

**FRENCH PLATFORM
FOR ESCR**

**FRENCH CIVIL SOCIETY
ALTERNATIVE REPORT**

**ON THE IMPLEMENTATION OF ECONOMIC,
SOCIAL AND CULTURAL RIGHTS IN FRANCE**

SUMMARY

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This report was coordinated by Anaïs SAINT-GAL (Terre des Hommes France)

For further information, please contact:

asg@terredeshommes.fr

01.48.09.09.47

FRENCH PLATFORM FOR ECONOMIC, SOCIAL AND CULTURAL RIGHTS

The French Platform for Economic, Social and Cultural Rights (ESCR) is made up of thirty organisations that defend and promote human rights and which are committed to fighting poverty. It includes trade unions, international solidarity organisations, human rights advocacy organisations, specialised associations and coalitions.

Its main activities are:

- Monitoring France's implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR);
- Advocating for the signing and ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR);
- Writing alternative reports for the UN CESCR on the ESCR situation in France.

This is the second alternative report written by the French Platform for ESCR and complements the fourth report of the Government of the French Republic on the implementation of the ICESCR¹.

It was written with the contribution of:

Action Pour l'Insertion par le Logement (*ALPIL*)
Adéquations
Amnesty International France
Association Internationale des Techniciens Experts et Chercheurs (*AITEC*)
CCFD – Terre Solidaire
Coordination Nationale des Comités de Défense des Hôpitaux et des Maternités de Proximité (*CNCDHMP*)
Coordination SUD
Comité Français pour la Solidarité Internationale (*CFSI*)
Confédération générale du travail (*CGT*)
Confédération paysanne
CGT Spectacle (*FNSAC-CGT*)
Droit au logement
Fédération des Associations pour la Promotion et l'Insertion par le Logement (*FAPIL*)
Fédération internationale des ligues des droits de l'Homme (*FIDH*)
Fédération Syndicale Unitaire (*FSU*)
Fian France
Fondation Abbé Pierre (section on housing)
Forum citoyen pour la responsabilité sociale des entreprises (*FCRSE*)
Groupe d'Information et de Soutien des Immigrés (*Gisti*)
Groupe international de travail pour les peuples autochtones (*GITPA*)
Initiative pour un autre monde (*IPAM*)
Ligue des Droits de l'Homme (*LDH*)
Ligue des droits de l'Homme de Nouvelle Calédonie.
Médecins du monde
Mouvement ATD Quart Monde
Observatoire international des prisons
Oxfam France
Romeurope
Secours Catholique Caritas France
Terre des Hommes France
Union Syndicale Solidaires

¹ http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2FC.12%2fCAN%2f6&Lang=en

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INTRODUCTION – JUSTICIABILITY OF ESCR

As a State Party to the International Covenant on Economic, Social and Cultural Rights (the Covenant or ICESCR), France is required to submit a report on the implementation of rights enshrined in the Covenant before the UN Committee responsible for monitoring its application. On 23 May 2013, France submitted its fourth periodic report, which will be pre-reviewed by the ESCR Committee at its 55th meeting held in Geneva from 9 to 13 March 2015, with a final consideration in October 2015.

This alternative report is the result of a collaborative effort between associations and trade unions. French civil society is deeply committed to using it as a genuine tool of popular education. This summary report, collectively signed by participating NGOs and trade unions, critically examines how France is meeting both its domestic and international obligations under the Covenant.

This alternative report assesses the implementation of the successive observations made by the Committee and places particular emphasis on discrimination in access to economic, social and cultural rights (ESCR). In addition, the effectiveness of the Covenant remains a key issue and is closely linked to the question of its justiciability.

This question, which drew the attention of the CESCR in its concluding observations on France's second periodic report in 2001 – *'particularly concerned by the statement of the (French) delegation that certain economic, social rights and cultural rights are not justiciable'*² – was not raised in the Committee's last concluding observations in 2008. The French authorities and courts have not, however, changed their position on the matter although it represents a fundamental issue in ensuring effectiveness and respect for ESCR in France.

Although welcoming France's ratification of the Protocol, the French Platform for ESCR regrets that despite its requests, France failed to provide two declarations recognising the competence of the CESCR regarding articles 10 and 11 of the Protocol.

Similarly, the French Platform for ESCR regrets that France has still not, despite the recommendations made by the CESCR in 2008³, signed nor ratified Protocol No. 12 of the European Convention on Human Rights (ECHR).

The ineffectiveness of the Covenant under domestic law, which prevents ESC rights from being effectively fulfilled in France, is a very problematic issue and demonstrates France's undeniable shortcomings in regards to its obligations under the Covenant.

NGOS and trade unions involved in the Platform for ESCR recommend that France:

1. Accept before all French courts the invocability of ICESCR and recognise the justiciability of social rights. French jurisdictions must:
 - Conform with the Committee's established jurisprudence;
 - Extend the application of the new jurisprudence of the French Council of State (Judgement *GISTI* and *FAPIL* of 11 April 2012), relaxing the direct effect of an international agreement;
 - Undertake training on the applicability of the ICESCR and the justiciability of social rights in general.
2. Recognise the competence of the CESCR on Articles 10 and 11 of the Optional Protocol to the ICESCR.
3. Sign and ratify Protocol No. 12 of the European Convention on Human Rights.

² CESCR, Twenty-seventh session 12-30 November 2001 Reference: E/C.12/1/Add.72, 30 Nov. 2001

³ CESCR, Concluding Observations E / C.12 / FRA / CO / 3 9 June 2008

FRANCE'S NATIONAL OBLIGATIONS

RIGHT TO WORK AND TO JUST, FAVOURABLE WORKING CONDITIONS – *Inadequate rights*

Under Article 6 of the ICESCR, France must ensure respect for and implementation of the right to work, which includes the right of everyone to the possibility to gain their living by freely chosen or accepted work. Under Article 7 of the ICESCR, France must ensure that all people enjoy just and favourable working conditions, including, in particular, fair wages and equal remuneration for work of equal value without distinction of any kind, as well as a decent living for themselves and their families.

In order to guarantee that these rights are fully exercised, France must provide guidance, technical and professional training, and develop programs, policies and techniques to achieve steady economic, social and cultural development and full productive employment under conditions safeguarding the fundamental freedoms of the individual.

NGOS and trade unions involved in the Platform for ESCR therefore recommend that France:

Regarding the disturbing rise in unemployment and job insecurity

4. Establish a right to professional training and provide the job-seeker undertaking training with an equivalent living allowance.
5. Establish real 'rechargeable' rights (*droits rechargeables*) via an account that job-seekers can activate at the end of their acquired rights.
6. Ensure those with particularly insecure employment conditions compensation equal to at least 80% of the minimum wage.
7. Complement unemployment insurance with new schemes better suited to the issues of non-compensated job-seekers.

Regarding youth employment

8. Make investments which provide young people access to a qualification and stable employment, drawing on all existent schemes, and publish a statistical assessment of the implementation of these schemes ('generation contracts', 'jobs for the future' scheme, youth guarantee, etc.).
9. Establish social protection, income and support for all young people without employment or training.
10. Take the number of years of study into account in the calculation of pension rights.
11. Extend *RSA - Revenu de solidarité active* to those under 26 years old.
12. Establish an umbrella body for pension systems that will resolve the problem of people with multiple pension schemes.
13. Enable the public employment service, particularly local operations (*missions locales*), to establish extra support and monitoring for young first-time job-seekers.

Regarding occupational health and safety

14. Provide the authorities responsible for ensuring health and safety in the workplace with objective and concrete resources, enabling them to operate more effectively.

TRADE UNION RIGHTS – *Serious violations of already limited rights*

Article 7 of the ICESCR recognizes trade union rights. However, despite the fact that trade union rights are included in French legislation, the reality of social dialogue is not as positive as the laws suggest: these rights are too limited and there are serious violations to them.

NGOS and trade unions involved in the Platform for ESCR therefore recommend that France:

Regarding the criminalisation of trade union action

15. Establish a law that ensures better, ongoing protection of union representatives.
16. Allow all employees to benefit from local union representation.

Regarding the diminishing capacity of government institutions

17. Increase the human and financial resources of labour inspection authorities.
18. Give the labour courts (*prud'hommes*) their legitimacy back by way of an election.

RIGHT TO HEALTH – *An ineffectively implemented right*

Under Articles 9 and 12 of the ICESCR, France recognizes the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and the right to social security, including social insurance.

The right to health for all requires implementing a genuine public health policy along with practical, positive measures, in order to reintegrate those excluded from the healthcare system and ensure that those with similar conditions can access the same quality of healthcare.

NGOS and trade unions involved in the Platform for ESCR therefore recommend that France:

Regarding persistent barriers to access rights and healthcare

19. Establish a truly universal health insurance by merging France's basic health insurance (*Assurance Maladie*) with its State Medical Assistance program (AME). Meanwhile, France should remove the 3-month minimum residency period for both AME applicants and CMU (universal health insurance coverage) applicants as well as CMU-C (complementary health insurance coverage) applicants. AME receivers should also be entitled to the French health insurance card (*Carte Vitale*) under the same conditions as those of insured persons.
20. Level out threshold effects by raising the ceiling of the CMU-C to the poverty line (60% of median income).
21. Address Non Take-Up (NTU) of rights and work towards a simpler system: simplify administrative procedures, improve access to addresses for administrative purposes, provide clearer information, train employees on healthcare rights and access to care, ensure authorities comply with the regulatory framework, provide communication tools and resources in order to inform the public of their rights.
22. Introduce widely-available health mediation to connect vulnerable populations with health care providers in order to improve their access to health care and preventative measures.

Regarding non-systematic access to care for vulnerable people

23. Fight effectively against refusals of care by health professionals by defining people's rights clearly and in sufficient detail in liaison with all professionals, making penalties effective and efficient, allowing 'testing', and relaxing the burden of proof for victims.
24. Improve access to hospital care by ensuring that free healthcare centres (*Permanences d'accès aux soins* - PASS) are available both in hospitals and outside them (*PASS Mobile*), providing them with the necessary funding for their ongoing operation.
25. Pending the removal of the 3-month residency period for access to health coverage, ensure effectiveness of the emergency care system.
26. Consider living conditions, housing, schooling and work in the health status of the population and include a systematic assessment of the health impact of all public policies in parliamentary procedures.
27. Redefine current 'procedure-based' pricing methods, which are unsuited to social needs, to the investment requirements of many health institutions and to the objectives set by ONDAM (*Objectif National de Dépenses d'Assurance Maladie* - National Objective of Health Insurance Expenditure), in order to ensure the financial sustainability of municipal health centres and hospitals.

Regarding the deteriorating situation in French overseas departments and territories

28. Grant everyone access to rights in accordance with the legislation on CMU and AME, by, in particular, providing legal advice on access to rights, improving access to civil status in French Guiana and Mayotte, and addressing all dysfunctions.

29. Bring Mayotte into the common law by extending entitlement to AME, CMU and CMU-C; meanwhile, grant children direct access to basic health insurance (*Assurance Maladie*).
30. Develop perinatal surveillance and monitoring of pregnant women in French Guiana and particularly in Mayotte in order to lower infant and maternal mortality rates, promote their right to access care, and develop data collection on mortality rates.

RIGHT TO FOOD – *An overlooked right*

The right to food, established by Article 12 of the ICESCR is ‘*the right to have regular, permanent and unrestricted access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensure a physical and mental, individual and collective, fulfilling and dignified life free of fear.*’⁴ The substance of that right has been defined by the CESCR in its General Comment No. 12 as the right to adequate food. It should be noted that this right is not limited in the narrow sense to the right to food aid. If the Covenant requires that each State Party take all immediate and necessary measures to ensure that everyone is free from hunger, France is under the obligation to take action in progressively ensuring that the right to food is fully exercised and to move quickly towards this goal.

However, France did not mention protecting the right to food in its Fourth Report on the implementation of the ICESCR submitted to the Committee. Only a nutrition component is mentioned under Article 12 of the Covenant.

NGOS and trade unions involved in the Platform for ESCR therefore recommend that France:

31. Assess the full extent of food insecurity and the situation of the right to food in France by establishing a system of measurement, analysis and monitoring that complies with the Committee’s requirements.
32. Adopt a framework law on the right to food, based on recommendations made by the Committee in its General Comment 12 and on the Right to Food Guidelines.
33. Ensure consistency in the implementation of national policies and coordinate food and agricultural policies together.
34. Create conditions in which those concerned can participate in the development, monitoring and evaluation of policy responses to food insecurity.
35. Support and actively participate in the development of the Declaration on the rights of peasants and other people working in rural areas within the Human Rights Council.

RIGHT TO HOUSING – *Implementation in regression*

In French legislation, ‘*Ensuring the right to housing is a duty of solidarity for the entire nation. Any person or family experiencing particular difficulties due to, in particular, inadequate resources or inadequate conditions of existence, is entitled to help from the community [...] to obtain decent and independent housing or remain in it [...].*’⁵ ‘*The right to decent, independent housing [...], is guaranteed by the State to any person, residing on French territory on a regular basis and in continuous conditions as defined by the Decree of the Council of State, unable to obtain said housing by his/her own means or to remain in it*’⁶.

Yet in France, 10 million people are affected in some way by the housing crisis. This crisis can be partly explained by the sudden and unrestrained surge in land, real estate and rental property prices. It is also due to an inadequate supply of new, affordable, adapted housing, especially for those in severely impoverished situations. In the current context, the State’s withdrawal poses a threat to an already crumbling housing policy.

All stakeholders must seek ways and resources to implement the right to housing for all, in line with European and international instruments to protect human rights.

⁴ Jean Ziegler, ‘Le droit à l’alimentation’ - Report prepared by Mr. Jean Ziegler, Special Rapporteur on the right to food, in accordance with resolution 2000/10 of the Commission on Human Rights, "7 February 2001, E / CN.4 / 2011/53

⁵ Article 1 of Law No. 90-449 of 31 May 1990 for the implementation of the right to housing

⁶ Article 1 of Law No. 2007-290 of 5 March 2007 establishing the enforceable right to housing and various measures to promote social cohesion

NGOS and trade unions involved in the Platform for ESCR therefore recommend that France:

Regarding the increasingly unaffordable housing stock and unchecked prices

36. Implement mechanisms to act on rent levels in the private rental market (capping, subsidies) as well as guarantees that ensure access.
37. Revalue housing benefits and additional allowances (*forfait charges*), and secure the payment of allowances.

Regarding the insufficiency and inadequacy of social housing

38. Increase the supply of social housing with a quantitative and qualitative commitment (a target of 150 000 social housing units per year, a significant quantity of which should have affordable rents for those in particularly disadvantaged situations).
39. Implement all measures that enable the applicant to be better informed of his/her rights in accordance with the provisions of the Alur law.

Regarding the increase in evictions and the lack of preventative measures

40. Improve preventative measures, including goals and methods to tackle the issue of inadequate housing.
41. Enforce the circular prohibiting the eviction of priority persons as recognised by the law on the right to housing (DALO - *Droit au logement opposable*).

Regarding the right to housing, symptomatic of inadequate stock and dysfunctions

42. Implement the right to housing and access to legal recourse for everyone, without discrimination, based on the administrative situation of all adults living in a household.
43. Access to housing under the DALO law should not be made conditional to social monitoring measures.

Regarding the disturbing situation of homeless people

44. Not restrict emergency shelters to the winter months, but to establish a sufficient number of year-round accommodation solutions adapted to people's needs.
45. Provide any person in medical, psychological or social distress with emergency accommodation irrespective of their residency status.
46. Enforce the principle of accommodation continuity until a suitable accommodation solution or housing is found.

Regarding insecure housing conditions

47. Immediately put an end to forced evictions of squatters without providing legal protection and without an adequate and long-term housing solution negotiated with and accepted by those concerned.
48. Protect the fundamental rights of occupants of slums and squats, in particular, by suspending evictions during the winter months.

RIGHT TO AN ADEQUATE STANDARD OF LIVING – *Barriers to the fight against poverty*

Article 11 of the ICESCR establishes the right to an adequate standard of living. In May 2001, the CESCR adopted, in its statement on poverty, a multidimensional understanding of poverty and asserted the indivisibility and interdependence of all human rights. It also reiterated the international principles of non-discrimination and equality, which requires paying particular attention to vulnerable groups and to the individual members of these groups, as well as the need for those most impoverished to actively participate in developing policies that concern them if we want to ensure they are both effective and relevant.

There is a considerable amount of assistance available to the impoverished in France. However, although the overall number of people living in poverty is declining, the intensity of poverty is increasing, masking significant and disturbing disparities. This questions the relevance of the measures put in place.

NGOS and trade unions involved in the Platform for ESCR therefore recommend that France:

49. Establish long-term statistical tools to measure annual changes of different aspects of poverty.
50. Assess the effectiveness of measures to fight poverty, using those furthest from the poverty line as a benchmark.
51. Revise measures for fighting poverty to eradicate the ‘cream-skimming’ effect that has been the result of current measures.
52. Facilitate cross-discipline training of social work professionals, enabling professionals and those living in poverty to come to a better understanding of one another.
53. Ensure that France’s upcoming territorial reforms, particularly the suppression of departments, does not have the effect of reducing social action budgets, ensures quality support for impoverished people and ensures people are treated equally across the country.
54. Provide those in particularly impoverished situations with the means to defend their rights and secure the enforcement of court decisions.

RIGHT TO EDUCATION – *Schooling marked by inequalities*

Under Article 13, the right to education is essential to the enjoyment of other human rights. It contributes to the empowerment of the individual – both adults and children – and enables everyone to flourish, to participate fully in society and to promote tolerance and friendship. It is thus essential that all teaching satisfies the criteria of adequate resource allocation, accessibility, acceptability and adaptability; and takes into account the culture and the needs of each and everyone.

In France, despite the fact that the national school system is responsible for providing education for all children aged between six and sixteen years without conditions or restrictions related to nationality, ethnic origin or the parents’ administrative status, schools in France are strongly marked by social discrimination.

NGOS and trade unions involved in the Platform for ESCR therefore recommend that France:

Regarding the undermining of free education and the inadequacy of social welfare policies

55. Ensure that schooling expenses don’t exceed families’ financial capacity or put financial pressure on them.
56. Develop the use of digital media in accordance with the new French Education Reform Act (*Loi d’orientation et de programme pour l’avenir de l’école*) in order to make digital literacy a widespread skill accessible to everyone.
57. Eradicate inequalities between territories.
58. Improve welfare policy, by, in particular, increasing the number of schooling grants and increasing their monetary value for those in particularly disadvantaged situations.

Regarding the persistent and deteriorating inequalities in educational achievement

59. Increase resources allocated to schools and institutions experiencing difficulties so as to inspire them and enable them to choose a path of solidarity.
60. Foster cross-cultural interaction between young people from diverse backgrounds so that this may continue into adulthood.

Regarding the limitations of Educational Priority Areas (ZEP - *Zone d’éducation prioritaire*)

61. Reduce class sizes and ensure better staff training throughout their careers.
62. Offer individualised support, enabling the institution to identify its own responsibilities in regards to shortcomings and work towards resolving them.
63. Prioritize recruitment and training of teachers.

Regarding the teaching of regional languages and cultures

64. Ensure regional languages are being taught in public schools that request it.

Regarding the inadequate support and facilities for disabled students

65. Work towards catering for disabled students by appointing professional special needs assistants and supporting adolescents until they reach a stage where they are able to make their own plans and goals for the future.
66. Change the process of redirecting children to specialised classes for disabled children and refrain from designating or treating any learning difficulty as being necessarily related to the disability.

CULTURAL RIGHTS – *A deepening of the cultural divide*

Under Article 14 of the ICESCR, France must ensure that all people have access to a fully-developed cultural life. Similarly, it must act to create and sustain an environment conducive to the creative freedom of artists. This is a major democratic challenge as the process of artistic creation, access to culture and expression of the imagination are decisive factors in empowering individuals and in their ability to become fully-fledged citizens, both at work and in his/her social life. The impact of artistic creation on the collective imagination and the shaping of identities fosters social bonding and discourages withdrawal into one's own community and behaviours associated with communities turning in on themselves.

Cultural goods and services can not be regarded as mere commodities even if they are subject to market exchanges, as they convey values, content and meaning. They should not only be subject to the law of the market, as they are the fruit of human creativity: here we find the foundations of the principle of the 'cultural exception'.

NGOS and trade unions involved in the Platform for ESCR therefore recommend that France:

Regarding inequalities in cultural practices

67. Develop artistic and cultural education (ACE) for everyone by integrating it into all levels of the education system and in other areas such as businesses, hospitals and elderly and care homes.
68. Reintroduce education on images, cinema and the Internet during and outside of school hours to facilitate young people's understanding of images and of our regulation systems.
69. Develop public platforms and support the emergence of digital cultural services that are independent of major operators.
70. Promote and oversee amateur cultural activities by reforming the legislation on amateur activities and encouraging associations offering these activities.
71. Reduce territorial inequalities by ensuring a balanced presence of cultural institutions and organizations across the country, enabling everyone access to cultural activities.
 - Focus on the most disadvantaged areas and those areas experiencing a shortage of cultural facilities: overseas territories, rural and peri-urban areas, etc.
 - Work with different stakeholders to provide the budgetary and contractual means to reduce territorial inequalities.
 - Regarding local governments at sub regional level, ensure a diverse range of resources which are better distributed over the country.
 - Support actions linked to the setting up of cultural venues (centres, cinemas, etc.) including non-conventional venues (open-air theatres and cinemas, sites reserved for circus tents, etc.).
72. Develop popular education for all, by way of a national, political strategy, aiming to enable impoverished persons to discover and participate in artistic disciplines, emphasising the relationship between work and culture.

Regarding the lack of ambition and inspiration of current French cultural policies

73. Find a way to create a true cultural democracy through a framework law that integrates culture, audiovisual and digital platforms.
74. Commit to an ambitious cultural policy based on a strong public service, present across the national territory.
75. Find new methods for funding public broadcasting, and strive to promote the pluralism of ideas and streams of opinion, to cultivate the diversity of cultural expression and provide support for artistic creation.

- 76.** Set an ambitious budget for 2015 and beyond in order to attain the necessary resources to carry out regulatory tasks and support artistic creation.
- 77.** Take measures within Unesco to ensure the signatory States of the 2005 Convention on the Protection and Promotion of Cultural Expressions adopt operational guidelines setting out means of implementing the Convention in the digital environment.
- 78.** Take extra care to ensure that all cultural services are excluded from liberalisation through bilateral and multilateral agreements.

FRANCE'S EXTRATERRITORIAL OBLIGATIONS

Article 2 of the ICESCR states: *'Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.'*

Under article 2, as defined by the CESCR in its General Comment No. 3, States have so-called extraterritorial obligations. They must not only respect, protect and promote ESC rights in their own territory, but also on the territory of other States in which they operate, including through public and private actors present abroad for economic, commercial and financial purposes.

The three levels of extraterritorial obligations require that States:

- Refrain from actions that interfere, directly or indirectly, with the enjoyment of ESCR in other countries (obligation to respect);
- Ensure that all actors under their jurisdiction – including businesses – respect DESC when operating in other countries (obligation to protect);
- Support less developed countries to fulfil economic, social and cultural rights through international cooperation (obligation to fulfil)

France has not, however, addressed the issue of its extraterritorial obligations in its 4th periodic report.

NGOS and trade unions involved in the Platform for ESCR therefore recommend that France:

79. Consider extraterritorial obligations in all policies likely to have an impact on the peoples of other States.
80. Adequately address its extraterritorial obligations, as defined by the CESCR in its Comment No. 3, in its next periodic report.

INTERNATIONAL ASSISTANCE AND CO-OPERATION – *A legal framework hindered by budget gaps that prevent France from fulfilling its obligations*

The quality and effectiveness of France's development co-operation policy depends on the foundations on which it is built and implemented. With an emphasis on the respect and the promotion of rights for all, this policy will contribute effectively to sustainable development initiatives

As part of its extraterritorial obligations, France is obliged to respect its commitments, and thus to contribute 0.7% of its GDP to Official Development Assistance as agreed by the Heads of State and Government at the international Conference on financing for development held in Monterrey (Mexico) from 18 to 22 March 2002.

NGOS and trade unions involved in the Platform for ESCR therefore recommend that France:

Regarding France's development and international solidarity policy

81. Ensure, in operational terms, that development policies are consistent.
82. Improve the transparency of French aid.
83. Improve the governance of aid.

Regarding France's inadequate contribution to international aid.

84. Meet its ODA commitments.
85. Respect the principles of quality and effectiveness of aid.
86. Maximise the catalytic role of ODA by investing in financial governance.
87. Secure new and additional funding.
88. Maintain European aid budgets.

REGULATIONS ON ECONOMIC PLAYERS – *A disturbing legal vacuum, hindering France from fulfilling its obligations*

As part of its extraterritorial obligations, France is obliged to ensure that all economic players under its jurisdiction – both state-owned and private companies – meet the social and cultural economic rights of the people of the territory in which they operate.

However, France has still not taken, at present, the necessary and appropriate steps to ensure its economic players respect ESCR.

NGOS and trade unions involved in the Platform for ESCR therefore recommend that France:

Regarding the regulation of public economic players

89. Integrate the issue of human rights into the mission statement and governance of Coface, AFD (French Agency for Development) and BPI (Public Investment Bank).
90. Make it compulsory for Coface, AFD and BPI to carry out human rights impact studies and assessments for each of their projects, as well as country-by-country reporting and disclosure of contracts.
91. Provide BPI, Coface groups and AFD with effective, transparent and meaningful processes for the integration and participation of all people or community affected by the projects they finance or guarantee, without discrimination. In addition, provide them with a mechanism for processing complaints. The clients of these organisations should be subject to the same rules.
92. Oblige BPI, Coface groups and AFD to report publicly and regularly on their activities.
93. Ensure that the actions of companies comply with the obligations of France in regards to the use of public funds.
94. Ensure that as a public purchaser, it does not work with companies that don't comply with their extra-financial reporting obligation or exercise their own due diligence.

Regarding the regulation of private economic players

95. Adopt a legislative and policy framework on corporate responsibility in the field of human rights, taking full account of France's international human rights obligations as internationally recognized and giving operational value to the concept of due diligence; and ensure that this policy is part of a consistent approach to public policy.
95. Support bills No. 1524, 1519, 1777 and 1897 on the duty of due diligence of parent companies and purchasers in order to ensure access to justice and to legal recourse for victims of human rights abuse by multinational companies.
96. Participate in the working group established by the UN Human Rights Council in its resolution to develop new binding international standards on multinational companies and human rights.
97. Reform the French NCP to increase its effectiveness on human rights.

Regarding France's role in International Financial Institutions (IFIs)

99. Demand that International Financial Institutions (IFIs) respect human rights in their policies, programs, projects and activities, by requesting the integration of respect and fulfillment of ESCR into the performance criteria used by IFIs, as well as access to legal recourse and compensation for victims of approved projects; and by emphasizing crisis prevention and the situation of poor and discriminated groups.
100. Increase transparency in IFIs and their Member States, and adopt an information-sharing policy regarding France's commitments in World Bank operations.
101. Recognize and improve its strategy with IFIs on the right of affected populations to participate in decision-making processes likely to affect their rights, by ensuring all financed projects include effective participation and integration processes, and that all people or communities affected by these projects have adequate access to all relevant information within reasonable timeframes.
102. Provide IFIs with human rights assessment tools, able to prevent, mitigate and rectify the negative impacts of its financing, investments and activities on human rights.

INTERNATIONAL TRADE AND INVESTMENT AGREEMENTS – *Trade and investment policies that are incompatible with human rights*

As part of its extraterritorial obligations, France must respect, protect and fulfil ESCR of third country populations in all trade and investment policies it adopts and which are likely to have an impact on its people.

France has entered into, either directly or via the European Union, numerous trade and investment agreements with third countries. It has more than one hundred investment protection agreements with third countries, and has concluded 48 free trade agreements (FTA) through the European Union, not including those currently under negotiation.

However, despite these extraterritorial obligations, a number of case studies show that the pressures of international trade and investment rules have a negative impact on both the protection and fulfilment of people's rights. Many trade and investment agreements that France has entered or is entering into involve a violation of a number of ESCR and normalize policies of non-respect towards these rights by third countries.

NGOS and trade unions involved in the Platform for ESCR therefore recommend that France:

Regarding the challenge of food sovereignty

- 103.** Forgo multilateral, regional and bilateral trade liberalisation rules which distort prices for farmers and which result in unequal access to natural resources.
- 104.** Not force trade partners to reduce their tariff or non-tariff barriers to trade when they are designed to protect the food security and living conditions of small-scale producers.
- 105.** Promote safeguard measures that developing countries can introduce to protect local markets from cheap imports.

Regarding breaches in legal and ethical responsibility in regards to labour protection

- 106.** Not enter into trade or investment agreements with countries where human rights are violated either directly by the State or with its involvement, and to include real and enforceable restrictive clauses for the safeguard of human rights in trade and investment treaties.
- 107.** Encourage the establishment of binding provisions and mechanisms for resolving human rights disputes, with heavy trade sanctions (including signatory companies and countries).
- 108.** Work with FTA and investment agreement partner countries to assess, sector by sector, the impact of employment structure changes that these agreements involve, and ensure that partner states implement corrective policies to counteract the negative effects on ESCR.
- 109.** Work towards an obligatory Human Rights Impact Assessment before entering into a trade or investment agreement, or after entering into an agreement when other unforeseeable effects of the agreement can be measured, and adapt the agreement accordingly.
- 110.** Not sign Free Trade Agreements under negotiation that have not been subject to a Human Rights Impact Assessment.

Regarding the privatisation of public services

- 111.** Refrain from promoting the liberalisation of public services in trade negotiations, and protect public services by excluding this sector from trade and investment agreements.

Regarding the excessive protection of investors at the expense of peoples' rights

- 112.** Not enter into new trade or investment agreements that involve private arbitration mechanisms for multinational companies, thus encouraging obstacles and violations of ESCR.
- 113.** Hold a true public debate before signing any free trade or investment agreement.
- 114.** Commit to a reform of its trade and investment policy, both bilaterally and through the European Union, in order to balance the rights of investors with the ESCR of peoples throughout the world.
- 115.** Undertake to include binding human rights clauses and mechanisms for multinational companies in trade and investment agreements.

RIGHT TO NON-DISCRIMINATION

SITUATION OF THOSE IN EXTREME POVERTY – *A new violation*

Currently, in France, the stigmatization of certain population groups, particularly those without access to their economic, social and cultural rights, is an ongoing reality for many. This stigmatization is specifically targeted at those living in extreme poverty and is characterized by a persistent distrust, causing them to live in fear. As well as not having access to their fundamental rights, people living in extreme poverty are held solely responsible for their situation and are thus doubly penalised. The question is thus one of real discrimination against those in a precarious social situation.

NGOS and trade unions involved in the Platform for ESCR therefore recommend that France:

116. Add social origin and signs of poverty as grounds for discrimination in the criminal code.
117. Include those living in extreme poverty in the conception of a fairer school system which doesn't leave anybody behind.
118. Integrate the knowledge and experience of those living in extreme poverty when developing policies against exclusion and extreme poverty.
119. Fight against social inequalities through a policy that improves access to employment, housing and health, which are essential conditions of educational achievement.

SITUATION OF WOMEN – *Some progress but inadequate means to eradicate persistent gender inequalities*

Article 2 of the ICESCR guarantees the principle of non-discrimination based on sex, specified by General Comment No. 16 of 2005 of the CESCR on *the equal right of men and women to the enjoyment of all economic, social and cultural rights*.

Yet in practice, gender inequality is still a reality in France: there still exist a number of inequalities and discriminations⁷ in regards to decent employment, access to high-ranking posts, parenting, etc.

NGOS and trade unions involved in the Platform for ESCR therefore recommend that France:

Regarding developments in institutions and in legislation

120. Return to a fully autonomous Ministry of Women's Rights, enabling a true cross-sector consideration of gender equality in all economic, social and cultural areas.
121. Significantly increase the budget allocated to the Ministry or State Secretary of Women's Rights, to ensure effective implementation of the so-called 'law for true equality' (*loi pour l'égalité réelle*), and provide decentralized services for women's rights and equality with increased human and financial resources.
122. Increase resources allocated to civil society organisations involved in women's rights over the long term (multi-year agreements, financing of operating costs).

On the inadequate presence of women in high-ranking roles.

123. Continue joint efforts in the political sphere by reforming voting procedures and by increasing penalties for political parties that do not respect gender equality in candidate representation.
124. Establish an equality principle for directors of ministerial offices and other persons responsible for developing and implementing policies.
125. Ensure an equal number of men and women in the Constitutional Council at the next appointments.

⁷ Discrimination against women is defined by the CEDAW (1979) as 'any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.'

Regarding the persistence of economic, professional and pay inequalities

- 126. Undertake to make any public grants and funding conditional on equal pay and equal representation in decision-making processes.
- 127. Apply the principle of ‘equal pay for work of equal value’, as enshrined in the Labour Code, and instigate training and guidance to assess professional categorization.
- 128. Promote and prioritise preferential recruitment opportunities in sectors where women are underrepresented, particularly in leadership and managerial roles.
- 129. Combine the introduction of shorter, better-paid parental leave that is shared equally between the father and mother with a swifter implementation of the project for increased public day-care (*crèches*).
- 130. Increase support for single-parent families.
- 131. Include an indicator on disabled women in development and equal opportunities policies.

Regarding the deteriorating situation of women from migrant backgrounds and from underprivileged and rural areas

- 132. Recognize the economic, social and intercultural skills of immigrant women, and what they have to contribute, particularly in the area of social and solidarity economy initiatives, and allocate more resources to support these initiatives.
- 133. Recognize skills and qualifications obtained abroad, outside the European Union.
- 134. Publicize and take into account the practical recommendations developed by the European Women’s Lobby on the rights and needs of Roma women.
- 135. Provide better support for women asylum seekers in regards to their problems and needs at all levels from all those involved in the asylum process, such as the presence in waiting areas of competent assistants trained to provide assistance and support for victims of human trafficking and gender-based persecutions.

On gender-based violence

- 136. Systemize initial and ongoing training of all professionals dealing with violence at both national and local levels (health professionals, judges, social workers, police, NGO workers, employment service agents, local government officials dealing with the public) on issues of violence against women so as to be able to guide, support and protect victims better.
- 137. Set up shelter accommodation specifically for victims of gender-related violence, with facilities for disabled women and a comprehensive support service that addresses all their needs.
- 138. Address the specific issue of violence against women with disabilities.
- 139. Revoke the law of 18th March 2003 making solicitation an offence.

Regarding barriers to sexual and reproductive rights

- 140. Establish more severe penalties for obstacles that prevent women accessing abortions, a recent trend in France despite the fact that the majority of the population are pro-choice.
- 141. Enforce the right to abortion up to 12 weeks of pregnancy as provided by law.
- 142. Provide information and train health professionals, particularly medical students.
- 143. Set up a nation-wide network of professionals authorized to prescribe and provide all methods of contraception to minors at no charge, and reiterate the rights of minors to hospitals and abortion clinics.

Regarding the need to combat gender stereotypes

144. Implement gender education for all elected representatives and policy-makers, a section of whom are unfamiliar with the sociology of gender and the international commitments and laws they are responsible for enforcing.
145. Engage the Ministry of Education in a more assertive discussion with the publishers of textbooks and establish specifications relating to both the eradication of gender stereotypes and the presence of women across all sectors of society and the use of gender-sensitive language.
146. Raise awareness of stereotypes in textbooks in the initial and ongoing training of teachers.
147. Systemize sex education in primary school, as provided by the current education code, a necessary prerequisite to gender equality and to eradicating gender-based violence.

SITUATION OF MIGRANTS AND ASYLUM SEEKERS – *Reduced rights and insecurity in obtaining right of abode*

The principle of non-discrimination enshrined in the ICESCR does not directly mention nationality as one of the prohibited grounds for distinction. However, discrimination based on race, colour, language or national origin largely concerns foreign nationals, and the list in Article 2.2 of the Covenant is non-exhaustive, as it ends with ‘*or other status.*’ While it is true that some differences in the treatment of a person based on their nationality may be compatible with international instruments for protecting human rights, the negative treatment of foreigners in the area of social rights must be considered as constituting a discrimination, since it has no ‘*objective or rational*’ justification. The International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families is even more explicit, stating nationality as a criterion of non-discrimination in Article 7.

But despite recommendations reiterated by the Committee in its 2008 report, France confirmed in its 2013 report that it does not intend to ratify this Convention on false pretexts, for instance that French legislation already provides sufficient protection for the rights of migrant workers.

French legislation and practices must be examined in the light of these principles. Given the fact that migrants are usually only granted full social and economic rights once their presence is legalized, this issue can only be addressed by considering the overall increasing insecurity in regards to foreigners’ right of abode.

NGOS and trade unions involved in the Platform for ESCR therefore recommend that France:

148. Remove the condition of nationality as a requirement to access public and private jobs, excluding those that involve a public authority role.
149. Remove regularization of residence status as a requirement to access social benefits including health insurance and financial assistance for families.
150. Eradicate all restrictive practices carried out by the administration which violate existing legislation and regulations and create a hostile environment for immigrants.
151. Include a legal provision for the right of first-time migrants over sixteen years old with little or no prior education, or who are not French-speaking, to receive appropriate schooling.
152. Guarantee a long-term, stable right of abode, in order to permanently eradicate discrimination against foreigners in the area of economic and social rights.
153. Grant all asylum seekers (regardless of the procedure underway) access to accommodation or to financial assistance which takes their family situation into account and allows them a decent existence.

SITUATION OF ROMA – *Persistent discrimination resulting in social exclusion*

The recommendations of this section concern the situation of Roma migrants, that is, some 3,000 to 5,000 families (15,000 – 20,000 individuals) mainly from Romania and Bulgaria (so European citizens), with also a small minority from countries of the former Yugoslavia. They are families who have chosen to migrate for economic reasons and/or to escape the discrimination and racism they face in their home

countries and are now trying to settle in France⁸.

As both their situation and the lack of respect for their economic, social and cultural rights is becoming an increasing concern, NGOs and trade unions involved in the Platform for ESCR recommend that France:

Regarding the policy of forced eviction, instead of implementing a housing policy

- 154. Stop evictions of Roma camps, instigated by prefects on the grounds of disorderly conduct.
- 155. Carry out thorough and individualized analysis, so as to be able to offer solutions tailored to the needs and aspirations of Roma communities.
- 156. Secure temporary accommodation solutions until secure, suitable housing or accommodation is obtained for all people concerned.
- 157. Ensure all residents, particularly those living in substandard conditions, have access to basic services such as drinking water, sanitary facilities, garbage collection and an electricity connection.
- 158. Ensure those without secure housing the right to an administrative address, which is the keystone to ESCR.

Regarding the right to education, a right which is too often violated and impeded

- 159. Put an end to illegal practices by school administrations (abusive requests for administrative documents, refusal to enrol children, etc.) and ensure access to schooling between at least the ages of 6 and 16, and wherever possible, from the age of 3.
- 160. Ensure access to various extracurricular services including school canteens, school transport, basic financial assistance for the purchase of school supplies, decent clothing, and insurance for extracurricular activities.
- 161. Ensure effective access to child protection services for young people living in situations of a family breakdown.
- 162. Take into account any children in school in expulsion procedures and grant, where necessary, occupants sufficient time for the children to complete the school year.

Regarding the lack of a health policy for the Roma

- 163. Ensure access to healthcare for residents of squats and slums irrespective of their administrative status (health insurance or state medical assistance).
- 164. Take health and medical care into consideration when carrying out expulsion procedures in order to, as a minimum, complete all immunisation requirements underway.

Regarding the right to work as a right to which all people are entitled

- 165. Ensure effective and non-discriminatory access to all vocational training programs with a focus on young people aged between 16 and 25.
- 166. Ensure effective access to the job search support system (*Pôle Emploi* – Job Centre), which is too often impeded by illegal requests for documentation.

SITUATION OF TRAVELLERS AND GYPSIES – *Laws and rights that aren't respected*

In its last review of France in 2008, the CESCR recommended that France ‘adopt all appropriate measures to ensure compliance with Act No. 2000/614 of 5 June 2000, requiring local authorities to designate halting areas for Gypsy/Traveller caravans provided with adequate infrastructures and situated in areas appropriate for urban residence’, and stressed the need to ‘adopt all appropriate measures to reduce the significant disparities in terms of school performance between French pupils and pupils belonging to racial, ethnic or national minorities’⁹. However, in addition to Travellers’ and Gypsies’ right to education, their right to housing also remains a cause for concern.

NGOS and trade unions involved in the Platform for ESCR therefore recommend that France:

⁸ Fundamental Rights Agency, *The situation of Roma EU citizens moving to and settling in other EU Member States*, 2009

⁹ CESCR, Consideration of Reports Submitted by States Parties, E/C.12/FRA/CO/3, § 45 and 49, 2008

Regarding the administrative treatment of Travellers/Gypsies

167. Revoke the discriminatory provisions of the 1969 Act.

Regarding the lack of decent halting areas for Travellers and Gypsies and difficult living conditions

168. Respect the 1990 Act on halting areas and ensure conditions for a decent existence for Travellers/Gypsies.

169. Ensure communities take all modes of accommodation into consideration in their housing policies and that they comply with the law of 5th July 2000, by creating a sufficient number of halting areas for Travellers/Gypsies, with decent conditions and which ensure their occupants access to rights.

170. Develop a national public housing policy for Travellers and Gypsies in coordination with their representatives and associations that work with them.

Regarding the violation of Child Travellers'/Gypsies' right to education

171. Remove barriers to schooling with a policy of social assistance and an awareness-raising campaign targeted at families.

SITUATION OF INDIGENOUS PEOPLES IN FRENCH OVERSEAS DEPARTMENTS AND TERRITORIES – *Non-compliance with international commitments*

In its 4th report, France devotes a number of pages to respond to the recommendations made by the CESCR in 2008 on indigenous people and minority groups in French overseas departments and territories. In particular, it acknowledges their existence and identifies them: *'French indigenous populations living in French overseas departments and territories such as in South America (French Guiana), Oceania (New Caledonia, French Polynesia and Wallis and Futuna) and in the Indian Ocean (Mayotte). While Amerindians only represent 5% of French Guiana's population, and the Kanaks represent just under 50% of the population, in Wallis, Futuna, Mayotte and French Polynesia the indigenous people still represent the majority of the local population.'*¹⁰

There are, however, several errors: no mention of the Maroon people of French Guiana; referring to the people of Mayotte as indigenous; unawareness that French Guiana's indigenous people participate in mother-tongue education programmes; and incorrectly referring to the people that live in the French Guianese forest as *'mostly Amerindians'*, disregarding the fact that there are ten times more Bushinengues.¹¹

NGOS and trade unions from the Platform for ESCR therefore recommend that France:

Regarding the non-recognition of cultural and economic rights in concrete terms

172. Review the composition of the Advisory Board of French Guiana's Amerindian and Bushinengue peoples and provide it with financial resources to carry out its mission.

173. Commit to responding to the requests of these peoples through their traditional modes of communication and to consult them on everything that concerns them.

Regarding the insecurity of peoples in regards to illegal gold mining and mercury poisoning

174. Eradicate illegal gold mining and uphold commitments not to mine in the protected central area of the Guiana Amazonian Park and to extend this commitment to all areas where people live ('free adhesion zones').

175. Ensure that French Guiana's Regional Health Agency monitors the level of mercury poisoning of French Guiana's Amerindian people, particularly that of children. Make every effort to ensure their traditional diet can be maintained without causing any danger to them.

¹⁰ 4th report on the implementation of the ICESCR, France, 2013, Para 1

¹¹ Price INSEE census of people living along the rivers of French Guiana

Regarding the lack of recognition and promotion of regional languages

- 176. Extend mother-tongue teaching (*Intervenants en Langue Maternelle*) to primary schools and preschools, increasing the number of teachers, their hours and training.
- 177. Increase teaching of specific subjects (nomenclature, taxonomy, etc.) to all pupils so as to contribute to social mediation and transmit traditional knowledge.
- 178. Extend language teaching to all primary and secondary school systems, bringing them into compliance with the Deixonne Act as reiterated in the French Education Code and the Savary Circular of 1982 and 1983 – but which only concerned Creole in French Guiana.
- 179. Initiate mother-tongue teaching and the teaching of regional languages in Mayotte, the only French department where the two native languages are effectively banned in primary and secondary schools. This was attempted in three schools between 2006 and 2010 but has been shelved since, despite the fact that the majority of children in Mayotte are non-Francophone.

Regarding the disrespectful education system

- 180. Eradicate non-enrolment in schools in French Guiana and Mayotte.
- 181. Make every effort to train professionals from indigenous backgrounds by building local educational institutions and by creating the public reception spaces which indigenous peoples have been demanding for a number of years.
- 182. Make transport to and from school free in French Guiana.
- 183. Adapt subject content and teaching methods instead of imposing western patterns on indigenous people.

Regarding the disturbing suicide rate

- 184. Continue programmes in suicide prevention amongst Haut Maroni and Haut Oyapock Amerindians, and analyse the causes by comparing policies directed at these populations in France and Brazil where they represent a similar percentage of the population yet are treated very differently.
- 185. Sign Convention 169 of the ILO which is the only convention to give enforceable rights to these peoples.

SITUATION IN NEW CALEDONIA – *Work still to be done in decolonizing the country*

Ratified by France, the ICESCR applies to New Caledonia. However, New Caledonia does not draw up its own individual report but is considered as part of France. The fact that it does not have a separate report is to be regretted. New Caledonia, as a territorial collectivity with a particular status, is committed to a process of self-determination, recognition of the Kanak identity, and rebalancing economic and social rights.

In addition, the Organic Law of 19 March 1999 organises the distribution of administrative powers between different local institutions: government, provinces and municipalities. As such, certain legislative measures adopted in France do not, in practice, apply to New Caledonia. Therefore New Caledonia needs to prepare specific reports on the statutory and administrative powers transferred to it from Paris.

NGOS and trade unions involved in the Platform for ESCR therefore recommend that France:

- 186. Prepare a report on the fulfilment of ICESCR specific to New Caledonia on the issues that are of local administrative competence (labour, education, etc.).

Regarding the disregard for the right to self-determination

- 187. Take measures to ensure full transparency in establishing the electoral roll for New Caledonia's referendum.
- 188. Continue discussion with New Caledonia on the self-determination process and respect the recommendations of the UN Special Committee on Decolonization in New Caledonia.
- 189. Ensure the effectiveness and recognition of the Kanak People's Charter.

190. Respect the Nouméa Accord.

191. Ensure the effective transfer of statutory powers as specified in Article 27 of the Nouméa Accord.

192. Improve public information on the transfer of statutory powers and of their rights.

Regarding the promotion of women's rights

193. Take Francophone issues into account in the Pacific.

194. Guarantee the independence of the *Observatoire de la Condition féminine* (women's rights monitoring body) and increase its funding.

195. Ensure access to and awareness of women's rights.

Regarding the inadequate legislative arsenal against domestic violence

196. Conduct an impact assessment on the legislative arsenal against domestic violence.

197. Ensure that the law takes the specifics of the culture into account to improve care for victims.

Regarding the education policy as a source of many discriminations

198. Commit to a truly proactive policy in the recognition of the social and cultural environment of French overseas territories (New Caledonia) and its incorporation into the education system.

199. Create coercive international tools (UN, etc.) to monitor the implementation of the United Nations Declaration on the Rights of Indigenous Peoples, ratified by France (right to training and success for all).

200. Set up an institution to monitor inequalities in New Caledonia, with a particular focus on 'teaching/training' inequalities.

Regarding the need to officially recognise regional languages and promote them

201. Make all official documents bilingual, particularly those related to New Caledonia statutory powers (customary law).

202. Produce and broadcast radio and television programmes in Kanak languages.

203. Ensure the effective teaching of regional languages in primary and secondary schools.

204. Set up and develop teacher training.

SITUATION OF PEOPLE DEPRIVED OF THEIR LIBERTY - *Situations preventing prisoners from accessing their rights and living in dignity*

Under its obligations under the ICESCR, France is obliged to respect, protect and implement ESC rights of persons deprived of their liberty as well as all of any other persons resident on its territory. However, neither the rights nor the dignity of prisoners are adequately respected

NGOS and trade unions involved the Platform for ESCR therefore recommend that France:

205. Take concrete steps to developing alternative penalties and alternatives to imprisonment.

206. Improve imprisonment conditions and implement a policy against suicide in prison based on prevention and addressing risk factors, rather than focusing on making individuals unable to carry out the act.

207. Comply with Convention No. 29 on the prohibition of forced labour and initiate reforms so that prisoners that work are entitled to the same security as free workers in terms of pay, social protection, health and safety at work.

CONCLUSION – ENVIRONMENTAL RIGHTS

Although France has adopted a Constitutional Charter for the Environment and is a signatory of a number of international treaties supporting the right to a healthy environment, it does not fully respect its commitments, including b) of Article 12 of the ICESCR: *‘The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for: b) the improvement of all aspects of environmental and industrial hygiene.’*

The right to a healthy environment, recognised by various international conventions and treaties,¹² is directly related to the exercise and justiciability of various ESCR. A polluted environment, diminished biodiversity, global warming and an increase in natural disasters all have an effect on all economic, social and cultural rights, particularly the right to health, food and housing – especially for people living in insecure situations – but also on civil and political rights, which are interdependent with ESCR.

NGOS and trade unions involved in the Platform for ESCR therefore recommend that France:

- 208.** Ensure consistency in economic, social and environmental policies by systematically considering the link between economic and social inequalities and environmental inequalities (such as exposure to noise, pollution, poor housing, poor nutrition, industrial risks, etc.).
- 209.** Guarantee a true environmental democracy, necessary for the enjoyment of economic and social rights: effective access to information, fair processes of public consultation, particularly public enquiries and preventing and addressing conflict of interest.
- 210.** Ensure that the current process of ‘simplifying environmental law’ doesn’t result in it being undermined or dependent on the Ministry of Economy and Finance, particularly through the so-called ‘*Loi Macron*’, which aims to increase growth and activity by simplifying authorisation processes for industrial or town planning projects and the environmental assessment regime, and to reduce public consultation (Art. 28).
- 211.** Combine recent provisions on the right and status of whistleblowers into a comprehensive law, which provides, in particular, a clear definition of whistle-blower and allocates funds for their protection and compensation for damages.
- 212.** Enable class action for large-scale environmental damage and give associations the resources to seek justice, addressing the inadequacy of the French Consumer Law of 17 March 2014 in this area.
- 213.** Integrate the objective of a ‘non-toxic environment’ into the environmental health component¹ of the Health Law currently in process, as raised by the European Council on the Environment in December 2014.
- 214.** Revoke Instruction No. 2010-424 of the Directorate General of Health, which accepts the maximum level of pesticide toxicity in tap water, and return to the standard applicable prior to 2010 when it was five times lower.
- 215.** Reassert the precautionary principle and apply it to manufactured nanoparticles as well as to GMOs.
- 216.** Create and fund an environmental monitoring body that collects pollution data and levels of exposure, and carries out research on the health-environment link, including at nation-wide level.
- 217.** Tighten provisions regarding the environmental liability of parent companies and their subsidiaries and subcontractors abroad.

¹² Action programmes of the International Conference on the Environment and Sustainable Development, European Charter of Fundamental Rights, Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, which gives environmental rights as much importance as other normative human rights.

FRENCH PLATFORM FOR ESCR



The Platform for ESCR is made up of thirty civil society organisations that defend and promote human rights and are committed to fighting poverty.