



**Convention on the  
Rights of the Child**

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COMMITTEE ON THE RIGHTS  
OF THE CHILD

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

**Second periodic reports of States due in 1997**

**FRANCE\***

[1 August 2002]

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\* For the initial report submitted by the Government of France, see document CRC/C/3/Add.15 and Corr.1; for its consideration by the Committee, see documents CRC/C/SR.139-141; for the Committee's concluding observations see document CRC/C/15/Add.20.

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## I. GENERAL MEASURES OF IMPLEMENTATION

1. The changes made in recent years in France with the aim of developing certain specific rights for children, notably a right to express an autonomous opinion in important matters affecting them, represent indisputable progress in the light of the requirements embodied in the Convention on the Rights of the Child (referred to below as “the Convention”). These changes form part of continuing efforts to strike a balance between the attention paid to the aspirations of minors, their protection and the parents’ duty to bring them up.

2. Before describing the measures taken by France to bring its legislation and policies into line with the Convention since the submission of its previous report to the Committee on the Rights of the Child, it is necessary to consider the French context in which these measures have been put into effect. Before that, a reminder will be given of the process of ratification of the Convention and the mechanisms established to coordinate and supervise its implementation.

### A. The signing and ratification of the Convention

3. The Convention was signed on 26 January 1990. By an Act of 2 July 1990, Parliament authorized its ratification, which took place on 7 August 1990. The Convention entered into force in France on 6 September 1990. France entered a reservation and made two interpretative declarations. The reservation concerns article 30, which reads: “In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language”.

4. The reservation reads as follows: “The Government of the Republic declares, having regard to article 2 of the Constitution of the French Republic, that article 30 is not applicable insofar as the Republic is concerned”. Article 2, which subsequently became article 1, of the Constitution stipulates that “France is a Republic, indivisible, secular, democratic and social. It shall ensure the equality of all citizens before the law without distinction of origin, race or religion. It shall respect all beliefs ...”. It therefore excludes recognition of minorities in the sense of groups enjoying a special status.

5. France entered a similar reservation concerning article 27 of the International Covenant on Civil and Political Rights, whose purpose is similar to that of article 30 of the Convention on the Rights of the Child: “In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.”

6. The reasons which prompted France to enter this reservation still exist and it is therefore not possible to withdraw it. It should, however, be recalled that, through its reservation, France wished to exclude the recognition of minorities, not protection of the rights of the child, irrespective of his or her origin, religion and/or language, these rights being guaranteed by the principle of non-discrimination in force in a democratic society.

7. The two interpretative declarations are as follows:
- The first relates to article 6, which reads: “States Parties recognize that every child has the inherent right to life” and “States Parties shall ensure to the maximum extent possible the survival and development of the child”. In order to remove any ambiguity over the meaning of this provision, because of the preamble which stipulates that “the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth”, France declared that “the present Convention, and notably article 6, cannot be interpreted as constituting any obstacle to the implementation of French legislation relating to the voluntary interruption of pregnancy”;
  - The second declaration concerns article 40, paragraph 2 (b) (v), relating to the right to have any decision or measure recognizing the guilt of a child reviewed by a higher authority or judicial body. France construes this provision “as establishing a general principle to which limited exceptions may be made under law. This is particularly the case with certain non-appealable offences tried by the Police Court and with offences of a criminal nature. Nonetheless, decisions handed down by the final court of jurisdiction may be appealed before the Court of Cassation, which shall rule on the legality of the decision reached”. In fact, our legal tradition has it that certain decisions handed down in criminal matters by the police courts (on minor offences) and by the assize courts (on ordinary offences) may not be appealed.
8. Such decisions handed down by the final court of jurisdiction may nevertheless be appealed before the Court of Cassation, which will rule on the legality of the decision taken. However, the Act of 15 June 2000 established a procedure for a criminal appeal, to be heard by another assize court composed of 12 jurors instead of 9, in addition to the 3 professional judges. This provision has been applicable since 1 January 2001. Consequently, the French declaration now concerns only minor offences heard by the police courts.

## **B. The mechanisms in place to supervise the implementation of the Convention and to coordinate action in support of children**

### **1. Monitoring the implementation of the Convention**

#### **1.1. Monitoring by the Government**

9. In June 1989, the Prime Minister conferred responsibility for the coordination of ministerial measures to implement the Convention on the minister responsible for family affairs, who is currently the Minister of Employment and Solidarity, insofar as domestic measures are concerned. The Minister for Foreign Affairs is responsible for implementation of the international aspects of the Convention.

#### **1.2. Monitoring by Parliament**

10. The Act of 27 January 1993 provides that the Government shall submit to Parliament by 20 November every year, a report on the implementation of the Convention and on its

action to improve the situation of children around the world. One such report was submitted on 20 November 1999, updating that compiled in 1993 and discussed by the United Nations Committee on the Rights of the Child on 11 and 12 April 1994.

11. In addition, on 10 November 1997, the National Assembly established a commission of inquiry into the status of the rights of the child in France and, in particular, the living conditions of children and their place in towns and cities. This commission, headed by the President of the National Assembly, submitted its report on 12 May 1998.

12. Among the proposals made by the commission, mention may be made of a number of measures aimed at:

Strengthening the right of the child to know his or her origins;

Guaranteeing equality between legitimate and natural children with regard to the conditions for the joint exercise of parental authority, and between legitimate children and adulterine children in matters of succession;

Making it obligatory, in matters of juvenile justice, for the child to be heard and to be informed of his or her right to be assisted by a lawyer, improving access to legal assistance, and protecting the rights of child offenders;

Proposing a debate on the place of the stepfather or stepmother in reconstituted families and on parental authority;

Combating material, cultural and financial poverty in families;

Improving access to health services, and policy to combat suicide among children;

Establishing a mediator for children;

Improving support, educational guidance and follow-up for children not enrolled in school; and lastly,

Strengthening the place of children in the information society.

### **1.3. Monitoring by the ombudsman for children**

13. The Act of 6 March 2000 established an ombudsman for children and, by a decree of 4 May 2000, Ms. Claire Brisset-Foucault was appointed to the position. The ombudsman for children is an independent official responsible for protecting and promoting the rights of the child established by law or by a duly ratified or approved international commitment. He receives individual complaints from under-age children or their legal representatives who consider that a public or private person has not respected the rights of the child. The complaints may be submitted to the ombudsman by the State-approved associations which protect the rights of children. The ombudsman may also suggest amendments to any laws or regulations aimed at ensuring greater respect for the rights of the child. Lastly, he promotes the rights of the child, and organizes information activities on these rights and their effective observance.

14. The ombudsman has prepared two annual reports, the more recent of which was issued in November 2001, outlining the activities undertaken over the preceding year. They cover, inter alia, some of the complaints sent to the ombudsman and action taken on them, and proposals for reforms which the ombudsman considers necessary.

#### **1.4. Monitoring by the National Advisory Commission on Human Rights**

15. For many years now, the National Advisory Commission on Human Rights, which is answerable to the Prime Minister, has been consulted on, or considered on its own initiative, questions relating to the rights of the child with the aim of improving the legislation in force. It has thus expressed views on the sexual exploitation of minors, forced marriages and human rights education. More recently it has issued:

- On 7 July 1994, an opinion on the implementation of the Convention on the Rights of the Child in France;
- On 13 July 1995, an opinion on the situation of illegal aliens whose children are French;
- On 4 July 1996, an opinion on the possession of pornographic material involving minors;
- On 14 November 1996, an opinion on the Internet and human rights;
- On 10 December 1996, an opinion on the preliminary draft of the Strengthening of Social Cohesion Bill;
- On 11 September 1997, an opinion on civic education and violence in schools;
- On 23 September 1997, a note concerning the Bill on the prevention and punishment of sexual offences and the protection of minors;
- On 1 October 1997, an opinion on the prohibition of antipersonnel mines;
- On 8 January 1998, an opinion on human rights and humanitarian requirements to be taken into consideration in the event of an international embargo;
- On 4 May 1998, a guidance note on the establishment of a mediator for children;
- On 3 July 1998, an opinion relating to the handling of unaccompanied minor asylum-seekers;
- On 19 November 1998, a note on the Bill to establish a mediator for children;
- On 14 January 1999, an opinion on parenthood and human rights in relation to legal provisions and social practices;
- On 2 March 2000, an opinion on the right of children to leisure;



- On 5 May 2000, an opinion on the effective implementation of the Convention on the Rights of the Child in France;
- On 21 September 2000, an opinion on the situation of unaccompanied foreign minors;
- On 6 July 2001, an opinion on the placement of children in France.

### **1.5. Monitoring by associations**

16. Since 1988, a number of non-governmental organizations and associations have mobilized to promote and publicize the Convention. Widely reported by the media, this activity has had a particularly fruitful impact.

17. In addition, a number of French associations have seized the initiative, and this has made for synergy in the actions of the authorities and associations. Encouraged by the way NGO efforts were taken into account in the drafting of the Convention of the United Nations, the French section of the International Catholic Child Bureau and the French Committee for UNICEF took the initiative of convening and working with the organizations interested in the study, dissemination and promotion of the future Convention.

18. The Institute for Children and the Family, a national public body (disbanded on 30 April 1997), acted as leader of this group, which in late 1991 comprised 100 or so associations campaigning for the promotion and protection of the rights of the child. On 6 February 1992, the group set itself up as an autonomous body with the title of the French Council of Associations for the Rights of the Child.

19. Taking advantage of the wide range of sectors and concerns covered by their members and their diversity (activists and experts), these associations launched a large-scale campaign to publicize the substance of the Convention and to define and promote the amendments of laws and regulations that were necessary to bring domestic law into line with international law.

20. On 20 November 1991, on the occasion of the second anniversary of the adoption of the Convention by the General Assembly of the United Nations, the State Secretariat for the Family responded favourably to the desire expressed by this group of associations to meet representatives of the public authorities in order to take stock of the implementation of the Convention in France. In view of the depth and quality of the dialogue which ensued, all parties involved expressed the desire that it should continue. Thus the practice of holding an annual meeting every 20 November was established, and that date was declared the National Day for the Rights of the Child by the Act of 9 April 1996.

21. The French Council of Associations for the Rights of the Child states<sup>1</sup> that it has set itself the objectives of verifying the conformity of existing and draft French legislation with the provisions of the Convention, supervising its implementation on the ground, making proposals for new legislation, analysing the underlying causes of infringements of children's rights and formulating proposals to remedy them. In 1998, it ventured to make several recommendations on the topics of health, education, protection, child labour and participation. These recommendations are studied very carefully by the authorities.

## **2. Coordination of activities in support of children**

22. Activities in support of children are undertaken by a very large number of French public and private institutions. Coordinating these activities and assessing their impact on children's lives are therefore constant challenges for the authorities.

23. Whether it is a question of children's access to education, health care, information or leisure, their physical or moral protection or their participation in social life, many institutions are involved:

Schools, including those catering for disabled and "maladjusted" children, are in a unique position. They are the only institution that follows the development of all children and adolescents over many years (at least 10). In these institutions, the health promotion and welfare services for pupils combat inequality and reinforce the general medical and social prevention system;

Social security bodies, such as the family allowance offices, operate various schemes for children in addition to paying social benefits to families;

The services responsible for the protection and promotion of maternal and child health, hospitals and practitioners make up the health-care system;

The departmental child welfare services play a general role in prevention and in providing assistance to families and children in difficulty;

The judicial authorities contribute, through civil and criminal procedures, to the protection of the person and interests of juveniles (children at risk, delinquency, disputes concerning divorce, parental authority, guardianship and family benefits, etc.);

The police services play a role in the prevention of juvenile delinquency and in the punishment of offences committed by or against children;

The health, social and educational associations and youth and popular education associations play an important role in the areas of leisure and education. In fact, thanks to a long tradition of action in support of children and a particularly flexible method of operation, they play a decisive role in France.

24. Most of the publicly-funded protection measures taken by the public authorities and the courts are carried out by associations. Many voluntary associations work with children and families in a wide variety of fields, for example to reduce failure at school, improve the quality of life in urban areas, help very poor families, protect children who are maltreated, or provide support for sick children and their families or for children with a parent in prison.

25. Furthermore, most local authorities have specific policies in support of children, providing facilities for young children with two working parents and financing school-related activities and activities aimed at preventing delinquency. They also help to create a suitable environment for children to develop in (playgrounds, green areas, etc.).

26. The large number of institutions - in itself a sign of richness and dynamism - must not be allowed to impair the overall coherence of policy relating to children. Coordinating these bodies is therefore a continuing concern of the authorities. Such coordination is all the more essential in view of the very great autonomy of the various institutions.

### **C. The French context**

#### **1. The child protection system**

27. The French child protection system is the outcome of the development of the social welfare and child protection systems since the nineteenth century. The most important change has been the decentralization of social welfare services for children and maternal and child protection, or more precisely the transfer of responsibility for these services from the State to the *départements*.

28. Nevertheless, the State is responsible for negotiating international instruments, drawing up regulations on family policy, measures to encourage social development, and improving the operation of all the services within its competence, such as education, police and hospitals, the protection of minors on group residential holidays, justice and disabled young people (see chapter VI of the present report).

29. Financially, the State plays an important role through various forms of assistance such as tax relief (the dependants' allowance, etc.), reduced prices for canteens and school-related activities, means-tested allowances (family supplement, housing allowances, start-of-school-year allowances, minimum wage), and assistance with training and education.

30. In addition, the "family" branch of social security pays families family benefits for their children (up to the age of 20 in the case of non-working or unemployed young people). Associations working with children are largely financed from public funds (State, general councils, social security) and monitored from both the educational and financial standpoints.

#### **2. Changes in family models<sup>2</sup>**

##### **2.1. Population growth**

31. After stagnating during the first half of the twentieth century, the population of metropolitan France has grown considerably over the past 50 years, rising from 40.1 million in 1946 to 58 million in 1995, i.e. an average increase of 7.6 per 1,000 inhabitants per annum. In contrast to the inter-war period, this growth has been primarily due to an excess of births over deaths and, to a lesser extent, to net immigration. Population growth in 1997 (231,000 persons, i.e. 3.9 per 1,000) was due largely (80 per cent) to the natural excess (191,000, i.e. 3.3 per 1,000), the effect of net immigration being estimated at 40,000 persons.

32. After the end of the Second World War, France experienced first a period of great fecundity (the "baby boom"), then a sharp fall between 1965 and 1976. Then, the fecundity index stabilized at 1.8 children per woman and later, in the 1990s, at 1.7 children. The "baby boom" was naturally reflected in an increase in family size but, although the final issue of the

women born around 1950 is close to that of women born around 1900, the distribution of families has changed considerably: there are fewer women or men without children and fewer families with four or more children. This standardization of behaviour has been accompanied by a decrease in the contrasts between social groups.

## **2.2. The number of working women**

33. While fecundity was declining in the mid-1960s, the number of women working was increasing. Depending on their age, the numbers of women in work have changed profoundly and irreversibly. One hundred years ago, 45 per cent of women of working age had a job; today, the figure is 64 per cent. Fewer young and elderly women work than a century ago, but far more adult women do. Of adult women with two children today, three quarters have a job, but the difference has declined over time. In fact, even if it is not always easy, most women combine a job with having two children.

## **2.3. The future of consensual unions**

34. For 10 or so years now, the lengthening of the period of transition from adolescence to adulthood has been reflected in the late formation of couples. Moreover, couples are postponing having children and, even more, getting married. Living together as unmarried couples became the pattern for the start of life together in the 1970s but has now become an established lifestyle, even when there are children: today, 39 per cent of children are born to unmarried parents, most of whom live together (33 per cent).

35. The single-partner model is becoming less widespread: in 1994, 76 per cent of men and 80 per cent of women between the ages of 40 and 44 had had only one consensual union, as opposed to 82 per cent and 83 per cent respectively in 1986. New cases of cohabiting couples are more numerous than in 1986 (in 1994, 18 per cent of men and 16 per cent of women aged 40 to 44 stated that they had had two or more consensual unions, as opposed to 12 per cent and 11 per cent respectively in 1986). The increase is less significant among the young because of the lateness with which couples begin to live together.

36. More than half of non-cohabiting people over the age of 30 have experienced a marital break-up. Break-up is usually followed by a second consensual union; among people aged under 40 in 1990 who experienced a break-up in the 1980s, more than 4 men and 4 women out of 10 were again cohabiting three years later, and 6 out of 10, five years later. When the couple has had children, fewer "parents with custody" (the mother in 9 cases out of 10) have started cohabiting again five years after the break-up, than "parents without custody": 51 per cent of mothers and 56 per cent of fathers are again cohabiting; but if the couple was childless, 71 per cent of women and 64 per cent of men are in a new union.

37. In the case of new couple formation where one of the partners already has children, the stepchildren live together with the couple's own children. In the generations born around 1950, men and women have in many cases also lived, during their first union, with a partner who had already cohabited (15 per cent) or had children (7 per cent). In new unions the women's partners rarely come with a child (1 per cent, as opposed to 5 per cent of women). In second unions, the new partner often has one or more children (40 per cent), and men more often live with stepchildren (28 per cent) than women (8 per cent).

### **3. The consequences of progress in the life sciences**

38. Over a period of 20 years, the life sciences, notably medicine and biology, have been transformed by unprecedented developments. This progress has made it possible to reduce sterility by means of artificial insemination techniques. At the same time, there has been a danger that the new discoveries might lead to eugenic tendencies or demands for a veritable “right to have a child”. Legislation was needed to reconcile two potentially contradictory imperatives: to avoid impeding scientific progress and to avoid tendentiousness by protecting the individual and preserving his dignity. This was the objective of the three laws on biomedical ethics which France enacted on 1 and 29 July 1994.

39. The Respect for the Human Body Act incorporates in the Civil Code the primacy of the individual, his dignity, and the inviolability and non-availability of the human body. It prohibits eugenic practices by means of gene selection, recourse to surrogate mothers, and the genetic identification of individuals without judicial, medical or scientific justification. It requires the informed consent of the patient for any medical procedure, and requires donations of human body parts to be free and anonymous. It also guarantees the legal status of a child conceived by means of artificial insemination by donor, establishing provisions concerning the child’s affiliation: thus the partner of a woman who agrees to her artificial insemination by a third party cannot subsequently refuse to assume his responsibilities as a father vis-à-vis the child or contest the affiliation thus created on the grounds that artificial insemination by donor was used.

40. The Act on the donation and use of human body parts and products, artificial insemination and prenatal diagnosis lays down a set of rules for the practice of artificial insemination and establishes guidance and conditions. Thus, artificial insemination is not a convenience technique or alternative to natural insemination, but simply a remedy for a couple’s sterility. In some cases, its purpose may be to avoid the transmission of a particularly serious illness to the child.

41. Recourse to prenatal diagnosis and pre-implant diagnosis is strictly monitored since its only permissible purpose is to identify a particularly serious ailment that is known to be incurable. Through these various principles it is possible to avoid abuses inconsistent with human dignity and to protect the unborn child.

42. The Act on the processing of identifying data for purposes of health research and medical research extends protection of the individual vis-à-vis the computer processing of data concerning him or her into the domain of medicine.

43. The Constitutional Council has determined that these various provisions give effect to the constitutional norms safeguarding the dignity of the individual against any form of subjugation or degradation and guaranteeing individual freedom and health protection.

### **4. Difficulties relating to the social integration and employment of young people**

44. After the end of the Second World War, social exclusion decreased significantly and 30 years of prosperity in the industrialized countries gave reason to believe that it would

gradually disappear. The persons excluded were mainly the elderly or disabled who were unable to earn a living wage. A policy of financial support and promotion of their role in society helped to give them a more decent standard of living.

45. Today, the phenomenon is very different and also affects young people. Entry into the labour market after the completion of schooling has for many young people become a period of uncertainty and destabilization. Over 20 years there has been a rapid decline in the number of young people aged 16 to 25 in work, from 66.3 per cent in 1975 to 45.6 per cent in 1997. The unemployment rate for this age group was 24.3 per cent in 1997. In addition, some young people, especially those living on large urban estates and, among them, second or third generation immigrants, face specific difficulties.

46. An often rundown environment is made worse by disturbing social dysfunctions such as higher unemployment rates than in central urban areas, excessive population density, inadequate public transport and amenities, and families in financial straits who find it increasingly hard to bring children up properly.

47. In recent years, the disparities between recent graduates and young people leaving school without qualifications have increased considerably. Unemployment among young people who had graduated from higher education less than five years previously fell from 17 per cent in 1997 to 10 per cent in 2001, whereas unemployment among young people without qualifications is very high, 42 per cent in 2001 and 46 per cent three years previously.

48. Given this situation, a specific job creation policy aimed at young people has been put into effect. It is primarily based on two programmes within the National Employment Plan: "New Services - Jobs for Young People" and the "TRACE" (*Trajet d'accès à l'emploi*) scheme, which was adopted in the context of the Campaign against Exclusion Act.

49. These two programmes set the employment of young people as a major objective. The "New Services - Jobs for Young People" programme, which is intended for people aged 18 to 25 (and 26 to 30 if they have not already had a period of employment entitling them to compensation), seeks to promote the development of community-support activities. Jobs may be created by the State, associations or local communities. The objective is to stimulate the creation of 350,000 jobs through financial assistance amounting to €15,540 per job per annum for a period of five years as from 1 July 2001. Twenty per cent of the "jobs for young people" must be reserved for young candidates from hardship neighbourhoods.

50. The "TRACE" programme is geared to young people between 16 and 25 facing the risk of never finding work. It is aimed at people leaving school without a diploma or qualification of any kind who are unable to obtain work or training. The scheme, which was set up in 1998, has already enrolled 95,000 young people, including 60,000 in the year 2000. It offers them extra, personalized guidance in finding their way towards a job over a period of up to 18 months.

51. Specific job creation facilities for young people between 16 and 25 have been in existence since March 1982: local youth employment offices financed by the State and the local communities, and reception, information and guidance centres financed mainly by the State. Mostly taking the form of associations, these facilities have been set up with the aim of promoting social integration and job placement for young people and combating exclusion.

They offer a personalized and comprehensive relationship, guiding young people in making their plans and assisting them as they try to settle down. They offer suitable responses to the various difficulties encountered by young people, priority being given to employment, but also to training, health, housing, culture, sport, leisure and citizenship.

52. The network today comprises 300 local offices and 350 reception, information and guidance centres, a total of 650 facilities. As to the number of young people experiencing difficulties, an estimated total of 100,000 16 to 25-year-olds are considered to be in very great difficulty: seriously disrupted schooling, family break-up, homelessness, drug addiction, unemployment, and the alienation experienced by young immigrants, children of immigrants, young people from France's overseas *départements* and territories, and young people affected by AIDS.

53. There are many specific measures for trying to respond to these situations. They include departmental or local assistance funds for young people between 18 and 25, which offer them three types of assistance: emergency relief, assistance with employment plans, and social guidance measures. These assistance funds cover the whole of the country and are managed by 500 allocation committees. The funds have been substantially increased and totalled 285 million francs in 2000. Lastly, youth reception centres, established under a circular of 14 June 1996, provide reception, consultation and family mediation services aimed at children and young people between the ages of 10 and 25 with the aim of dealing promptly with the crises affecting them.

#### **D. New moves to bring legislation and policy into line with the Convention**

##### **1. Moves affecting France**

###### **1.1. Family policy**

54. In 1998, during preparations for the Conference on the Family, the Government commissioned several studies by experts and eminent personalities, including Ms. Irène Théry, a sociologist specializing in family law, Ms. Michèle André, a former government minister and regional councillor for Auvergne, and Mr. Claude Thélot, Chief Inspector of the Institut National de la Statistique et des Etudes Economiques (INSEE), who prepared a consolidated report with an introduction by Ms. Dominique Gillot, Member of Parliament.

55. Following these studies, and consultations with all family associations, trade unions and field workers, the Government committed itself to pursuing three objectives: to implement a more equitable social policy; to improve the daily lives of families; and to boost the role of parents and support families.

56. By appointing a minister with special responsibility for the family and children to the Government on 27 March 2000, the Prime Minister hoped to give fresh impetus to family policy and to underline the importance of the Conference on the Family which he chaired on 15 June 2000.

**1.1. (a) A more equitable family policy**

57. The Government has decided to lower the tax relief ceiling for persons with dependants, while reinstating child benefit for all families. The lowering of the tax relief ceiling will make it possible to increase the family housing allowance, to extend the new school year allowance to include an additional 350,000 families, to pay child benefit for young unemployed persons up to the age of 20 and to increase family allowances for recipients of the minimum social income (*revenu minimum d'insertion*), thereby helping almost 1 million disadvantaged families.

**1.1. (b) Improving the daily lives of families**

58. This objective will be achieved by better reconciling family life with professional life and by improving childcare facilities: the improvement of childcare facilities was one of the measures recommended by the Conference on the Family held on 15 June 2000. The resources allocated for early childhood are considerable. In addition to statutory benefits (45.6 billion French francs (FF) in 1999), which will be reformed to enable low-income families to employ the services of registered child minders, expenditure on collective childcare facilities amounted to FF 5.6 billion in 1999. However, there are still not enough childcare facilities available: out of 2.2 million children under the age of 3, only 9 per cent have a nursery place. A scheme has been launched to support the creation of places in childcare institutions and facilities for a further 30,000 to 40,000 children, thanks to the establishment of an extraordinary investment fund of FF 1.5 billion to pay for the new places. At the same time, the legal framework for the operation of collective childcare facilities has been modernized to allow room for innovation, experiment and more flexible management, while guaranteeing quality and boosting the role of parents.

**1.1. (c) Boosting the role of parents and their part in children's upbringing**

59. A parents' advice and support network will be developed, after-school care for children will be improved and parents will be involved more closely in their children's education. The family continues to play a fundamental role for the child, even if the sociological changes taking place in the family and the current socio-economic climate undoubtedly make parenting more difficult. Parents' listening, support and advice networks were set up in 1999 by the inter-ministerial task force on family affairs to provide parents with the tools they need to play their role more effectively, focusing on the development of parent-parent relations and offering them access to information and, if necessary, professional counselling.

60. "Child sickness leave" was introduced in 2001, together with a child attendance allowance designed to offer an appropriate solution for parents whose children require an extended period of hospital or long-term medical care. Thus, a parent can give up work entirely (and receive a monthly benefit of 800 euros (€)) or in part (in exchange for €400 per month, against a reduction of 50 per cent or more of his or her statutory working hours, or €243.72, for a 20-50 per cent reduction in working hours). For a single parent, the corresponding amounts are €950, €500 and €322.28 respectively.

61. Lastly, two measures have been introduced to make it easier for mothers to go back to work and to promote equality between men and women at work. On the one hand, a back-to-work allowance, in the form of a grant of FF 2,000 to 3,000, has been created for



mothers in particularly difficult circumstances. On the other, childcare allowance can continue to be paid for a temporary period of two months to beneficiaries who return to work when their children are aged between 18 and 30 months.

62. A comprehensive review of family law is being conducted with a view to adapting French legislation to changing situations within the family. This follows on from the work carried out by Ms. Théry<sup>3</sup> on the changes to French law that must be made, in the light of social trends and changes in the structure of the family, in two main areas in particular: the reinforcement of parental authority and the strengthening of the parent-child relationship. The review also draws on the conclusions of a working group that was set up at the Ministry of Justice on 31 August 1998 and is chaired by Ms. Dekeuwer-Defossez.<sup>4</sup> That group recommends establishing full equality between different types of filiation, in particular by abandoning the distinction between legitimate and natural filiation and the legal consequences arising therefrom. The group furthermore argues that children, who must be regarded as full human beings whose development must be respected, should have a say in their own upbringing and that greater account should be taken of their opinions.

63. This desire to cushion children against the vicissitudes of their parents' lives was reaffirmed in general terms by the Prime Minister at the Conference on the Family held on 15 June 2000. The principle of equality between illegitimate and legitimate children was taken up by the Minister of Justice in the statement he delivered at the colloquium entitled "*Quel droit pour les familles*", which was held on 4 May 2000.

64. Several legislative reforms have been adopted:

- The Act of 30 June 2000, concerning supplementary benefit in the event of divorce: this law broadens the terms under which benefits may be adjusted in the event of a significant change in a married couple's financial status;
- The Act of 6 February 2001, concerning intercountry adoption;
- The Act of 3 December 2001, concerning the rights of a surviving spouse and children: this Act eliminates discrimination against illegitimate children with respect to the right to inherit;
- The Act of 22 January 2002, concerning the right of persons who have been adopted or are wards of the State to information about their origins;
- The Act of 4 March 2002, concerning parental authority;
- The Act of 4 March 2002, concerning surnames.

## **1.2. Prevention and eradication of child abuse**

65. This policy, which has been in effect since 1989, has in recent years made proper allowance for the prevention and punishment of the specific forms of abuse that constitute sexual abuse of children.

66. The World Congress against Commercial Sexual Exploitation of Children (the “Stockholm Congress”) was held at Stockholm in August 1996 to draw the international community’s attention to the problems of child prostitution, child pornography and the sale and sex trafficking of children and to pave the way for the introduction of decisive measures, at both the national and international levels, to put a stop to these repeated violations of children’s rights. The 126 countries attending adopted a declaration and programme of action aimed at combating this kind of criminal activity more effectively.

67. France voted in favour of the declaration and reaffirmed its steadfast commitment to the suppression of sex offences involving children. A national programme of action against violations of children’s dignity and integrity, entitled “*Agir pour la protection des enfants maltraités*”, was launched on 20 November 1996. The protection of abused children was declared a major national objective for the year 1997. A vast communications programme was launched to educate the public and promote practical initiatives in the fields of prevention and training of professionals.

68. An inter-ministerial committee for abused children, established by Decree No. 97-216 of 12 March 1997, is responsible for deciding the direction of government policy on the eradication of sexual and other abuses of children. The Standing Inter-ministerial Group on Child Abuse was established by the same Decree and began work on 24 April 1997. The Group is responsible for coordinating and promoting national and local initiatives and for organizing joint activities with local government, associations and other bodies concerned with preventing child abuse, protecting children, providing immediate and follow-up care to victims and training professionals in this field.

69. Since March 1997, the National Child Abuse Hotline, which was established by an Act of 10 July 1989, had been accessible by dialling a simplified number (119) that is easy for children to remember. Calls to this number are not recorded on telephone bills.

70. The Ministry of Employment and Solidarity, the Ministry of Education and the Ministry of Justice have done significant work to educate and provide training for the public and professionals. The following are the recent regulatory instruments that relate to anti-abuse policy:

- The Ministry of Employment and Solidarity administrative circular of 5 May 1998, which reminds prefects of their obligation to exercise vigilance and to refer cases to the judicial authority in which children living in welfare institutions may be victims of violence, abuse and sexual abuse. A procedural manual has been produced for public medical health inspectors and for health and welfare inspectors;
- The Ministry of Education, Research and Technology administrative circular of 26 August 1997, which contains an exhaustive list of the instruments that define and prohibit acts of sexual violence, including rape, sexual assault, corruption of minors and the use of minors’ images for pornography, and provides instructions on what to do if a person has direct knowledge of such an offence or suspicions based on signs of suffering, rumours or indirect testimony. Attention is drawn to the

psychological support that must be provided for the school community, in the form of a “listening unit”, whenever legal proceedings are instituted in a paedophilia case, and to the moral and material support that must be given to the child and his or her family;

- The Ministry of Employment and Solidarity administrative circular of 27 May 1997, which established focal points in every region to organize and coordinate the provision of hospital care for victims of sexual abuse. The focal points serve a fourfold purpose: to spare the child victim of sexual abuse the repeated psychological trauma of multiple hearings at every phase of criminal proceedings; to make it easier for the child to express himself or herself; to provide multidisciplinary care, particularly medical and psychological care, in a setting where the child victim can receive proper protection and treatment; and to take account of the child’s suffering and the particular needs of the investigation and examination proceedings, drawing on the complementary skills of the professionals involved.

71. Lastly, the Act of 17 June 1998 on the prevention and suppression of sex offences and the protection of minors has helped to improve child protection. It allows for an ad hoc administrator to be appointed to represent a minor whose interests conflict with those of his or her legal representatives; for a video or audio recording of the victim’s testimony to be made, during the investigation or examination stage, with the consent of the victim and his or her parents, in order to limit the need for repetition of the testimony; for an expert medical/psychological examination to be ordered as early as the investigation stage in order to establish the nature of the harm done and the appropriate treatment and medical care required; for 100 per cent of the costs of the requisite medical care to be reimbursed by the social insurance system; and for associations dedicated to combating sexual violence to bring civil indemnification proceedings, with the consent of the minor’s legal representative (cf. chapter VIII of the present report).

### **1.3. Development of legislation on intercountry adoption**

72. The concern France expressed in its previous report about the need to develop its legislation on the adoption of foreign children by French parents was transformed into action by the inclusion of provisions in the Adoption Act of 5 July 1996 to regulate the system of intercountry adoption in accordance with the Convention on the Rights of the Child, the Hague Convention on Intercountry Adoption of 29 May 1993 (hereinafter referred to as the 1993 Hague Convention) and, more recently, the above-mentioned Act of 6 February 2001 (see chapter V, section 6, below).

### **1.4. The suppression of hazing**

73. Hazing is defined as a student initiation ceremony for freshmen (first year students) which involves bullying. Beginning with the 1997 new school year, the Ministry of Education pledged to eliminate this deplorable practice. The offence of hazing was established by Act No. 98-468 as adopted by Parliament on 17 June 1998. It refers to organized bullying at school or in a socio-educational environment. Any humiliating or degrading act that is detrimental to a person’s dignity is covered by the Act. The offence of hazing is punishable by six months in prison and a fine of FF 50,000. An emergency freephone number (0 801 55 55 00)

has been set up and trained personnel are on hand to answer calls. A poster has been produced for students of high schools, vocational upper secondary schools, apprentice training centres, chambers of commerce schools, preparatory classes, specialized higher education institutions, universities and institutions preparing students for the *brevet de technicien supérieur* (senior technician's certificate) and the *diplôme universitaire de technologie* (university technology diploma).

### **1.5. Recognition of the child's right of expression**

74. The measures adopted since France's previous report, are particularly concerned with giving the child greater legal status, but also a greater right of expression, though the right of expression was already well established in earlier legislation. Accordingly, in 1997, the Prime Minister gave the Minister of Youth and Sports the task of creating a permanent youth council. The mandate of the council, which was established under the chairmanship of the Minister of Youth and Sports by a ministerial order of 7 January 1998, is to formulate opinions and recommendations on youth issues, initiate debates and monitor the implementation of measures to improve the lives of young persons in French society. The council comprises around 100 young persons between the ages of 16 and 28 representing political youth movements, local youth organizations or movements (second caucus) and well-known individuals (third caucus). It has a permanent secretariat to coordinate the work of seven committees that are concerned respectively with parity/equality, social status, accessibility, employment/training, health, culture/sports/recreation, and violence and society and serve to stimulate debate and raise the internal and external visibility of the work done by this consultative body under the aegis of the Minister of Youth and Sports.

75. The same model has been used to set up departmental youth councils, which are subject to the authority of the departmental prefects and are administered by the departmental directorates of youth and sports. These councils are expected to improve the quality of the dialogue between decentralized State services and local authorities on youth questions and requisite policies in this domain. Local authorities may look to them as models when setting up youth advisory councils to sit alongside local assemblies (municipal councils).

76. A council for secondary school affairs has been created within the Ministry of Education (decree of 18 December 1995 and administrative circular of 27 December 1995). This is a consultative body chaired by the Minister of Education and having 28 members elected from among secondary-school students school academic councils, plus three representatives from the Higher Council of Education.

77. Lastly, a further boost has been given to the right of children to be heard in court. Supplementing the provisions already in force and taking up an initiative of the Children's Parliament, the Act of 14 May 1998 established the principle that a juvenile judge must hear a minor orphan capable of discernment before convening the family council (article 411, paragraph 2, of the Civil Code). The same text further stipulates that family councils must now be convened at the request of a minor who is capable of discernment, unless the judge has special reasons for deciding otherwise (article 410, paragraph 3, of the Civil Code); hitherto, this

option was reserved for minors of 16 years of age. Lastly, the Act extends to minors who are capable of discernment, not just those who are 16 or older, the opportunity to participate, in a consultative role, in family council hearings, unless the judge decides that such participation would be prejudicial to their interests.

78. In this connection, it should be pointed out that the Dekeuwer-Defossez report recommends eliminating the criterion of discernment established in article 388, paragraph 1, of the Civil Code so as to allow children of any age to be heard. It further recommends that children over the age of 13 be given the right to be heard in any proceeding that affects them.

## **2. French action beyond France**

79. On the international front, in addition to aid and development programmes carried out by the European Union, France has in recent years taken care to orient its aid and cooperation policy towards the poorest countries.

80. According to the latest report by the Development Assistance Committee of the Organisation for Economic Cooperation and Development, French official development assistance (ODA) in 2000 amounted to FF 29.1 billion, i.e. 0.32 per cent of the country's gross domestic product (GDP). The recorded fall in French ODA (from FF 38 billion in 1997) can largely be explained by the Committee's removal from its list in 2000 of 10 countries eligible for French assistance, including the overseas territories (Polynesia and New Caledonia). Nevertheless, as a proportion of GDP, French ODA still outstrips that of other G7 countries (the average for Development Assistance Committee members being 0.22 per cent).

81. The granting of debt relief to developing countries, particularly through debt rescheduling, has reached a decisive point in French cooperation policy. France cancels debts as an exceptional measure. With a 30 per cent increase over the figure for 1996, the total amount of debt cancelled in 1997 (FF 8 billion) accounted for a quarter of all French bilateral assistance.

82. It is worth stressing that France has made very good progress in its work on debt cancellation (amounting to €10 billion in 2001) under the Heavily Indebted Poor Countries (HIPC) Initiative. The Initiative involves the cancellation of all bilateral debts with certain countries, debt repayments being returned in the form of gifts that must be allocated to pre-determined development programmes. The first contract of this kind, for a total of €30million, was signed with Mozambique on 30 November 2001. Others should be concluded in the near future and the programmes involved will be those concerned in particular with health (particularly the fight against AIDS), rural development, road infrastructure and micro-credit.

83. Given the magnitude of the problems involved, i.e. the dramatic change in the circumstances and needs of certain countries, the French Government has decided that French cooperation assistance should give high priority to the healthcare sector, particularly that part of it which caters for mothers and children. In spite of budgetary constraints, France has therefore maintained its contributions to the United Nations Children's Fund (UNICEF) at a satisfactory level: FF 50 million in 1996 and FF 48 million in 1997. The Ministry of Foreign Affairs

continues to make the application of the Convention on the Rights of the Child one of the principal focuses of its policy on maternal and child health, safe motherhood and social development.

84. In the follow-up to the Stockholm Congress and the International Conference on Child Labour held in Oslo in October 1997, France stepped up its efforts to help countries seeking to suppress the commercial sexual exploitation of children and child labour. Numerous activities were carried out in coordination with UNICEF and ILO and will be continued in the years to come. Moreover, a real determination to work together with other bilateral and multilateral donors has culminated in the signing of protocols with UNICEF on maternal and child health in poor urban areas and the education of girl children (total value FF 15 million). In the health domain, French financial assistance focuses on the development of maternal health services and control of the major communicable diseases, such as AIDS and malaria.

85. Following the World Summit for Social Development, which was held in Copenhagen in March 1995, the Summit's recommendations were incorporated into French assistance programmes for children, notably through the adoption of a cross-cutting, intersectoral approach to children's policies aimed at providing developing countries with better assistance in meeting their own needs. Assistance for children is provided in four different areas:

- Rural development and food and nutritional strategies;
- Improvement of health institutions and epidemiology networks;
- Improvement of the child's environment, particularly water, sanitation and housing;
- Women, children and development.

86. On the humanitarian front, France, in collaboration with a number of non-governmental organizations, responds quickly to all kinds of crises that threaten the survival of children in all parts of the world. Since 1996, the main focus of its endeavours has been on supporting street children and combating the sexual exploitation of children. In 1997, numerous initiatives were carried out in these two spheres in the Philippines, Sri Lanka, Bosnia and Herzegovina, Madagascar, Viet Nam and Brazil (teenage prostitution). France also intervened in response to the natural disasters that occurred in Somalia, Kenya, Iran and Central Europe (floods in Poland and Romania) in 1997.

87. France is very active in the development of instruments relating to the rights of the child. It actively supported the adoption of the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (establishing the sexual exploitation of children as a criminal offence) and on involvement of children in armed conflicts. Both instruments were adopted on 25 May 2000 and were ratified by the French Parliament by Act No. 2002-271 of 26 February 2002 (Optional Protocol on involvement of children in armed conflicts) and Act No. 2002-272 of 26 February 2002 (Optional Protocol on the sale of children, child prostitution and child pornography).

88. France also played a very active part in the Second World Congress on the Commercial Sexual Exploitation of Children held at Yokohama (Japan) in December 2001 (the “Yokohama Congress”). In particular, it convinced its European partners to adopt a written declaration backing up the commitments made at the conclusion of the Congress. That declaration and those commitments stressed the need to introduce extraterritorial legislation to combat sex tourism; to protect children up to the age of 18; and to implement child protection initiatives in cooperation with civil society. “School cooperation for development day” is traditionally celebrated on 20 October every year. On that day, students learn about the development problems that the poorest countries face. The public authorities generally make sure, in the interests of children themselves, that humanitarian initiatives for children are adequately planned and are consistent with the priorities established by international organizations operating in the field. It is action on the ground that must remain the priority.

89. Within the European Union, the first “*journée de l’Europe de l’enfance*” was held in Paris on 20 November 2000. On that occasion, the European ministers for childhood singled out the following topics:

- The positive and negative role that the media play in children’s education;
- Care facilities for unsupported foreign minors, to keep them away from trouble and protect them against all kinds of exploitation;
- Suppression of the paedophile and child pornography networks that have sprung up with the development of the Internet;
- The campaign against sex tourism, which was kicked off at the Stockholm Congress in 1996 and given a further boost by the Yokohama Congress in December 2001.

90. These are some of the topics that the European ministers of childhood have decided to tackle over the long term through the creation of a permanent group of national correspondents. The joint plan of action adopted at the meeting also calls for several tools to be developed to improve awareness of different national policies and to draw lessons from them about “best practice” with a view to improving the situation of children. On another topic, the free movement of people across the open borders of the 15 States members of the European Union forges bonds of all kinds, particularly emotional bonds. This steady erosion of borders has already given rise to an increasing number of unions between couples of different nationalities, making the resolution of disputes in the event of a separation, which is already difficult enough domestically, an even more complex undertaking. Although the different European systems of family law have not been harmonized, the task being a particularly difficult one, some progress has been made over the last few years (cf. chapter V, section H, of the present report).

#### **E. Measures taken by France to make the principles and provisions of the Convention widely known to adults and children**

91. Every Ministry, particularly the Ministry of Employment and Solidarity, the Ministry of Justice and the Ministry of Education, has made efforts to raise awareness and provide education about the Convention on the Rights of the Child. Other action is being taken by the local authorities. Associations and non-governmental and professional organizations are running

information and awareness campaigns on the implementation of children's rights in France and elsewhere. These joint efforts by associations and the public authorities take the most diverse forms and it is difficult to compile an exhaustive list of them.

92. General information is provided in the form of free leaflets produced by the Ministry of Employment and Solidarity that contain the full text of the Convention. Explanatory documents have been designed for children and widely distributed among children in both the 6-10 and 10-15 age groups. It is worth pointing out that the demand for information about the Convention on the Rights of the Child continues to grow. The Ministry of Education has launched some individual training initiatives (see relevant *Bulletins officiels* for 1996 and 1997) to make children aware of fundamental rights and of the way they view them. Hence, the new primary school curricula include subjects that serve to illustrate particular articles of the Convention. The Convention is quoted in reference books used in the first two stages of secondary school education. "Citizens' initiatives week" supplements these programmes. The commitments made during the week (life skills, citizenship, solidarity etc.) will be pursued throughout the whole school year.

#### **F. Measures taken to make the report widely available**

93. The present report, like its predecessor of 1994, will be widely distributed to all public and private bodies concerned with children's problems. It will be published to make it accessible to every citizen who takes an interest in it.

### **II. DEFINITION OF THE CHILD (art. 1)**

94. French civil law contains a definition of the child which corresponds to the one given in article 1 of the Convention, although instead of "child" it prefers the term "minor": "a minor is an individual of either sex who has not yet reached 18 years of age" (Act of 5 July 1974). The child becomes a juridical person only at the moment of birth. He or she then acquires an identity (name and nationality). As a person, the child has rights and obligations, but is legally incapable of exercising them. This measure is intended to protect minors from their own inexperience and from any manipulation by third parties. The child's rights are exercised on his or her behalf by his legal representatives, usually the parents, or one of them. As a subject of law, the child can inherit property. The parents must administer such property and collect any proceeds therefrom until the minor reaches 16 years of age. If both parents are deceased, a member of the family or, failing this, the State takes charge of the child's person and property.

#### **A. Exercise of the minor's rights**

95. In principle, under-age children, being legally incapable, cannot themselves exercise any rights until their eighteenth birthdays, when they acquire full civil capacity. Generally speaking, however, the law allows minors to act on their own behalf where this is customary in matters concerning everyday life.

96. A minor may consult a physician on his own and his views must be sought before any major medical treatment. The law permits the minor, whether male or female, to have access to contraception and to be supplied with contraceptives anonymously. The law also provides for minors, on their request, to be tested and treated for sexually-transmitted diseases free of charge



and anonymously in certain authorized locations. The law requires a young woman below the age of majority to consent to voluntary interruption of pregnancy, and such consent must be given without her parents being present.

97. At any age, the child may bring a matter before a juvenile magistrate and request the assistance of a lawyer. If the minor is 16 or older, the juvenile magistrate must notify him or her of his decisions and the minor can appeal against those decisions. When children reach the age of discernment, they may be heard or request to be heard in any proceeding that concerns them. A child aged 13 or older must agree to any change in family name or first name or to any decision concerning adoption, unless this results from a change in filiation. The minimum age for marriage is 15 for women and 18 for men. The marriage of a minor has the effect of emancipation, meaning that he or she acquires the capacity of an adult.

98. Subject to certain residency conditions, a minor born in France to foreign parents may acquire French nationality. An application may be submitted by the minor's legal representatives with his or her personal consent, if he or she is aged between 13 and 16 years. The minor may submit the application directly, if he or she is over 16. Between the ages of 17½ and 19, French nationality may be rejected if the person concerned can show that he or she has another nationality. At 15, the minor is entitled to have his or her own passport and no longer needs permission for travel outside the country.

99. At 17 years of age, minors can enlist in the armed forces. At 16, when education ceases to be compulsory, they can start work. A minor can sign a contract of employment with the consent (which may be tacit) of his or her legal representative. (On reaching 14 years of age, adolescents can undertake light work during school holidays, and from age 15 they can learn a trade through an apprenticeship, combining school education with practical training in approved industrial or handicraft enterprises). Minors are entitled to join trade unions.

100. A minor may freely recognize a natural child. From the age of 16, a minor is able to make a will and can personally administer half of his or her property. However, the minor also has obligations. Criminal or civil liability may, in particular, be incurred at an early age.

101. Criminal liability: even a very young child may be found criminally liable but only educative measures can be applied in such cases. No criminal penalty can be imposed before the age of 13. Between the ages of 13 and 16, pre-trial detention is possible only in connection with criminal acts.

102. Civil liability: the child may at a very early age be considered liable for damage resulting from his or her actions or for things put in his or her charge. The child's parents bear joint and several liability for damage caused by the child while he or she is living with them (if this is not the case, the child alone is liable in respect of his or her own property). In practice, such liability is generally covered by an insurance policy.

103. On reaching 16 years of age, the minor may be emancipated. If there are valid reasons, the judge will grant emancipation after hearing the child's views. Parental authority ceases and the juvenile acquires the capacity of an adult.

104. It follows from the foregoing that minors, particularly adolescents between the ages of 16 and 18, have numerous rights that they can freely exercise.

### **B. Exercise of procedural rights by minors**

105. In order to facilitate the implementation of various rights recognized in the Convention on the Rights of the Child, the Council of Europe launched a process that culminated in the adoption of the European Convention on the Exercise of Children's Rights, which France signed on 4 June 1996. The text, which consists of 26 articles, provides for measures to promote the rights of children, in their best interests, and to afford them procedural rights and facilitate the exercise thereof by giving them information and authorizing them to express their views in family proceedings conducted in the presence of a judicial authority, particularly when the proceedings relate to the discharge of parental responsibilities. The term "judicial authority" means a court or administrative authority with legal jurisdiction. The Convention applies to children who have not reached the age of 18.

106. Among the family proceedings that concern children are disputes relating to custody, residence, visiting rights, establishing and challenging filiation, legitimacy, adoption, guardianship, the administration of children's property, help with child rearing, the revocation or restriction of parental authority, the protection of children against inhuman or degrading treatment, and medical care. Like all signatories, France will be required, not later than the date on which it deposits the instrument of ratification, to identify at least three types of family dispute to which the Convention will apply.

107. In this connection, Act No. 93-22 of 8 January 1993 added an article 9-1 to the Act of 10 July 1991 concerning legal aid. This establishes a legal aid scheme for minors "granted a hearing under the conditions set out in article 388, paragraph 1, of the Civil Code". Article 388, paragraph 1, provides that: "in all proceedings that concern him or her, a minor capable of discernment may, without prejudice to the provisions governing his or her intervention or consent, be heard by the judge or the person designated by the judge for this purpose (...). He or she may be heard alone or with a lawyer or a person of his or her choosing". Whenever a minor who asks to be heard in the presence of a lawyer does not choose the lawyer himself or herself, the judge can ask the court recorder to appoint one. These provisions mainly apply to divorce cases or post-divorce disputes in which the minor is not a party to the proceeding.

108. With regard to court protection (educational welfare procedure), as regulated by articles 375 et seq. of the Civil Code, which assume that the minor who is the party to the case has the right to be heard, the right to legal aid is subject to means testing.

109. The same holds true for juvenile delinquents who are parties in the proceeding, in accordance with the provisions of Ordinance No. 45-174 of 2 February 1945 concerning juvenile delinquency, and for minors who are victims of a criminal offence and bring civil indemnification proceedings.

110. In these three cases, a minor who applies for legal aid must show that his or her monthly resources fall below the threshold established by article 4 of the above-mentioned Act of 10 July 1991. The resources taken into account are those of the minor and also of his or her parents, unless there exists between them "a divergence of interests requiring a separate

assessment of resources” (article 5 of the Act of 10 July 1991). Whether a “divergence of interests” exists is determined by the legal aid bureau. However, it must be said that legal aid may, exceptionally, be granted to any person who does not pass the above-mentioned means test, if his or her case appears worthy of special attention in view of the subject of the dispute or the probable costs of the proceeding (article 6 of Act No. 10 of 1991).

111. Last, mention should be made of Act No. 98-1163 of 18 December 1998 on access to the law and the amicable settlement of disputes, which extends the scope of legal aid to include access to the law, a fundamental concept introduced by the Act of 10 July 1991. Legal advice, like legal information in general, now forms an integral part of the definition of assistance in gaining access to the law. This advice, which is available for all without regard to age, also applies to minors.

112. The formulation of local policy on access to the law is a matter for the departmental councils that deal with the subject, which may take action on behalf of minors in the framework of a broad-based partnership led by the president of the high court sitting in the departmental capital (all the *départements* should have such bodies by the end of 2001). The organization of educational visits to courts is one of the main activities arranged by these councils for the youngest members of the public. However, other initiatives are targeted more specifically at improving legal information for children through the provision of legal advice. The number of points of access to the law in educational establishments is therefore increasing. These legal information centres are run by social workers or legal professionals, usually lawyers.

### **III. GENERAL PRINCIPLES**

#### **A. Non-discrimination (art. 2)**

113. French law respects the principle established by article 2 of the Convention. The inequality of treatment in matters relating to succession which still existed as between legitimate and adulterine children was abolished by the Act of 3 December 2001, which took effect on the following 4 December. Several reports (including that published by the National Assembly’s Commission of Inquiry into the state of the rights of the child in France, study by Ms. Théry, Commission chaired by Ms. Dekeuwer-Défossez) had proposed that adulterine children should be granted the same rights of succession as those of legitimate and natural children.

114. In addition, the need to eliminate the last discriminatory provisions from the law on filiation was reaffirmed by the Prime Minister at the Conference on the Family held on 15 June 2000. The Filiation Bill fully conforms to the principle of equality of filiation established by the Act of 1972, abolishing the concepts of legitimate and natural filiation and dividing the law on filiation into two major sections relating to maternity and paternity. Thus maternal filiation will be established by entering the mother’s name on the birth certificate; an unmarried mother will therefore no longer have to recognize her child. Paternal filiation will continue to be established through the presumption of the paternity of the husband or through acknowledgement of the child by an unmarried father. The judicial proceedings for establishing or challenging filiation will be standardized and simplified as regards the applicable time limits and the people entitled to take action.

## **B. The best interests of the child (art. 40)**

115. French law has long incorporated the concept of the best interests of the child, which are also enshrined in the Convention. This concept underpins French family law and is the sole criterion parents should apply in any action they take concerning a minor. However, the concept is not left to the discretion of the parents alone. The best interests of the child are subject to monitoring by judges who, in order to be fully informed, may have recourse to all kinds of information-gathering measures (social inquiry, medical and psychological examination, etc.).

116. The child's right to freedom of expression, recognized by the Convention, gave the concept a new dimension, which was recognized by the Act of 8 January 1993. The idea is not that the child should decide his or her best interests, but that the court should have additional information, from the view expressed by the child, for determining his or her interests. The Act brings into general use the possibility of appointing a third party to represent and defend the interests of the child when these appear to be in conflict with those of the parents. Internationally, the fact that all States parties to the Convention make reference to the best interests of the child should make it easier to resolve any contradictions that might arise from the enforcement of different legislations.

## **C. The right to life, survival and development (art. 6)**

### **1. Protection of pregnant women**

117. The protection of pregnant women and care during pregnancy are among the priorities of French family policy, which therefore requires that:

The pregnancy should be declared to a social security body;

Pregnant women must undergo medical examinations before and after giving birth. The number of these examinations, which are given free of charge in public maternal and child health centres, has recently been increased;

Pregnant schoolgirls should continue their studies in the best possible conditions (inter-ministerial circular of 1975 and National Education Service note of 17 September 1982).

### **2. The system of family benefits**

118. Through a system of family benefits, the State aims to ensure greater equality in standards of living between families which have children and those which do not. The financial assistance provided to future parents should enable them to cope with the expenditure occasioned by the arrival of a child. Thus:

Substantial allowances are payable before and after the birth;

Medical expenses relating to pregnancy, childbirth and post-natal care are fully covered.

119. This very child-orientated legislation is supplemented by specific provisions concerning pregnant women in work. The right to a normal pregnancy and a trouble-free birth requires major changes in conditions of employment. Thus:

During pregnancy, women can change post with no cut in remuneration, and dismissal is prohibited;

Maternity leave before and after childbirth is covered financially by the social security system;

Parental leave or a period of part-time work so as to enable the parent to look after a child under the age of three years may be granted to any employee requesting it, without terminating the contract of employment.

### **3. Parents' obligations**

120. Enabling a child to grow up and develop into an adult is one of the essential tasks of a parent. Parents have an obligation to support the child, an obligation which may continue after the child has come of age: food, clothing, housing, care and school costs must be provided. The obligation falls on both parents, regardless of their marital status, and on the ascendant relatives in the absence of the parents. But parents' duty is not limited to physical maintenance; it comprises bringing up, supervising and protecting the child and ensuring his or her safety, health and morals (see chapter V of the present report).

121. Society long remained indifferent to the performance of parental responsibilities, considering that parent-child relationships were within the private domain. Gradually, however, the State has intervened to support needy families, in particular by providing them with social and medical assistance. The material assistance accorded by the community is nevertheless only of a subsidiary nature and is necessarily limited (see chapter VI of the present report). In order to assist parents in bringing up their children, a decision to establish a consultation, support and guidance scheme for parents was taken at the Conference on the Family in June 1998.

122. The details of this scheme were set out in a circular dated 9 March 1999. The activities include:

Creating places where parents can meet;

Organizing discussion groups for parents;

Establishing centres for parents with young children and mediation facilities for parents and adolescents;

Encouraging initiatives to support immigrant parents in their role as parents, taking account of their difficulties in integrating into the receiving society.

In 1999, the State and the National Family Allowances Office spent 163 million francs on the implementation of this scheme.

#### **4. Helping teenagers to control conception more effectively**

123. At present, about 8,000 teenage girls become pregnant every year in France. Of these, 70 per cent terminate their pregnancies, while 30 per cent do not. To find out why this is so, Professor Uzan was asked to prepare a report on “the prevention and care of teenage pregnancy”. Her report was submitted to the Ministry of Employment and Solidarity in April 1998 and served as a basis for study by a working group, which proposed a number of courses of action. The purpose of the work currently being done is to enable women, and more particularly teenage girls, to choose when they wish to become pregnant.

124. A national information and awareness campaign on contraception was mounted in late 1999 with media support and with teenage girls as the main target. With help from a large number of intermediaries, pamphlets detailing the risks associated with sexual relations have also been made available. Lastly, two emergency contraceptive products have been available since 2002 and will, in the last resort, make it possible to avoid unwanted pregnancies and voluntary terminations in teenage girls who do not use contraception. Act No. 2000-1209 of 13 December 2000 allows emergency contraceptive products to be provided free of charge to under-age girls in pharmacies and authorizes school nurses to administer them to under-age and full-age female pupils.

#### **D. Respect for the opinions of the child (art. 12)**

125. The fears raised by this article have served to draw the attention of parents and educators to language and practices that are contrary to the child’s interests. A consensus has been established on the following ideas: expressing a point of view is not the same thing as taking a decision, and respecting the child’s opinions means listening to them, but not necessarily endorsing them. The adult decision-maker’s task is to add the child’s viewpoint to the other elements which may contribute to an informed decision, the child’s age and maturity being, of course, decisive considerations.

### **IV. FREEDOMS AND CIVIL RIGHTS**

#### **A. Name, nationality and the right to know one’s parents (art. 7)**

126. As a human being, a child is entitled to respect for his identity. When the birth certificate is drawn up, the child is given one or more first names. The surname is determined by the rules of filiation. Every child born in France must be declared to the local registry office within three days of the birth. This is the duty of the father or, in his absence, the medical staff present at the birth. When the birth certificate is drawn up, the child is given a surname and a first name.

##### **1. Identity**

###### **1.1. Surname**

###### **1.1. (a) Children whose filiation is known**

127. Depending on the parents’ marital status, the child will bear the surname of the father (if the child is legitimate), of the parent who first acknowledged him or her, of the father in the case of simultaneous acknowledgement (of a natural child) or of the mother if the child has not been

acknowledged (a natural child). In accordance with custom, both parents' surnames may be taken if the parents so decide. This double name will not appear on the civil register, only on administrative or private documents. It may not be transmitted. The Family Name Act of 4 March 2002 has profoundly changed this system. Henceforth, "when a child's filiation to both parents is established ..., the latter shall choose the family name to be conferred upon the child: the surname of the father, or of the mother, or both their surnames together in the order chosen by them, with not more than one family name for each of them. In the absence of a joint declaration ..., the child shall take the name of the father" (Act, art. 4). This Act will enter into force on 1 September 2003.

### **1.1. (b) Children whose filiation is unknown**

128. If the name of at least one of the parents does not appear on the birth certificate, the registry office gives the child a number of first names, the last of which serves as a surname.

### **1.1. (c) Change of surname**

129. After receiving a surname at birth, a child may change it: the surname acquired by filiation follows any changes in filiation (adoption or judicial decisions establishing or changing filiation). A surname can also be changed by administrative decision (to give it a French form, for example). Since the adoption of the Act of 8 January 1993, any change in the surname of a child over 13 years of age requires the child's personal consent if the change does not result from the establishment or a change of filiation.

### **1.2. First name**

130. Like the surname, the first name is an essential attribute of a child's identity. Since the adoption of the Act of 8 January 1993, the father and the mother have been free to choose a child's first names, subject, if necessary, to subsequent intervention by the judicial authorities if their choice appears to be incompatible with the child's interests. Any person able to prove a legitimate interest may apply to change a first name. If a child is over 13 years of age, his or her personal consent is required.

## **2. Nationality**

131. Any child born or living in France is entitled to a nationality. Under the Act of 16 March 1998, which entered into force on 1 September 1998, the following are French:

Legitimate or natural children having at least one French parent;

Legitimate or natural children born in France, at least one of whose parents was also born in France;

Children born in France to unknown or stateless parents or where no other nationality can be given to them (however, the child shall be deemed never to have been French if, while he is still a minor, the foreign nationality acquired or possessed by either parent is transmitted to him).

132. Depending on the circumstances, a child adopted or fostered by a French national becomes or may become French. A child born in France to foreign parents and eligible to acquire French nationality as of right on coming of age may bring such acquisition forward by declaring French nationality on reaching the age of 16. To do so, he or she must be resident in France when submitting the declaration and, also on that date, furnish proof of customary residence in France for a continuous or non-continuous period of at least five years since the age of 11. In the same circumstances, French nationality may be applied for by the parents as soon as the child turns 13, with the child's personal consent; the child must have been ordinarily resident in France since the age of 8.

133. Beginning on 1 September 1998, France has introduced an identity card for children under the age of 13 born in France to foreign parents. This new document serves as a residence permit and is intended to enable the children to prove that they were born on French soil and to facilitate their everyday life by, for example, enabling them to be readmitted to France without difficulty after travelling abroad. The card is valid for five years and may be renewed until such time as a nationality certificate is issued. It has been the subject of an information campaign mounted by the Ministry of Justice in all public places, such as prefectures, schools and courts. About 25,000 young people every year are eligible to become French under the new legislation.

### **3. The child's right to know his or her parents**

134. As to the child's right to know his or her origins, which is a special aspect of the right to an identity, French law, while allowing the child access to this information, does not make it an absolute right. It does not in this respect appear to be at odds with article 7 of the Convention, which recognizes the child's right to know his or her parents, but only "as far as possible". Thus, in France, adoption is no impediment to knowledge of origins. Similarly, a child can bring a legal action to ascertain filiation.

135. There are only two cases in which a child will encounter an obstacle:

When the mother has requested that her identity should not be disclosed at the time of birth and in the birth certificate; and

When the practice of artificial insemination by donor is used.

It should first be emphasized that, until the adoption of the Act of 22 January 2002, a third obstacle existed: when parents who left their child in care requested that their civil status should not be disclosed. This possibility, which had already been limited to children under the age of 1 year by the Act of 5 July 1996, was abolished by the Act of 22 January 2002.

136. The questions of anonymous childbirth and the parental option of asking for their identity not to be revealed have for some years been among the most controversial in family law. Two contradictory considerations are involved: some parents, some mothers in particular, claim the right to deny or not to disclose their parenthood on the grounds of the social difficulties it might entail; some children born without filiation claim the right to know their origins on the grounds of biological truth and their own peace of mind. It is therefore difficult to find a fully satisfactory solution to this delicate problem, which has recently given rise to numerous studies.



137. The Council of State, in a report on the protection and status of the child prepared in May 1990, advocated the establishment of a council to ascertain family origins, responsible for the following:

Undertaking the actual search for the parents;

Ascertaining the wishes of the parents, whether it be agreement to the removal of confidentiality in the context of the procedure to ascertain his origins initiated by a child or a parent's desire to rescind his or her request for confidentiality; and

Ensuring the psychological rapprochement of the parties by offering mediation.

138. The report of the National Assembly's commission of inquiry into the rights of the child, chaired by Mr. Laurent Fabius, was submitted on 5 May 1998. The commission considered it desirable to amend the legislation on anonymous childbirth by requiring that the information on the biological maternal filiation of the child should be held by a public institution, by authorizing the waiver of confidentiality in the event of a joint application by the mother and the child, and by allowing the waiver of confidentiality as of right at the request of a child of full age, provided the mother is notified beforehand.

139. In her report submitted on 14 May 1998, the sociologist and specialist in family law, Ms. Théry, who had been appointed jointly by the Minister for Employment and Solidarity and the Minister of Justice to carry out a study on modifications of contemporary French law made necessary by social change, suggested, more radically, abolishing the possibility of anonymous childbirth and confidential abandonment.

140. The question of confidentiality of origins was examined in depth by the Dekeuwer-Défossez commission, which took account of all the concerns expressed in this area. The commission advocates the retention of anonymous childbirth, but proposes that provision should be made for an alternative course, allowing the identity of the woman giving birth to be kept secret and thereby making it easier to reverse the right to discretion. The Minister with special responsibility for the family adopted this position at the symposium "What law for what families?" held on 4 May 2000. As regards the children of women giving birth anonymously, the Prime Minister said, at the Conference on the Family held on 15 June 2000, that he hoped the studies and consultations already initiated on this subject would continue.

141. Thus, the Act on access to the origins of adopted persons and children in care was adopted on 22 January 2002. It maintains the right of women to give birth anonymously, but tends to encourage the subsequent waiver of confidentiality. It provides that any woman who wishes to give birth anonymously will be invited to leave information, if she so agrees, on her and the father's health, the child's origins and the circumstances of the birth, together with her identity in a sealed envelope. She will also be informed that she may at any time reveal her identity or furnish additional information. In addition, the Act established a national council on access to personal origins, which is responsible for receiving, holding and disseminating certain information. The Council receives applications for access to knowledge of his or her origins made by any person born anonymously. It also receives declarations of waiver of confidentiality made by biological parents. If, when considering an application by a child, it does not already have a declaration from the parents, it seeks out the biological parents in order to request their

consent. A refusal by one or both parents to disclose their identity is binding on the child, but does not prevent the council from communicating to the child the relevant non-identifying facts. Lastly, the council provides information on personnel training and information to the departments and organizations authorized or empowered to adopt the procedure for compiling and conserving information on children's origins.

### **B. Preservation of identity (art. 8)**

142. Article 8 of the Convention establishes the right of the child to have his identity preserved and protected against any interference by third parties. The Act of 8 January 1993 illustrates this principle in requiring the consent of minors over 13 years of age to administrative changes in their surnames or first names. More generally, French courts protect the identity of individuals against interference by third parties and allow persons without an identity to be granted one.

### **C. Freedom of expression (art. 13)**

143. All studies of young people reveal demands for greater freedom of expression. As already indicated, freedom of expression has increased notably in schools, specialized facilities and society at large in recent years. Recognition of children's rights to freedom of expression and to protection of their names, identities, privacy and family relations makes it necessary to examine the relations existing between the media and young people.

144. Young people are undoubtedly a prime topic for media reporting, which unfortunately often concentrates too heavily on violent incidents. Here, the rules governing the participation of minors in television or radio broadcasts need to be briefly outlined.

145. Generally speaking, the picture or words of a minor may not be broadcast without prior authorization from the person or persons wielding parental authority, in conformity with article 9 of the Civil Code and the rules governing parental authority. Consent by a minor capable of due discernment is by itself insufficient. Anyone who fails to comply with article 9 of the Civil Code is liable for damages for the injury suffered. Similarly, intrusion on another person's privacy by taking or broadcasting his picture without his consent when he was in a private place is punishable by one year's imprisonment and a fine of 300,000 francs.

146. In the case of juvenile offenders, article 14 of the order of 2 February 1945 prohibits the publication, in any form, of any text or any illustration concerning their identity or personality on pain of criminal penalties. The Act of 15 June 2000 strengthening the presumption of innocence and the rights of victims made it an offence to publish the identity of a juvenile victim. An article 39 bis has been added to the Freedom of the Press Act of 29 July 1881, making the act of disseminating, by any means and through any medium, information concerning the identity of a juvenile who has been the victim of an offence punishable by a fine of 100,000 francs. This provision, which was inspired by the law concerning juvenile offenders, will protect the privacy and image of child victims of sexual aggression or acts of incest. Publishing of the identity of runaway or abandoned children or children who have committed suicide is still forbidden under the Act.

#### **D. Access to information (art. 17)**

147. Young people's right to information is a priority of the Government. In an increasingly complex society dominated by the media, the right to be informed in full freedom is particularly important today. Beyond the traditional sources of knowledge (families and schools), children, depending on their age, must have access to the information carried by the various media: books, the press, television and different data transmission media. Asserting this right requires education in the use of the media and schooling in the technologies which permit access to the media, but also protection specifically for juveniles. It also requires children and young people to have information on training, employment, health, leisure, their rights and how to exercise them available close to home.

148. To this end, the "information for young people" network, which already has 1,502 facilities (the young people's information and documentation centre, 21 regional information centres for young people, 250 information offices for young people, 1,220 information points for young people), will be extended through the installation of "information for young people" kiosks wherever young people may be passing (station concourses, underground stations, etc.). These kiosks will be equipped with Internet access.

149. A guide to the rights of young people, prepared by the Ministry for Youth and Sport, is available in two forms: a quarterly journal entitled *Droits des jeunes* and the web site [www.droitsdesjeunes.gouv.fr](http://www.droitsdesjeunes.gouv.fr). The magazine, distributed in issues of a million copies, informs young people about their rights in the following areas: life in society, culture, vocational training, health, housing, sports, leisure and holidays, associations, jobs, citizenship, justice and education.

##### **1. Education in the use of the media**

150. To fulfil its role of providing education in the use of the media, the Ministry of National Education has two complementary facilities:

The teaching and information media liaison centre, established in 1983, is available to teachers and pupils to increase their familiarity with and understanding of the media. It encourages young people to express themselves by producing information documents in the school context. It facilitates the use of current events to inculcate a sense of citizenship;

Particularly in junior secondary schools, as a result of programmes gradually introduced from the sixth grade upwards at the start of the 1996/97 school year, considerable emphasis has been placed on education in the use of the media:

Education in the use of images is dealt with in many subjects, including life and earth sciences, history, geography and French;

The part of the civic education curriculum on "freedoms and rights" for eighth-grade pupils comprises a section on what information involves. The accompanying commentary states that the presentation of the various media (press, television, multimedia) enables the importance of information in modern

societies to be stressed and the limits and risks of information to be identified. Discussion of information processing enables pupils to exercise their critical faculties.

151. Lastly, from sixth grade upwards, considerable attention is given to the work that needs to be done with pupils in junior secondary school documentation and information centres. The civic education curriculum requires pupils to learn to undertake research independently in these centres, but also to cooperate with others and take account of the diversity of information sources and media.

## **2. Protective arrangements**

### **2.1. The press**

152. Young people of all age groups may generally be considered to have access to a diverse and high-quality press. The Act of 16 July 1949 on publications intended for young people covers all publications intended for children and adolescents. These publications must not contain “any illustration, story, report, item or insert showing in a favourable light robbery, mendacity, theft, laziness, cowardice, hatred, debauchery or any acts classified as offences or liable to demoralize children or young people or to instil or maintain ethnic prejudices”.

153. A commission responsible for the supervision and control of these publications has been set up within the Ministry of Justice. It meets four times a year. Article 14 of the Act of 16 July 1949 says that the commission shall be empowered to draw to the attention of the Ministry of the Interior “publications of any nature constituting a danger to young people because of their licentious or pornographic nature or their emphasis on crime, violence, racial discrimination or incitement to the use, possession or trafficking of drugs”. On this basis or on his own initiative, the Minister of the Interior may issue an order banning sales to minors under the age of 18, banning the public display of these publications or banning any advertising of them. Regarding publications generally, the commission can also report to the Minister of Justice with a view to possible proceedings against offending publishers.

### **2.2. The cinema**

154. Articles 19 to 22 of the Cinematographic Industry Code stipulate that a certificate must be obtained for any cinematographic work before it can be shown in cinemas. A classification committee made up of persons employed in the film industry and experts, established by Decree No. 90-174 of 23 February 1990, transmits its opinion on the classification of films to the Minister for Culture, who issues the certificate. Screening a film without a certificate or with a certificate other than that issued by the Minister is a punishable offence.

155. There are four types of certificate:

A certificate authorizing the film to be shown to all audiences;

A certificate stipulating that the film may not be shown to children under 12 years of age;

A certificate stipulating that the film may not be shown to children under 16 years of age;

A certificate stipulating that any film included on the lists provided for in articles 11 and 12 of the Act of 30 December 1975 (“X” rating for violent or pornographic films) may not be shown to children under 18 years of age.

An outright ban is still legally possible but is almost never used.

156. Decree No. 92-445 of 15 May 1992 prescribes penalties for offences by persons managing and checking admission to cinemas. These penalties are also applicable to persons accompanying minors who allow them to enter a cinema showing a film forbidden to children under the ages of 12, 16 or 18.

### **2.3. Television**

157. Article 15 of the Freedom of Communication Act of 30 September 1986, as amended by the Act of 1 August 2000, strengthened the principle of protecting minors in television broadcasting services with the stipulation that: “The Audio-Visual Media Board shall have regard to the protection of children and adolescents and respect for the dignity of the individual in the programmes broadcast to the public through an audio-visual communication service. It shall ensure that programmes liable to harm children’s physical, mental or moral development are not publicly broadcast by a radio or television service except when care has been taken, through the timing of the broadcast or by means of any appropriate technical procedure, to ensure that minors will not normally be likely to see or hear the programmes. It shall further ensure that broadcast radio and television programmes contain no incitement to discrimination, hatred or violence on grounds of race, sex, morals, religion or nationality”.

158. It should be noted that, since it was set up in 1989, the Audio-Visual Media Board has issued a directive prescribing times for family programming and a public warning when a programme is liable to upset sensitive or younger viewers or listeners. It has also initiated punitive proceedings against channels which have not complied with this directive. In November 1996, the Board, in agreement with the French terrestrial television channels, set up a classification system for programmes shown on television, indicating programme category by means of coloured pictograms. The purpose of this system is to give viewers, families in particular, clear and easily accessible information. For the television channels, it is also a means of reinforcing their editorial responsibility: the channels are required to organize a viewing of all programmes that require classification, such as films, television films, episodes in serials or documentaries. They have set up viewing committees, the membership of which varies according to the channel in question.

159. The Audio-Visual Media Board retains a posteriori supervisory powers over programming and classification decisions if it considers these inadequate. The next step will be the use of the marker by all cable channels. The programme classification scheme comprises five categories:

Category 1: programmes for all audiences;

Category 2: programmes comprising certain scenes liable to upset young viewers, for which parental consent is desirable (blue marker);

Category 3: films forbidden to children under the age of 12, and programmes liable to disturb young viewers, notably when they contain systematic and repeated scenes of physical or psychological violence, for which parental consent is essential (permanent orange marker);

Category 4: films forbidden to children under the age of 16 and programmes of an erotic or very violent character liable to harm the physical, mental or moral development of children under 16; these programmes may be watched only by adults (permanent red marker);

Category 5: programmes of a pornographic character which may not be screened at all on unencrypted channels and not between 5 a.m. and 12 p.m. on encrypted channels.

160. The classification of programmes imposes constraints on scheduling. Category 2 films must not appear in programmes for children, and category 3 films may not be shown before 10 p.m. Some exceptions may be tolerated, but not on Tuesday, Friday or Saturday evenings or the days immediately preceding school holidays, when children stay late in front of the television. Category 4 films may not be broadcast before 10.30 p.m. The first audience surveys show that children aged 4 to 14 watch fewer marked programmes than unmarked programmes, with significant differences. Since 1995, a television channel devoted exclusively to education, training and employment has been in existence and offers a substantial and wide range of programmes for young people.

#### **2.4. Radio**

161. The Decree of 6 April 1987 governing advertising on private radio stations prohibits advertisements which exploit the inexperience or credulity of children. It also stipulates that children and adolescents may not order the products or services advertised.

#### **2.5. The Minitel**

162. Since children have become highly proficient in using this instrument, it has become essential for parents to have some means of controlling their children's access to the Minitel and telephone. A new system has been introduced making it possible to select only those services that the viewer wishes to receive. The Minitel and Audiotel services and the "social or erotic" services are thus subject to regulations and clauses in the contracts linking the service-providers to the telephone company. The service-providers undertake to comply with the laws and regulations in force, and with various provisions of an ethical nature. In the event of failure to comply with these obligations, the telephone company has the power to impose sanctions or cancel the contract. Service-providers undertake, in particular, not to make available to the public messages liable by their nature to jeopardize respect for the individual and the protection of children and adolescents.

163. Services intended for young people may not comprise:

Any publicity or advertisement for publications or other audio-visual communication services liable to harm the morals of children or young people;

Any message encouraging children to consult other on-line services or spend an undue amount of time consulting the service concerned.

## **2.6. Video cassettes**

164. Since the adoption of the decree of 23 February 1990 regulating the admission of children to cinemas, video cassettes offered for rental or sale must indicate on their packaging any restrictions imposed at the time when the film in question was certified for release. The Act of 17 June 1998 on the prevention and punishment of sexual offences and the protection of minors provides for the monitoring and supervision of any document captured on a magnetic medium, a digital, optically-read medium, or a semi-conductor medium such as a video cassette, videodisc or electronic game.

165. If such documents pose a danger to young people because of their pornographic character or the prominence they give to crime, violence, racial discrimination or hatred, or the incitement to use, use, possession or trafficking of drugs, the administrative authorities, after consulting an advisory committee composed of members of the Council of State or the Court of Cassation, representatives of the authorities, persons working in the sectors concerned and persons responsible for the protection of young people, may make it illegal to offer, give, rent or sell them to minors or to advertise them in any way. Furthermore, without prejudice to the applicable sections of the Penal Code relating to violent or pornographic messages, the law establishes criminal penalties for failure to observe any bans imposed and for artificially altering the presentation of the products concerned.

## **E. Freedom of thought, conscience and religion (art. 14)**

166. These freedoms are recognized as fundamental principles under French law. The State therefore refrains from providing guidance in respect of opinions and beliefs, especially those of children in public schools. The principle of secularism means that there must be complete neutrality in the expression of opinions in public schools, and that all religious or political proselytism is prohibited. The observance of secularism does not prevent public schools from allowing students to practise their religious beliefs. It is for that reason that the office of chaplain in secondary schools is legal (Council of State, 1 April 1949, *Chaveneau*).

167. The wearing of an emblem denoting membership of a religious group is also legal provided it does not entail a disturbance of the peace or undermine the teaching provided, and is not accompanied by attempts at proselytization (Council of State opinion, 27 November 1989; Council of State decision *Kherouaa*, 2 November 1992). The right of pupils to individual dispensation from classes when necessary in order to attend a religious service or celebrate a religious festival has also been recognized, provided their absence does not conflict with the organization of studies or the maintenance of order in the educational establishment (Council of State, Assembly, 14 April 1995, *Koen and Consistoire central des israélites de France* (Central Consistory of French Jews), p. 168).

### **F. Freedom of association and peaceful assembly (art. 15)**

168. Under French regulations governing associations, a minor joining an association is considered an act of everyday life for which he or she has his or her parents' tacit agreement. As an active member of an association, a minor can vote in general meetings and be elected to the board responsible for implementing the decisions of general meetings or officers of the association. However, minors cannot hold the offices of president or treasurer, since their legal incapacity precludes them from representing the association in legal proceedings.

169. The authorities' objective is, on the one hand, to encourage associations to make room for young people and, on the other, to enable young people to meet the minimum material requirements for launching their own projects: start-up subsidies to pay for premises and organize meetings, etc. At the first national conference of associations, held in Paris on 20 and 21 February 1999, the Prime Minister expressed the hope that the formation of "youth associations" would be encouraged and that, through a system of official civic voluntary service, it might be possible for young people aged between 18 and 28 to carry out assignments with associations in the areas of social cohesion and solidarity.

170. France is also looking into ways of enabling minors to engage in civic activities by allowing them to form associations of this kind for sporting and cultural activities. The associations could involve young people of about 16; they would take the form of clubs vetted by a national network of youth associations with broad decision-making powers, although any legal transactions regarding their activities would have to be carried out through an intermediary with full civic capacity. This change in the functioning of associations covered by the Act of 1 July 1901 and the rules governing civic capacity, particularly as regards the opening of a bank account, is still somewhat sensitive and requires further inter-ministerial discussions.

171. Many associations have been set up in schools, a number of them by order or circular, such as socio-educational hostels, school students' associations, health clubs and athletic associations. Established by the teachers or by the pupils themselves, they enable the pupils to practise exercising collective responsibility. The decree of 18 February 1991 sets forth the conditions under which associations in high schools will operate and exercise their right of assembly. High school students' associations are the most important embodiment of the right of association; they provide a space where the rights of expression and assembly, the right to post notices and the right of association may all be exercised together.

### **G. Protection of privacy (art. 16)**

172. Under article 9 of the Civil Code, everyone is entitled to respect for his or her privacy. Children, like adults, are therefore protected from intrusions into their private lives. This right is understood as referring to both public and private intrusions. Courts may order measures to prevent or put a stop to invasions of privacy. There are two particular areas where it is important to ensure respect for the child's privacy and personal life.



## **1. The media**

173. As indicated earlier, certain situations raise the problem of striking a balance between the recognition of freedom of expression and the protection of privacy. In addition to the Civil Code's general stipulation that "Everyone is entitled to respect for his or her privacy", children are protected by a series of specific texts, as described above (see chapter II).

## **2. Mail**

174. Parents have a responsibility to monitor the mail addressed to young children, considering the representations of various kinds which might be made to them. The Postal Services Code specifies that ordinary mail, registered mail or mail of a declared value, addressed "poste restante" to non-emancipated minors under 18 years of age, may be delivered to them only upon presentation of written authorization from their father or mother or, in the parents' absence, from their guardian.

# **V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE**

## **A. Parental guidance and responsibilities (art. 5 and art. 18, paras. 1 and 2)**

175. In the last 30 years, family law in France has undergone profound changes in order to reflect changes in standards of behaviour. The Act of 4 June 1970 replaced the concept of paternal authority, inherited from Roman law, with that of parental authority, thereby establishing equality between the father and mother in their relations with their children.

### **1. Parental authority**

176. This is the whole complex of rights and duties that the law grants to or imposes upon the father and mother in respect of the person and property of an unemancipated minor child. It is a functional duty that must be exercised in the interests of the child in order to ensure his or her welfare.

177. Parents have the right and duty of custody, of supervising and of bringing up their children. They must support them and, where necessary, administer their estate (administration and legal usufruct). They incur civil liability for damage caused by their children. If this duty is not performed or is performed badly and a child is in danger, the juvenile magistrate may intervene, under the educative assistance procedure, to take the necessary protective measures (educational support combined, where necessary, with the temporary removal of the child) and to assist the parents in better fulfilling their responsibilities. In case of severe negligence, the courts may decide to relieve parents of their authority.

178. Thus defined, parental authority meets the requirements of article 5 of the Convention, and it has not been deemed necessary to replace it by the concept of parental responsibility.

### **2. Exercise of parental authority**

179. The Act of 8 January 1993 seeks to make the joint exercise of parental authority a general practice.

180. In respect of legitimate children, the principle is that parental authority should be exercised jointly whether parents are married, separated or divorced. In the latter two cases, failing an amicable agreement or if such an agreement appears to go against the interests of the child, the court designates the parent with whom the child will normally reside. If the child's interests so require, the court may confer the exercise of parental authority upon one of the parents.

181. In respect of natural children, parental authority is also exercised jointly by both parents provided that they both acknowledge the child before he or she reaches one year of age and are living together at the time either of joint acknowledgement or of acknowledgement by the second parent. Where only one of the parents acknowledges the child, that parent exercises full parental authority. In other cases, the mother alone exercises parental authority. The two parents may, however, make it known, in a joint statement to the senior registrar of the regional court, that they wish to exercise joint parental authority. Where the parents cannot agree, the family court judge rules on the exercise of parental authority.

182. In all cases, irrespective of whether the child is legitimate or natural, the father, mother or Office of the Public Prosecutor (who has overall responsibility for protecting those who cannot protect themselves, and thus, of protecting children) can request the court to modify the exercise of parental authority.

183. The draft reform of family law proposed a further extension of the general application of the principle of the exercise of joint parental authority and, in particular, abolition of the requirement for the parents to be living together. Thus the Parental Authority Act of 4 March 2002 establishes the principle of joint exercise of parental authority by both parents, whatever their marital situation, provided that the child's filiation to the parents is established during the first year of life. Even if it is not, however, it is possible for the two parents to make a joint statement to the senior registrar of the regional court, in order to exercise joint parental authority.

### **B. Separation from parents (art. 9)**

184. The right of children and their parents to live together, a principle established in the European Convention for Protection of Human Rights and Fundamental Freedoms (referred to below as the European Convention on Human Rights), is fundamental to French legislation. Children must not be separated from their parents except when the interests of the child so require.

185. The placement of a child who is in difficulty or in danger may be arranged by the authorities only with the consent of the parents. Should they refuse, only a court decision can overrule their opposition. The legal provisions relating to educative assistance remind the court that a minor child must be kept in the family environment wherever possible.

186. Children's right to live in their family with both their parents becomes ineffective in situations where the adults have a conflictual relationship, however. The most common situations involve children whose parents no longer live together. In most such cases, the child resides with one of the parents and has contact with the other only at the weekend and during school holidays. The parent with whom the child does not reside retains the right to supervise

his or her upbringing and must be informed about important decisions in the child's life. This parent contributes to the child's upkeep by paying maintenance. Visiting and accommodation rights may be denied only on very serious grounds.

187. In accordance with the Convention, the Act of 8 January 1993 establishes a new approach based on dialogue and amicable agreement between the parents. It places most of the procedures relating to family life in the hands of the family courts, and entrusts them with the task of trying to restore harmony between the various members of a divided family. Given the particularly sensitive nature of the human element in family conflicts, however, it was thought necessary to ensure that efforts would be directed towards finding not just a legal solution but a solution likely to ease parental or conjugal disputes, particularly where the child's continuing relationship with both parents was concerned.

188. Thus, the Act of 8 February 1995 and its implementing decree of 22 July 1996 established a process of family mediation through civil judicial conciliation, which is now one of the most frequently occurring forms. If the parties agree, the court may, at any point in any proceedings, appoint a third person to try and mediate an agreement between the parties.

189. Family mediation is a method whereby a qualified third person listens to the parties and seeks to reconcile their positions in order to enable them to find a solution to the conflict; the main aim is to allow parents in serious crisis to resume a dialogue that has broken down, so that together they can prepare their children's future. Family mediation is a vital tool for family policy, for it makes it possible to prevent and reduce the social cost of conflicts within the family. Moreover, since it results in a solution negotiated by the parties and thus necessarily accepted by them, it also helps avoid further disputes. The time allowed for the conciliation procedure is set by the court, with a maximum of three months renewable once; the court may also, at the request of the mediator or one of the parties, decide to terminate the procedure before the end of that period. Any agreement reached by the parties is submitted for approval by the court and is then legally binding.

190. In many cases meetings between parents and children are organized in parallel with the mediation procedure: these take place in neutral locations and allow the parent who does not have custody to exercise his or her visiting and accommodation rights in a setting with no emotional associations; it may also be that the parents' own accommodation does not lend itself to the exercise of those rights. The report of the Dekeuwer-Defosse Commission suggested that, where there were problems between parents, the court should order a meeting with a mediator.

191. According to the Parental Authority Act of 4 March 2002, in establishing the terms for the exercise of parental authority, the court should take account of any agreements reached between the parents and, where the parents do not agree, of their previous practice, the feelings expressed by the child, and each parent's ability to fulfil his or her obligations and respect the other's rights. The court may also order alternate custody of the child. Lastly, the court should facilitate recourse to family mediation in order to resolve family conflicts.

192. For children whose parents are in prison, in line with current trends towards maintaining family ties, the authorities have developed a policy of allowing detainees' to receive their families in visiting rooms. There are two kinds of facilities: day visiting rooms, of which there

are 100, and night accommodation units, of which there are 25 (for the most part attached to detention centres and prisons); the facilities are run by civil associations. The task of the volunteer reception staff has developed considerably, volunteer numbers have increased and their working methods have diversified. These institutions are becoming particularly adept at dealing with children who come to visit a parent in prison. The State provides financial support to the associations that run reception centres. In terms of investment, capital grants make it possible for premises to be established, expanded or reorganized. In operational terms, action to promote the maintenance of family ties accounts, on average, for 13 per cent of total substantive allocations made to civil society.

193. It is estimated that 140,000 children are potentially able to visit a parent in prison. Some prisons have visiting rooms that are specially equipped to receive children. Such areas are specially furnished and decorated to make them more welcoming. In addition, professionals working with very young children and the federation of child-parent link associations help prisoners to better fulfil their parental responsibilities and maintain family ties.

194. As to imprisoned mothers receiving children aged under 18 months, a Ministry of Justice circular on terms for the reception and care of children in prison environments was issued on 16 June 1999. The main points of the circular are as follows:

A reminder of the rules governing the exercise of parental authority by both the mother and the father of a child brought into the institution;

A reminder of the rules of ordinary law concerning the protection of children and of the action taken to assist families in terms of health and welfare;

The need for parents' to feel responsible for organizing their children's daily lives: financial support, how best to receive the child, care, visits, etc.;

A list of prison establishments adequately equipped to accept children who are to be left with their imprisoned mother, and an indication of the strict maximum reception capacity.

195. A handbook is currently being prepared for professionals dealing with situations where children are living with an imprisoned mother; it will be distributed together with the circular.

### **C. Family reunification (art. 10)**

196. National borders should not constitute an obstacle to relations between a child and his or her parents. Article 10 of the Convention concerns families that have been separated as a result of immigration or other circumstances.

#### **1. Separation resulting from immigration**

197. Under what is known as the family regrouping procedure, the State authorizes the entry into France of the children of foreigners legally resident there. The family regrouping procedure

covers the spouse and the couple's children, i.e., legitimate or natural children whose filiation has been legally established, but also children adopted under an adoption order, subject to verification of the legality of such order by the Government prosecutor, if the order was issued abroad.

198. In the case of reconstituted families, following divorce or separation, a divorce decree issued by a foreign court awarding custody is required, along with the other parent's consent, for a child to move to France.

199. No other forms of guardianship of a foreign child are acceptable, including delegation of parental authority, guardianship order or notarized document entrusting a child to a family.

200. The conditions for the exercise of the right to family regrouping are as follows:

The foreigner with whom the family is to be reunited must have been legally resident in France for at least a year;

He or she must hold a residence permit valid for at least one year;

Proof of steady and adequate income must be furnished;

Accommodation considered normal for a comparable family living in France must be available at the latest by the date of the family's arrival;

There must be no record of disturbances of the peace;

Arriving family members must undergo medical examinations;

In principle, whole families should be reunited (partial regrouping may be authorized, however, "in the best interests of the child");

Polygamous men residing in France with the first wife may not apply for family reunification for another wife; the children of another wife are ineligible for family regrouping unless the mother is deceased or has been relieved of her parental rights.

201. The procedure involves a number of State services - prefectures, departmental health and social affairs offices, French consulates - and the International Immigration Office. The mayor of the place of residence must provide a reasoned opinion concerning the applicant's means and accommodation. The prefect's decision to grant family reunification is issued within six months; the family members then have nine months from the date of the decision to enter France.

202. On reaching the age of majority, the children are entitled to obtain residence and work permits of the same type as those of their parents. Such permits give them the right to engage in any professional activity in accordance with current legislation.

## 2. Children of couples of different nationalities living in two different States

203. When couples of different nationalities separate and decide to live in different countries, major difficulties can arise. France is a party to several bilateral and multilateral conventions whose purpose is to prevent child abduction and ensure the effective implementation of court decisions setting the conditions for the exercise of parental authority (see section G below).

### D. Recovery of maintenance (art. 27, para. 4)

204. Given that there is a duty to support the child, the parent with whom the child does not normally reside must pay maintenance. The amount is established by the court in cases where no amicable agreement can be reached. It is calculated, and is subject to review at all times, on the basis of the liable party's resources and the child's needs.

205. Non-payment of maintenance gives rise to an enormous amount of litigation. In order to solve the problem, the law provides for the following measures:

Direct payment by the liable parent's employer of the portion of the salary corresponding to the unpaid maintenance;

Recovery of the maintenance by the public purse;

Where such procedures do not suffice, recovery through the family allowance offices. These offices make a so-called "family support" payment to the parent to whom it is due and must then recover the maintenance payments directly from the defaulters;

The Civil Enforcement Procedures (Reform) Act of 9 July 1991 has improved the effectiveness of the standard procedures for obligatory enforcement;

Lastly, family desertion is an offence punishable under criminal law. It consists, "for a person, in failing to comply with a judicial decision or a court-approved agreement under which he or she is obliged to pay to a minor child, whether legitimate, natural or adopted [...] maintenance, a contribution, a subsidy or benefits of any other kind, [...], and allowing more than two months to elapse without fully meeting that obligation [...]" (Criminal Code, art. 227-3).

206. In the experience of the family allowance offices, non-payment of maintenance and the limited effectiveness of coercive methods can be explained in part by the fact that liable parents have very limited resources and that individuals are reluctant to take legal action that might trigger new conflicts. Many of those liable also stress the unfairness of the maintenance obligation when it relates to a child with whom affective ties have been broken. Promoting contacts between the two parents and their children despite the separation is the most effective means of combating failure to pay child support. A family mediation procedure is another means of dealing with the family's problem as a whole.

207. There are also problems relating to recovery of maintenance from abroad, which, while naturally less dramatic than those resulting from child abduction, are nonetheless keenly felt by very many families which have no other means of subsistence. These problems are bound up with difficulties in exercising custody or visiting rights.

208. In France, it is the Division for International Cooperation on Family Law, of the Ministry of Foreign Affairs, that is the body responsible for implementing the Convention on the Recovery Abroad of Maintenance, signed in New York on 20 June 1956, to which France and some 60 other States are parties. The Convention provides for cooperation between the designated authorities in each country in implementing and enforcing requests for the recovery of maintenance. More than 2,000 cases have been registered, but the Convention as yet yields satisfactory results only in a limited number of countries, most of them European: Belgium, Germany, Italy, Poland, Portugal, Spain, Switzerland and the United Kingdom.

### **E. Children deprived of their family environment (art. 20)**

209. Thanks to its long tradition of welfare services, France's child welfare arrangements meet the requirements of articles 9 and 20 of the Convention. Since the end of the nineteenth century, and especially since 1945, policy objectives in this area have undergone significant changes. Separating the child from his or her family is no longer considered the best means of providing protection. Nowadays, everything possible is done to avoid such a separation by providing preventive assistance to the parents. Various approaches have been developed: financial assistance, assistance in the home, family education, neighbourhood action, etc. The Act of 6 June 1984 sets forth the rights of children and parents in their relations with the welfare services. The results of this policy and the overall improvement in living conditions have helped to reduce substantially the number of children deprived of their family environment.

#### **1. Children temporarily deprived of their families**

210. There are a number of possible approaches. When parents face temporary difficulties (e.g. hospitalization), they can entrust their children to the child welfare services. They may also give their children into the care of a trustworthy individual or an authorized institution. If they wish to renounce the exercise of parental authority wholly or partially, it may be transferred by the court to the individual who is to care for the child. Children may also be placed with such institutions by the courts - which basically means the juvenile courts - as an educative assistance measure. The maximum duration of such placement, whether administrative or judicial, is established by law, so as not to jeopardize children's return to their families. Depending upon their age and their needs, children may be placed either with a foster family, which receives payment and is backed up by qualified professionals, or in an institution.

#### **2. Children permanently deprived of their families**

211. These are mainly children with no known relations, children formally and permanently handed over by their parents to the children's welfare department, or children whose parents have been relieved by the courts of all parental authority, or whom the courts have declared abandoned. These children are taken in by the child welfare services, declared to be children in care and placed under the guardianship of the Prefect (as the State's representative in the *département*), who is assisted by a family council (a body made up of members of family associations, qualified individuals and elected officials). Children in care, irrespective of their age or status, must by law be put up for adoption as soon as possible.

## **F. Adoption (art. 21)**

212. The legal and administrative procedures that have been put in place in France are in conformity with the terms of article 21 of the Convention. Designed for the adoption of children born in France, they were modified by the Adoption Act No. 96-604 of 5 July 1996 and by Act No. 2001-111 of 6 February 2001 in order to take account of trends relating, inter alia, to the development of intercountry adoption.

### **1. Adoption of children born in France**

213. Adoption procedures have been evolving in France since the early 1980s. The desire for children is very strong today in French society. Many people who have difficulty in conceiving consider life without a child to be intolerable. As in similar European countries, there is a growing gap between the number of families wishing to adopt a child and the number of children available for adoption. At the same time, the number of children in care, i.e. children who can be adopted because they have lost all links with their biological families, has fallen sharply (approximately 3,300 as at 31 December 1997).

214. This group is very slow to replenish itself. The number of very young children placed in care is less than a thousand, and these children are adopted within a year. Other children are placed in care later, when a court has declared them abandoned at the conclusion of a painstaking procedure to ascertain that all links between the child and his or her family have been lost.

215. Paradoxically, there are children in care who are not adopted. For older children and those that are sick, disabled or have brothers or sisters, the adoption process consists of the search for a family, followed by intensive social work to prepare the child and the future parents before putting them in contact with one another. Efforts to achieve greater awareness among families who could receive these children and among the child welfare services need to be pursued.

216. In accordance with article 63 and article 100, paragraph 3, of the Family and Social Welfare Code, any person wishing to adopt a child in care or a foreign child must first obtain authorization from the President of the General Council responsible for child welfare services. The purpose of this authorization is to ensure that prospective parents have all the necessary qualities to take on a child with a view to adoption. The authorization is issued after an evaluation of the family, educational and psychological conditions which the applicant is able to offer the child. It acknowledges the capacity of the person to adopt a child, but does not confer an automatic right to be assigned one.

217. The adoption of children in care is essentially a matter for the Family Council of Children in Care. The Council must agree with the legal guardian on the choice of adoptive parents, the date of placement for adoption and the kind of information to be transmitted to the prospective adoptive parents; it must also give or withhold its consent to an adoption, in the absence of any indication from the biological parents.

218. An adoption order is made by the judiciary. In the judicial stage, a period of six months must elapse after the child has been placed with a family, and it is used by the welfare services or official adoption agencies to ascertain that the child is well integrated before the application for



adoption is submitted. According to article 353, paragraph 1, of the Civil Code established by Act No. 96-404 of 5 July 1996, the court must ascertain that the authorization was secured, but it may ignore a refusal to grant one if it considers the applicants to be qualified to take the child and believes the adoption to be in the child's interests.

219. Adoption agencies work in tandem with government bodies as intermediaries for the adoption of the children entrusted to them; they are subject to two layers of checking, since they must be authorized by the President of the General Council and accredited by the Minister for Foreign Affairs (if they plan to assign foreign minors).

## **2. Possibility of a simple adoption when a previous full adoption fails**

220. The adoption of a child can end in failure; indeed, the social welfare services have a number of children who have been abandoned or neglected by their adoptive parents. Article 346, paragraph 2, of the Civil Code provides that, exceptionally: "a fresh adoption may be authorized either after the death of the adoptive parent or parents or after the death of one adoptive parent, if the application is submitted by the new spouse of the surviving parent". Other than in these cases, therefore, the prevailing principle was that "one adoption followed by another is not valid". In order to give children a second chance, the Act of 5 July 1996 inserted a second paragraph into article 360 of the Civil Code, providing that "if warranted on serious grounds, simple adoption of a child who has previously undergone full adoption shall be permitted".

## **3. Relaxation of the ban on the full adoption of a spouse's child**

221. The Act of 11 July 1966 did not specifically cover the adoption by a person of his or her spouse's child. This possibility presented some serious problems in practice, when, following the death of a child's father or mother, the surviving spouse remarried and had the child adopted by his or her new spouse under the full adoption procedure. The effect was to sever all links with the deceased parent and his or her family so that the grandparents, in particular, lost their visiting rights. The courts took action to counter such abuses by recognizing the admissibility and legitimacy of a third-party challenge by the grandparents.

222. The Act of 8 January 1993 applied a radical solution by inserting a new article 345, paragraph 1, into the Civil Code, stating that full adoption was permissible only if the child was of established filiation to the surviving spouse alone.

223. The Act of 5 July 1996 slightly relaxed the conditions for the adoption of a spouse's child in accordance with the full adoption formula. Such an adoption would thenceforth be possible not only when the child's filiation was established only on one side, but also in two other cases:

- When the parent other than the spouse had forfeited his or her parental authority;
- When the parent other than the spouse had died and had not left any ascendant relatives of the first degree, or those ascendants clearly took no interest in the child.

#### 4. Intercountry adoption

224. The steady rise in applications for adoption over the past several years and the decline in the number of children available for adoption in France have increasingly caused the French to turn to intercountry adoption. Today, France ranks second in the world after the United States of America in the adoption of foreign children. The number of foreign children adopted by French families each year has risen from a thousand or so in 1980 to around 2,000 in 1985 and around 3,000 since 1990. The trend was confirmed in 1997, when over 3,500 “adoption” visas were issued. The number did fall in 1999, with 3,592 “adoption” visas issued after 3,777 in 1998.

225. It is true that, pursuant to a recommendation by the central authorities and following consultations with the Vietnamese authorities, the French Government decided to suspend adoptions from Viet Nam as of April 1999. In the meantime, it embarked on bilateral negotiations with the Vietnamese authorities at Hanoi in June 1999, and then at Paris, in October 1999.

226. The National Assembly and the Senate gave their approval, on 6 and 21 June 1999 respectively, to a bill ratifying the Convention on Cooperation relating to Child Adoption, signed by the French Republic and the Socialist Republic of Viet Nam on 1 February 2000.

227. However, the suspension of adoptions from Viet Nam ultimately had only a slight impact on the total number of adoptions completed. With 731 visas issued in 1999, Viet Nam remains the first country of origin for adopted children, ahead of two countries that are signatories to the 1993 Hague Convention, namely Colombia with 303 visas and Romania with 302. The adoption applications that could not be processed in Viet Nam during the second half of the year were transferred mainly to four countries, Romania, Cambodia, Haiti and Bulgaria, which saw a very sharp rise in numbers.

228. Even if intercountry adoption usually works well, with the necessary permits and precautions being taken by the States of origin of adopted children and by the French authorities, there are still parallel networks that are run on a profit-making basis by agencies that procure children in circumstances of dubious legality for couples wishing to adopt. Moreover, the media often report the sometimes tragic plight of abandoned children in different parts of the world, whether they are taken in by institutions without adequate means to look after them properly, or are left on the streets, or are the victims of armed conflicts or environmental disasters. In such situations, humanitarianism can serve as a cover for all kinds of abuses, of which children are the primary victims. Countries of origin, faced with such emergencies, are not always able to guarantee the protection of such children.

229. Candidates for adoption who take action on their own account can sometimes fall victim to unscrupulous intermediaries who take advantage of their emotional distress to extort large sums from them or engage in unlawful practices. The proliferation of such situations leads to “high risk” adoption conditions, in which both the prospective parents and adopted children are the victims.

230. The provisions introduced by the Act of 5 July 1996 were intended to regulate intercountry adoption in accordance with the Convention on the Rights of the Child and the 1993 Hague Convention, particularly by requiring prospective parents to obtain authorization before fostering a child, by requiring adoption agencies working with foreign countries to be accredited for intercountry adoption and by establishing an intercountry adoption office.

231. Hence, in accordance with article 100, paragraph 3, of the Family and Social Welfare Code (Act dated 25 July 1985), a text that was slightly amended by the Act of 5 July 1996, persons who foster a foreign child with a view to adoption must first obtain the authorization stipulated in article 63 of the same Code for the adoption of children in care. However, this requirement is waived for a person wishing to adopt the child of his or her spouse (article 353, paragraph 1, subparagraph 1, of the Civil Code).

232. The intercountry adoption office, an inter-ministerial body which reports to the Minister for Foreign Affairs, informs people desiring to adopt children about practices and procedures in the children's countries of origin, authorizes the entry of adopted children into France, accredits and supervises French adoption agencies and, in cooperation with the other ministries concerned, participates in the drafting of regulations. Owing to its close links with foreign Governments, it negotiates the relevant international agreements in cooperation with the Ministry of Justice.

233. France's ratification of the 1993 Hague Convention (as authorized by Act No. 98-147 of 9 March 1998), which entered into effect on 1 October 1998, marked a new stage.

234. The main function of the intercountry adoption office is to issue visas for children adopted abroad. Under the 1993 Hague Convention, it is this office which, in conjunction with the adoption agencies it accredits, acts as a secretariat for the central authority, maintaining permanent contact with the competent authorities of the countries of origin. It is responsible, also strictly within the framework of the Convention, for transmitting to its counterparts in the countries of origin the case files of would-be adoptive parents who do not wish or are not able to apply directly to adoption agencies.

235. This being so, the office has implemented a restructuring policy that has enabled it to expand its manpower table, to open up offices to the public as of 1 October 1998, and to put new information technology at the disposal of prospective parents; an Internet site was launched on 26 May 1998 ([www.diplomatie.fr/MAI](http://www.diplomatie.fr/MAI)).

236. The central authority is not limited to implementing the 1993 Hague Convention: it is also expected to guide French policy on intercountry adoption with the many countries that have not ratified that Convention. In so doing, it is able to look into sensitive and topical subjects, such as adoption failures, for example.

237. French domestic law was very recently amended by Act No. 2001-111 of 6 February 2001, concerning intercountry adoption. This instrument contains provisions of two different kinds.

238. It regulates conflicts of law relating to intercountry adoption and defines the effects in France of adoption orders issued abroad.

On the first point, the Act stipulates that the law applicable to adoption conditions is the law of the person wishing to adopt. In the case of adoption by a married couple, the law in question is that regulating the effects of their union. An adoption order cannot be issued if the law of either spouse or that of the foreign child prohibits it, unless the child was born in France and is normally resident there. Whatever law applies, the consent required of the child's legal representative must satisfy certain conditions, which are set out in the 1993 Hague Convention: it must be freely given, without any compensation, following the birth of the child, and after the effects of the adoption have been duly explained. On the second point, the Act stipulates that an adoption decision lawfully issued abroad has the effect of a full adoption in France, if a full and irrevocable break is made with the previous filiation. Otherwise, it has the effect of a simple adoption. A simple adoption ordered abroad can be converted into a full adoption, if a person gives his or her express consent thereto after being informed of the implications.

239. It contains provisions relating to adoption agencies.

The Act provides a legislative underpinning for the Higher Council for Adoption established by the decree dated 16 July 1975. It alters the membership of the Council, strengthening its role and broadening its functions to enable it to deal more effectively with intercountry adoption. It expands the structure of the central adoption authority to include authorized adoption agencies and adoptive families' associations. The Act thereby helps to strengthen the rights of the adopted child in accordance with the Convention on the Rights of the Child and the 1993 Hague Convention. The purpose of the latter Convention is to make adoptions safer through cooperation between countries of origin and receiving countries. Inspired by the fundamental principles enshrined in the Convention on the Rights of the Child (art. 21), such cooperation is aimed at ascertaining, ahead of time, whether a child is really suitable for adoption and whether would-be adoptive parents are fit for the task. It also helps create a system of ipso jure recognition of adoption decisions taken in each country that is a party to the Convention, thereby guaranteeing the child an incontestable legal status.

240. Statistics show that the 1993 Hague Convention on the Protection of Children and Cooperation on Inter-Country Adoption is being implemented gradually and that it concerns some countries more particularly than others. On 1 August 2000, the Convention was in force in 40 States, of which about 20 were countries of origin. Since the Convention entered into force in its territory, France has transmitted the files of almost 900 would-be parents (more than 600 files having been transmitted by the office of intercountry adoption and 300 by accredited agencies). Most of the files went to seven countries of origin, namely Romania (500), Colombia (225), Burkina Faso (85), Poland (60), Lithuania (40), Mexico (35) and Peru (20).

241. This past year has thrown light on the different ways that member countries interpret particular elements of the 1993 Hague Convention, some relating to the very concept of intercountry adoption itself. Taking to its logical conclusion the definitive break in biological links associated with full adoption, article 100, paragraph 4, of the Family and Social Welfare Code makes post-adoption services subject to the prior agreement of the parents. Many countries of origin, however, require post-adoption services to be provided as a matter of

course and insist on having guarantees that this will be done. These States invoke articles 9 (c) and 22 (a) of the 1993 Hague Convention, which recommend that the signatories “promote the development of adoption counselling and post-adoption services in their States”.

### **G. Illicit transfer and non-return (art. 11)**

242. The phenomenon of illicit transfer and non-return of children has taken on a much larger dimension in the past few years. It concerns mixed couples, although not exclusively. The process is usually the following: a conflict arises between a couple. The parent threatened with losing parental authority goes in search of a place of refuge and takes one or more of his or her children to a third country (generally his or her country of origin, when that person is a foreigner or has dual nationality).

243. It is very difficult to provide accurate statistics on this phenomenon, but the Ministry of Justice estimates the current caseload to be around 500 cases. The situations vary greatly from one country or geographical zone to another. Measures to prevent and remedy such transfers are applied with varying degrees of success through the vast network of conventions on international mutual assistance that has been woven together since the end of the 1970s.

244. Two multilateral conventions are in force in France: the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children (25 May 1980) and the Convention on the Civil Aspects of International Child Abduction (signed at The Hague on 25 October 1980). The Ministry of Justice is the central authority for the implementation of these two conventions.

245. The 1980 Hague Convention is the instrument that is now most often used to settle this type of dispute: more than 40 countries are parties to it, most of them in Europe and the Americas.

246. In practice, the Ministry of Foreign Affairs is called upon to play an active part in implementing the Convention, working alongside the Ministry of Justice to assist the persons concerned in their communications with local authorities and families. In spite of the progress achieved and the links formed between the central authorities, in cooperation with the 1951 Hague Conference on Private International Law, major difficulties still remain.

247. With regard to Franco-German cases, in particular, the parliamentary committee on extrajudicial mediation established at the request of the former Minister of Justice, Ms. Guigou, has decided that it may take up Franco-German disputes over parental authority at any time, even before proceedings are instituted. The matter may be brought to its attention by either parent, by the child, if he or she is over 12 years of age, or by the central authority of either country.

248. The committee has furthermore decided to look into three possible courses:

- Drafting a Franco-German family mediation charter;
- Defining the concept of the interests of the child in accordance with the terms of international conventions; and
- Harmonizing judicial practice in the two countries.

249. This example is the result of a very clear trend towards the use of mediation in cases of illicit transfer of children. Mediation assignments may be carried out by members of the public prosecutor's office of courts at the first and second levels or by the bureau of mutual legal assistance in civil affairs at the Ministry of Justice.

250. In the context of the European Union, following the entry into force of the Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts (the "Amsterdam Treaty"), the European Convention on Jurisdiction and the Recognition and Enforcement of Judgements in Matrimonial Matters (the "Brussels II" Convention) became a regulation, which was adopted on 29 May 2000 and entered into force on 1 March 2001. By facilitating the recognition and enforcement of judgements relating to matters of divorce and custody, this regulation is expected to avoid conflicting court judgements.

251. It should be mentioned that France has also submitted a draft European regulation on visiting rights with a view to securing ipso jure recognition of court judgements on visiting rights.

252. France is also bound by several bilateral conventions, mainly with the Maghreb countries and some others, such as Egypt. The results obtained from the implementation of Franco-Tunisian and Franco-Moroccan conventions stem largely from regular meetings of joint committees to examine case files. Special mention should be made of the convention signed at Algiers on 21 June 1988 between the Government of the French Republic and the Government of the People's Democratic Republic of Algeria concerning the children of separated Franco-Algerian couples. The convention contains specific provisions guaranteeing such children the right to regular contact with their separated parents (cross-border visiting rights). Unfortunately, owing to the political situation in Algeria, the application of this convention is moot.

253. Finally, mention should be made of the signing, at Paris, on 12 July 1999, of the agreement between the Government of the French Republic and the Government of the Lebanese Republic concerning cooperation in certain family matters. This instrument, which entered into force on 1 March 2000, is intended to promote the amicable settlement of disputes with a view to securing the return of children who have been illicitly transferred or allowing the non-custodial parent the effective exercise of visiting rights by facilitating his or her entry and stay and issuance of the requisite visas. Whereas, in the past, the many conflicts between parents from the two States could only be settled through the diplomatic channel, such cases are now submitted to a joint committee consisting of representatives of the ministries of foreign affairs, justice and the interior of France and the Lebanon respectively.

#### **H. Abuse and neglect (art. 19)**

254. The protection of abused children in France is a priority of the child welfare services. This concern has made for progress in respect of the concept of ill-treatment: while, at the end of the nineteenth century, ill-treatment was understood exclusively to mean physical violence, the concept is now construed to refer also to serious lack of affection, mental cruelty, sexual abuse and institutional violence.

255. With the Act of 10 July 1989, lawmakers sought to strengthen existing mechanisms by reaffirming the significant role of departmental authorities, and at the same time establishing a telephone hotline for abused children. The Act clearly confers upon the President of the Regional Council the general task of preventing mistreatment, uncovering cases of mistreatment and protecting mistreated children, besides coordinating the work of all the services concerned. Each *département* has to set up a mechanism for gathering information on mistreated minors and for responding to emergencies, in cooperation with the judiciary and other governmental services (police, education and hospitals).

256. The national telephone hotline for abused children (SNATEM, call number 119), set up in 1989, is a free service that functions round the clock. It receives reports about emergency situations from witnesses or the children themselves and serves as a clearing house for information or advice for professionals or parents facing difficulties. It can also respond to problems by mobilizing the departmental services.

257. Quantitative evaluation of mistreatment of children is currently carried out on the basis of reports from abused children, which are transmitted to the regional councils as part of their child-protection function.

**Table A**

**Incidents reported by abused children, according to the  
*Observatoire de l'action sociale décentralisée***

Year	1994	1995	1996	1997	1998	1999	2000
Abused children	17 000	20 000	21 000	21 000	19 000	18 500	18 300

**Table B**

**Trends in types of abuse reported (metropolitan France)**

Year	1995	1996	1997	1998	1999	2000
Sexual abuse	5 500	6 500	6 800	7 000	6 500	6 600
Physical violence	7 000	7 500	7 000	7 000	6 500	6 600
Gross negligence and psychological cruelty	7 500	7 000	7 200	7 000	7 200	6 200

258. Since 1995, the increase in the number of reported cases of child abuse has eased off slightly.

259. The Government continues with its committed action against child abuse. A four-pronged plan of action incorporating 20 measures was announced by Ms. Ségolène Royal, the minister with special responsibility for the family and childhood, on 26 September 2000. The plan aims at:

- Taking better precautions: supporting parents and stepping up abuse-awareness activities in the school environment;
- Improving care for victims of child abuse by promoting networking, spreading best practices, offering access to free medical care and developing psychological services;
- Preventing and detecting abuse in institutions for children, by establishing a special unit to identify and deal with cases of violence in institutions (a specialized unit of SNATEM and a treatment and evaluation unit reporting to the minister with special responsibility for the family and childhood); protecting professionals who expose such cases of violence; and tightening controls on the recruitment of professionals who work with children;
- Adapting the training of professionals and coordinating their work by conducting a training needs analysis for childcare professionals, in the framework of regional training schemes, and coordinating activities with the establishment of departmental coordination groups that will bring together, under the aegis of the prefects in each *département*, all the State services concerned with child protection.

#### **I. Periodic review of “placement” (art. 25)**

260. This right, recognized by article 25 of the Convention, was established in France by the Acts of 6 June 1984 and 6 January 1986 for children covered by the child welfare services. There are also provisions applying to children and adolescents who, owing to disability, live in medico-social institutions.

261. Too many of these arrangements were perpetuated because they had not been reviewed in the light of changing circumstances, and the absence of new developments was too frequently cited. In the child’s interests, a dynamic relationship needs to be established between the family and the agency that takes charge of the child so that the duration of placement is determined in accordance with the child’s needs, not because no review has been undertaken.

262. Limiting placement to one year for administrative procedures and two years for court judgements means that situations must be regularly reviewed. Systematic review of all situations leaves scope to ascertain, beginning with the child’s own evaluation, whether it is necessary to continue with placement, which can always be renewed, or whether the child can be returned to the family: otherwise, if negligence is found, the legal procedure for declaring that a child has been abandoned can be applied.

263. In 1996, 122,000 children benefited from family social services (home care measures) without being separated from their families. The number of children in care has declined since 1984. In 1996, 113,300 children were handed over to the child welfare services, and 27,401 were placed directly by court order with private individuals or in institutions run by



associations. Of the children in the care of child welfare services, 72,300 are there in accordance with a court decision. The majority of these children (56,062 in 1996) are placed in foster care, and the others are accommodated in social or medico-social facilities.

### Statistics

**Table C**

**Total numbers of children placed with child welfare services (in thousands)**

1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985
201	189	193	174	166	161	155	147	138.3	134.2	127
1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996
120	119.5	116.6	115	112.8	111.9	112.2	110.8	111.4	111.7	113

**Table D**

**Types of facilities for children placed with child welfare services: 1998 (metropolitan France)**

Foster families	54% (in 1996, all France: 52.3%)
Institutions	36% (in 1996, all France: 38.1%)
Adolescents and young adults	4.5% (in 1996, all France: 4.4%)
Other types of placement	5.5% (in 1996, all France: 5.2%)

Statistical information on the situation of children in care: a survey of the situation of children in care, Department of Social Services, Ministry of Employment and Solidarity (see table 1 in annex).

## VI. HEALTH AND WELFARE

### A. Survival, development and standard of living (art. 6, para. 2)

264. Although on the whole French family policy still shows signs of its original purpose of supporting a rising birth rate, its current objectives are more diversified. Aside from the rights that are acquired with the birth of a second child, and the even greater rights acquired when a third child is born, family benefits linked to the cost of raising children and support for disadvantaged families are now spawning a growing number of means-tested services. Likewise, great consideration is given to reconciling family and professional life and to supporting the development of childcare facilities for infants.

265. General French family policy is now based on freedom of choice as to the family model and number of children desired so as to allow everyone to have the family he or she wants,

without ideological or financial constraints. It focuses above all on the child. It aims on the one hand to meet children's basic needs through a variety of family benefits and specific assistance (single-parent allowance, housing allowance, extension of family allowances to cover young persons up to the age of 20, back-to-school allowance etc.) to keep pace with changes in society, and on the other hand to create an everyday environment for children and their families in which they feel at home and which is conducive to their education and development - by promoting and creating suitable services and facilities, for example.

## **1. Family benefits**

266. Legal residence in France and responsibility for one or more dependent children are the conditions of eligibility for family benefits; since 1 January 1978, a minimum period of employment has no longer been required. Family benefits are paid for dependent children until the age of 16, when the period of compulsory schooling comes to an end. They are extended until the age of 20 for young persons who are unemployed or whose income does not exceed 55 per cent of the statutory minimum wage (SMIC).

### **1.1. "Maintenance" allowances**

#### **1.1. (a) Family allowances**

267. These are provided starting with the second dependent child and vary in amount depending on the number of children.

#### **1.1. (b) Supplementary family allowance**

268. As of January 1985, a means-tested supplementary family allowance has been payable to families with at least three children, all aged 3 or more. On 1 January 2000 the upper age-limit for payment of the supplementary family allowance will be raised from 20 to 21.

### **1.2. Allowances linked to childbirth and infancy**

#### **1.2. (a) Young child allowance**

269. A means-tested allowance for a young child is available over two different periods: the "short" period, from the fourth month of pregnancy until the child is 3 months old, and the "long" period, from when the child is four months old until the age of 3.

270. During the first period, the allowance is payable for as many children are born or expected. In the event of a multiple birth, arrears are paid at the time of birth. Once a child is 4 months old, only one allowance is payable irrespective of the number of children under the age of 3. A family which has a child under the age of 3 and receives such an allowance is not entitled to a second allowance for the birth of another child. However, an allowance is paid until the third birthday of each child of a multiple birth.

271. The young child allowance is intended to assist the prospective mother in meeting the expenses of pregnancy and childbirth and to encourage her to take advantage of health check-ups so as to protect her health and that of the child, and thus meet preventive health-care concerns.

### **1.2. (b) Parental upbringing allowance**

272. The purpose of this allowance is to provide financial assistance to the parent who stops working or works part time to cope with the arrival of a second or subsequent child in the family home. Originally intended for the parent who stopped work completely upon the arrival of a third (or subsequent) child, the allowance is now paid to families with two children. Part of the parental upbringing allowance may also be payable if the beneficiary works part time or follows a paid part-time vocational training scheme.

273. To be entitled to the benefit, the parent must provide proof that he or she has worked for two years during a period preceding the birth or arrival of the child for whom the allowance is requested. This period is 5 years where the allowance is requested for a second child, and 10 years for a third or subsequent child. When an allowance is sought for a fourth (or subsequent) child, the period is counted back from the birth of the third child, so as to allow parents who stopped working when their first or second child was born to benefit. The parental upbringing allowance is payable until the third birthday of the child in question. Entitlement is extended until the age of 6 for the children of multiple births starting with triplets.

### **1.3. Specific allowances**

#### **1.3. (a) Back-to-school allowance**

274. This allowance is a family benefit aimed at helping low-income families to meet part of the expenses incurred at the beginning of each school year for children in compulsory schooling or children under 18 years of age who are still studying. Originally intended for persons receiving family benefit, individualized housing subsidy, an allowance for disabled adults or the statutory minimum income, the benefit has since the start of the 1999 school year been payable to families with only one child. As an exceptional measure, the benefit was increased to 1,600 francs per eligible child at the beginning of the 1999 school year.

#### **1.3. (b) Adoption allowance**

275. The adoption allowance is for families who adopt or foster a child with a view to adoption. A means-tested allowance paid over a period of 21 months, it can be drawn concurrently for the first nine months with the young child allowance (payable from the age of 4 months to 3 years) and the adoption allowance for another child. A family receiving an adoption allowance for one child may also benefit from the young child allowance (payable from the fourth month of pregnancy until the child is 3 months old) for the child expected.

#### **1.3. (c) Special upbringing allowance**

276. This allowance is intended to offset part of the additional expenses incurred by raising a disabled child in the family. The size of the allowance depends on the seriousness of the disability.

#### **1.4. Single-parent and related allowances**

##### **1.4. (a) Single-parent allowance**

277. The purpose of this allowance is to provide temporary assistance to persons who, owing to the death of the spouse, separation or desertion, suddenly find themselves with sole responsibility for raising at least one or more children. It is also paid to single women who are expecting a child. The allowance is paid for 12 consecutive months or until the youngest child has reached the age of 3. The recipient must earn less than the official minimum family income.

##### **1.4. (b) Family-support allowance**

278. This non-means tested allowance is payable to a parent or family with dependent orphan children; it is also granted for each child of separated parents if one or both parents refuse to pay maintenance for that child.

#### **1.5. Childcare allowance for infants**

##### **1.5. (a) Allowance for childcare at home**

279. This allowance is intended to provide financial assistance to parents who work (or who are on unemployment benefit or a paid vocational training scheme) and employ someone at home to look after their child aged 6 or under. It offsets part of the costs associated with social security contributions, up to a limit which varies according to the household income and the age of the child.

##### **1.5. (b) Financial assistance to families for employing a qualified childminder**

280. This covers the cost of all social security payments associated with the employment of a qualified childminder to look after a child under 6 years of age. It is accompanied by direct financial assistance to the family for each child being cared for, up to the age of 6.

## **2. Other forms of family support**

### **2.1. Tax deductions**

281. The tax system has various measures which take family expenditure into account when calculating taxes.

#### **2.1. (a) Family allowances and other family benefits are not considered part of parents' taxable income**

282. The following are exempt from income tax:

- Various types of financial assistance granted to families by family welfare funds, including the family allowance, the young child allowance, the single-parent allowance, the parental upbringing allowance and the back-to-school allowance;
- Ordinary and increased financial assistance for employing a qualified childminder;

- The allowance for childcare at home;
- Scholarships granted by the Ministry of Education.

283. The tax expenditure associated with these measures for 2002 is estimated at 1,524 million euros.

**2.1. (b) Tax legislation takes dependent children into account in calculating income tax. It combines a family assessment scale system with various income tax deductions and rebates**

*Family assessment scale*

284. Used in France since 1945, this system consists in splitting taxable income into a number of units according to the number of dependents and the family situation. Minors under the age of 18 are regarded as dependents. Each child is counted as a half-unit. An additional half-unit is granted for the first dependent child if an unmarried or divorced parent lives alone and is indeed supporting the child or children. Each dependent child from the third onward counts as a full unit in the family assessment scale. An additional half-unit is also granted if a child has a disability warranting the disability/priority card provided for under article 173 of the Family and Social Assistance Code.

285. The maximum tax benefit granted is 2,017 euros (for 2001 incomes) per additional half-unit, plus one whole unit for unmarried, widowed or divorced taxpayers and two units for married couples filing a joint tax submission. The amount of benefit available for the unit granted for the first dependent child of unmarried or divorced persons living alone and actually supporting a child or children is 3,490 euros. Lastly, there is also the possibility of a specific tax reduction of up to 570 euros through an increase in the family assessment awarded to households with a dependent child who holds the aforementioned disability card.

286. Children who have reached the age of majority and are disabled, in other words unable to provide for their own needs on account of their disability, are fully entitled to remain part of the parents' family unit, as defined for tax purposes, irrespective of their age. Other adult children may request to be included in the family unit, if they are between 18 and 21; if they continue studying until the age of 25; and irrespective of their age if they are doing military service.

287. When such children are married or have dependents, the benefit from their belonging to the family unit takes the form not of an increase in the number of units, but of a credit against net income. For income tax purposes in 2001, that credit amounted to 3,824 euros per dependent. The tax expenditure associated with additional half-units granted to families for 2002 is estimated at 2,419,000 euros.

*Deductions from taxable income: maintenance payments*

288. To work out his taxable income the taxpayer can deduct child support paid in the light of a court decision for minors who are not under his or her custody, in the case of legal separation or divorce, or for adult children, where necessary, as part of the obligation to provide support (articles 205 to 211 of the Civil Code). When adult children meet the conditions for inclusion

within the family unit, the taxpayer may choose between an increase in the family assessment and a deduction for child support not exceeding 20,480 francs for 1999 income tax purposes.

*Tax rebates*

**\* Childcare costs for infants**

289. Outlays by working parents on childcare outside their home for children below the age of 7 on 31 December of the tax year concerned entitle them to an income tax rebate equivalent to 25 per cent of the total amount spent on childcare, up to a maximum of 15,000 francs per child per year. The tax expenditure on this measure for the year 2002 is estimated at 183 million euros.

**\* Employment of a childminder at home**

290. When childcare is provided at home, the costs of employing the childminder entitle the employer to a tax rebate of 50 per cent of the actual cost up to a maximum of 6,900 euros. This rebate can also apply to the costs of employing domestic staff or a person to help with homework. The maximum qualifying outlay rises to 13,800 euros if the taxpayer, his or her spouse or any dependent in the family unit holds the disability card referred to in article 173 of the Family and Social Welfare Code. The tax expenditure on this measure for the year 2002 is estimated at 1,357 million euros.

**\* School fees**

291. A tax rebate is granted for children's school fees: 61 euros per child at middle school; 153 euros per child at higher secondary school and 183 euros per child in higher education. The tax expenditure associated with this measure for the year 2002 is estimated at 427 million euros.

**\* Expenses relating to principal residence**

292. The maximum tax rebates relating to the principal residence are higher for families.

**2.2. Rent subsidies**

**2.2. (a) Family housing allowance**

293. This allowance aims to offset the housing expenses of families and enables families to live in salubrious, uncrowded conditions.

**2.2. (b) Individualized rent subsidy**

294. Eligibility for such assistance depends not on the individual but on the nature of the housing, i.e. the existence of an agreement between the leaser and the State (mainly for low-rental housing). However, individualized rent subsidies can also be paid to owners taking

possession of property if the building or renovation work has given rise to State-supported loans (subsidized loans or guaranteed loans to people on low incomes). One cannot be eligible for individualized rent subsidy and for the family housing allowance or the social housing allowance.

## **2.2. (c) Social housing allowance**

295. Since 1 January 1993, anyone renting accommodation who is not eligible for the family housing allowance or the individualized rent subsidy may, subject to a means test, receive a social housing allowance. The age-limit for children included when calculating housing allowances will be raised from 20 to 21 on 1 January 2000 to take into account the fact that children are living longer with their parents (73 per cent of 20-year-olds live with their parents).

## **2.3. Occupational training and education assistance**

### **2.3. (a) Scholarships**

296. The encouragement of increasingly long studies is highly desirable to meet training needs, but the resultant prolongation of schooling has repercussions on the cost of child support for families. The scholarship system for secondary school and university education attenuates the effects of this trend.

### **2.3. (b) Boarding and half-board expenses**

297. Steps have been taken to further the education of children from large families. Boarding and half-board expenses are calculated according to the number of children attending school in a family.

### **2.3. (c) Social funds**

298. No child should be excluded from a school activity because his or her parents are unable to pay for it. To cope with difficult situations as and when they arise, social funds have been set up for middle schools, higher secondary schools and for school canteens so as to facilitate access to school meals.

## **2.4. Support for recreational activities**

299. Many local authorities have special children's tariffs for recreational activities (swimming pools, cinemas, summer camps, etc.) that are set according to age. The French family allowance office provides aid to individuals or facilities so that all children can more readily take advantage of recreational facilities.

300. The State is also active in this area: every year, a large part of the budget of the Ministry of Youth and Sport is earmarked for sporting and socio-educational recreational activities (direct grants to reduce the cost of recreational activities for the most underprivileged children or to set up projects initiated by young people; assistance to institutions that provide recreational

activities nearby or offer holidays to underprivileged children; the opening of recreational facilities in the area, particularly for sports, during the holidays; construction of sporting facilities in underprivileged neighbourhoods). Every summer, several ministries work in concert to offer children and youths recreational activities during the school holidays.

## **2.5. Reconciling family life and working life**

301. There are also arrangements in place to help women reconcile their personal or family lives with their working lives.

302. The Act of 25 July 1994 established the right to parental leave (whether in the form of temporary interruption of contract or part-time work) for all employees. The possibility for employers in businesses with fewer than 100 employees to refuse such leave under certain conditions has been removed.

303. Unpaid leave to care for sick children has been introduced: three days may be taken per year for a child below the age of 16, five days if the child is less than a year old or if the employee has at least three dependent children below the age of 16. Lastly, as mentioned in section D of this report, long-term leave to care for sick children with some form of financial assistance has recently been introduced.

304. The Act of 4 June 1999 guaranteeing access to palliative care also established the right of every employee with a parent, child or other person living in the same household who is receiving palliative care to take a maximum of three months' leave to look after the dying person.

305. The right to work part time has been introduced when a child is seriously ill. This right can be invoked by employees who have accrued at least one year's service if their child is ill, has an accident or seriously disabled. Initially for a period of six months, such part-time work can be prolonged for a further six months.

306. The parental upbringing allowance is now available as of the second child subject to proof of at least two years' employment in the preceding five years.

307. There are two supplementary options:

- A part-time parental upbringing allowance in the case of part-time work;
- Two such allowances can be drawn concurrently when both partners work part-time.

308. The new parental upbringing allowance has visibly influenced the withdrawal of women from the labour market (99 per cent of the beneficiaries are women). Statistics comparing December 1994 and 1995 show a decrease of around 26 points in the employment rate of women



with a second child aged between 6 and 17 months. It is thus estimated that more than one third of working women who have had a second child since July 1994 have stopped working or looking for work and are drawing a parental upbringing allowance.

309. The part-time allowance is drawn by only 20 per cent of beneficiary families with two children. At the same time, access to part-time work has been made easier by Act No. 91-1 of 3 January 1991. Some collective agreements allow pregnant women greater flexibility at work by staggering working hours and leaving times, taking additional breaks, shortening the working day as of the third or fourth month of pregnancy, etc.

310. Moreover, the Act of 13 June 1998 urging the adoption of shorter working hours introduced a new, 35-hour reference standard for the working week. This may make it easier to reconcile family and working life. However, in order to strike that balance, the expectations of male and female employees with regard to the constraints of flexible working arrangements will need to be taken into consideration before collective agreements are reached. A working group of the higher council on equal opportunities at work set up within the Ministry of Employment and Solidarity has produced a report on the complex problem of flexible working hours and equal opportunities in employment.

311. The bill on negotiated reductions in working hours would require that:

- Unless there is a collective agreement, reasonable forewarning for any change in working hours shall be no less than seven days;
- The length of time over which leave can be accumulated under the leave savings scheme is increased from 6 to 10 years for the parents of children below the age of 16;
- Refusal by a part-time worker to accept a change in working hours for pressing family reasons cannot be considered as misconduct or grounds for dismissal.

312. Existing childcare arrangements for young children - a key element of family policy - are also central to the combination of family and working life.

## **2.6. Social assistance for small children**

313. This service, which operates under the authority of the presidents of the Regional Councils, provides material, tutelary and psychological support to minors and families facing social problems that are likely to have a serious impact on their stability. By way of home assistance, it can arrange for a family worker, a home help or a tutelary service to intervene. If the family's means are insufficient, the service provides financial support in the form of special payments or monthly allowances.

## **2.7. Procedure for tutelary support**

314. If a child's health, safety or morals are in danger or it is facing a harsh upbringing, the juvenile court may order tutelary support. Depending on the circumstances, application may be made to this special court, by the Office of the Public Prosecutor, the parents, the guardian, the

person or service caring for the child, the minor himself. Exceptionally, the court may take action on its own account. Whenever possible, the minor is kept in his or her normal environment; the court may then appoint a qualified person or service to provide the family with assistance and counselling. The court may also place the child with another member of the family, with another trustworthy person or in an institution. In any event, it must try to secure the family's backing for the arrangement proposed. The arrangement will apply only for a limited time and is accompanied by specific procedural safeguards to ensure respect for the rights of the minor and parents. The decree of 15 March 2002 reforming the tutelary support procedure strengthens the rights of the parties and the adversarial principle by allowing the parents and the minor to consult their case file directly.

315. When it is necessary to remove the child from his or her normal environment, the possibility of placing the minor with the mother or father who does not have parental authority, or in the care of a local social welfare service for young children, is also considered by the court.

316. Moreover, the Act of 30 December allows brothers and sisters to keep in touch when the family has been split up (article 371-5 of the Civil Code). Children cannot be separated from their brothers and sisters unless their interests require an alternative solution. This legislation is designed to be applied in the particular area of tutelary support.

317. In the course of 1996, some 93,104 cases involving 157,843 minors were brought before the juvenile courts. In 1998, there were 88,152 cases involving 146,698 minors.

## **2.8. Action to combat poverty**

318. With a view to helping the most disadvantaged families and, hence, the children immediately affected by their economic problems, various forms of financial support have been introduced to guarantee them "a minimum standard of living".

319. The economic and social problems of the 1980s led to the establishment of a statutory minimum income (Act of 1 December 1988), the law passed on 31 May 1990 on the right of disadvantaged people to housing, and the Act of 31 December 1989 on unmanageable private debt. These measures have not managed to halt the rise in economic precariousness and social exclusion, however, with the result that today there are 2 million people living exclusively on the statutory minimum income, 200,000 are homeless and 600,000 are seriously in debt. Hence the adoption by the Government of a global programme to prevent and combat exclusion based on the Framework Act of 29 July 1998. The objectives of the Act are to permit the genuine exercise of fundamental rights and forestall exclusion by dealing with problems as early as possible.

320. Access to employment is a central part of the Framework Act to combat exclusion. The aim is to give everyone a chance to acquire a qualification or find employment over time. Every young person or adult must be accepted and given personalized support. A new mechanism is in place for young people aged between 16 and 25 - the access path to employment. Its aim is to offer 60,000 young people a clearly charted course, lasting up to 18 months and combining work placements with training, to a proper job.

321. Access to housing and stable housing, without which there can be no family unity, are the main concerns of policy in this area. Numerous measures based on the Besson Act of 31 May 1990 have been taken to guarantee the right to housing: departmental action plans to house disadvantaged persons are to be made more effective; the housing solidarity funds were given increased financing in 1999, enabling them to offer more assistance and support in obtaining and holding on to accommodation. Increasing the housing supply is one objective which should help to meet the demand. Action has been taken to reduce the amount of private housing standing empty and to step up the renovation of available housing. Lastly, the system for allocating low-rental housing has been reformed in an effort to provide greater transparency.

322. Preventing bona fide tenants from being evicted requires measures allowing the authorities to intervene when initial payment problems occur. The interruption of water, power supplies or telephone lines, which impairs families' living conditions, has also given rise to preventive measures and financial assistance. Combating unhealthy housing conditions, in particular lead poisoning, which chiefly affects children, is a matter of serious concern to the authorities. So, alongside preventive measures, prefects can now oblige property owners to carry out any work required.

323. The desire to improve the procedure for dealing with unmanageable debt has brought about significant amendments to legislation. Their aim is to respond better to the needs of people with extremely limited resources. They guarantee the person who is heavily in debt a disposable income "to live on" and in certain cases can lead to debts being partly or totally written off.

324. Access to health care for the most disadvantaged is a priority objective of health policy, requiring the establishment of regional programmes so as to ensure the most disadvantaged have access to prevention and care. The law passed on 27 July 1999 on universal health coverage will guarantee everyone health care through a health insurance system, and for those on lower incomes, the right to additional protection and an advance on related costs.

325. Lastly, the provisions are intended to make action to combat exclusion more effective by bringing training courses for social workers up to date, reforming health and social services institutions, establishing greater coordination among local entities and by finding out more about population groups in difficulty and evaluating the policies targeted at them.

326. The Framework Act also strives to prevent families being split up by taking into consideration the right to family life of persons who need to be placed in shelters or rehabilitation centres. It also provides that when a child is put in the care of the welfare services for young children, the child's accommodation must be so arranged as to make it easy for the parents to exercise their visiting rights.

### **B. Disabled children (art. 23)**

327. A child with a disability is first a child and then a disabled person. As a child, he or she should enjoy all the rights of a child without any restriction; because of the disability, specific arrangements need to be made.

328. The purpose of French legislation is to ensure that disabled children are brought up and cared for in the best possible conditions and without undue expenditure by their families. Allowances are provided and lodging costs are borne by the State or social security. The children can be looked after in specialized institutions such as homes offering medical care and education or vocational training, institutes for muscular or sensory training and re-education; or in State education facilities such as special needs classes at primary school, special regional educational establishments at secondary school level and special needs units in middle schools. The referral of children to these services is the responsibility of special educational commissions whose decisions can be appealed. This policy was implemented by the Framework Act on disabled persons of 30 June 1975.

329. Whenever their abilities permit, efforts should be made to admit disabled minors and adults to institutions open to the public as a whole and keep them in an ordinary working and living environment. The Framework Act on education of 10 July 1989 states that the integration of students with disabilities into ordinary schools is favoured. The new rules governing specialized institutions as a whole have the same goal; they strongly recommend helping the individual to fit into society and flourish, and allowing him or her to attend ordinary school.

330. With a view to improving the schooling of disabled children in an ordinary school environment, the “Handiscol plan”, comprising 20 measures, was launched in April 1999 by the Ministry of National Education and the Ministry of Employment and Solidarity. These measures include better guidance for the children, the introduction of specialized collective special needs arrangements in schools according to disability (intellectual, motor, hearing or visual), arrangements to provide the child, his or her family and the teaching staff with the necessary social security and health support, and special-needs assistants to work directly with pupils who are not sufficiently autonomous.

331. A circular of 21 February 2001 (Ministries of Employment and Solidarity and National Education) particularly encouraged the establishment of special needs units in middle and high or secondary schools. Significant progress has been made since the start of the school year 2001, allowing around 4,000 disabled children to be enrolled. Elsewhere, action has also been taken along these lines: some holiday and recreation centres regularly host disabled children.

### **C. Health and health services (art. 24)**

332. Considerable progress has been made in the area of health, and as a result France is one of the leading countries in the field, although there are still some inequalities in access to care.

## **1. Mother and childcare**

333. Mother and child health care is covered by specific legislation, the Act of 18 December 1989. In line with moves towards decentralization, it is now a departmental responsibility. Nearly 10,000 physicians and nurses work within the field of mother and child health care.

334. The task of mother and child health-care services is to arrange:

Premarital, prenatal and post-natal consultations and medico-social preventive measures for pregnant women;

Consultations and medico-social preventive measures for children under 6 years of age, particularly in day-nurseries, nursery schools and childminders' homes;

Family planning activities as provided under the Birth Control Act of 28 December 1967;

Home care for pregnant women and children under 6 whose condition requires special attention;

Publication and issuance of the premarriage medical certificates, pregnancy records, child health records and health certificates;

Training to assist childminders with child-rearing tasks;

Prevention of child abuse and care of abused children;

Data collection and processing on epidemiology and public health, in particular information on children under 6.

335. Departmental mother and child health-care services also maintain links with the schools health promotion service, to which they forward the medical liaison file (Public Health Code, art. 151). For French trends in indicators of infant security at birth, see table 2 (annex).

## **2. Schools health promotion service**

336. After the age of 6, children are monitored by the schools health promotion service, which is responsible for producing health reports at key ages in children's school careers (6 and 15); performing any medical examinations requested by teachers, parents or social services for any health or school adjustment problems; carrying out regular examinations of students attending technical courses and monitoring the application of legal provisions on workplace health; performing biometric tests and sensory examinations; monitoring overall health conditions in the school environment (premises, food hygiene); and assisting in health education for pupils, parents and teachers.

337. The school health promotion plan launched by the Minister with special responsibility for education in schools on 11 March 1998 established the overall framework for a policy on schoolchildren's health. Thus, in the area of health education - already part of the curriculum within subjects such as biology and the sciences - special guidelines were to be drawn up on the basis of successful experiments in selected education authorities and the work of a group of experts and field workers.

338. The plan identifies a number of objectives, noting that the whole context of school life lends itself to health education, and that all teachers contribute, directly or indirectly, to health education in their lessons. Teaching syllabuses were to be supplemented by seminars, and regular slots included in students' timetables and teachers' schedules from the start of the year would help promote dialogue between schoolchildren and adults, with a variety of aims such as attitude development and reflection on standards and values.

339. To help prevent risky behaviour in schools, more health and civic education committees - first set up in 1990 and known as "social environment committees" - were instituted and their scope of action extended, under a circular to chief education officers dated 1 July 1998. There are now 2,500 of these committees, covering 31 per cent of schools, mainly in priority education areas and so-called "sensitive" schools. Networks have been created to link primary and secondary schools.

340. Special measures have also been taken to monitor children at schools in priority education areas. Liaison arrangements between mother-and-child health services and the school health services, for example, will be extended following experiments in Seine-Saint-Denis and Oise. The emphasis will be on detecting students' problems, whether of a sensory nature (eyesight, hearing) or in the area of communication. Consideration will be given to the possibility of continuing with regular health reports right up to the time children leave school, in priority education areas. Lastly, the major drive launched in 1998 to create posts for medical and social staff will continue, as will the computerization of services and the restructuring of staff work assignments (including nursing staff).

### **3. Medical services**

341. In general, remarkable progress has been made in recent years in care for children, hospitalization practices (home hospitalization, extended provision of out-patient clinics), and consultations in health centres or child guidance centres. Following a report on the hospital treatment of teenagers, a nationwide inquiry was launched into paediatric treatment for teenagers in hospital, and a circular on the hospitalization of teenagers is being prepared.

## **D. Social security and childcare services and facilities (arts. 26 and 27, para. 3)**

### **1. Health insurance**

342. Health insurance includes cash benefits (daily coverage), which compensate for the loss of pay incurred by absence from work, and benefits in kind covering all or part of the medical or paramedical care received. Also eligible for benefits in kind from the health insurance scheme

are dependent family members of the insured person: basically the spouse, if not already covered by social insurance, and any children aged under 16, under 18 if in apprenticeships, or under 20 if they are students or have disabilities. Persons not entitled to these benefits are covered by a personal insurance scheme wholly or partly provided by various welfare agencies. In view of the possibilities offered by the free medical aid system, the French health insurance system may be considered as meeting the requirements of article 26 of the Convention.

## **2. Childcare services and facilities**

343. The authorities have placed particular stress in recent years on the care of young children (below 6 years of age), with the aim of adding to the various forms of care in both quantity and quality and enabling parents, mothers in particular, to achieve a better balance between work and family life. In addition to nursery schools, which cater for all 4- and 5-year-olds, nearly all 3-year-olds and around 35 per cent of 2-year-olds, there are two types of care outside the family home: group care in institutions and care in the homes of qualified childminders.

### **2.1. Group care in institutions<sup>5</sup>**

344. Open crèches (136,300 places as at 1 January 1998, including 8,500 in parent-run crèches). The majority are run by local authorities and provide day care for children aged between 2 months and 3 years whose parents work.

345. Family nurseries (59,100 places as at 1 January 1998). A group of childminders accredited by the departmental mother and child health service, who care for one or more children in their homes. It is nearly always the local authority that provides them with a management and organizational structure.

346. Parent-run crèches (8,500 places as at 1 January 1998). These are open facilities in which parents are involved in starting, managing and running the service. A qualified person assumes technical responsibility.

347. Drop-in nurseries (55,500 places as at 1 January 1998). These are open facilities for temporary care, run by municipalities, associations or parents.

### **2.2. Care in the homes of qualified childminders (292,500 childminders)**

348. Childminders are paid to care for one, two or three children (more, by special arrangement), in their own homes, on a regular or temporary basis as part of pre-school (under-3s) or out-of-school care. They must be accredited by the president of the Regional Council; the Council also provides supervision and training. Accreditation is for a period of five years and is renewable subject to certified attendance on a 60-hour training course.

349. The Act of 12 July 1992 seeks to develop care in the homes of approved childminders by reforming the accreditation procedure, improving childminders' status and improving their qualifications. The family allowance for employing an approved childminder, instituted in 1990, was substantially improved under the 1994 Family Act and the 2001 Social Security Funding Act.

350. The authorities also support the development of group care. They therefore backed the introduction, in 1988, of “childcare contracts” between family allowance offices and local authorities, as a means of boosting the number of places available to families in childcare facilities and services. This arrangement has met with some success: 2,200 childcare contracts had been signed by 31 December 1996, representing an additional 185,000 children catered for.

351. An investment fund of €230 million was established in 2001 for the development of care services, which should make it possible to create 20,000 new places over three years and thus to cater for 30,000 to 40,000 more children. A similar fund is envisaged for 2002, to cover the period 2002 to 2004. For the figures concerning family allowances as at 1 January 1999, see table 3 (annex).

## **VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES**

### **A. Education, including vocational training and guidance (art. 28)**

352. France’s education system is based on the principles established over the course of more than a century in various legislative texts, and reaffirmed in the Framework Act of 10 July 1989:

(a) Education is defined as the country’s highest priority. The right to education is guaranteed to everyone;

(b) The education system is centred on the needs of pupils and promotes equality of opportunity. It enables pupils to develop their personality, rise above their level of initial education and integrate into social and professional life. It promotes equality between women and men. It is in this spirit that priority education areas have been established and developed and that special attention is given to schooling in remote rural areas;

(c) The acquisition of a general culture and a recognized qualification is guaranteed to all young people, girls and boys, regardless of their geographical or social origin. Continuing education offers everyone an opportunity to raise their level of education, adjust to economic and social change, and obtain official recognition of knowledge acquired;

(d) Education is compulsory for children between the ages of 6 and 16;

(e) Those children who have not attained a recognized standard of education by the time they complete compulsory schooling must have an opportunity to continue their studies with a view to reaching such a standard;

(f) Every child should be able to attend nursery school or kindergarten from the age of 3, if the family so wishes;

(g) Middle and higher secondary school students in difficulties may receive financial assistance to cover their school and living expenses (circular No. 98.044 of March 1998);

(h) The right to educational and vocational information and guidance forms part of the right to education; with teachers’ help, pupils plan their educational and professional futures. In fact it is necessary to correct and fill out pupils’ somewhat simplistic ideas on the subject; the



task of secondary school is to prepare youngsters for the demands and constraints of training while helping them to develop their potential to the maximum (circular No. 96.204 of 31 July 1996);

(i) An effort has been made to ensure that better account is taken of international cooperation in curricula at all levels;

(j) The initiatives and modus operandi of the schools welfare service have served, since 1991, to define the service's field of action in secondary schools.

353. Within this general framework, the priority education zones established in July 1981 represent a new departure for education policy and everyday educational practice. The concept of a single school system that operates in similar ways throughout the country has been replaced, in particularly disadvantaged areas, by that of a system in which the aims and requirements are the same for all but are applied in various ways, using different means depending on needs and locality.

354. The priority education areas are governed by the Framework Act of 10 July 1989, the circular of 31 October 1997, on the revitalization of priority education areas, and the circular of 10 July 1998 on the creation of priority education networks and success contracts.

355. The main problem to be solved is the fact that, in certain - chiefly urban - areas there is a high proportion of schoolchildren whose disadvantaged socio-economic and cultural environment adversely affects their academic results and thus, in the long term, their chances of integrating into society and employment.

356. The Government has decided to allocate increased resources, in terms of posts and educational funding, to schools and secondary education institutions in priority education areas, so that all necessary steps can be taken to bring about significant improvements in students' academic achievement, on the basis of success contracts drawn up locally and signed with the chief education officer.

357. More than a million pupils were enrolled in schools in the 558 priority education areas at the start of the 1997/1998 school year. The size of these areas (i.e., total student numbers) varies enormously: one in four has more than 2,600 pupils, while in 29 areas, there are more than 5,000; in areas as large as this, management and collective action become difficult. A planning review of these areas has been instituted: the plan is redrawn by each chief education officer, together with the school system's partners, using a simple, transparent method, to better reflect changes in the school population. Commonly used indicators are: disadvantaged social groups, students who are behind in the first year of secondary school, and other criteria such as the percentage of students of foreign origin. Each education officer applies and interprets them taking account of the characteristics of his or her own local education area.

358. Priority education areas require investment at the local community level (municipality, department, region) in building construction, the running of schools and so forth. The State pays and trains the staff. Many other entities (ministerial departments, associations, companies, etc.) are involved in the projects carried out in these areas.

359. The better to respond to students' needs, the Ministry of Education, Research and Technology carries out a number of activities in partnership with other ministries (Employment and Solidarity, Youth and Sports, Culture, Agriculture and the Environment), with local authorities and with major agencies at the national level (French Committee for Health Education, National School Sports Union, National Consultative Commission on Human Rights) and at the international level (United Nations Children's Fund (UNICEF), United Nations Educational, Scientific and Cultural Organization (UNESCO), for example). An educational support measure called the "School Support Charter" fulfils a dual aim: to publicize educational support measures in the most underprivileged districts and rural areas and to monitor their quality.

360. In the important area of dropout prevention, too, innovative mechanisms (such as *classes-relais*, or recovery classes) have been put in place, which draw on the combined competences of the departments of education, justice, etc. Lastly, since the issuance of the inter-ministerial circular of 22 June 2000, all existing national mechanisms - out-of-school educational amenities, school solidarity networks, and local school support contracts - have been brought together to form a single system. This single system, which operates in parallel with the school system, provides support and supplementary resources for pupils who cannot obtain them in their home and social environment. The activities available to children and young people centre around assistance with schoolwork and the cultural support needed for academic success.

361. The education system also has to cope with an ever-increasing demand for education, from nursery school to university, against a background of economic uncertainty. The emphasis is on closing the gap between teaching and the world of work (vocational training alternating with placements in companies and the validation of vocational attainments). To supplement the education system, an extensive job training and placement scheme has been established for those young people in greatest difficulties (see chapter VI of this report).

### **B. Aims of education (art. 29)**

362. The Convention does not merely affirm the right to education; it defines the aims of education in a true vision that in essence corresponds to the objectives of the French education system. Promoting the development of the child's personality is an objective that was reaffirmed by the Act of 10 July 1989, which states that "education must develop in the young a taste for creative activity, for cultural and artistic activities and for participation in community life. The education system must also provide for physical education and sports".

363. The future basis for the introduction of civic education at primary, middle and higher secondary schools was set forth in a circular of 16 July 1998 on civic education in primary and secondary schools. The teaching of civic education is compulsory in primary and middle schools; the civics timetable must be strictly adhered to and not used for other subjects. Guidelines were distributed to schools in autumn 1998.

364. The components of civic education are defined as follows:

The various disciplines taught should contribute to human rights and civic education and help develop a sense of individual and collective responsibility and a sense of judgement through the exercise of critical faculties and the techniques of argument;

In primary schools, the fact that teachers teach a range of subjects ought to facilitate such a cross-disciplinary approach;

In middle schools, the new syllabuses describe in their introductions the contribution each subject can make to civic education;

A course was introduced in autumn 1998 in the second year of some 100 higher secondary schools, on an experimental basis. Similarly, the curricula for the first year in vocational lycées and general and technological lycées include many points that lend themselves to discussions on civics. The emphasis is on the training of teachers in this field and there is a manual to help teachers in the various subjects identify relevant topics.

365. Students are assessed in civic education at middle school and in the examinations for the national certificate (*brevet*). Also, as a supplement to the various subject syllabuses, there is a scheme known as “citizenship initiatives”, which is entirely voluntary but encourages the application of civics lessons, democratic courtesy, respect and solidarity. These initiatives are especially helpful to marginalized students or students who are failing in core disciplines, in finding ways of expressing themselves and raising their self-esteem. They have also been enthusiastically received by education staff: teachers of physical education, sports and artistic subjects, as well as some non-teaching staff, have found they have a new role to play in such projects.

366. In order to facilitate coordination of action and approach, a resource centre for citizens’ initiatives has been set up in each local education authority, to allow initiatives and experiences to be compared. Schools were invited to consider these issues and organize debates as part of the commemoration of the abolition of slavery 150 years ago and the fiftieth anniversary of the Universal Declaration of Human Rights. One topic, the exploitation of child labour in countries around the world, struck a particular chord with the children. The Ministries of Employment and Solidarity and of Education, Research and Technology gave their support to the Global March against Child Labour (see chapter VIII), and there were meetings and debates between French school students and marchers.

### **C. Leisure, recreation and cultural activities (art. 31)**

367. Cultural, sporting and artistic activities are vital if children are to develop fully and harmoniously. It is hoped that, by taking appropriate steps to provide leisure activities and cultural and sporting facilities, the pace of children’s and young people’s lives can be better accommodated. This kind of adaptation to the overall pace of children’s lives has once again become a focus of the French education system, and, as part of the teaching curricula and educational activities provided in schools, pupils are also offered courses in culture, arts and sports. The National School Sports Union, for example, has some 800,000 licence-holders (student members), doing around 60 sports. Arts and sciences workshops are also offered, in partnership with the Ministry of Culture, in addition to the arts courses provided in school curricula.

368. There are many youth organizations and community education associations that offer children and young people a variety of activities during the school week and in the holidays. Holiday and leisure centres make special efforts to cater for young people in difficulty and young people with disabilities. An inter-ministerial crime prevention programme offers a range of educational activities to young people aged 11 to 18 who cannot go away on holiday, and to young adult detainees. The “open school” programme offers cultural, sports, academic and leisure activities in State secondary schools for children and youngsters aged 10 to 18 who cannot go away on holiday.

369. As to holiday and leisure centres, France has developed a sophisticated system for the supervision for group holidays for children and young people, based on the concept of protection of minors. The system, which is provided for by article 93 of the Family and Social Welfare Code, is based on the idea that parents who entrust their children to a group holiday organizer are de facto unable to exercise their responsibility as upbringers or provide for their children’s material protection. The organizer temporarily accepts this responsibility, under State supervision. Under the decree of 29 January 1960, that State supervision, which is mainly concerned with sanitary, material, moral and educational conditions at the holiday centre, may give rise to administrative sanctions, including the suspension by the Minister of Youth and Sports of any responsible person who seriously endangers the health and material or moral safety of minors.

370. The Ministry of Youth and Sports has also taken steps to:

Encourage a greater social mix at holiday and leisure centres;

Expand opportunities for children with disabilities to take part in residential holidays; and

Draw up a protocol between the organizers, administrations and agencies involved with the aim of facilitating access to holiday and leisure centres for children under medical treatment.

371. The Ministry of Youth and Sports has embarked upon a general reform of the legislation dealing with protection of minors participating in leisure activities; the overall aim is to reinforce minors’ fundamental rights.

372. With regard to the funding of projects relating to the right to leisure, the Ministry of Youth and Sports has launched two initiatives, one enabling accredited national associations to sign a target agreement with the Ministry in order to obtain financial support for projects (some 50 million francs are allocated under such agreements each year), the other providing for the funding of projects as part of local educational contracts for extra-curricular and out-of-school activities (around 255 million francs were allocated for 2000) under local education policies (local partnerships).

373. Lastly, with a view to rectifying the lack of available statistics, the Ministry of Youth and Sports launched a “database and statistics initiative” on 1 October 1999, with the aim, inter alia, of examining and gathering information on holiday centres and non-residential leisure centres,

and on children's and young people's leisure activities. As part of this initiative, an inter-ministerial working group has been established to review existing information and studies and carry out an information needs analysis.

## VIII. SPECIAL PROTECTION MEASURES

### A. Children in situations of emergency (art. 22)

374. Unaccompanied minors seeking asylum at the border used to be dealt with under the procedure provided for under ordinary law in article 35 quater of the Ordinance of 2 November 1945 on conditions governing the entry and sojourn of foreigners in France: they were kept in a holding area pending a decision on whether they would be permitted to stay for the purpose of seeking asylum.

375. Once permission to stay had been obtained (a permit valid for eight days to allow for an application to be handed in at the prefecture), two problems arose:

- Referral of the asylum application to the French Office for the Protection of Refugees and Stateless Persons for consideration, which required the minor to be legally represented and thus guardianship to be arranged; and
- Accommodation for the child, which was a very specific problem because of the persons concerned – mostly youngsters aged 13 to 14 and upwards, usually unable to speak French and sometimes with recent experience of tragic events.

376. Thus, the arrangements appeared to be for the most part inappropriate to the youngsters' very special circumstances. However, this problem has been somewhat alleviated by the opening in late 1999 of a special centre for unaccompanied minors seeking asylum. The French Government and the ministries concerned (of the interior, justice, foreign affairs, and employment and solidarity) have also looked into the matter of unaccompanied minors, including youngsters seeking asylum, at the French borders very carefully, in order to remedy the problems encountered.

377. The Parental Authority Act of 4 March 2002 amended article 35 quater of the 1945 Ordinance so that unaccompanied minors arriving in France are assisted during their time in the holding area by an "ad hoc administrator" appointed by the public prosecutor. The administrator is responsible for assisting them and representing them in all administrative and judicial procedures related to their time in the holding area and to their entry into the country. In the latter case, provision is made for the minor to be assisted by a lawyer chosen by the ad hoc administrator or, failing that, one appointed by a court, and for the ad hoc administrator to ask the president of the regional court to provide an interpreter and to make the file available for inspection. The Act also stipulates that the ad hoc administrator shall represent the minor in all administrative and judicial procedures related to the child's entry into French territory.

378. The Act of 4 March 2002 supplements the Right of Asylum Act of 25 July 1952 by providing for the appointment by the public prosecutor of an ad hoc administrator for an

unaccompanied minor applying for refugee status. The ad hoc administrator appointed in this way assists the minor and represents him or her in administrative and judicial procedures relating to the application for refugee status.

379. The French Government has decided to set up a reception and guidance centre for unaccompanied foreign minors allowed to enter French territory, at the exit from the holding area at Roissy airport. This facility, which is due to be set up by the Red Cross at some time in the year 2002, will take care of minors for up to two months while it assesses their situation, looks up any relatives they may have in France or in a neighbouring country, and gives them appropriate advice.

#### **B. Children in conflict with the law (arts. 40 and 37 (a), (b), (c) and (d))**

380. The situation of young offenders in France is regulated by the Ordinance of 2 February 1945 on child offenders, which has been amended several times. The Ordinance sets out the principles applicable in this area, namely, the priority of care over punishment and the establishment of special courts.

381. In order to improve the effectiveness of the criminal justice system for minors, the public prosecutor and juvenile courts have been given greater powers, notably by the Act of 8 February 1995, which introduced several provisions intended to facilitate the real-time processing of criminal proceedings involving minors and to introduce more flexibility in the monitoring of the tutelary measures ordered for young offenders. Special tutelary arrangements that complement the work of the pupil referral units have been made for the most persistent young offenders or youngsters who are in the process of being marginalized. These provide, for between three and six months, a round-the-clock tutelary or family-like environment, as well as organized breaks in the city and in the country.

382. The procedure for minors suspected of committing an offence was amended by the Act of 1 July 1996, which, among other things:

- Reformed the procedure for the issuance of a summons by senior law-enforcement officers so that the Public Prosecutor's Office is no longer required to submit an application to the juvenile court and so that, in less serious cases, a minor summoned before a juvenile court under this procedure can be tried immediately or, in certain circumstances, can be charged;
- Introduced the notion of prompt court appearances, so that the public prosecutor who brings a minor before a juvenile court to be charged can ask the judge to set a date for the delivery of the judgement, in the judge's office or the court, within one to three months;
- Enabled the court, in criminal proceedings, to discharge the minor or to postpone the announcement of the sentence or a tutelary measure.

383. In July 1997, after this Act was passed, the Ministry of Defence (National Gendarmerie Department) set up 10 juvenile crime prevention teams whose tasks include:

- Maintaining a presence in difficult neighbourhoods or problem areas on the outskirts of cities;
- Seeking in the course of their daily work to make contact with young offenders, potential offenders and youngsters in trouble;
- Maintaining close relations and coordinating their activities with all organizations or services with responsibilities towards children (judges, associations, teachers, health and social affairs departments, local social centres, etc.);
- Taking part in all preventive and child protection campaigns;
- Helping to analyse changing patterns in various forms of youth crime in the *département* concerned.

384. At a meeting on 8 June 1998, the Internal Security Council agreed on a government plan to combat juvenile delinquency. The Council, which was set up by a decree of 18 November 1997, defines the general thrust of internal security policy and coordinates the work of ministries. It is presided over by the Prime Minister and consists of the ministers of the interior, defence and justice, and the minister responsible for customs. Action taken by the judicial authorities to implement the plan is supposed to pursue four main aims:

(a) To provide a judicial response to the first acts of delinquency committed by minors. Public prosecutor's offices should be kept informed by the police and gendarmerie of all offences involving minors;

(b) To respond rapidly to all acts of delinquency and ensure continuity of response. For this purpose, preference should be given to summoning minors promptly, asking the trial court to order measures or hand down sentences appropriate for minors, making arrangements for minors to be taken care of, adapting their prison conditions, improving the arrangements for the execution of their sentences, and ensuring that minors are defended effectively;

(c) To involve the families and social organizations concerned, by allowing parents to exercise their responsibilities for their children's upbringing and involving them systematically in all proceedings involving their under-age children. There is a need to ensure that family allowances are used in children's interests and to punish behaviour that deliberately puts children in danger. It will be necessary to work with the main parties dealing with children (regional councils, the city councils, the Ministry of Education, etc.);

(d) To improve coordination between and the transparency of the various judicial bodies, and to publicize action by the courts on juvenile crime.

385. These broad aims of criminal policy were brought to the attention of public prosecutors in a circular dated 15 July 1998. The circular specifies that when criminal proceedings do not seem appropriate, the Public Prosecutor's Office may decide to order a number of measures ranging from a simple warning given to the offending minor by the police or gendarmerie at the request of the public prosecutor to a requirement to make amends, a reprimand delivered by the deputy public prosecutor responsible for children's affairs or by the local representative of the

public prosecutor, or a conditional decision to take no further action (also called “suspension of proceedings”). The use of representatives of the public prosecutor, recruited from people with an interest in children’s issues, is encouraged.

386. At the same time, the arrangements for taking minors into care have been reorganized as follows:

- A unit involving representatives of associations and the child-welfare sector has been established to coordinate emergency assistance in every high-priority department, in consultation with judges from juvenile courts;
- The reception and supervision of children removed from home is being coordinated to avoid gaps in their care;
- The range of options for accommodating them has been extended, in part by increasing the number of foster places in families;
- The number of pupil referral units has been increased.

387. The same circular provides for changes in prison conditions for minors: the distribution of suitable penal establishments will be reviewed and accommodation will be specially built or refurbished to hold about 20 young people below and above the age of majority; care for imprisoned minors will be improved by, on the one hand, increasing the numbers of medical, social, educational and teaching staff and, on the other, establishing a “tutorial system” for youngsters in detention so that, wherever possible, they will remain under the constant supervision of one person, wherever and however many times they are imprisoned.

388. The guidelines in the circular of 15 July 1998 were taken up and fleshed out in an inter-ministerial circular dated 6 November 1998 which provided for, among other things: the establishment of a group to monitor juvenile delinquency within the departmental council for crime prevention, the preparation of an action plan on juvenile crime within the framework of the local councils on crime prevention, and the introduction of a specific clause on youth crime in local security contracts.

389. The Internal Security Council, at a meeting on 27 January 1999, decided to enlarge on the Government’s actions, calling for:

- The recruitment of large numbers of local representatives of the public prosecutor;
- The assignment of teaching teams, made available by the Ministry of Education, to minors in prison;
- The establishment of 50 closely monitored emergency centres so that juvenile courts can order youngsters taken into immediate care at any time. Strict control will be assured by round-the-clock supervision by trained staff (mostly youth workers). A full assessment (psychological, academic, vocational, family and health checks) will be made of youngsters placed in these centres so that they can be given guidance;



- A speeded-up programme to develop pupil referral units, so that a total of 100 such units will be available by the end of 2000.

390. Considerable resources have been put into these schemes, including 1,000 new posts for judicial youth workers, 50 posts for juvenile judges, 25 for deputy public prosecutors for children and 80 for specialized clerks of the court. Practically all the public prosecutor's offices in France have by now introduced real-time processing of criminal proceedings involving minors. In addition, the number of representatives of the public prosecutor responsible for children's affairs has been raised to 122. As far as prison conditions for minors are concerned, the measures provided for in the 1998 circular are starting to be put into effect, with refurbishing work completed or under way at a number of establishments.

391. A work programme has been undertaken to reduce turnover among the warders in "juvenile sections" and to offer specialist training, while the widespread introduction of commissions to monitor the imprisonment of minors allows action taken in relation to minors in detention to be better coordinated. A guide to working with minors in detention was prepared in September 2001 by the Department of Prison Administration, providing an additional tool for those whose job this is.

392. As regards the procedures applicable to young offenders, many changes have been made in recent years in custody arrangements, the possibilities for detention pending investigation, and the sentences handed down.

393. Reforms were recently made by the Act of 15 June 2000 strengthening the protection of the presumption of innocence and victims' rights. Under the Act:

- Minors are informed of their right to remain silent as soon as they are taken into custody;
- Individuals are given a hearing before being indicted by a judge;
- All decisions on detention pending investigation or trial are referred to newly established judges responsible for freedoms and detention, who are not the same as the investigating magistrates;
- Appeals have been introduced in criminal cases, and are considered by another assize court with a larger jury.

394. These provisions entered into force on 1 January 2001. The Act also provided for the systematic recording of interrogations of minors held in custody from June 2001 onwards. The rules applicable to the custody, detention pending investigation and sentencing of minors are set out in the tables in annex 4.

### **C. Children in situations of exploitation, including physical and psychological recovery and social reintegration (art. 39)**

#### **1. Combating economic exploitation**

395. Children are not allowed to work before they have reached the official school-leaving age of 16. They may begin an apprenticeship at the age of 15 and may also do light work, within the limits and according to the requirements laid down by the law, during school holidays from the age of 14. It is, however, forbidden to employ minors in the preparation, handling or sale of written material, posters, drawings and other materials which it is a criminal offence to sell, supply, exhibit, display or distribute as being contrary to public morality. Minors are also forbidden to take certain dangerous jobs and come under particularly close scrutiny from the occupational health services.

396. In the European Union, Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work bans night work of any kind by children aged between 14 and 16 from 8 p.m. to 6 a.m. and by those aged between 16 and 18 from midnight to 4 a.m.

397. The employment of children in the entertainment industry is regulated by a law dating from 6 August 1963. The law provides that children under school-leaving age may not be employed by fixed or itinerant entertainment companies or in radio or television unless they have received personal authorization in advance from the administrative authority. Written authorization from the children's legal representatives must be attached to the employer's application for authorization.

398. Developments in advertising and the proliferation of audio-visual media have led to greater use of adult or child models for the commercial promotion of messages or products. Since the Act of 6 August 1963 did not cover this activity, children posing for publicity photographs or taking part in fashion shows had no protection. The Act of 12 July 1990 filled this gap by regulating the profession and providing a statute for modelling agencies. Any agency wishing to employ a child model must apply in advance for personal authorization from the authorities (as in the case of children employed in the entertainment industry) or must already have obtained official approval for hiring child models. The conditions under which such approval is given and the maximum amount of time that can be worked per day and per week are set out in a decree dated 9 September 1992.

399. The Global March against Child Labour and the discussions on the adoption of new international standards that took place at the eighty-sixth session of the International Labour Conference focused attention on the issue of child labour. A study was undertaken by the Ministry of Employment and Solidarity on the basis of an appraisal of the current situation of workers under the age of 18 in France. The appraisal and corresponding proposals are annexed to this report.

400. The appraisal revealed that although France has legislation that really does protect workers under the age of 18, cases of youngsters employed or exploited in abusive, if not illegal, conditions in which their physical or mental health, safety or morals are jeopardized are not unheard of. This is particularly true in the case of young trainees in companies, whether they are following sandwich courses or paid apprenticeships or are unpaid students spending varying

amounts of time on placement in a company. Some employers, either through ignorance of, or through deliberate non-compliance with, the legislation on the employment of minors, may be making young people work in conditions that are not acceptable. Instances of this are still very limited, but there remains a need to be proactive and to coordinate action with the professional organizations concerned, with tougher action being taken by the labour inspection services.

401. The appraisal highlighted the vulnerability of children under the age of 16 working in the fashion, advertising and entertainment sectors and the need for improved legislation and greater vigilance by the relevant services. Action by the authorities needs to be supported by unions and management or by non-governmental organizations, which are already working to complement the efforts made by the Government. Finally, it should be pointed out that on 17 June 1999 the participants at the eighty-seventh session of the International Labour Conference adopted the Convention (No. 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. France deposited its instrument of ratification on 11 September 2001.

## **2. Combating drug addiction**

402. Dealing with this problem, which was already a major source of concern, has been further complicated by the spread of acquired immunodeficiency syndrome (AIDS). The campaign against drugs has three aspects: prevention, treatment and punishment. A policy of prevention is absolutely crucial for young adolescents. Thus, an increasing number of information campaigns have been carried out in schools, from the primary level upwards, and in leisure centres and all places frequented by young people, such as outreach and youth information centres. These prevention campaigns are based on the finding that most young people will be offered drugs at some time in their lives. The task is therefore to build defences against the allure of drugs by explaining or speaking from personal experience of the consequences of dependence. A free, anonymous telephone hotline has been established to answer questions from children and adults.

403. French legislation strives to strike a balance between treatment and punishment. In particular, the judicial authorities are able to halt proceedings if a drug addict agrees to treatment, and the use of drugs by a young person generally does not, on its own, give rise to criminal charges but rather marks the beginning of tutelary support proceedings.

404. In a circular of 17 June 1999, the Minister of Justice describes the broad outlines of criminal policy on combating drug addiction, particularly in the case of minors, stressing the importance in criminal proceedings of giving preference to measures such as reprimands or conditional decisions to take no further action against children who just use drugs and who pose no personal or social problems. The Minister does insist on the other hand, on the need to have the youngster's situation, personality and family relationships assessed by the tutelary service in order to determine the appropriate measures to apply, or punishments if the youngster is involved in trafficking.

405. The Minister points out that drug-addicted minors in detention must be properly taken care of by the prison, educational and health services. She also points out that in cases where drug use stems from personal, family or social problems, tutelary measures should be taken whenever a youngster can be considered as being at risk because of his or her addiction.

406. Generally speaking, it should be stressed that the need to halt the spread of AIDS has changed the situation in France: there has been an increase in the use of drug substitution therapies, which were rarely prescribed in the past, and a concomitant improvement in their availability in health centres.

### **3. Sexual exploitation and abuse**

407. A policy to prevent ill-treatment was put in place in France in the 1980s, notably with the passing of the Act of 10 July 1989. In recent years, the main emphasis has been on stiffer penalties for sexual offences against minors and on combating child prostitution networks.

408. The new Penal Code now distinguishes four broad categories of sexual offences, according to their nature and severity:

- Sexual exposure, consisting of the imposition on others, in a place open to the public view, of the sight of a sexual organ or sexual relations (article 222-32 of the Penal Code);
- Indecent assault, characterized by fondling another person without their consent (articles 227-25 to 227-27 of the Penal Code);
- Sexual abuse, which is any form of indecent assault committed with violence, constraint, threat or surprise (article 222-22 of the Penal Code);
- Rape, which is any act of sexual penetration, whatever its nature, committed against another person by violence, constraint, threat or surprise (article 222-23 of the Penal Code). This criminal act is now punishable by 15 years' imprisonment; the sentence is raised to 20 years in cases where the acts are committed on a minor under the age of 15 or on a person who is particularly vulnerable, or where they are perpetrated by an ascendant relative, by a person abusing the authority conferred by his or her position, or by a person who makes use of a weapon.

409. Act No. 94-89 of 1 February 1994 contains the provisions described below.

#### **(a) Establishment of sentences that must be served in full**

410. This applies to perpetrators of the most serious sexual offences, that is, those responsible for the murder (article 221-3 of the Penal Code) or killing (art. 221-4) of children under the age of 15 years when the act is preceded by or accompanied by rape, torture or barbarous acts. An assize court that hands down a sentence of life imprisonment may stipulate that the prisoner is not eligible for any remission in sentence. The prisoner will then not be entitled to any furlough or parole while in prison. Only if his or her sentence is commuted can he or she benefit later from such privileges.

411. Nevertheless, 30 years after a conviction the judge responsible for the execution of sentences may, on his or her own initiative or at the request of the convicted person or the prosecution service, refer the case to a panel of three medical experts for a ruling on the danger posed by the person in question. A commission consisting of five judges from the Court of

Cassation then decides, in the light of the opinion issued by the panel of experts, whether the life sentence needs to be served in full. If the commission decides it does not, the convicted person is in the same legal position as others sentenced to life imprisonment, becoming eligible for parole, for example, although probation may be made subject to assistance and supervision.

**(b) “Pre-release” psychiatric assessments**

412. These concern not only individuals convicted of killing or murdering a minor under the age of 15 in an act preceded or accompanied by rape, torture or barbarous acts, but also the perpetrators of other forms of sexual abuse, as provided for in articles 222-23 to 222-32 and 227-25 to 227-27 of the Penal Code (rape or aggravated rape, sexual abuse other than rape, such as paedophilia or incest committed by an ascendant relative).

413. Article 722 of the Code of Criminal Procedure provides that people convicted of these offences may not leave prison (on outside placement, partial release, furlough or parole) without first undergoing psychiatric tests carried out in the most serious cases (killing, murder or rape of a minor under the age of 15) by a panel of three experts. Decisions by the judge responsible for the execution of sentences to allow sex offenders to leave prison may be stayed on appeal by the public prosecutor to the Indictments Chamber.

**(c) Sex tourism**

414. Article 227-26 of the Penal Code allows the prosecution in the French courts of any French national who indecently assaults a person under the age of 15 in exchange for payment, even if the offence is committed abroad and the child does not have French nationality. In an exception to ordinary law, French law applies even if the offence committed by the French national is not punishable under the legislation of the country where it was committed, and prosecution is not contingent on a complaint from the victim or next-of-kin or an official report from the authorities of the country where the offence was committed. The offence merely needs to be brought to the attention of the judicial authorities. These provisions apply even if the defendant acquired French nationality at some time after the offence of which he or she is accused.

415. Act No. 98-468 of 17 June 1998 on the prevention and punishment of sexual offences and on the protection of minors marks a new step forward in efforts to combat sex crimes, particularly those aimed at minors. It covers three areas:

- The introduction of social and judicial supervision of convicted sex offenders;
- Greater precautions against and stiffer penalties for sexual offences and offences against personal dignity;
- Improved protection and care for child victims.

**(a) Social and judicial supervision**

416. This is defined by article 131-36-1 of the Penal Code as the convicted person’s obligation to submit, under the supervision of the judge responsible for the execution of sentences and for a

period determined by the trial court, to surveillance measures intended to prevent them from offending again. This period may not exceed 10 years for ordinary offences and 20 years for serious offences. If the supervisory order is handed down at the same time as a custodial sentence, the period is taken to begin at the time of the convicted person's release.

417. Failure to fulfil the obligations arising from the supervisory order is punishable by imprisonment for a maximum period initially determined in the sentencing decision; the period may not exceed two years in the case of an ordinary offence or five years in the case of a serious one. Where necessary, it is the task of the judge responsible for the execution of sentences to order the complete or partial execution of the prison sentence. Offenders are warned by the president of the court, after sentence has been passed, of the consequences of failing to fulfil their obligations.

418. The obligations concerned, which are set out at the time of sentencing, are those provided for in article 132-44 of the Penal Code for probation, to which certain specific obligations are added: a ban on going to places normally frequented by children, on frequenting or striking up relationships with children, and on exercising any professional or voluntary activity involving regular contact with children. Social and judicial supervision, which may be ordered only where provided for by law, is available in cases of killing or murder preceded or accompanied by rape, torture or barbarous acts, sexual abuse (including sexual exposure), corruption of a minor, recording pornographic pictures of a minor, broadcasting violent or pornographic messages, and indecent assaults on a minor.

419. A care order may be issued by the trial court if the defendant is found by medical assessment to be a suitable candidate for treatment. In cases involving the killing or murder of a minor preceded or accompanied by rape, torture or barbarous acts, the assessment must be carried out by two experts. A decree of 18 May 2000 set out the conditions under which care orders would apply; they require a coordinating physician to become involved, the prisoner to choose an attending physician, and the judge responsible for the execution of sentences to monitor the arrangements as long as they are in effect. When a care order is issued, defendants are told by the president of the court that no treatment may be undertaken without their consent and are informed that if they refuse the treatment on offer, the prison sentence handed down by the court will be executed.

**(b) Greater precautions, stiffer penalties**

420. In the first place, it should be stressed that the sentences for non-violent sexual assaults are increased when they are committed on minors under the age of 15 (a prison term of up to five years and a fine of up to 500,000 francs, instead of two years and 200,000 francs) and that the use of a telecommunications network is considered an aggravating circumstance if the perpetrator makes contact with the victim by broadcasting messages to an undefined audience on such a network. French legislation has tried in this way to take into account the boom in information technology networks such as the Minitel viewdata service and, especially, the Internet, which often make it easier to commit sexual offences, particularly when the victim is a child.

421. It should also be mentioned that article 13 of the Parental Authority Act of 4 March 2002 defines the prostitution of a child as an offence, providing for penalties of up to seven years'

imprisonment and fines of up to €100,000 in cases involving a minor under the age of 15 and penalties of up to three years' imprisonment and fines of up to €45,000 in cases involving a minor over the age of 15. It should be emphasized that the ban on the prostitution of children applies to all children up to the age of 18. The same Act added possession of a pornographic image or picture of a minor to the list of offences relating to child pornography on the Internet.

422. In the context of efforts to combat child pornography on the Internet, attention is drawn to a web site set up by the Government on 8 November 2001, which lists illegal web sites ([www.internet-mineurs.gouv.fr](http://www.internet-mineurs.gouv.fr)). This official site, set up by the Government following a meeting of the Internal Security Council on 13 November 2000, collates all the useful information about the laws and regulations on the protection of minors in France and offers Internet users a form they can use and an e-mail address where they can report paedophilic sites online. The site is run by the Central Office to Combat Crimes related to Information and Communication Technology. By January 2002, the Office had received details of 1,100 sites, of which about 100 were clearly paedophilic.

423. Secondly, the principle of "extraterritoriality" set out in the Act of 1 February 1994 extends to all sexual crimes and offences committed abroad against a minor by a French national or a person normally resident in France.

424. Thirdly, as is already the case in criminal matters, the time limits after which no prosecution may be brought for certain offences committed against minors are reckoned from the point where the victim attains majority. For the most serious cases of sexual assault and abuse (those punishable by 10 years' imprisonment), the statute of limitations has been aligned with that applicable to serious crimes and the cut-off date has been raised from 3 to 10 years.

**(c) Establishment of a statute specifically designed to protect child victims**

*Filmed examination*

425. In the course of police inquiries and judicial investigations of sexual offences, the examination of child victims is wherever possible filmed, with their consent or, if they are not in a position to give it, that of their legal representatives.

*Presence of a third party during the examination of a minor*

426. In the course of police inquiries and judicial investigations of sexual offences, the examination of child victims and their confrontation with other witnesses is undertaken by decision of the public prosecutor or investigating magistrate or, where appropriate, at the request of the children or their legal representatives, in the presence of a child psychologist or paediatrician, a member of the child's family, the ad hoc administrator or a person mandated by the juvenile court to attend.

*Appointment of an ad hoc administrator*

427. If a child victim's interests are not fully served by one of his or her legal representatives, the public prosecutor or investigating magistrate dealing with wilful offences against a child will appoint an ad hoc administrator to apply for criminal indemnification on the child's behalf if appropriate. In the event of such an application, the court will order a lawyer appointed to

represent the child if the child has not already chosen one. The ad hoc proxy is appointed from among the child's relatives or from a list of names submitted by recognized child-protection associations, victim-defence associations or the regional council. Attention is also drawn to the introduction on 18 May 2000 of a national computerized file of genetic fingerprints and a centralized service for the storage of biological samples, which are of crucial importance in the identification of sex offenders.

#### **4. The special problem of sects**

428. Following the 1995 report of the parliamentary commission of inquiry on sects and the establishment of an inter-ministerial monitoring unit on sects and then an inter-ministerial task force to combat them, the authorities have developed and pursued a policy of prevention in this area. The 2001 report of the inter-ministerial task force speaks of 500,000 people involved in the various sectarian groups. On the basis of this estimate, it can be inferred that a large number of children have a parent who belongs to one of these groups, though it is impossible to give an exact figure.

429. Having a parent in a "sect" does not necessarily mean that a child's health, safety or morals are at risk or that his or her education is seriously jeopardized within the meaning of article 375 of the Civil Code. However, given the problems observed in these groups, it is a sign that the situation should be looked into. Indeed, in various cases that have been or are currently before the courts, there have been related reports of incest, ill-treatment and homicide (intentional or not); in addition to these offences, there are also health-related problems (refusal of compulsory vaccinations, inappropriate diet, refusal of certain treatments, failure to attend school, etc.).

430. Moreover, membership of such groups can create lifestyle problems for children. Some groups heavily restrict their members', especially children's, access to education and freedom to come and go, or their freedom of thought. They enjoin on their followers practices that are contrary to children's rights as defined in the Convention on the Rights of the Child. These groups also try to establish themselves in the field of children's institutions and preventive care through projects for setting up crèches, training social workers, preparing for childbirth, etc.

431. The Ministry of Employment and Solidarity has therefore made action to protect children, in part by training and informing the workers concerned, a priority. Departmental councils have been alerted and kept informed, preventive video materials have been produced and a training course has been set up at the National College of Public Health. In order to raise awareness among all staff of the Ministry of Employment and Solidarity about the need for vigilance in this area, a circular adopted on 3 October 2000 sets out the Ministry's administrative response to sectarian practices. It is stressed that similar initiatives have been taken by other ministries.

#### **5. The sale, trafficking and kidnapping of children**

432. Criminal law penalizes the kidnapping, concealment and confinement of children and the substitution of one child for another, and punishes anyone who encourages parents to abandon their children or who, for profit, acts as an intermediary in the placement or adoption of children. In the new Penal Code, these offences are the subject of title II, chapter VII, section 4, entitled



“Offences against filiation”. It should be stressed that France has signed the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, adopted on 25 May 2000. Ratification of this text was authorized by the French Parliament in Act No. 2002-272 of 26 February 2002.

#### **D. Children belonging to a minority or an indigenous group (art. 30)**

433. As noted in chapter I of this report, France has entered a reservation to article 30 of the Convention. The purpose of this reservation, however, is only to reject the means set out in the article, that is, recognition of the rights of minorities, not the end of protecting children’s rights, which are guaranteed under the principle of non-discrimination as normally applied in a democratic society. The right of all children in France to enjoy their own cultures, to exercise freedom of religion and to use their own languages in private, personal relations is guaranteed under the principle of equality before the law.

434. For several years the French Government has paid particular attention to the implementation of practical measures to promote the use of regional or minority languages, particularly in the field of education. Moreover, foreign students and students with foreign backgrounds can be given support in school in assimilating two different cultures. They can choose to study their mother tongue as a modern foreign language if it is one of the 12 foreign languages that can be studied in France.

435. If the mother tongue is not taught as a modern foreign language, foreign students and students of foreign parents are given an opportunity to follow courses in their languages and cultures of origin under bilateral agreements with their countries of origin.

436. One of the aims of the new curricula for middle (lower secondary) schools which were published in 1985 is openness to other cultures, and the authorities are promoting a package of academic support activities intended to ensure equal opportunities for pupils from underprivileged backgrounds, who are sometimes the children of foreign parents.

437. These activities, which are run by associations outside school time, are intended to provide, alongside the school, which continues to play the central role, the support and resources needed by children to be successful in school. They are also intended to promote relations between the school and parents. Three kinds of arrangements are in place today:

- “Extracurricular educational activities” for primary-school pupils and pupils in grades 7 and 8 are mainly intended to give pupils a chance to broaden their interests and improve their ability to express themselves and to communicate;
- “School solidarity networks” are for pupils in grades 9 and 10 and for pupils in vocational high schools; their aim is to prevent pupils from being left behind by offering them methodological assistance and support in one or more subjects;

- “Local academic support contracts” are aimed at improving the quality of the academic support on offer in urban areas classed as high-priority for educational purposes.

438. The regulations of the overseas territories and New Caledonia include measures designed to guarantee the cultural identity of their populations:

- Organization Act No. 99-209 of 19 March 1999 stipulates in article 215 that, in order to promote the cultural development of New Caledonia, the latter should have a special agreement with the State. The Act also stipulates that the Kanak languages are recognized as languages for teaching and cultural purposes;
- Article 115 of Organization Act No. 96-312 of 12 April 1996 on the statute of French Polynesia stipulates that the Tahitian and other Polynesian languages may be used alongside the official language, French. Tahitian is taught in nursery and primary schools and in secondary schools. In some of these schools it may be replaced by one of the other Polynesian languages;
- In the territories of the Wallis and Futuna islands, the Agreement on the Concession of Primary Education of 10 February 2000 provides that the lessons in nursery and elementary schools may include courses or activities delivered or organized in the Wallisian or Futunian languages. This provision already appeared in the previous agreement, dating from 1995.

439. Lastly, Act No. 84-747 of 2 August 1984 on the jurisdiction of the regions in Guadeloupe, French Guyana, Martinique and Réunion stipulates in article 21 that the Regional Council should determine which additional educational and cultural activities related to knowledge of regional languages and cultures can be organized in schools within the region’s jurisdiction.

440. Framework Act No. 2000-1207 on overseas departments, which was published on 14 December 2000, stipulates in article 34 that the regional languages in use in overseas departments are part of the linguistic heritage of the nation. As such, they benefit from the improved policies aimed at facilitating their use. The Act also specifies that the Act of 11 January 1951, known as the “Deixonne Act on the teaching of local languages and dialects”, is applicable to the regional languages in use in overseas departments.

**Notes**

<sup>1</sup> *Droits de l'enfant, de nouveaux espaces à conquérir*, vol. II, Auditions-Rapport No. 871, 6 May 1998, National Assembly (L. Fabius, President, and J.-P. Bret, Rapporteur).

<sup>2</sup> Ibid.

<sup>3</sup> *Couple, filiation et parenté aujourd'hui, le droit face aux mutations de la famille et de la vie privée*, report to the Minister of Employment and Solidarity and the Minister of Justice, Ministry of Justice, May 1998.

<sup>4</sup> *Rénover le droit de la famille, propositions pour un droit adapté aux réalités et aux aspirations de notre temps*, Report to the Minister of Justice, Ministry of Justice, November 1999.

<sup>5</sup> *Sources*: Office of Statistics, Studies and Information Systems (SESI) and National Family Allowance Fund (CNAF).

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