

The non-compliance by France with its extra-territorial obligations regarding the right to education through its investment in Bridge International Academies

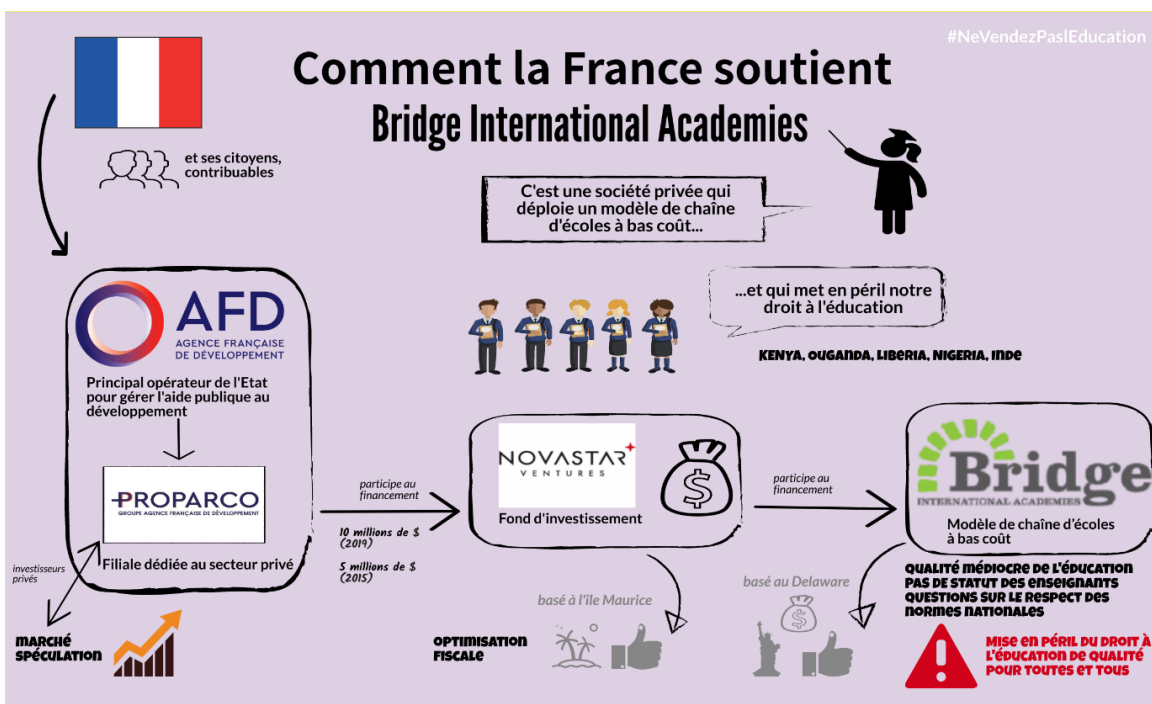
Submission to the Committee on the Rights of the Child

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France's investment in the education multinational Bridge International Academies (BIA) has raised serious concerns regarding the compliance with its extraterritorial obligations in relation to the Convention on the Rights of the Child, and in particular with regard to the right to education.

1. Background: France's investment in commercial schools

In 2015, the private arm of the French Development Agency (AFD), Proparco, invested in the education multinational Bridge International Academies.¹ Proparco is a financial institution working to support development in Southern countries through private sector financing. Its majority shareholder is the AFD with 74,2% shares, which is itself the main operator of the French Ministry of Foreign Affairs for its overseas development aid.² **The actions of Proparco, and this investment, therefore, engage the responsibility of France.**



¹ https://www.proparco.fr/fr/carte-des-projets/novastar-ventures-2015?origin=/fr/rechercher?query=Novastar%2Bventures&size=20&sort=score%2Cdesc&filter%5B0%5D=source_k%3Dproparco&facetOptions%5B0%5D=country_k%2Csize%2C200&facetOptions%5B1%5D=thematic_k%2Csize%2C999&facetOptions%5B2%5D=publication_date_month%2Csize%2C999&type=1 (last accessed on 28 August 2020).

² <https://www.proparco.fr/fr/gouvernance> (last accessed on 28 August 2020).

The investment in BIA was done through the intermediary fund Novastar East Africa Fund (Novastar) via its Investment and Support Fund for Businesses in Africa (FISEA). Proparco brought USD 5,5 million to the Novastar Ventures East Africa Fund.³ The total amount of the fund after all investors' contribution was USD 80 million.⁴ BIA is integrated into the Novastar fund portfolio and there are reasonable grounds to believe that Proparco was aware of this and intended to invest in BIA, via Novastar.⁵ The concerns detailed in this brief regarding BIA's activities have been brought to Proparco's attention on several occasions by civil society since 2017.⁶ Following these discussions, in 2018 Proparco suspended all additional funding to BIA pending the conclusions of the investigation by the Compliance Advisor Ombudsman (CAO), which is the independent accountability mechanism of the International Finance Corporation (IFC).⁷ The CAO's investigation was initiated by a complaint filed by affected parents and former teachers of the school concerning the IFC's due diligence and oversight of BIA's activities.⁸

Despite these warnings and this commitment, Proparco made a second investment of USD 10 million in Novastar on September 16, 2019.⁹ At the time of this last investment, BIA still appeared to be part of the Novastar portfolio.¹⁰

What is Bridge International Academies?

BIA is a US-based corporation of for-profit private pre-primary and primary schools claiming to deliver quality, affordable education to underserved families and children. By 2018, it operated over 500 schools in India, Kenya, Liberia, Nigeria, and Uganda, with ambitions to reach 10 million pupils by 2025.¹¹ It has received funding from major international investors including the World Bank, Pearson, and Bill Gates, for a total amount estimated to be over 100 million US dollars.¹² BIA uses what it calls an “academy in a box” model,¹³ employing a highly standardised approach to education. BIA uses a system of pre-written lessons that teachers, often with little training, receive on an electronic tablet and must follow to the letter.

³ https://www.proparco.fr/fr/carte-des-projets/novastar-ventures-2015?origin=/fr/rechercher?query=Novastar%2Bventures&size=20&sort=score%2Cdesc&filter%5B0%5D=source_k%3Dproparco&facetOptions%5B0%5D=country_k%2Csize%2C200&facetOptions%5B1%5D=thematic_k%2Csize%2C999&facetOptions%5B2%5D=publication_date_month%2Csize%2C999&type=1 (last accessed on 28 August 2020).

⁴ Ibid.

⁵ <https://blog.secteur-prive-developpement.fr/2016/07/07/des-ecoles-privees-a-bas-cout-une-solution-perenne-aux-defis-scolaires-de-lafrrique/> (last accessed on 28 August 2020).

⁶ <https://www.gi-escr.org/publications/appele-de-la-socite-civile-francophone-contre-la-marchandisation-de-l-education>; <https://www.gi-escr.org/publications/august-2017-civil-society-call-on-investors-to-cease-support-to-bridge-international-academies>; <https://www.gi-escr.org/latest-news/open-letter-88-organisations-urge-investors-to-cease-support-for-bridge-international-academies> (last accessed on 28 August 2020).

⁷ The IFC is an international financial institution that offers investment, advisory, and asset-management services to encourage private-sector development in less developed countries. The IFC is a member of the World Bank Group:

https://www.ifc.org/wps/wcm/connect/corp_ext_content/ifc_external_corporate_site/home (last accessed on 27 August 2020).

⁸ <https://www.gi-escr.org/latest-news/wb-complaint-accepted?rq=CAO> (last accessed on 28 August 2020).

⁹ https://www.proparco.fr/fr/carte-des-projets/novastar-ventures-2019?origin=/fr/rechercher?query=Novastar%2Bventures&size=20&sort=score%2Cdesc&filter%5B0%5D=source_k%3Dproparco&facetOptions%5B0%5D=country_k%2Csize%2C200&facetOptions%5B1%5D=thematic_k%2Csize%2C999&facetOptions%5B2%5D=publication_date_month%2Csize%2C999&type=1 (last accessed on 28 August 2020).

¹⁰ <https://novastarventures.com/portfolio/> (last accessed on 28 August 2020).

¹¹ <https://www.bridgeinternationalacademies.com/> (last accessed on 28 August 2020).

¹² <https://www.gi-escr.org/publications/brief-on-bridge-international-academies-investors> (last accessed on 28 August 2020).

¹³ <http://www.bridgeinternationalacademies.com/wp-content/uploads/2016/09/Brookings-Millions-Learning-case-study.pdf> (last accessed on 28 August 2020).

Concerns related to BIA include:

1. Independent research and government reports shows BIA's fees and practices exclude those living in poverty and marginalised people,¹⁴ including through the mass-expulsion of children from Bridge schools in Liberia;¹⁵
2. Documents from the Ministries of Education from Kenya and Uganda, including a report from the Ugandan authorities from April 2020,¹⁶ indicate that BIA has repeatedly failed to respect the rule of law, including minimum educational standards, over several years;¹⁷
3. Documents from BIA show poor labour conditions for teachers and other staff, below labour standards;¹⁸
4. The methods used by Bridge have been criticised,¹⁹ and the authorities in both Kenya and Uganda remain concerned that BIA's teaching methodology is not learner-friendly;²⁰
5. Media reports have raised concerns about a potential lack of transparency from the part of BIA regarding its operations as well as potential obstructions to the freedom of expression of critical voices;²¹
6. The United Kingdom (UK) Parliament has raised serious questions about BIA's relationships with governments, lack of transparency, and lack of sustainability, as well as the absence of valid evidence of BIA's positive impact;²²
7. Statements by the United Nations and African Commission on Human and Peoples' Rights raise concerns about negative impacts on education quality, equity and social segregation and stratification of low-cost private schools;²³
8. A range of evidence, including a recent report from the official evaluation of a Government program including BIA in Liberia, shows that BIA has attempted to obstruct independent inquiry and evaluation;²⁴ and
9. The World Bank's accountability body, the Compliance Advisor Ombudsman (CAO), raised 'substantial concerns' regarding the IFC's investment in BIA in Kenya²⁵ and on March 20,

¹⁴ https://download.ei-ie.org/Docs/WebDepot/Bridge%20vs%20Reality_GR%20Report.pdf; https://download.ei-ie.org/Docs/WebDepot/DOC_Final_28sept.pdf; 'Status of Bridge International Academies in Uganda – As of April 2020', Report from Uganda Ministry of Education and Sports. <https://www.gi-escr.org/publications/vpiyks6em5w4r0at0rohchuxp5wa1c?rq=UGANDA> (last accessed on 28 August 2020).

¹⁵ <https://twitter.com/JustinSandefur/status/1223619220971368448?s=20>. (last accessed on 28 August 2020).

¹⁶ 'Status of Bridge International Academies in Uganda – As of April 2020', Report from Uganda Ministry of Education and Sports. <https://www.gi-escr.org/publications/vpiyks6em5w4r0at0rohchuxp5wa1c?rq=UGANDA> (last accessed on 31st August 2020).

¹⁷ <https://ugandamediacentreblog.wordpress.com/2016/11/09/statement-on-bridge-international-academy/>; <http://globalinitiative-escr.org/wp-content/uploads/2017/06/letter-to-CEO-Bridge-International-Academies-Kenya-MoE-August-2016.pdf> (last accessed on 28 August 2020).

¹⁸ https://download.ei-ie.org/Docs/WebDepot/Bridge%20vs%20Reality_GR%20Report.pdf (last accessed on 28 August 2020).

¹⁹ <https://www.newvision.co.ug/news/1471272/enforcement-standard-operating-procedure-sop-private-schools-school-charges-uganda>; <https://www.gi-escr.org/latest-news/ministry-of-education-in-kenya-finds-bridge-international-academies-in-breach-of-education-standards/>; https://download.ei-ie.org/Docs/WebDepot/Bridge%20vs%20Reality_GR%20Report.pdf (last accessed on 31st August 2020).

²⁰ <http://globalinitiative-escr.org/wp-content/uploads/2017/06/letter-to-CEO-Bridge-International-Academies-Kenya-MoE-August-2016.pdf>; 'Status of Bridge International Academies in Uganda – As of April 2020', Report from Uganda Ministry of Education and Sports. <https://www.gi-escr.org/publications/vpiyks6em5w4r0at0rohchuxp5wa1c?rq=UGANDA> (last accessed on 31st August 2020).

²¹ <https://www.nytimes.com/2017/06/27/magazine/can-a-tech-start-up-successfully-educate-children-in-the-developing-world.html>. (last accessed on 28 August 2020).

²² http://www.parliament.uk/documents/commons-committees/international-development/170425_Chair_to_SoS_regarding_education.pdf (last accessed on 28 August 2020).

²³ <http://iser-uganda.org/images/downloads/concluding-observations-on-the-5th-periodic-state-report-of-uganda-2010-2012.pdf> (last accessed on 28 August 2020).

²⁴ <https://twitter.com/JustinSandefur/status/1206612479993958407?s=20> (last accessed on 28 August 2020).

²⁵ <https://www.gi-escr.org/latest-news/world-banks-accountability-body-raises-substantial-concerns-regarding-ifcs-investment-in-bridge-international-academies> (last accessed on 28 August 2020).

2020, the IFC, in a landmark decision, officially froze its investments in private for-profit preschool, primary and secondary schools.²⁶

The COVID-19 crisis has amplified some of these concerns. In Kenya, media reports revealed that Bridge sent their staff on compulsory leave without a salary, only continuing to provide medical insurance and 'a monthly gratuitous payment equivalent to 10 percent of their salary'.²⁷ Similarly, in Liberia the Ministry of Labour launched an investigation into complaints that Bridge reduced staff salaries by 80 – 90 per cent despite a government directive prohibiting pay cuts beyond 50 per cent.²⁸

Additional human rights analysis of the evidence available on BIA can be found online.²⁹

2. France's violation of its obligations under the Convention on the Rights of the Child through its investment in BIA

France's continuous support to Bridge International Academies

The negative impacts of BIA's operations on the enjoyment of human rights have been brought to the French Government's attention by civil society continually since 2017. This includes, for example, public appeals addressed to BIA investors³⁰ by civil society organisations in 2017 and 2018, a letter addressed in 2018 directly to Proparco regarding its investment in BIA and requesting a meeting, three meetings with civil society representatives, as well as several exchanges between civil society and Proparco representatives via emails and official letters. **Despite the efforts by civil society organisations, France has continued its support for BIA.** Following the 2017 and 2018 public appeal letters³¹ to all BIA investors setting out the evidence of BIA's irregularities,³² Proparco responded that they have no power over BIA's governance, and they continue to '*monitor the situation with the greatest vigilance*'.³³

In addition, Proparco made a new investment of USD 10 million into the Novastar fund on September 16, 2019,³⁴ while BIA appeared to still be part of the Novastar portfolio at the time of the investment.³⁵ Despite Proparco's commitment to monitor BIA's activities, there is no public record of an investigation addressing concerns about BIA and justifying further investment. Proparco also failed to consult with civil society prior to this new investment.

²⁶ <https://www.gi-escr.org/latest-news/civil-society-organisations-applaud-international-finance-corporation-decision-to-move-away-from-for-profit-education-investments?rq=IFC> (last accessed on 28 August 2020).

²⁷ <https://allafrica.com/stories/202003270305.html> (last accessed 15 June 2020).

²⁸ <https://libevewitness.com/index.php/2020/05/26/labor-ministry-expresses-concern-over-labor-issues-at-bridge-international-academies-liberia-several-employees-express-frustration/> (last accessed 28 August 2020)

²⁹ <https://www.gi-escr.org/publications-old/gi-escr-eachrights-and-iser-uganda-statement-what-do-the-new-data-on-bridge-international-academies-tell-us-about-their-impact-on-human-rights-a-five-point-analysis> (last accessed 27 August 2020).

³⁰ <https://www.gi-escr.org/publications/august-2017-civil-society-call-on-investors-to-cease-support-to-bridge-international-academies>; <https://www.gi-escr.org/latest-news/open-letter-88-organisations-urge-investors-to-cease-support-for-bridge-international-academies> (last accessed on 28 August 2020).

³¹ <https://www.gi-escr.org/publications/public-letter-of-concern-to-current-or-prospective-investors-in-bridge-international-academie> (last accessed on 28 August 2020).

³² Ibid.

³³ Letter addressed to civil society representatives in 2018.

³⁴ https://www.proparco.fr/fr/carte-des-projets/novastar-ventures-2019?origin=/fr/rechercher?query=Novastar%2Bventures&size=20&sort=score%2Cdesc&filter%5B0%5D=source_k%3Dproparco&facetOptions%5B0%5D=country_k%2Csize%2C200&facetOptions%5B1%5D=thematic_k%2Csize%2C999&facetOptions%5B2%5D=publication_date_month%2Csize%2C999&type=1 (last accessed on 28 August 2020).

³⁵ <https://novastarventures.com/portfolio/> (last accessed on 28 August 2020).

In April 2020, as part of its periodic review of France, the Committee on Economic, Social and Cultural Rights (CESCR) invited France to provide more information on its financing of BIA. The concerns raised by the Committee were brought to the French Development Agency and Proparco by French civil society through a letter. However, to this day this letter remains answered. In addition, on 20 March 2020, the IFC, which also invested in Bridge, in a landmark decision, officially froze its investments in private for-profit preschool, primary, and secondary schools.³⁶ Proparco did not react to this decision either or indicated any intention to act in the same way, thus departing from the IFC's practice and showing particular determination to continue supporting commercial actors despite the evidence.

In light of the concerns with the human rights impacts of BIA, France's continuous support to BIA potentially constitutes a violation of France's obligation to respect, protect and fulfil its obligations under the Convention on the Rights of the Child (CRC), especially articles 28 and 29 protecting the right to education. In order to analyse France's obligation under the CRC, guidance can be drawn from the *Abidjan Principles on the human rights obligations of States to provide public education and to regulate private involvement in education* (hereafter, 'The Abidjan Principles'), which interpret existing human rights law on the right to education.

The Abidjan Principles on the right to education

The *Abidjan Principles on the human rights obligations of States to provide public education and to regulate private involvement in education*, were adopted the 13th of February 2019 by a group of over 55 recognised experts worldwide on the right to education. In July 2019, the United Nations Human Rights Council [adopted without a vote a resolution](#) recognising the Abidjan Principles. They have also been cited as a key reference tool by the UN [Special Rapporteur on the right to education](#), the [African Commission of Human and Peoples' Rights](#), the [European Committee of Social Rights](#), and the [Special Rapporteurship on Economic, Social, Cultural and Environmental Rights](#) of the Inter-American Commission on Human Rights (IACHR).

More information at: <https://www.abidjanprinciples.org/fr/home>

1. *Obligation to prioritise free, quality public education and the disadvantaged, marginalised and vulnerable groups*

Human rights law requires donor States to prioritise 'supporting the recipient State to meet its core obligations', particularly, 'free, quality, public education', notably for vulnerable, disadvantaged and marginalised groups [**Abidjan Principles-Guiding Principle 38**].³⁷ Proparco not only failed to do so, but it instead funded a chain of low fee schools, Bridge International Academies, that has been

³⁶ <https://www.gi-escr.org/latest-news/civil-society-organisations-applaud-international-finance-corporation-decision-to-move-away-from-for-profit-education-investments?rq=IFC> (last accessed on 28 August 2020).

³⁷ As well as Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights, Principle 32.

found to compete with and undermine public education in a number of contexts, often against the authorities' will.³⁸

2. *Obligation to refrain from providing support in a manner inconsistent with human rights and lack of due diligence*

Donor States 'providing international assistance and cooperation in education must refrain from supporting, directly or indirectly, private educational institutions in a manner that is inconsistent with human rights' [**Abidjan Principles-Guiding Principle 76**]. In this case, France, through Proparco, financed BIA while the agency was aware of the dangers of privatisation in the education sector,³⁹ including the risks of supporting commercial schools.⁴⁰

In 2016, the CESCR raised concerns that France's due diligence obligations regarding development aid failed to adequately protect human rights.⁴¹ However, France's additional funding of BIA indicates continued inadequate due diligence and an ongoing lack of assessment.

Similarly, human rights law mandates States to ensure 'ex-ante, on-going and ex-post human rights impact assessments' for any public funding for eligible private schools [**Abidjan Principles-Guiding Principle 69**]. Where an intermediary is used, States are still required to 'take all reasonable steps to ensure that the relevant organisations behave consistently with the international human rights obligations of that State' [**Abidjan Principles-Guiding Principle 22**]. The lack of assessment and review suggests that France may not have met its due diligence obligations.

States such as France are also required to support the recipient States to 'enforce standards and regulations' for private schools [**Abidjan Principles-Guiding Principle 79**]. Several countries where BIA operates have attempted to regulate the schools, including trying to close them down for non-compliance with national standards.⁴² France's support to such schools, that may violate domestic standards, thus not only fails to support the enforcement of standards and regulations, but further undermines such principles and the rule of law.

3. *Obligation to provide remedies for infringement of the right to education*

In addition, when presented with the evidence illustrating the negative human rights impacts of BIA's operations, France did not take adequate steps to remedy the situation. This is despite the clear obligation for States to ensure access to remedy for violations of human rights, including where the infringement is caused by a private actor [**Abidjan Principles-Guiding Principle 88**]. Donor States in particular are also called upon to 'take all effective steps to remedy the situation' where the development of private schools in a recipient country has an adverse impact on the right to education

³⁸ <https://ugandamediacentreblog.wordpress.com/2016/11/09/statement-on-bridge-international-academy/>; <https://www.gi-escr.org/latest-news/kenyan-court-upholds-the-closure-of-bridge-international-academies-over-failure-to-respect-standards/> (last accessed on 28 August 2020).

³⁹ <https://www.gi-escr.org/latest-news/civil-society-condemns-the-african-development-bank-and-other-international-organisations-support-to-privatisation-in-education-2> (last accessed on 28 August 2020).

⁴⁰ <https://www.gi-escr.org/publications/may-2015-statement-signed-by-120-organisations-related-to-the-world-banks-support-to-bia> (last accessed on 28 August 2020).

⁴¹ UN Committee on Economic, Social and Cultural Rights (CESCR), Concluding observations, E/C.12/FRA/C.O/4, paras. 7 – 8 and 11, 24 June 2016.

⁴² <https://www.gi-escr.org/latest-news/update-friday-4th-of-november-court-upheld-ugandas-ministry-of-educations-order-to-close-bia-schools>; <https://www.gi-escr.org/latest-news/kenyan-court-upholds-the-closure-of-bridge-international-academies-over-failure-to-respect-standards>; <https://www.gi-escr.org/latest-news/bia-non-compliance> (last accessed on 28 August 2020).

[Abidjan Principles-Guiding Principle 79], which was clearly the case in a number of States where BIA operates, including Kenya and Uganda where the CESCR also raised the issue.⁴³

Suggested questions to France

1. Did France conduct an *ex-ante* human rights impact assessment of its investment in BIA in line with its obligations under the CRC and following the questions raised by the CESCR of March 2020? If not, can France explain why?
2. When France was warned of the negative impacts of its investment in BIA on human rights and the right to education, including in particular the infringement of the right to public education and the risk for the rule of law, why did it not immediately cease all funding to BIA, despite the gravity and the level of documentation of the allegations? Moreover, how does France justify the new investment of USD 10 million in Novastar on September 16, 2019?
3. What due diligence mechanisms has France put in place since the negative impacts of its investments to commercial schools were raised to prevent the recurrence of investments with similar negative impacts?
4. Can you explain why Proparco did not respond to civil society's communication concerning BIA's negative impacts on human rights in 2020, including regarding the list of issues from the CESCR, particularly given the importance of the issue and the strength of the elements presented?

Recommendations to France as a State party to the CRC

1. Exit in the shortest possible time from its investment in Bridge International Academies, as their operations are undermining children's rights in the countries where they operate. Proparco should fully discharge its legal due diligence obligations and responsibilities by making no further financing commitments that could benefit, directly or indirectly, to Bridge schools, and by using any suspension or termination rights to withhold any planned disbursements and withdraw existing investments in Bridge International Academies where contractually possible.
2. Put in place effective due diligence mechanisms for development aid to prevent the recurrence of investments with similar negative impacts, with specific safeguard mechanisms involving the participation of civil society in case of any project affecting public services.
3. Make a plan to reevaluate its development cooperation in the education sector, including the policy of Proparco, to favour support to public education and the respect of the right to education, in accordance with articles 28 and 29 of the CRC and the Abidjan Principles.

⁴³ <https://www.gi-escr.org/publications/human-rights-bodies-statements-related-to-states-obligations-with-regards-to-bridge-international-academies-1> (last accessed on 28 August 2020).



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