



Convention on the Rights of the Child

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Summary Record of the 1270th MEETING*

Held at the Palais Wilson, Geneva, on Wednesday, 26 September 2007, at 10 a.m.

Chairperson: Ms. Lee

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* No summary record was prepared for the 1268th and 1269th meetings.

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The meeting was called to order at 10 a.m.

Consideration of reports of States parties (item 4 of the agenda) (continued)

Initial report of France on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC/C/OPAC/FRA/1); list of issues to be taken up (CRC/C/OPAC/FRA/Q/1); written replies by the State party concerning the list of issues (CRC/C/OPAC/FRA/Q/Add.1)

Initial report of France on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/FRA/1); list of issues to be taken up (CRC/C/OPSC/FRA/Q/1); written replies by the State party concerning the list of issues (CRC/C/OPSC/FRA/Q/1/Add.1).

1. At the invitation of the Chairperson, the delegation of France took places at the Committee table.

2. **Mr. Bettati** (France) said that the protection of the rights of the child had a more prominent place than ever among the priorities of the French Government. The measures outlined in the reports under consideration were part of a comprehensive, cross-cutting policy for children based on the fundamental concept of the interest of the child as set forth in article 3, paragraph 1, of the Convention. The preferred means for implementing this comprehensive policy were family policy and the protection of at-risk children.

3. The domestic law and practice of France were in conformity with the provisions of the Protocol on the involvement of children in armed conflict. Although some groups had criticized French law for failing explicitly to prohibit minors from participating in hostilities, that fundamental principle was respected in practice. Nonetheless on 24 September 2007 the Ministry of Defence considered it appropriate to adopt a directive amending article 4132-1 of the Defence Code and explicitly prohibiting the participation of persons under 18 years of age in hostilities.

4. At international level, a conference entitled “Free Children from War” was held in Paris in February 2007, which brought together 58 States, non-governmental organizations (NGOs) and international organizations. The conference led to a policy declaration (“the Paris Commitments”) and a technical text (“the Paris Principles”) which updated the “Cape Town Principles” of 1997. Furthermore, France and the United Nations Children’s Fund (UNICEF) had decided to hold a ministerial meeting on 1 October 2007 as a side event at the United Nations General Assembly, the principal aim being to garner further support for the Paris Commitments, especially from countries that had not participated in the Paris Conference. France was convinced that the only way that issues of such gravity could be effectively combated was for the international community to conduct a collective debate and for countries to take action to establish a close working relationship.

5. France continued to step up its action to combat paedophilia and the sexual exploitation of children. As a result it had recently adopted five bills to strengthen the machinery to combat these appalling activities. The French Government had rallied all relevant actors (State, local communities and associations) around a deliberate policy to combine suppression and prevention policies with help and protection for victims.

6. In the field of suppression, new offences had been introduced. Some provided for better penalties for the acts and behaviours described in the Protocol and some enabled account to be taken of the development of new technologies. As a result it was now an

offence to make a pornographic image available, or to record and distribute images of the commission of offences which damaged the integrity of the person, or to habitually view child pornography on the internet.

7. Furthermore, the penalties incurred for offences of a sexual nature against minors were particularly severe. The offences of pimping or trafficking in human beings where the victim was a minor were punishable by ten years imprisonment and a fine of €1.7 million. In any event, the young age of the victim was an aggravating circumstance. The statute of limitations for certain sexual offences had also been extended to increase the opportunity for court proceedings against offenders.

8. Finally, socio-judicial supervision measures had been established for sex offenders to encourage them to obtain treatment, where treatment was possible. Improved suppression also included improvement in detection and monitoring of offences through the establishment of specialist facilities (such as the Central Office responsible for combating violence against individuals or the Central Office responsible for combating trafficking in persons) and training of specialist investigators who had new investigative tools available to them (“cyberpatrols”).

9. Prevention had been stepped up in several fields with the aim of combating sexual exploitation of children more effectively. The prevention policy started with awareness-raising among families and the general public through information campaigns and the dissemination of educational programmes in the form of television advertisements, cartoons or practical guides. The French Government also wanted to make the various stakeholders more responsible, especially internet service providers who distributed parental control software, and mobile telephone operators, who had undertaken to comply with a number of commitments on mobile multimedia content. The development of a “family label” or stamp of approval was under way at the same time.

10. Concerning support measures, assistance for victims was an ongoing concern and took many forms, for example legal support throughout criminal proceedings, psychological and mental support, assistance for social recovery. The non-profit sector was a first-line partner of the State in that area and victim support associations had received around €7.4 million in subsidies from the Ministry of Justice in 2006.

11. Generally speaking, at-risk children were cared for under the child protection arrangements which had undergone thorough reform under the Act of 5 March 2007. The intervention arrangements had been diversified, and the system for early warning and risk assessment for children had been improved and harmonized at national level. The Act had also replaced the concept of “ill-treated child” with that of “at-risk child” in order to cover all risk situations. The Government was required to report to Parliament on the implementation of the new arrangements every two years. Several local projects had been set up. For example a facility specializing in caring for girls who had been victims of sexual abuse and incest had been established in 1996 in the town of Agen.

12. With regard to action against sex tourism involving children, France had made efforts to raise awareness among French travellers about respect for children in foreign countries and to make those working in the travel sector responsible by involving them closely in action to combat this particular scourge. France had also intervened at international level by improving police and judicial cooperation with those countries most affected. It had also participated in a recent Organization for Security and Co-operation in Europe conference on victims of human trafficking, including minors, ratified the Council of

Europe Convention on Action against Trafficking in Human Beings and participated in the formulation of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, which was adopted on 11 July 2007.

13. France was of the view that its legislation was in full conformity with its international commitments and that in the areas under consideration there was a need for continuous debate and exchanges of views, redeployment of available resources and constant vigilance.

Initial report of France on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

14. **Mr. Polar** noted with appreciation that France chaired the Working Group of the Security Council on Children and Armed Conflict, had made a contribution of €100,000 in 2005-2006 to the NGO coalition “Stop the use of child soldiers” and had participated in the formulation of the European Union action plan on children in armed conflict.

15. There were however several issues that required explanation and clarification. Firstly, the delegation might indicate whether France intended to explicitly criminalize the recruitment of persons under age 18 into armed groups distinct from the national army and to adopt more stringent safeguards on voluntary recruitment into the Foreign Legion, which was possible at age 17. The absence of information on Overseas Departments and Territories and precise data on refugee and asylum-seeking children from regions affected by war was a matter of regret. It would also be useful to have details on cooperation between the competent Ministries with regard to the implementation of the Optional Protocol and to hear whether professionals working with children were aware of the provisions of the Protocol and whether France intended to define the concept of direct participation in hostilities more precisely.

16. **Mr. Citarella** enquired whether the military schools provided training in human rights, whether the pupils there were introduced to arms drills and whether they were free to take up or turn down a military career upon completion of their studies. The delegation might also indicate whether France had a specific programme of assistance for asylum-seeking children from countries at war.

17. **Ms. Khattab** asked whether the Working Group of the Security Council on Children and Armed Conflict worked with any other United Nations bodies.

18. As France made a large number of military personnel available to the United Nations for its peacekeeping operations it would be interesting to know whether the military personnel concerned had training in human rights and the rights of the child prior to their deployment, whether there had already been any complaints of violations of human rights against French blue berets and if so, how France had followed those complaints up.

19. **Mr. Puras** asked whether the Children’s Ombudsman or any other competent agency was able to conduct independent investigations in military schools under the Ministry of Defence and what recourse was available to the pupils in military schools who were subject to military discipline.

20. **Mr. Zermatten** asked what would happen if a moral person such as a security company recruited individuals under age 18 for the purpose of employing them outside French territory. In view of the absence of information on child asylum-seekers and

unaccompanied children, some of whom might have been involved in conflict in their countries of origin, it would be useful to know what steps France took to identify such children and come to their aid.

21. It was a matter of regret that the “Paris Principles” only made passing reference to the Protocol and that to his knowledge there had been no review of the compatibility of the Principles with the Protocol, a universal international benchmark in this sphere.

22. **Mr. Krappmann** enquired whether pupils in military schools exercised their right to participate, for example in School Councils. He welcomed the projects to promote peace education and the rights of the child conducted by France abroad but asked whether France conducted the same kind of initiative on its own territory and whether human rights were an integral part of French teachers’ training.

23. **Ms. Aidoo**, after paying tribute to France for the aid it gave Africa both on a bilateral basis and through the European Union, asked whether NGOs had been involved in the formulation of the report. Noting from paragraph 22 of the report that the French Government kept “a close watch on the possible recruitment of minors by foreign armed groups on French territory”, she enquired whether France might envisage adopting a law to make recruitment on those terms a criminal offence.

24. **Mr. Parfitt** enquired whether there were controls to ensure that arms exported from France did not end up in the hands of child soldiers and recalled in that regard that the European Arms Code which France had signed, required human rights to be taken into consideration in all arms sales.

25. Details on the “waiting areas” for migrants in airports would be welcome, it being of particular interest whether the best interest of the child was afforded prime importance here.

26. **Mr. Filali** requested further details on the applicability of the Protocol in the French courts and on the definition of direct participation in hostilities within the meaning of French law.

27. **Ms. Smith** asked whether it was possible for a former child soldier not to be recognized as such in a waiting area and for him or her to be immediately returned to his or her country. It would also be useful to know whether, armed with its legislation on extraterritorial jurisdiction, France might envisage bringing legal proceedings against persons who had recruited children abroad, even where there were no obvious links to France.

28. **The Chairperson** noted that the Paris Principles illustrated the commitment of France to the rights of the child but was surprised that the Committee had in no way been involved in the conference at which they were adopted.

The meeting was suspended at 11 a.m. and resumed at 11.20 a.m.

29. **Ms. Tissier** (France) indicated that the issue of the applicability of the Protocol had not yet arisen in French courts; she noted however that the Convention on the Rights of the Child was directly applicable and said that in view of the fact that this was now well established in the case law there were no grounds for concern that magistrates’ reasoning in respect of the Protocol would be any different. She understood and shared the regret expressed by members of the Committee at the paucity of references to the Protocol in the Paris Principles. It showed that the consultations coordinated by UNICEF had been too few.

30. Representatives from NGOs accounted for three quarters of the members of the National Consultative Commission on Human Rights, which had participated in the formulation of the report.

31. **Ms. Ruhard** (France) said that all French norms were directly applicable in the Overseas Departments and Territories, including the directive on the protection of minors in armies; the scope of application of that directive was very broad as it covered all military operations abroad, in other words not just participation in hostilities in the broad sense but also security, peacekeeping, rescue and emergency activities. The Foreign Legion was of course subject to the directive.

32. France had six defence secondary schools. They were civilian facilities where education was provided by teachers from the national education system. The pupils were not subject to any sort of military discipline and, as in any other establishment, were free to apply to represent their classmates by standing for the role of class delegate. The only establishment in the territory which genuinely had military status was the Air Force Technical Training School which had around 200 pupils age 16 and over; the school prepared them for a technical or scientific baccalaureate but also provided specific lessons in civic education and awareness of military ethics. The establishment could be regarded as a springboard into an air force job for pupils who were failing at school. The Children's Ombudsman had full discretion to take up matters on his own initiative, whether the acts in question occurred in a military or civilian establishment.

33. **Mr. Allonsius** (France) added that the principal role of the Children's Ombudsman was to establish a dialogue between the various administrative and judicial authorities with a view to reaching a settlement in the matters brought to his attention, most often by the lodgement of an individual complaint.

34. **Mr. Parfitt** asked whether the Children's Ombudsman had access to police files.

35. **Ms. Tissier** (France) stated that the Ombudsman had no mandate to conduct investigations: he collated the relevant evidence – there was nothing to preclude him from visiting a military school to ask questions – then if he felt it necessary he reported the facts to the authorities.

36. **Mr. Allonsius** (France) explained that regard was always had to the best interest of the child when they were placed in a waiting zone. The authorities ensured they did not become potential victims of forced labour or prostitution networks. The Code of Admission and Residence of Aliens and the Right to Asylum provided that an alien entering French territory could be held in a waiting area for the period necessary to prepare his or her return to the country of origin or to examine his or her asylum application. That decision was a matter firstly for the administrative authorities and the placement could not exceed 48 hours, renewable once. A court judge could authorize the continued placement beyond that limit up to a maximum period of eight days, renewable once.

37. The rights of minors who had no legal guardian on French territory were safeguarded by an ad hoc administrator appointed by the Public Prosecutor as soon as he was informed of the situation by the police services. The administrator represented the minor in all judicial and administrative proceedings. This was a major development under the Immigration and Integration Act of 24 July 2006. If the Public Prosecutor was of the view that the minor was at risk he referred the case to the juvenile court to ensure that the minor was protected. The court ruled in the interest of the child pursuant to the relevant

provisions of the Civil Code and was able to order an educational placement outside the waiting area. Additionally, the authorities ascertained the veracity of the information supplied by the minor. To prevent any contact with trafficking or prostitution networks, unaccompanied minors placed in waiting areas were held separately from adults, and children under age 13 were placed in an area specially designated for them.

38. Minors who received authorization to enter French territory were placed, subject to judicial oversight, in the care of specialized facilities which monitored and protected them but also guided and accommodated them in an appropriate setting. In 2006, 600 minors had been placed in waiting areas, and the corresponding figure at 31 July 2007 was 374.

39. The courts most affected by the arrival of minors on the national territory had educational services under the Ministry of Justice which were open 24 hours a day; they provided care, replied to any questions minors had and assessed their circumstances. Educators and psychologists posted there had received training on the care of minors who had been enlisted or who had fled conflict zones. In 2006 for example, the educational services of the Paris court had received 1,100 minors, around 50 of whom were unaccompanied; 17 of those had fled conflict zones in Africa and some had participated in armed conflict.

40. **Mr. Parfitt** asked for clarification on the facilities available in the waiting areas.

41. **Mr. Krappmann** asked whether the staff employed in the waiting areas and the ad hoc administrators were trained in and aware of the circumstances and culture of the minors they were dealing with.

42. **Mr. Zermatten** asked whether asylum had been granted to the 17 minors who had fled zones of conflict.

43. **Mr. Allonsius** (France) did not have any information on that point. The waiting areas were not detention centres and did not fall within the remit of the prison authorities. They were holding areas arranged in various settings. Educators, including those under the Ministry of Justice, as well as police officers had received specific training in greeting and listening to young people. Police officers were not armed in the holding areas.

44. **Mr. Citarella** asked whether minors were returned to their countries of origin or accommodated in other centres in France once the period of placement in the waiting area was over.

45. **Ms. Aidoo** enquired whether France might facilitate the return of the children concerned to their countries of origin rather than sending them back to the transit countries they had come from and asked whether the delegation could say what percentage of children were returned to their country of origin.

46. **The Chairperson** asked whether a child age 7 who arrived alone from a country at war was likely to be repatriated.

47. **Mr. Allonsius** (France) replied that minors arriving at ports or airports were placed in waiting areas; others fell within the scope of French child protection laws. Thus a child arriving from an area of conflict whose circumstances had been reported to the competent authorities enjoyed protection on French soil and was not returned to his or her country. Repatriation only occurred following verification of a certain number of details in the

country of origin. The waiting areas were open to associations specializing in assistance for people in this category and their staff were able to interview the child and participate in collecting information on his or her circumstances.

48. **Ms. Tissier** (France) stated that a child who arrived in France alone was placed in a waiting area while social services and the French Office for the Protection of Refugees and Stateless Persons (OFPRA), which decided whether to grant asylum, conducted a thorough review of his or her circumstances.

49. **Ms. Smith** wanted to be certain that former child soldiers were at no risk of being returned directly to their countries before the information supplied on their circumstances had been verified.

50. **Mr. Citarella** asked whether a child could be held in a waiting area until the administrative procedures and the procedures to verify information on his or her circumstances had run their course.

51. **Mr. Filali** asked whether the ad hoc administrator made the application for asylum to OFPRA, which facility the child was placed in during the review of his or her application for asylum and whether he or she was likely to be taken back to the frontier in the event that the application was refused.

52. **Ms. Ortiz** asked whether the NGOs could observe the treatment of minors by the immigration services.

53. **Ms. Tissier** (France) replied that representatives from the French Red Cross and associations providing aid to aliens were present in all waiting areas so that they could protect aliens, including children. This was not detention in the strict sense because the people placed in waiting areas, although deprived of their freedom of movement, were accommodated in decent premises where minors were separate from adults and were given psychological and social support. They could also receive visits and make phone calls.

54. **Mr. Allonsius** (France) explained that while a minor was in a waiting area the ad hoc administrator made representations with the administrative and judicial authorities, including OFPRA, to obtain refugee status for him or her. In the event that refugee status was not granted, the minor's return to his or her country of origin was organized once it had been ascertained that he or she would be taken upon arrival into the care of a person with parental authority.

55. Minors who had fled areas of armed conflict or who had participated in armed conflict but who were not in waiting areas could be pointed towards specialist associations by State services.

56. **Ms. Diego** (France) said that participation in mercenary activities, which was punishable by seven years imprisonment and a fine of €100,000 pursuant to article 436-2 of the Penal Code, also fell within the scope of the criminal law where they were committed abroad by a French national (or a person habitually resident in France). Article 436-5 provided for responsibility of legal persons for activities of this kind.

57. **Mr. Zermatten** asked whether the fact that the person recruited was a minor constituted an aggravating circumstance.

58. **Ms. Tissier** (France) replied that it did not.

59. **Ms. Ruhard** (France) noted that there was no precise definition of direct participation in hostilities. That was why the directive adopted by France referred to “participation in military operations”, which encompassed peacekeeping and rescue operations.

Initial report of France on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

60. **Mr. Kotrane** noted that France was a country that was greatly affected by the issues described in the Protocol as a country of origin, destination and transit, but that no public investigation into the child prostitution situation had been conducted since the report on public policies and prostitution of January 2001. According to the Children’s Ombudsman and various reports, there were between 3,000 and 8,000 children being used for begging or prostitution in France – a figure that appeared to be at odds with those given in the written replies of France; the Committee therefore would like to know what measures and programmes the French authorities intended to establish to improve the system of data collection and statistics on the offences described in the Protocol.

61. The Committee highlighted the contradiction between the relatively full legislative arsenal at the disposal of France and the fact that texts were not adequately implemented. According to observations by associations and certain reports, the perpetrators of offences against children were only mildly perturbed. There appeared to be no systematic ongoing training measures for magistrates responsible for cases in the field described in the Protocol. The training of persons working in the tourist industry also appeared to be inadequate. The proposals set out in the report on combating sexual exploitation of children in tourism of 2004 did not appear to have been followed up adequately.

62. European and international cooperation in legal matters to combat criminal networks appeared to be inadequately established and the process of issuing European arrest warrants was fairly weak. It would be useful to know what measures and programmes the authorities intended to put in place to expedite the implementation of legal texts in the areas referred to, especially information, training and coordination between systems.

63. The Committee also asked for information on whether the French authorities planned to extend judicial jurisdiction in future to enable it to take proceedings in other countries in respect of all the offences described in the Protocol, including the sale of children and child pornography.

64. Despite the steps taken by the Minister of Justice to establish arrangements at each court for taking evidence in a hospital environment from child victims of sexual violence, the necessary funding did not appear to have been released, leading to significant disparities on French territory in the care of children. The Committee requested information on the situation in that regard, especially in the Overseas Territories.

65. It would be useful to know what measures France intended to take to increase expertise in child psychiatry in view of the fall in the number of child psychiatrists in France.

66. The Committee would also like to know whether arrangements were in place to give children without papers the benefit of the doubt when the results of bone density tests to establish their age were not in their favour in order to ensure that they were not kept in administrative detention centres for adults.

67. It would appear that unaccompanied children placed in waiting areas were still sometimes taken back to the frontier at the weekend without the Public Prosecutor being informed and without regard to the potential risks to the child.

68. Bearing in mind the case of the unaccompanied foreign minors who, upon their release following an appearance in Bobigny court, had been met by prostitution networks, it would be useful to know what measures France was able to put in place to provide monitoring for children released in those circumstances and to prevent them from becoming the quarry of criminal networks; sometimes these networks made prior contact with the children, including in administrative detention centres.

69. **Mr. Siddiqui** was concerned at the lack of data and statistics that were disaggregated by age, sex and minority group. He asked whether the National Monitoring Centre for Children in Danger had adequate financial and human resources, whether it was authorized to request information from other agencies such as the police, and how the data it collected were disseminated.

70. Turning to the repatriation of foreign child victims of prostitution, he asked whether the agreement signed between France and Romania pursuant to which Romanian children returned by France were assisted and monitored in Romania to ensure they would not drift back into prostitution was effective and, if not, how France intended to remedy the matter, and whether similar agreements were planned with other countries.

71. **Ms. Khattab** asked whether the State party had plans to introduce more modern techniques than bone density tests to establish the age of child asylum-seekers. The number of child victims of prostitution whose circumstances had been reviewed and had given rise to an investigation was very low and the delegation might therefore supply details in that regard and indicate whether the funds allocated to activities to implement the Protocol were adequate.

72. **Ms. Aidoo** asked whether NGOs and civil society had been involved in the formulation of the report by the State party, whether there was a mechanism to coordinate the many agencies and organizations involved at national and regional levels in implementing the Protocol and whether that mechanism monitored and assessed the implementation of the Protocol.

73. The delegation might also indicate whether the training and awareness programmes in relation to sex tourism and sexual exploitation of children placed sufficient emphasis on the special vulnerability of girls and whether the effectiveness of the programmes had been evaluated, particularly by the National Monitoring Centre for Children in Danger.

74. **Mr. Zermatten** asked whether a minimum age had been set for hearing child victims in legal proceedings and whether there was a set number of possible hearings in respect of a child. It would also be useful to indicate whether the child could be accompanied by his or her parents during the hearing and whether confrontation of the child victim with the offender was necessary to establish the facts despite the decision to make systematic use of audiovisual techniques. The delegation might indicate whether the courts consistently required the credibility of children's evidence to be reviewed and, if so, whether specialists in forensic psychology were qualified to that end given that the number of child psychiatrists was inadequate. The Committee would like to know how many medico-legal units (UMJ) with responsibility for examining child victims there actually were, where they had a presence in all regions of the State party and whether they were available to the police, the examining magistrate or the Public Prosecutor.

75. It would be useful to know whether rehabilitation costs, including psychiatric care costs, were charged under social security or other arrangements and whether in its procedures France had regard to the ECOSOC Guidelines of 2005 on Justice in Matters involving Child Victims and Witnesses of Crime.

76. The delegation might indicate the steps taken by the State party with regard to intercountry adoption where the children for adoption were in countries which had not ratified the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption. It would also be useful to supply details on the declaration made by the State party upon ratification of that Convention in relation to the exemption in respect of the Overseas Territories.

77. **Mr. Parfitt** asked what the State party meant by the term “*représentation*” (representation) in the definition of child pornography. He also asked who protected the rights of child victims of prostitution: according to the report submitted in 2003 by the Special Rapporteur of the United Nations Commission on Human Rights on the sale of children, child prostitution and child pornography, child victims were in certain circumstances regarded as delinquents rather than as victims.

78. **Mr. Citarella** asked whether the delegation had any knowledge of cases where foreign children had been sold to French families or agencies with a view to adoption or of intercountry adoptions which were not in conformity with the law.

79. He asked what administrative measures the French authorities had established to curb sex tourism and the means by which persons who had committed sex tourism acts in a country where child prostitution was not an offence could be made the subject of legal proceedings in France.

80. **Ms. Ortiz** asked where the 22 newborn babies rescued in 2006 following the dismantling of an international network had come from, what their destination had been and what had become of them. She enquired whether French law contained a provision to ensure that the mother had freely consented to her child’s adoption and whether measures had been taken to ensure that intercountry adoptions gave preference to children from countries that were party to the Hague Convention.

81. **Mr. Filali** asked whether measures had been taken to raise awareness among French judges to the issue of child victims of sexual violence since the visit of the Special Rapporteur on the sale of children, child prostitution and child pornography to France.

82. He asked what had been done to make adoption procedures less cumbersome and make it easier for French families to achieve an intercountry adoption without having to resort to illegal methods of adoption.

83. **The Chairperson** asked whether under the Delinquency Prevention Act of 5 March 2007, a child victim of prostitution was regarded as a delinquent.

The meeting rose at 1 p.m.