of the regional court or courts of the *département* and the public prosecutor attached to those courts.

This system must be evaluated annually by the Ministers of Justice and of the Family.

Annex 4

The main databases relating to minors used by the police

1. System for processing reported offences (STIC) (*système de traitement des infraction constatées*)

This database, governed by Revised Decree No. 2001-583 of 5 July 2001, contains data collected in cases of serious offences, ordinary offences and certain fifth-class offences.

The Decree does not provide for any age limit with regard to the collection of data concerning minors. Nevertheless, the Circular of 9 May 2007 on the modalities of implementation of STIC stipulates that data relating to **minors under 10 years of age shall not be collected**, except in the cases of particularly serious acts or where the personality of the minor so warrants it.

The length of time that the data is kept depends on whether the minor is suspected of an offence or is a victim. For a minor who is a victim, the data is kept for 15 years. For a minor who is a suspect (if strong and corroborated evidence make it likely that the individual may have been involved in an offence, either as its perpetrator or as accomplice), the data is kept for 5 years, but, in the case of the most serious offences, may be kept for 10 or 20 years.

2. The Canonge database

The local database “Canonge” contains anthropometric photographs and descriptions of suspects. It enables recovery, through a simple multicriteria search, of data on a selection of individuals which can be used immediately by the investigators and shown to the victims or witnesses of an offence.

Data contained in the Canonge database is governed by the same legal provisions as data in STIC, for which it is a preparatory phase. Therefore, only individuals formally charged with a serious offence, ordinary offence or certain fifth-class offences can be registered in the database.

Registration of data concerning witnesses or other persons is prohibited.

3. Fingerprint Database (FAED)

This database, governed by Decree No. 87-249 of 9 April 1987, amended by Decree No. 05-585 of 27 May 2005, contains data collected in cases of serious offences or ordinary offences.

The text does not stipulate any age limit with regard to registering individuals who are suspects. The data is kept for 25 years, regardless of the age of the suspect.

4. DNA Database (FNAEG)

This database is governed by articles 706-54 and following and R 53-6 and following of the Code of Penal Procedure.

The data collected concerns:

- Persons convicted of one of the serious offences or ordinary offences listed under the law (the data is kept for 40 years)
- Persons for whom there exists strong and corroborated evidence making it likely that they have committed one of those same offences (the data is kept for 25 years)
- Unidentified cadavers or missing persons (in the context of an investigation of the cause of death or an investigation of the causes of a disappearance giving rise to concern or suspicions, the data is kept for 40 years)

5. Wanted persons file (FPR)

This database is governed by Decree No. 96-417 of 15 May 1996 and by Order of 15 May 1996, amended by the Orders of 2 September 2005 and 12 July 2007.

Individuals may be registered in the database to give effect to a judicial decision, or in the framework of an investigation by the criminal investigation department, or to give effect to a decision by the administrative authorities.

Minors may be registered in several of the database files:

- **“M” files (runaway minors):** these files only concern individuals under 18 years of age and certain foreigners who are adults under French law but minors in their own country, and who have left home and are no longer under the authority of the persons responsible for them. These investigations are requested by persons exercising parental authority.
- **“PJ” files (investigations by the criminal investigation department) or “J” files (inquiry by judicial authorities):** these files concern disappearances linked to a serious offence or ordinary offence when the minor is presumed to be the perpetrator or the victim and when, in that connection, he or she is the subject of an investigation by the police, the *gendarmerie* or of an inquiry by the judiciary.
- **“V” files (escapees):** these files concern minors who have escaped from a penal establishment.
- **“TM” files (minors under order not to leave the country):** these files concern orders not to leave the country issued by the competent administrative authorities at the request of the holder of parental authority, or issued at the request of the court.

Annex 5

Ministry of Justice files

1. National Criminal Record

Decisions entered in the record

Once they are final, the following decisions, handed down by Juvenile Court judges, Juvenile Courts and Juvenile Assize Courts (article 768-3 of the Code of Penal Procedure, hereinafter CPP), for acts committed by minors under 18 years of age, are entered in the National Criminal Record:

- Educational measures (warning, referring the issue to parents, supervised liberty, judicial protection, placement, day-care activities) for acts committed by minors capable of discernment
- Educational sanctions (confiscation, various prohibitions, internships, placement, mediation/reparation except in the case of sanctions handed down by Juvenile Court judges) for acts committed by minors over 10 years of age
- Criminal sanctions (prison sentences, fines, community-service work) for acts committed by minors over 13 years of age

Also entered in the record are penal compositions³² when their execution has been reported - concerning acts committed by minors over 13 years of age (articles 7-2 of the Order of 2 February 1945 and article 768-9 of the CPP).

The items listed above make up bulletin No. 1, to which only judges have access.

Personal data entered in the record

The data entered are the last name, first name, date, *commune* and *département* of birth, sex, filiation, nationality, the offence committed, the date and sentencing authority and the sentence handed down.

Length of conservation of the data

Penal sanctions issued with regard to minors remain on the National Criminal Record for 40 years (as is the case for adults). Nevertheless, there are two specific ways that information pertaining to minors can be deleted from the Record:

³² A form of transaction.

- First, the Juvenile Court may order the removal of the file from the National Criminal Record (regardless of whether the case involves a penal sanction, an educational measure or an educational sanction) three years after the sentence is delivered, if the minor concerned appears to have been rehabilitated
- Secondly, educational measures and sanctions are deleted from the National Criminal Record three years from the day when the measures were decided if the party concerned has not, during that period, been given a criminal sentence or penalty, benefited from a penal composition, or been the subject of a new educational measure or sanction

Access to the data by third parties

Decisions handed down with regard to minors appear neither in extract No. 2, accessible to the public administrative authorities (article 775-1 of the CPP), nor in extract No. 3, intended for the use of the party concerned or his or her legal representative and which can be requested from them by third parties, employers and others (article 777 of the CPP).

2. Minors and the Judiciary Record of Authors of Sexual or Violent Offences (FIJAIS)
(fichier judiciaire des auteurs d'infractions sexuelles ou violentes)

This record contains nominative data concerning persons involved in the most serious offences against a minor (murder or assassination preceded or accompanied by rape, torture or acts of barbarism, sexual aggression or assault, procuring) or in the most serious offences against individuals (murder or assassination committed with torture or acts of barbarism, torture or acts of barbarism, murder or assassination by legally defined reoffenders). Its function is to protect minors who are victims.

Minors who commit any of the offences mentioned above are registered in FIJAIS. The registration criteria, the three proofs of address, the obligation to report any change of address, the personal data entered in the file and the rules governing consultation and deletion are identical for minors and adults.

Nevertheless, minors may not be registered for acts committed before the age of 13; registration is not automatic for minors who have committed offences for which the sentence is greater than five years; placement under judicial supervision - before a decision on the merits - by the Juvenile Court judge is not entered in the record; and, finally, where it falls to the minor's legal representative to provide proof of address, judicial proceedings in the case of failure to respect that obligation are not automatic.

Annex 6

Decree of 20 October 2008 establishing a database of personal data relating to the supervision and management of pupils in primary school

NOR: MENE0824968A

Consolidated version of 2 November 2008

The Minister of National Education,

Having regard to the Education Code, in particular articles L. 111-1, L. 131-1-1, L. 131-2, L. 131-5 to 7, L. 131-10, L. 211-1 and R. 131-1 to 4;

Having regard to the Heritage Code, in particular articles L. 211-1 and L. 211-4;

Having regard to amended Act No. 78-17 of 6 January 1978 relating to information technology, files and freedoms, in particular article 23;

Having regard to Organic Law of 18 January 1887, in particular article 23;

Having regard to amended Decree No. 89-122 of 24 February 1989 relating to school heads, in particular article 2;

Having regard to amended Decree No. 2005-1309 of 20 October 2005, issued in application of amended Act No. 78-17 of 6 January 1978 relating to information technology, files and freedoms;

Having regard to the declaration receipts issued by the National Commission on Information Technology and Freedoms on 24 December 2004, 10 November 2006 and 22 April 2008,

Decides:

Article 1

A database of personal data, called “*Base élèves premier degré*”, shall be set up under the Ministry of National Education. Its purpose shall be to ensure:

The administrative and pedagogic management of primary school pupils (enrolment, admission, removal from the school rolls, assignment to classes, promotion);

The management and supervision of primary education in primary-education school districts and school inspectorates;

Academic and national supervision (statistics and indicators).

Article 2

The information system “*Base élèves premier degré*” shall be implemented in public and private nursery, primary and elementary schools, primary-education school districts, school inspectorates, and town halls which request it for data of relevance to them. The data shall be entered in academic databases.

Article 3

The following personal data shall be registered:

- I. Identity and address of the pupil (last name, first and middle names, sex, date and place of birth, home address, national student identity number).
- II. Identity of the legal guardian(s) of the pupil (last name, first and middle names, relationship to the pupil, address, authorizations, school insurance).
- III. Other persons to contact in the event of an emergency, or authorized to provide after-school care (name, relationship to the pupil, address).
- IV. School record of the pupil (dates of enrolment, admission and exit, class, grade, academic *cycle*).
- V. School-related activities (after-school clubs, study periods, school cafeteria and transport).

Article 4

Data concerning the nationality and racial or ethnic origin of pupils or of their parents or legal guardians may not be entered in the database.

Article 5

The personal data collected shall be kept on file in accordance with the following provisions:

1. Data relating to authorizations, school insurance and school-related activities shall not be kept on file beyond the current academic year;
2. In respect of the other data in the categories referred to in article 3 (I) to (III), only the latest update of each school year shall be kept on file;
3. In respect of the other data referred to in article 3 (IV), successive updates for each academic year shall be kept on file.

The maximum amount of time that data shall be kept on file in the “*Base élèves premier degré*” shall not exceed the end of the civil year during which the pupil is no longer enrolled in primary school.

Article 6

Headmasters, Ministry of National Education school inspectors responsible for the school district and education authority inspectors who are directors of departmental services under the Ministry of National Education shall have access to all of the information referred to in article 3.

Mayors, at their request, and municipal officers responsible for educational affairs and individually appointed by mayors shall, within the limit of their responsibilities, be authorized to have access to the personal data necessary to the accomplishment of their missions: data relating to the identity and address of the pupil, the identity and address of parents or 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 school-related activities.

The head of the *collège* in which a pupil begins his or her first year of studies shall be authorized to receive data relating to the identity and address of the pupil and the identity and address of the parents or legal guardians.

Article 7

The statistical services of each education authority shall be provided with strictly anonymous data from the academic database, for statistical purposes only.

The ministerial statistical services and the central administrative divisions of the Ministry of National Education having a need for it in the framework of their missions shall be provided with strictly anonymous data from the academic databases, for statistical purposes only.

Article 8

The rights of access and rectification of parents or legal guardians of pupils with regard to the processing of personal data, as provided for under articles 39 and 40 of the aforementioned Act of 6 January 1978, shall be exercised either in person, through the post, or through electronic mail, with the authorization of the head of the school, the Ministry of National Education school inspector responsible for the school district, or the education authority inspector, director of departmental services of the Ministry of National Education.

Article 9

The right of opposition provided for under article 38 of the aforementioned Act of 6 January 1978 shall not apply to the data processing provided for under the present decree.

Article 10

The Director-General of Education and the Secretary-General shall be responsible for the execution of the present decree, which shall be published in the *Journal officiel de la République française*.

Done in Paris on 20 October 2008

Xavier Darcos

Annex 8

Measures for assisting and reintegrating victims

1. In Europe

Since 2003, several voluntary contributions have been made to the Organization for Security and Co-operation in Europe (OSCE), the Anti-Trafficking Project Fund of the Office for Democratic Institutions and Human Rights (ODIHR) and the good governance fund: €200,000 (in 2003), €300,000 (in 2004), €400,000 (in 2005), €50,000 (in 2005), €200,000 (in 2006) and €50,000 (in 2007). These funds have made it possible to finance, on the proposal of our office in Vienna, several projects for assistance to victims of human trafficking (Albania, Montenegro, Croatia, Serbia, Kyrgyzstan, Moldavia, on-line conference on sexual exploitation of children on the Internet), one of France's priorities in its work with OSCE.

In January 2007, a regional technical assistant for "trafficking" was recruited by the International Organization for Migration (IOM) office in Budapest; this post was transferred to Sofia in September 2008 and is currently held by Marie-Anne Baulon, judge, and expert in the field of human trafficking. Judge Baulon has set up a network of specialists in the 15 countries of the Balkans region affected by child trafficking. The network focuses on three specific aspects of child trafficking: handling of victims who are minors (from the phase of police involvement to that of reintegration); unaccompanied minors as a vulnerable group and unaccompanied minors who are victims; minors who are victims and in conflict with the law. The network aims to harmonize legislative and operational efforts in the 15 countries concerned and, further, to promote its recommendations throughout Europe.

In addition, a post of cooperation officer, whose competence extends to Bulgaria, Moldavia and Romania, has been established in Romania. The post is held by Marie-Colette Lalire, who is responsible for all matters relating to protection of children's rights in the three countries.

2. In Africa

A regional seminar, organized and financed by the French Ministry of Foreign and European Affairs and the International Labour Office (ILO), was held in Dakar from 9 to 11 May 2007 on the question of trafficking in human beings, in particular women and children, in West and Central Africa (12 countries). Police officers, judges, non-governmental organizations and representatives of international organizations (International Labour Office, International Organization for Migration, United Nations Children's Fund, United Nations Office on Drugs and Crime) met together with a view to enlarging contacts and broadening the exchange of experience between key actors in the combat against human trafficking in these countries.

Since February 2007, an international volunteer in Togo has been working directly with civil society to back up coordination of the "Network to combat trafficking in children in Togo" (RELUTET) (international organizations, non-governmental organizations, labour unions).

In 2008, €25,000 was earmarked to reinforce and enlarge the RELUTET network and also for the purpose of holding a regional consultation (subregional workshop held from 3 to 5 November 2008, interactive website designed for the network).

3. In Asia

In response to the increase in prostitution, sexual exploitation of minors, and procuring in Indonesia, Malaysia and Singapore, a regional seminar was held in Indonesia in 2008, in cooperation with Australia and the United States, for heads of police departments and public prosecutors in the subregion. The seminar followed on from an earlier meeting, held in Bali in November 2007. The French Embassy in Indonesia also plans to hold a seminar on that topic in May 2009.

A seminar for the exchange of experience between French and Thai experts in the combat against human trafficking will be held in Bangkok in 2010, sponsored by the French Embassy. A regional meeting on that subject will also be held in 2010, with the participation of public stakeholders and non-governmental organizations, and will provide an opportunity for discussion on ways of reinforcing information exchange in this field.

Finally, a technical assistant in charge of the Observatory on Illicit Transborder Trafficking, and in particular questions related to human trafficking, working under the auspices of the Research Institute on Contemporary Southeast Asia (IRASEC) in Bangkok, has available a budget of €100,000 to implement the Observatory's 2008-2009 programme in the Mekong subregion (Viet Nam, Laos, Cambodia and Thailand).

Annex 9

“Education” section of the “*Espoir banlieues*” plan

To ensure that there is genuine equality of opportunity at school, no less than eight key measures have already been implemented or are in the process of being implemented:

- Educational support programme: launched in 2007 in *collèges* targeted by the priority education plan, the educational support programme now covers 3,072 public elementary schools under the priority education plan. A total of 170,669 pupils benefit from the programme, and they are supervised by 14,500 individuals, including 10,900 teachers.
- Boarding schools to promote academic excellence: placement in 169 boarding schools is offered to young people from priority education schools in order to provide them with an opportunity to develop their academic potential. A total of 1,653 places were set aside in June 2008 and the goal is to increase the number to 2,500 in three years and to 4,000 in five years. Efforts have been made to assist families seeking places in these schools (directory of boarding schools, available on the website of the Ministry of National Education).
- Thirty sites to promote excellence, located in priority neighbourhoods, have been created in order to reinforce the individualized supervision of pupils and develop linguistic and/or artistic or cultural potential (55 projects), while vocational *lycées* (10 out of 30 sites) have been transformed into *lycées des métiers*. A total of 26,000 pupils are involved.
- Voluntary academic mixing or “bussing”: this experimental project enables pupils in the fourth and fifth grades (*cours moyen*) to attend schools located in better neighbourhoods. At the start of the 2008 school year, 12 voluntary *communes* had implemented the project.
- Pilot project for academic success in the *lycée* offers pupils in 200 *lycées* individualized support during the academic year and in conjunction with training courses held during school vacation (more than 23,000 volunteer pupils and more than 2,300 adult supervisors).
- Access to *classes préparatoires aux grandes écoles*: over 5 per cent of pupils in the last year of *lycée*, often scholarship holders, apply for admission to the *classes préparatoires*, which prepare students to take the entrance examinations for the *grandes écoles*.
- Training course data banks: 15 pilot *académies*, in cooperation with employer associations and professional organizations, have agreed to set up training course data banks beginning in the 2008-2009 academic year to ensure greater equity in access to training.

- Reducing school dropouts: a local coordinating unit has been set up in each of the 215 neighbourhoods considered to be an urban policy priority in order to improve identification of and assistance to young dropouts (return to school, training, employment, remotivation), regardless of whether they are under or over 16 years of age. This project will potentially reach 200,000 pupils. The triennial objective is to reduce by 10 per cent annually the number of young dropouts and to increase by 10 per cent the number of them who have been positively reoriented.

CHILDREN'S OMBUDSMAN

FRENCH REPUBLIC

Periodic report on the follow-up to the Convention on the Rights of the Child before the Committee on the Rights of the Child of the United Nations

Reply to the questionnaire of the Committee on the Rights of the Child, transmitted to the Ministry for Foreign and European Affairs

(Question 2, Part III)

Subject of the request:

Number of complaints submitted to the Children's Ombudsman/authors/grounds/follow-up
2006/2007/2008

I. Number of complaints submitted to the Children's Ombudsman

In 2006 the Children's Ombudsman received 1,200 new applications and, added to the cases already under consideration, more than 2,000 complaints were processed, concerning 2,825 children (20 per cent more than in 2005).

In 2007 the Children's Ombudsman received 1,350 new applications and 2,110 complaints were processed, concerning 2,607 children (10 per cent more than in 2006).

In 2007 the Children's Ombudsman received 1,400 new applications (3.7 per cent more than in 2007) and 1,758 complaints were processed, concerning 2,423 children.

Based on 2008 data, this represents an average of one complaint for 8,000 to 9,000 minors, with strong regional variations. The *départements* with the **most numerous complaints are those encompassing cities with high urban density** (for example, Marseilles, Lyons, Lille, Bordeaux, Toulouse), among which the Parisian region predominates, representing 27 per cent of the complaints, 10 per cent of which come from Paris alone. In 2008 there was a certain amount of **homogeneity in the age spread**. Young people aged 16 to 18 now constitute one-fifth of the claims, a percentage which is similar to those for children aged 1 to 6 and children aged 7 to 10. Nevertheless, **the 11-to-15 year-old age group appears to have the most problems, representing 32 per cent of the complaints received**. It should be noted that **7 per cent of the complaints concern young people over 18**. While clearly not mandated to handle the cases of these adults, the Children's Ombudsman nevertheless endeavours to provide them with all possible relevant information and to direct them to the competent authorities.

II. The authors

In 2006, 93 per cent of the applications were filed by individuals and 7 per cent by associations. Sixty-two per cent of the complaints were submitted by parents (27 per cent by mothers; 15 per cent by fathers; 10 per cent by couples). One complaint out of ten came from the children themselves. Members of the child's family (including grandparents) were responsible for 12 per cent of the complaints.

In 2007, as in 2006, 93 per cent of the applications were filed by individuals and 7 per cent by associations: 61 per cent of the complaints were submitted by parents (35 per cent by mothers; 15 per cent by fathers; 11 per cent by couples); 8 per cent of the complaints came from the children themselves. Members of the child's family (including grandparents) were responsible for 10 per cent of the complaints.

In 2008, 88 per cent of the applications were filed by individuals and 12 per cent by associations (9 per cent) or medical and social services (3 per cent). More than half (57 per cent) of the complaints were submitted by parents (32 per cent by mothers; 16 per cent by fathers; 9 per cent by couples) and 8 per cent of the complaints came from the children themselves. Members of the child's family (including grandparents) were responsible for 11 per cent of the complaints.

The breakdown of those submitting complaints thus appears relatively stable from one year to the next.

A more detailed analysis can be made of the most recent data. In 2008, while more than half the complaints were filed by parents, jointly or separately, the largest number of complaints were filed by mothers (32 per cent of the complaints), double the number filed by fathers (16 per cent). A total of 9 per cent of the complaints were filed jointly by parents. A slight decrease in the number of complaints filed by mothers (-3 points) in relation to 2007 is to be noted.

The number of children filing complaints remains stable (8 per cent), even though a slight trend towards complaints from younger children has been noted. That trend has no doubt been encouraged by the participation of the Children's Ombudsman in various activities (*opération Asterix*,³³ magazine interviews, radio broadcasts for young people). Given the knowledge needed to use the Internet, using the regular post is the preferred solution for the youngest children. In all the cases, the spontaneity of the children's appeals **ensures a response in every case from the Office of the Children's Ombudsman, which makes direct and rapid contact with the children**, either by telephone or by email.

The number of complaints filed by grandparents has also stabilized (5 per cent in 2008 as against 6 per cent in 2007). In three-quarters of the cases, the complaints concern the **exercise of parental rights** with regard to the child (62 per cent) or the **placement of the child or educational measures** taken (13 per cent).

Family members and medical and social services can, since the adoption of the Act of 5 March 2007 for the reform of child protection, refer complaints to the Children's Ombudsman. While the percentage of such complaints is the same as that in 2007 (9 per cent of complaints), the consequence of this legal reform has been to limit the number of investigations initiated by the Children's Ombudsman and to **strengthen the involvement of these actors in monitoring children and signalling any problems**.

³³ Astérix became the Special Ambassador of the Children's Ombudsman on 27 April 2007 (for more information: www.asterix.com/droit-des-enfants/).

Moreover, the number of complaints referred to the Office of the Children's Ombudsman by **associations** has increased by 2 points since 2007 (9 per cent of complaints). The trend mentioned the previous year has been confirmed since these are, **in nearly three-quarters of the cases, associations that are not specifically authorized to take action by law.**

In 2008, more than half (52 per cent) of the **complaints filed by associations** concerned the situation of **foreign minors**, 49 per cent of whom came from countries outside of the European Union.

The situations brought to the attention of the Office of the Children's Ombudsman through the intermediary of associations have thus led to **investigations by the Office**. The associations involved mainly work with families in extremely precarious situations (social, financial, administrative) and the Office of the Children's Ombudsman hopes to assist these families every time it possibly can.

Among the complaints submitted to the Children's Ombudsman, 8 per cent to 10 per cent are filed directly by children. **A slight trend towards complaints from younger children** has been noted. That trend has no doubt been encouraged by the participation of the Children's Ombudsman in various activities (*opération Asterix*,³⁴ magazine interviews, radio broadcasts). Given the knowledge needed to use the Internet, using the regular post is the preferred solution for the youngest children. In all the cases, the spontaneity of the children's appeals **ensures a response in every case from the Office of the Children's Ombudsman, which makes direct and rapid contact with the children**, either by telephone or by email.

Such complaints concern mainly conflicts regarding the right claimed by each parent to exercise fully his or her parental authority. The source of such conflicts is either a judicial decision deemed not to meet the expectations of one or both of the parents, or the question of visiting rights and child custody. Hostage to these conflicts, minor children who turn to the Children's Ombudsman are trying to find a way out of the impasse. It can be frequently observed that the child is actually presenting the case of the parent. The Children's Ombudsman nevertheless takes the interests of the child into account and makes every effort to determine what the child is expecting from her. That process sometimes helps the child to gain some distance from the conflict between adults.

Other matters raised directly by children reflect the wish of adolescents to become more independent. For example, many adolescents hope for more flexibility in the application of the rules regarding visiting rights and custody. Such complaints do not contest the rights of the parents but underline the failure to take into account the adolescents' wishes and their feeling that they have not been sufficiently involved in the decision-making process.

The Children's Ombudsman also receives letters in which children express genuine distress and ask for help or someone to talk to. In such cases, the Children's Ombudsman

³⁴ Astérix became the Special Ambassador of the Children's Ombudsman on 27 April 2007 (for more information: www.asterix.com/droit-des-enfants/).

contacts the minor in order to get a better grasp of the situation, and in addition to legal advice, contact is maintained with the young person for several weeks, or even longer, in order to help him or her get their bearings and find the appropriate persons to contact.

III. Grounds

In 2006, 2007 and 2008, complaints submitted to the Children's Ombudsman concerned mainly the following situations, the disaggregation of which has remained very stable from one year to the next:

(a) Conflicts related to the difficulty of maintaining ties following the break-up of the family (divorce, separation of the parents, death): 35 per cent to 36 per cent;

(b) Administrative difficulties of a foreign minor living with a family or alone: 15 per cent to 18 per cent;

(c) Challenging a placement or educational measure, or conflict with a care facility: 6 per cent to 8 per cent;

(d) Situations relating to school: 8 per cent to 10 per cent;

(e) Social difficulties and family housing problems: 6 per cent to 10 per cent;

(f) Problems with regard to health or disability: 5 per cent to 8 per cent.

With regard to **applications filed jointly by parents**, the reasons for the complaints are primarily linked to difficulties their child or children are having in **school** (one quarter of the complaints) and **with regard to health or disability** (18 per cent of complaints). **Individual complaints by one parent** concern, nearly one time out of two, the exercise of the custody and visiting rights of one parent with regard to his or her child, and the exercise of parental authority.

IV. Follow-up

In 2006, 2007 and 2008, generally speaking, nearly 6 complaints out of 10 (56 per cent to 58 per cent) gave rise to action with regard to the substance. In the other cases, where it decided not to take action, the Office of the Children's Ombudsman still provided information and explanations or redirected the claimant to other institutions that could more easily provide the appropriate follow-up (other independent authorities, administrations, professional organizations). In the case of approximately 60 per cent of the complaints challenging decisions linked to the exercise of parental authority, the Office redirected the claimant, usually to a mediation unit or legal structure.

The Office of the Children's Ombudsman is not a replacement for specialized services or social and legal arrangements for child protection. It acts with a framework of inter-institutional mediation and recommendation: it strives to help the persons or institutions in question to look at the situation from a different perspective and identify other solutions in the best interests of the child.

- The Children's Ombudsman may neither be an actor in legal proceedings before a court nor challenge the substance of a legal decision. She may however inform the public prosecutor of any dysfunction in the courts that is prejudicial to the child.
- In the event of failure to execute a judicial decision, the Children's Ombudsman may enjoin the parties to respect the decision.
- The Children's Ombudsman works in cooperation with other independent authorities, such as the High Authority to Combat Discrimination and Promote Equality (HALDE), the *Commission nationale de déontologie de la sécurité* (CNDS), or the National Commission for Information Technology and Civil Liberties (CNIL).
- The Children's Ombudsman also works in close cooperation with the Ministry for Foreign Affairs to resolve the problems of French children abroad who are experiencing difficulties or are in danger.

Annex 11

The new information system on violence

The School Security Information and Monitoring System (*système d'information et de vigilance sur la sécurité scolaire*)(SIVIS), launched at the start of the 2007 academic year, constitutes a survey carried out in 1,000 public secondary schools.

The survey is divided into two parts: the first involves collecting information on serious acts of violence and the second information concerning the general atmosphere in the school and any changes in it. Heads of the schools participate in the survey through the Internet and can report incidents as they happen throughout the academic year. The data is processed each trimester, in December, March and July.

The SIVIS survey, which replaces the SIGNA survey used between 2001 and 2006, brings with it three significant changes:

- A more homogenous collection of data on violence, focusing on the most serious acts, in line with the “Memo on action to be taken in the case of offences in academic establishments”, distributed at the start of the 2006 academic year. The acts registered are now classified into 14 types, as opposed to 26 under the SIGNA system.
- The addition of a trimestral questionnaire aimed at assessing the general atmosphere at the school and any changes in it, which should make it possible to understand the context of the overall number of incidents reported.
- A survey carried out in a sample of 1,000 secondary schools and primary-school districts, representative at the national level (metropolitan France and the overseas departments (DOM)).

The new SIVIS system is a statistical survey endorsed by the National Council for Statistical Information (CNIS). The schools' responses are confidential and may only be used for statistical purposes. The data, which is completely anonymous, may not be used to make comparisons between schools.

Under the previous system, SIGNA, data was collected on acts that met at least one of the three following criteria: acts that were clearly criminal in nature, acts that had been written up, or acts that had a significant impact on the academic community. The latter criterion was open to interpretation by school heads. Moreover, every act reported under the SIGNA system was registered without restriction. As a result, the comparisons made between schools, based solely on the total number of acts reported, did not take into account the varying degrees of gravity of the acts reported. Depending on their exposure to violence, schools varied in their evaluation of the gravity of certain acts.

The desire to collect more homogenous data has led to the restriction, under the new SIVIS system, of the criteria for registering specific acts.

With regard to incidents in which only pupils are involved, only acts of a sufficiently serious nature, given the circumstances and consequences of the act, are registered. In particular, at least one of the following conditions must be met: acts with intent to discriminate, use of a weapon, use of constraints or threats, an act giving rise to medical assistance or resulting in a significant financial loss, brought to the attention of the police, the *gendarmerie* or the courts, and in relation to which a complaint is likely to be brought or a disciplinary hearing to be held.

In contrast, owing to the serious threat they represent to the school, all incidents involving school staff are registered.

Such a procedure should ensure greater homogeneity in school reporting, even though the possibility of a certain amount of subjectivity on the part of heads of schools cannot be ruled out entirely.
