Une image contenant texte

Description générée automatiquement

**Alternative joint**

**report**

Sixth examination of the **French Republic**

by the United Nations Committee on the Rights of the Child

November 2022

Direction & writing

Arthur Melon

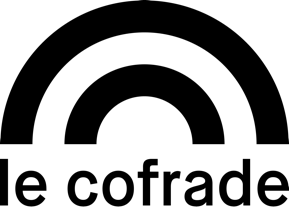
Coordination & research

Sophie Faguette

Orianne Larroque

Translation

Manon Landais



Non-profit organisation

14, rue Mondétour — 75001 Paris FRANCE

www.cofrade.org

contact@cofrade.org

+33 (0)1 45 81 09 09

# Presentation of the COFRADE

The French Council of Children’s Rights Associations (COFRADE) was created in 1989 when the French government ratified the Convention on the Rights of the Child (CRC). Currently composed of around fifty associations, trade unions and foundations, the COFRADE ensures that the dispositions stated by the CRC are respected by French authorities on mainland France and French Overseas Territories, for all children independently of their nationalities and for all French minors living abroad.

The COFRADE submits an alternate report to the Committee on the Rights of the Child each time it holds an examination of France. In addition, the COFRADE works toward a better knowledge for children of their rights mainly through the Débats d’adolescents (debates held regionally amongst teenagers) and the États généraux des droits de l’enfant (general estates held after the debates). Those annual events invite children to be active about their rights and elaborate recommendations aimed at public instances.

President: Armelle LE BIGOT-MACAUX

President of honour: Andrée SFEIR

Members of the association’s board of directors (by alphabetical order): Didier BODEL, Nathalie CASSO-VICARINI, Christophe-Claude CHARLES-ALFRED, Philippe CHASTEL, Anne-Marie CLÉMENT-BOUVIER, Olivier DUVAL, Aude FIÉVET, Nathalie HENNEQUIN, Gaetan MONOT, Michèle OLIVAIN, Thomas ROHMER.

## Organisations which contributed to this report (by alphabetical order):

* Agir contre la prostitution des enfants (ACPE)
* Association Maladies Foie Enfants (AMFE)
* Association Droit au corps
* Association française des psychologues de l’Éducation nationale (AFPEN)
* CAMELEON
* Collectif des familles unies
* Collectif intersexe activiste-OII France (CIA-OII France)
* Droit d’enfance — Fondation Méquignon
* Ensemble pour l’éducation de la petite enfance (EPEPE)
* Éveil
* Fédération nationale GAMS
* Kids Empowerment
* Le Monde à travers un regard
* Le Refuge
* Mouvement national lycéen (MNL)
* Observatoire de la parentalité et de l’éducation numérique (OPEN)
* Respect zone
* Syndicat national de l’enseignement secondaire — Fédération syndicale unitaire (SNES-FSU)
* Union nationale des associations de parents d’enfants atteints de cancer ou leucémie (UNAPECLE)
* and an organisation on condition of anonymity

# Table of contents

[Effects of the COVID-19 pandemic 7](#_Toc122446755)

[Schooling 7](#_Toc122446756)

[Cyber-violence 8](#_Toc122446757)

[A. General measures of implementation 9](#_Toc122446758)

[Comprehensive policy, strategy, and coordination 9](#_Toc122446759)

[Equalisation between mainland France and the French overseas Territories 9](#_Toc122446760)

[Data collection 10](#_Toc122446761)

[Incestuous violence 10](#_Toc122446762)

[Children’s rights and the business sector 10](#_Toc122446763)

[B. General principles 12](#_Toc122446764)

[Non-discrimination 12](#_Toc122446765)

[Assignation of students to higher education institutions 12](#_Toc122446766)

[Best interests of the child 13](#_Toc122446767)

[Right to life, survival, and development 14](#_Toc122446768)

[Domestic violence and parental authority 14](#_Toc122446769)

[Early childhood 15](#_Toc122446770)

[Respect for the views of the child 15](#_Toc122446771)

[The right of children to be heard on any decision affecting them 15](#_Toc122446772)

[C. Civil rights and freedoms 17](#_Toc122446773)

[Right to privacy 17](#_Toc122446774)

[Commercial exploitation of children’s images on online platforms 17](#_Toc122446775)

[Files to assist in the age assessment 19](#_Toc122446776)

[Right to privacy in the school environment 19](#_Toc122446777)

[Access to appropriate information 20](#_Toc122446778)

[Protection of children from unsuitable content 20](#_Toc122446779)

[Reporting illegal or inappropriate content 21](#_Toc122446780)

[D. Violence against children 22](#_Toc122446781)

[Sexual exploitation and sexual abuse 22](#_Toc122446782)

[Protection of children from sexual violence on the Internet 22](#_Toc122446783)

[Protection of children from sexual exploitation on the Internet 23](#_Toc122446784)

[Harmful practices 24](#_Toc122446785)

[Female genital mutilation 24](#_Toc122446786)

[Protection of intersex children from unnecessary surgery or treatment 24](#_Toc122446787)

[Controlling circumcisions and protecting against forced pulling back of foreskin 25](#_Toc122446788)

[E. Family environment and alternative care 27](#_Toc122446789)

[Children with disabilities 27](#_Toc122446790)

[Means ensuring that children with disabilities have the same opportunities as other children 27](#_Toc122446791)

[Basic health and welfare 27](#_Toc122446792)

[Accessible health services for children 27](#_Toc122446793)

[Adolescent health 29](#_Toc122446794)

[Standard of living 30](#_Toc122446795)

[H. Education, leisure, and cultural activities 32](#_Toc122446796)

[Education, including vocational training and guidance 32](#_Toc122446797)

[Schooling for hospitalised children 32](#_Toc122446798)

[School climate and dropout 32](#_Toc122446799)

[Protection of children from sleep deprivation 34](#_Toc122446800)

[I. Special protection measures 35](#_Toc122446801)

[Refugee, asylum-seeking and migrant children 35](#_Toc122446802)

[Measures to prevent unaccompanied migrant children from being placed in “waiting zones” 35](#_Toc122446803)

[Measures taken to ensure access to health services 36](#_Toc122446804)

[Access to education by unaccompanied minors 37](#_Toc122446805)

[Children in the child justice system 38](#_Toc122446806)

[Reform of the child criminal justice system 38](#_Toc122446807)

[Detention of girls 38](#_Toc122446808)

[J. Optional Protocol on the sale of children, child prostitution and child pornography 40](#_Toc122446809)

[Online sexual exploitation of children 40](#_Toc122446810)

[Legal qualification of sexual exploitation 40](#_Toc122446811)

[K. Optional Protocol on the involvement of children in armed conflict 42](#_Toc122446812)

# Effects of the COVID-19 pandemic

### Schooling

Throughout the Covid-19 pandemic, even if online courses were instituted during the lockdown and succeeded in maintaining a form of academic relationship in most situations, numerous children did not access it —by a lack of computing, access to the Internet, or because of technological issues. This home-schooling had to face the lack of time and space given to studying in the family sphere.

The former Education Minister, Jean-Michel Blanquer, admitted that the administration had lost touch with 4 % of students by the end of the first lockdown in May 2020, and up to 8 % at the beginning of the first lockdown in March 2020, which represents approximately 500 000 students of a total of 12 million. Going back on site on September 2020 helped in reconnecting with them, however, the sanitary conditions to fight against the virus —schools closings, classes closings, teachers on medication leave, decreases of numbers allowed to attend conjointly— weakened the learning process and did not help in addressing shortcomings.

Despite everything, the academic staff noticed a deficiency of financial means to avoid spreading the virus. Most classrooms were short and still are, on some material, such as masks, tests, carbon dioxide detectors, suitable ventilation, and watering places for handwashing. Besides, the constant changing of security rules has negatively impacted the school community and the parents. For enough children, it was a time of anxiety, a loss of landmarks and social links.

The COFRADE recommends to:

* Work on compliance upgrades of education establishments according to the new hygiene rules, mainly concerning air quality (ventilation, carbon dioxide captors);
* Adopt an outfitting prevention plan with protection material in case of an extension of the pandemic or for new epidemics outbreaks;
* Reinforce staff to allow educational and psychological monitoring of all students;
* Reinforce human and material measures of school medics (according to both physical and mental student health);
* Equip freely or help outfitting children with informatic material, with particular attention on disadvantaged families.

### Cyber-violence

During the COVID-19 pandemic, schools stayed open as long as possible. The government tried to compensate for the absence of face-to-face classes with online learning materials. The availability of and need to use digital tools for education without prior guidance or prevention has caused an increase in abuses and contributed to the deterioration of the school climate. Indeed, the 2020 Online Hate Barometer —a measurement tool developed by Respect Zone in partnership with Netino by WebHelp[[1]](#footnote-1)— revealed that 61.7% of hateful content dealt with happened between peers, compared to only 31% in 2019.

The association e-Enfance also found that, during this period, online violence against children had increased significantly[[2]](#footnote-2). To curb this violence, the law of 2 March 2022 introduced a specific offence of school harassment (article 222-33-2-3 of the Criminal Code).

The COFRADE recommends to :

* Continue investments in facilitating access to legal aid for all minors and for those who defend their interests, in particular by centralising legibly and effectively all the legal tools available to those who wish to know how to defend their rights effectively online by also listing the associations that can help ;
* Simplify procedures and the system of evidence for online violence, as the French judicial system only allows the production of screenshots as authentic evidence if they are authenticated by a bailiff, making the proof system cumbersome and not adapted to the new technologies and features of social networks;
* Launch a public awareness campaign on online violence.

# A. General measures of implementation

## Comprehensive policy, strategy, and coordination

### Equalisation between mainland France and the French overseas Territories

A report by the Senate on the overseas departments and regions (DROMs) notes the level of educational failure in these territories[[3]](#footnote-3). In Martinique, 26% of 25-34 year-olds have left the education system without a diploma, and this rate rises to 58% in French Guiana, whereas the national average is 19%. Between a quarter and a half of young people in overseas departments leave the school system without any diploma or qualification nowadays.

This is due to the lack of or poor guidance for these young people and results from the less well-developped school support systems than the mainland French ones. In addition, the resources of the National education departments are not well adjusted to local realities (recruitment of teachers, status and remuneration, issues with native language, problems of matching training to the job market, etc.).

In addition, school buildings are of poor quality and insufficiently adapted to climatic and seismic conditions. Finally, access to higher education remains complicated.

The COFRADE recommends to:

* Allocate specific resources to the National education department in the overseas territories to curb school delays and dropouts: better training and remuneration of staff, improving the attractiveness of schools, strengthening student support, diversifying training offers, improving local higher education;
* Increase the funds allocated both to public services and to the overseas territories’ authorities to strengthen social aid and healthcare provision in the outer most places.

## Data collection

### Incestuous violence

Civil society structures do not have national statistics on convictions for incestuous sexual violence. As a result, it is exceedingly hard to know the number of people convicted, along with their age and gender, as the information is fragmented and scattered among the various administrations.

The COFRADE recommends setting up an anonymous national statistical file on the profile of persons convicted of incestuous sexual violence and that this information be made accessible to structures specialised in research and fighting against incest.

## Children’s rights and the business sector

Access to company vigilance plans provided by the Law No. 2017-399 of 27 March 2017 is rendered difficult due to the lack of a centralisation platform, which requires direct requests to each company. Nevertheless, the associations note that most companies have a restrictive interpretation of this law.

Firstly, they do not draw up their plans with all the relevant local stakeholders, such as trade unions, associations, or civil society structures, which can provide concrete and precise information on the issues at stake, particularly as for human rights, fundamental freedoms, health and personal safety.

These companies then merely draw up plans without ensuring their implementation. However, the aforementioned law stipulates that the companies concerned must *“effectively implement”* their plans and that these plans must include *“a mechanism for monitoring the measures implemented and evaluating their effectiveness.”* The action of eluding the concrete scope of these plans is illustrated by the laconic nature of the evaluations established in the annual balance sheets of these companies.

Finally, the criterion of the number of employees —5,000 employees in subsidiaries in France or 10,000 in subsidiaries in France or abroad— to determine the companies bound by the provisions of the 2017 law is too high. These thresholds should be lowered, but also the law should apply to companies doing business in strategic sectors identified as particularly sensitive to human rights issues, regardless of their number of employees.

The COFRADE recommends:

* To facilitate the consultation of companies’ vigilance plans and of the general information they hold concerning their responsibilities and those of their subsidiaries in terms of human rights through an access mechanism administered by a neutral third party under the control of a judge;
* To ensure, beyond the simple publication of plans, the application of concrete measures created by the companies covered by the 2017 law, as well as the evaluation of their efficiency;
* To lower the thresholds for employees and include sectors of activity that are highly sensitive in terms of human rights risks.

# B. General principles

## Non-discrimination

### Assignation of students to higher education institutions

In 2018, with the law on students’ orientation and success, the government modified the provisions of the Education Code, voluntarily putting an end to students’ freedom to choose their undergraduate courses. Henceforth, when enrolment requests exceed vacancies, a selection is made *“regarding the coherence between, on the one hand, the applicant’s educational project, their previous education and skills and, on the other hand, the characteristics of the programme[[4]](#footnote-4).”* As a matter of fact, the selections are mainly made automatically by using algorithms. The Court of Auditors estimates that there are 15,000 such algorithms[[5]](#footnote-5). They are not made public. However, it is admitted that they base their results on social factors such as the place of residency or the parents’ professional category.

It has been demonstrated that, with comparable records, the children of blue-collar workers are less likely than those of white-collar workers to see their career wishes fulfilled. Besides, unequal access to higher education happens with the baccalaureate courses. According to official French administration statistics for September 2021 (SIES-MESRI), while 86.6% of general baccalaureate holders were admitted to a higher education course in the first phase of Parcoursup, only 72.4% of technological baccalaureate holders and 56.8% of vocational graduate received the same opportunity.

The Court of Auditors stresses that the distinction between selective and non-selective streams is now largely more theoretical than practical. Since the need to select students based on applications or by drawing lots depends on the mismatch between the number of applications and the number of places, *“the criterion of determining the capacity of a course appears to be the real determining factor in establishing whether or not it is selective[[6]](#footnote-6).”*

The COFRADE recommends that the system of admission to undergraduate courses be overhauled, in particular by:

* granting an actual status to high school and student unions, to be associated with the reforms by right;
* facilitating access to higher education, in particular by increasing the number of courses offered and the number of places in those with the possibility of bridging and adaptation modules;
* strengthening social support, particularly for first-year students: grants, housing assistance, support for the acquisition of equipment, etc.

## Best interests of the child

In theory, every decision (administrative and judicial proceedings) regarding the child should be taken in its best interests. But in practice, measuring the efficiency and consideration of the best interests of the child (BIC) in administrative and judicial proceedings is quite complex. There is no exact definition of BIC, and many French professionals describe this notion as vague and intricate, highly open to interpretation. Furthermore, there are no tools to identify, assess or protect BIC.

Childcare professionals observe insufficient human and financial resources to coordinate efforts and cooperate at all stages of children’s social assistance services. Judges and social service professionals are faced with heavy workloads and lack sufficient staff and resources.

Besides, professionals consider that the offer of training on the issue of BIC is limited and that those are usually not mandatory. Moreover, the lack of resources often prevents regular participation in these training programmes. This lack of resources and training can lead to poor practice and cause psychological and physical harm to the child. It also affects how the child’s rights are considered throughout the process.

The COFRADE recommends :

* the adoption of a definition of BIC as well as a national reference framework to ensure its assessment and respect in all public policies and procedures affecting children;
* to strengthen the training of children’s social assistance services and protection professionals on the BIC.

## 

## Right to life, survival, and development

### Domestic violence and parental authority

In situations of physical, psychological or sexual violence committed by one parent against their child or the other parent, sheltering the child victim or co-victim is an imperative and urgent requirement. Removing the accused parent ends the violence and strengthens the guarantees of criminal and social investigations by ensuring better conditions for the child’s testimony.

However, the accused parent is often not removed from the child until the end of the criminal investigation and the parent’s conviction. As a result, the child victim or co-victim suffers violence or exposure to violence for many more months, even though the judicial authorities and social institutions know about a presumed danger or life-threatening situation. Furthermore, the protective parent who refuses to return the child to the other parent’s custody expose themselves to heavy financial penalties for not representing the child.

The law allows the public prosecutor to refer the matter to the family court judge at any time *“for a ruling on the terms and conditions of the use of parental authority[[7]](#footnote-7).”* Therefore, it is perfectly possible, after receiving a report or a lodged complaint, for the public prosecutor to inform the family court judge without delay so that the latter can take the emergency measures they deem necessary in the light of the elements in the case. In practice, this competence of the public prosecutor is never used, and the authorities wait until the end of the criminal proceedings to take a decision on the exercise of authority by the accused parent.

The COFRADE recommends:

* making it compulsory for the public prosecutor to refer a case to the family court when the latter receives a report or complaint against a parent suspected of being the perpetrator, co-perpetrator or accomplice to a crime or offence committed against their child or of being the perpetrator, co-perpetrator or accomplice to a crime or offence committed against the other parent; this does not imply automatically suspending parental authority and without prejudice to the presumption of innocence;
* to oblige the family court judge, in the previously exposed circumstances, to rule within six days.

### 

### Early childhood

Regarding early childhood, the following advances have been made:

* the creation of the “1,000-day Commission”, accompanied by a website, which shows an increase in the consideration given to children’s first months;
* the ambition to create a public service for early childhood;
* the lowering of the age of compulsory education from 6 to 3 years;
* the adoption of the law against ordinary educational violence;
* the creation in 2019 of a disability bonus, a diversity one and a territory one for childcare facilities with a disability bonus that extended in 2020;
* the National Charter for the Care of Young Children has become binding since September 2021.

However, despite the recommendations made by the “1,000 Days Commission”, there are still too many territorial disparities in policies for children aged 3 to 6. There is also a lack of data on poverty and social exclusion of children under 3, even though statistics show that they are more exposed. Furthermore, due to the lack of a legal obligation to provide care for children under 3, access to childcare remains difficult.

The COFRADE recommends:

* making early childhood professions more attractive;
* developing the 1,000-day centres as resource centres and intersectoral networks.

## Respect for the views of the child

### The right of children to be heard on any decision affecting them

Law No 2022-140 of 7 February 2022 on child protection emphasises the need to better the child’s views’ consideration during the educational assistance procedure. However, regardless of their age, children do not decide but only give their opinion. French law does not set an age at which a child can be heard but merely states that the minor must be able of discernment. They must be able to express an enlightened opinion thanks to their maturity and capacity for understanding. Nevertheless, this possibility of being heard remains a request and not a right as it is. Indeed, the judge can refuse to order the hearing of the minor if he considers that the latter does not have sufficient discernment or is not concerned by the procedure. The judge appreciates this discernment in a discretionary manner. Therefore, the discernment’s appreciation might vary from one jurisdiction to another or from one judge to another within the same jurisdiction. Furthermore, the family court judge may delegate the child’s hearing to a third party.

During procedures of separation and divorce, the child is not regarded as a party, and the judge is not obliged to comply with the child’s requests. However, the decisions have a crucial influence on the child’s situation. In practice, the parents decide or not to inform the child of its right to be heard. The effectiveness of this information on this right is therefore uncertain. It is, therefore, necessary to put in place tools to inform the child directly without the intermediary of the parents. Besides, in divorce procedures, the judge is not obliged to hear the child if the latter or a party to the process does not request it. The judge decides or not to assess the capacity of discernment of a child to grant or not this right to expression. This procedure may therefore suffer from arbitrariness.

Generally, law professionals are not specifically trained to hear and understand children, even though they are required to audition children and take decisions concerning them. Some training is provided at the National School of Magistrates, but it remains too partial and would benefit from being systematically provided as part of ongoing training.

The COFRADE recommends :

* making the hearing of a child more systematic and effective in all proceedings concerning the child;
* when a procedure concerns several children, allow each one of them to express themselves separately;
* to reinforce the initial and ongoing training of judges on the hearing of children.

# C. Civil rights and freedoms

## Right to privacy

### Commercial exploitation of children’s images on online platforms

The phenomenon of children as “influencers” has been particularly developed in France since 2015 with the significant multiplication of channels on the YouTube platform, as well as Instagram accounts practising “unboxings” or family “vlogging” (life scenes in video format). This trend involves numerous children from all ages who are, in many cases, displayed on social networks for commercial purposed by their parents or relatives.

For instance, the Swan & Neo account, created in April 2015, has up to ten million followers, counting all the channels owned by the family. The frequency of posting has sometimes reached up to 35 videos per month. The channel of these two children, aged only 7 and 14 in 2022, is currently the 16th most watched channel in France, with a cumulative six billion views since their first appearance.

This activity, which is difficult to quantify, has given rise to many concerns, particularly regarding the pace and duration of the videos, which deprive these children of any other activity, and even encroach on their schooling and rest periods. Moreover, the multiplication of these accounts obviously endangers the children concerned through several risks.

§ Misuse of children’s images for commercial purposes: parents or families use their children’s pictures to generate substantial income, sometimes over €100,000 per month for some.

§ Hidden commercial promotion of products to child viewers, where advertising is regulated when aimed at minors (e.g., fast food companies such as McDonald’s): these hidden advertisements target young viewers by playing on a powerful and empathic dimension through the prism of screens and social networks.

§ Non-perception by children of the revenues generated in the framework of a mercantile activity: the revenues generated by these digital contents are channelled through commercial companies created by parents to capture the income from the monetisation of videos. Therefore, it is essential to ensure a fair and equal share of the income generated and keep the sums in a dedicated bank account until the children reach their majority, as the law currently provides.

§ Non-respect of the right to the personal data’s erasure: in terms of identity projection for these children, the damage caused by the thousands of publications issued from parental creations raises questions and concerns for many experts at a time of struggle for the implementation and respect of the right to erasure. As a reminder, French law now provides that:

*“At the request of the data subject, the controller is required to erase as soon as possible the collected personal data in the context of the provision of information society services when the data subject was a minor at the time of collection[[8]](#footnote-8).”*

However, this provision has limits in its general applicability and needs to be generalised in the context of the practices mentioned above.

On the initiative of the Observatory of Parenthood and Digital Education (OPEN), France has adopted a precursory legislative measure aimed at providing better protection for children known as “influencers” who host or participate in dedicated channels or accounts on social networks. Law no. 2020-1266 of 19 October 2020, known as the “Studer Act”, saw its first application decree promulgated in April 2022.

It aims to specifically include in the Labour Code any activity involving children whose image is in any way exploited on the Internet, as long as it generates direct or indirect income. This measure also provides for the supervision and limitation of working hours while ensuring that a specific commission composed of professionals supervised by the regional directorates for the economy, employment, labour, and solidarity (DREETS) controls and supervises the authorisations that are to be issued. However, the resources allocated to the DREETS are insufficient to enable the teams in charge of the files to apply the law effectively.

Finally, the last application decree is due to be published, which aims to establish a framework and control for all activities that do not fall within the framework provided for in the amended Labour Code. The applicability of this future decree will also depend on the human and financial resources allocated to it.

The COFRADE recommends a considerable increase in the human resources devoted to the application of the “Studer Act”, particularly concerning the staffing of the DREETS responsible for inspections.

### 

### Files to assist in the age assessment

Generally, French law provides a strict framework for collecting personal data on minors. In particular, the General Data Protection Regulation (GDPR), which is directly applicable in France, states that: *“[children] deserve specific protection about their data because they may be less aware of the risks, consequences and safeguards involved and of their rights related to the processing of personal data [...][[9]](#footnote-9)”* According to Law No. 78-17 of 6 January 1978 on data processing, files and freedoms, when the minor is under 15 years of age, the processing of personal data is only lawful if the minor’s consent is given jointly with that of the adults holding parental authority. Above the age of 15, the minor informed consent alone is sufficient when the processing is for specific purposes and in very restricted circumstances.

However, with Decree No. 2019-57 of 31 January 2019[[10]](#footnote-10), France introduced and then perpetuated massive recourse to files for the age assessment support (AEM). The AEM file now adds unaccompanied children, as soon as they arrive and without systematically obtaining their consent, a compulsory passage through the prefectural services for fingerprinting and photographs as well as collecting personal data.

These files, therefore, contain personal identification data such as civil status, language spoken, family environment, photos, nationality, date, and conditions of entry into France, biometric data or information provided by the department’s services. This is a clear and disproportionate infringement of the right to privacy.

### Right to privacy in the school environment

The current depreciation of the training of social workers is leading to a weakening of respect for professional secrecy and concern for the pupils’ privacy. The private lives of children and their families are thus subject to interference by unauthorised professionals, unaware of the repercussions on these children and families of disclosing their data. As a result, in schools, information on the private lives of pupils and families is shared and disseminated much more quickly as it is done through the schools’ internal software.

Under the pretext of partnership work, school heads and teams can reproach social workers, doctors, nurses, and school psychologists for not disclosing information about pupils’ personal lives. Yet it is, among other things, the obligation of professional secrecy that justified the access to category A in the civil service for social workers, given the responsibility and mental burden involved in combining partnership work and professional secrecy.

The coming into force of Article L121-6 of the General Civil Service Code on the First of March 2022 is likely to exacerbate the general confusion surrounding the misinterpreted notion of “shared secrecy”. The article states that *“public officials are bound by professional secrecy”* without introducing any training on what it implies, mainly on the criminal consequences entailed by the failure to respect this decree.

## Access to appropriate information

### Protection of children from unsuitable content

The development of pornographic streaming platforms and the lack of control over access to them is leading to increasingly early exposure of children to pornographic content. The support given to children in their digital practices varies from one family to another, with growing inequalities regarding education and protection. While some parents are vigilant and have set up a dialogue and supervision around the screens, other children lack supervision, which exposes them to sexual solicitations and content that undermine their well-being, integrity, and development.

Among the possible consequences on their health: haunting images stuck in their mind, mood or sleep disorders, addiction to screens (and sometimes to pornography), high-risk behaviours, and violent or inappropriate behaviour. Pornography influences minors’ perception of sexuality, leading to some trivialisation and mimicry of pornographic practices. It partly explains sexist or violent behaviours in couples: 44% of youngsters who had sex say they tried to reproduce scenes or practices seen in pornography[[11]](#footnote-11).

The COFRADE welcomes the amendment of article 227-24 of the Penal Code, which now provides that leaving pornographic content available to a minor is an offence *“even if access by a minor [...] results from a simple declaration by the latter indicating that he or she is at least eighteen years old.”* Therefore, digital platforms such as pornographic sites or social networks can no longer be satisfied with a simple “I am over 18” button. In case of obstruction of the law, the Audiovisual and Digital Communication Regulatory Authority (Arcom) can take legal action to suspend their access.

In fact, the procedure is subject to extremely long processing times, of the order of several months or even several years. The priority question of constitutionality filed with the Paris judicial court by the company MG Free sites, publisher of the Pornhub site, transmitted to the Court of Cassation, thus adding several months of procedures to this case, corroborates this observation[[12]](#footnote-12). During this time, the incriminated content remains within children’s reach. The companies hosting pornographic content argue that they lack reliable technical and legal solutions to control the age of users. However, if these companies cannot ensure that no minors are likely to be exposed to such content, they are held to comply with the Criminal Code by removing such content preventively rather than waiting until adequate means of age control are available.

### Reporting illegal or inappropriate content

Regarding the report of illegal or inappropriate content, it appears that the procedures are generally known to minors and mastered. Some may still discover that this option is available on almost all platforms today, not only a few. Most young people say they have used it but question its usefulness. Indeed, they have witnessed unresponsive platforms keeping the content or account in question online or receiving a notification that the content did not deserve removal. Another explanation for the feeling of “what’s the use?” is that they are aware of the difficulty of wholly deleting content and avoiding its spreading (screenshots, viral spread, sharing in private groups, slight alteration of the original content to circumvent moderation).

Law no. 2020-1266 of 19 October 2020, also known as the “Studer Act”, foresees the promotion of a charter for video-sharing platforms aimed at *“supporting their users to report audiovisual content featuring children under sixteen that would undermine their dignity or moral or physical integrity.”* The concerned platforms are thus free to sign or not this charter, which, even after signature, is not binding. However, it would be necessary for all video-sharing platforms to allow and encourage the reporting of such content and for these features to become binding.

The COFRADE recommends:

* a stricter application of the provisions of Article 227-24 of the Criminal Code;
* to make the provisions relating to the charter of the "Studer Act" more systematic and binding.

# D. Violence against children

## Sexual exploitation and sexual abuse

### Protection of children from sexual violence on the Internet

Children are increasingly equipped with digital devices at an early age, with an average age of acquisition of their first smartphone between 9 and 10 years[[13]](#footnote-13), and 87% of children aged 11-12 years declaring to have an account on a social network[[14]](#footnote-14). The health crisis has contributed to the phenomenon, with 53% of young people believing that their screen consumption has increased since the crisis[[15]](#footnote-15).

While new technologies allow children to have fun, socialise, learn, and discover the world through their screens, they also expose them to offensive content and behaviour. Many sexual predators contact minors through social networks and video games, gradually owning their trust to become their “friends” (grooming techniques). They try to obtain sexual images or arrange a meeting to assault them in real life. Vulnerability factors for this type of approach may include a background of school or relationship difficulties. Children are likely to seek comfort and form emotional bonds with strangers who may pose as minors.

Furthermore, online predation is eased by certain practices of young people and parents who are unaware of or underestimate the risks of their exposure to the Internet. Posting a photo or video has become quite common. But these images of children are sought after by malicious people who may misappropriate them in a pornographic way or seek to interfere in their daily lives. Europol and Interpol warned as early as 2020 about the proliferation of online paedophile exchanges and the prevalence of self-produced content by young people themselves or those around them.

Although France is the 4th largest host of child pornography content in the world and the 2nd largest in Europe[[16]](#footnote-16), it has only about 30 high-level investigators dedicated to fighting against the online sexual exploitation of minors. Of these, 17 police officers at the *Central office for the repression of violence against people* (OCRVP) are responsible for dealing with 100,000 reports per year, compared to 152 in the Netherlands and 320 in the UK. This lack of resources results in *“very low identification numbers of perpetrators and victims,”* according to the Independent Commission on Incest and Child Sexual Abuse.

### Protection of children from sexual exploitation on the Internet

Although the term “prostitution” is used several times in criminal law, it is still not defined by the law. The only definition is provided by the legal precedent of the Court of cassation: *“Prostitution consists of lending oneself, in return for payment, to physical contact of any kind, to satisfy the sexual needs of others[[17]](#footnote-17).”*

This definition requires physical contact to recognise a prostitutional act lawfully. It appears restrictive given the evolution of the various forms of sexual exploitation that exist, particularly on the Internet, with the development of the activity of "camgirls", i.e., young people engaging in sexual acts or live masturbation in front of webcams in exchange for payment by Internet users. Although the ad hoc penal provisions cover these acts, minors engaging in these practices are not recognised as victims of prostitution, which means that they do not automatically fall under the protection of the juvenile judge, as is the case for those in a situation of prostitution under the law of 4 March 2002.

Moreover, digital platforms that act as intermediaries between clients and victims of online sexual exploitation and that receive remuneration are not recognised as procurers due to the non-recognition of the prostitutional nature of these activities.

The COFRADE recommends:

* to reinforce the legislation on the right to image and the right to privacy of minors;
* to render compulsory for platforms to have trained referents on cyber-violence and cyber-crime to carry out prevention and moderation and to fight against exposure to pornography and online sexual exploitation of minors;
* increase the financial, human and material resources of specialised investigators to fight the online sexual exploitation of children by facilitating international cooperation with extraterritoriality measures between countries;
* raise awareness among the police of the issues and offences related to cybercrime;
* adopt a legislative definition of prostitution that would include new online practices. Conduct national awareness-raising campaigns for children and young people, parents and the general public on cybercrime and the protection of minors and their rights on the Internet.

## Harmful practices

### Female genital mutilation

There has been a systematic increase in the number of reports made to the *Worrying information collecting committee* (CRIP) concerning the risks of genital mutilation for young girls. This vigilance on the part of professionals is to be welcomed. However, there are situations that do not necessarily justify the issuing of worrying information. This is the case, for example, of mothers who have undergone excision or infibulation, who say they regret having been victims of mutilation and who declare that they do not want to repeat this violence on their daughters.

The increase in the number of reports may make it difficult for the CRIPs to deal effectively and quickly with the situations they assess. It is therefore necessary to improve the accuracy of the information of concern issued by professionals, so that they detail whether the mother:

* is aware that she has undergone genital mutilation;
* is aware of the consequences of such mutilation
* is aware of the provisions of the law;
* wishes to be infibulated again after giving birth;
* knows what her plans are for her child.

These last two points are decisive in assessing the degree of urgency of the report.

The COFRADE recommends encouraging a greater level of detail in reports of concern regarding maternal genital mutilation, in order to facilitate their efficient processing by the collection and assessment units.

### Protection of intersex children from unnecessary surgery or treatment

Although French law prohibits any surgical procedure on an intersex child that is not justified on medical grounds, the interpretation of the law leads to abuses, which are considered mutilations by the persons concerned. The doctors themselves assess intersex children’s consent to the medical intervention in “centres of reference for rare genital developmental diseases” that receive intersex children. Therefore, it is a unilateral decision from doctors. However, all variations in sexual development are considered by the medical profession as abnormalities, therefore justifying surgical procedures and hormonal treatments.

The French government has not yet questioned the automatic disqualification of anatomies that do not rely on the arbitrary norms of the male or female gender, even though the number of intersex people is estimated to be 1.7% of the population and most of these people have viable sexual or genital, gonadal or chromosomal variations that do not impede their healthy development. In contrast, some surgical procedures cause chronic physical pain and can lead to serious complications during or after the operations, but more specifically cause severe psychological suffering that can lead, for example, to self-mutilation by the victims. Furthermore, while most variations in sexual development are viable, medical interventions may sometimes require lifelong medicalisation, such as hormone treatments.

The COFRADE recommends the prohibition of surgical interventions or hormonal treatments for variations in sexual development that do not pose life-threatening risks to children, and so without their free and informed consent.

### Controlling circumcisions and protecting against forced pulling back of foreskin

Fifteen years ago, the proportion of men circumcised in France was estimated at 14%[[18]](#footnote-18), with the number of new circumcisions around 90,000 each year, according to 2018[[19]](#footnote-19) estimates. In the same year, it was estimated that 80% were circumcised before turning 18. Urologists estimate that by the age of 18, only 1% of boys would have “phimosis”, a clinical case that justifies most circumcisions for medical reasons. Therefore, it appears that most circumcisions are performed for religious reasons.

French law neither explicitly authorises nor prohibits circumcisions performed for religious or cultural reasons. On the other hand, the Civil Code states that *“the integrity of the human body may only be violated in the case of medical necessity for the person or exceptionally in the therapeutic interest of others[[20]](#footnote-20).”* The same article specifies that *“the consent of the person concerned must be obtained beforehand [...]”*. Therefore, non-medical circumcision is clearly contradicting legal provisions, especially since, even under anaesthesia, it can be painful.

In addition to circumcision, many children also suffer from forced pulling back of foreskin. While recent medical research shows that it is normal not to do a complete pulling back of the foreskin before the teenage years, many health professionals diagnose so-called “phimosis” for which they advocate forced pulling back of the foreskin. A 2016 study showed that out of 158 general practitioners in Picardy, half advised parents to perform a pulling back of the foreskin manoeuvres in case of “phimosis” or performed decapping themselves in consultation.

The COFRADE recommends:

* to conduct a national debate on the possible conditions of acceptability of ritual circumcision among minors;
* to train health professionals on the functions of the foreskin and to make them aware of the risks of forced pulling back of the foreskin.

# E. Family environment and alternative care

## Children with disabilities

### Means ensuring that children with disabilities have the same opportunities as other children

Law No. 2005-102 of 11 February 2005 on equal rights and opportunities, participation, and citizenship for persons with disabilities affirmed the right of all children to regular schooling as close to home as possible and to a continuous and adapted school career. The laws and decrees governing this inclusive school exist, and all the elements contained therein were designed with all the stakeholders and therefore meet the demands of children and their families.

However, several issues prevent the strict application of the legislation in force:

* a lack of support staff (school life assistants, support staff for pupils with disabilities), medical and social staff and teachers dedicated to the education of children with disabilities;
* clear and simple information for families administrative support;
* simplified administrative files;
* quick responses to administrative files;
* educational and digital tools accessible to all.

## Basic health and welfare

### Accessible health services for children

In March 2021, the General Inspectorate of Social Affairs highlighted the deterioration of paediatric wards in hospitals and ambulatory[[21]](#footnote-21). A lack of care, education and prevention professionals led to a crisis in the pathologies’ treatment regarding children and teenagers.

Eight departments have, on average, less than one paediatrician per 100,000 inhabitants, and the average age of private paediatricians suggests that the situation is getting worse, with 44% being over 60[[22]](#footnote-22). Specialised medical fields, such as paediatric radiology, paediatric radiotherapy, and paediatric anaesthesia, can no longer find trained doctors, jeopardising hospital care. More generally, the lack of hospital beds in all paediatric specialities puts sick children at real risk and forces families to travel long distances to access the care needed. The lack of capacity for medical follow-up of sick children has been illustrated recently by the epidemic of bronchiolitis, which has led paediatricians to fear that they will soon be unable to treat all infected children adequately.

The medico-psycho-pedagogical centres (CMPP) are medico-social services that provide consultations, diagnoses and ambulatory for children and adolescents aged 0-20 years. They are frequently consulted in the first instance for psychological disorders. The CMPPs, when they exist, are usually fully booked for the next six months. Child psychiatry thus operates in slow motion, leaving families powerless to manage their sick children and child psychiatrists refer sick young people to non-specialised services to provide them with care. The COVID-19 pandemic significantly impacted the mental health of children, especially adolescents, and not all have been able to receive the necessary medical support.

Young doctors are turning away from paediatrics, which requires more investment than other specialisms. Besides, child healthcare professions suffer from the same lack of interest, mainly due to meagre salary increases. For instance, paediatrics nurses and childcare assistants lack recognition, as their specialisms are not as valued as their generalist colleagues. The lack of recognition also concerns maternal and childcare and school medicine, which can no longer carry out their missions because of a lack of attractiveness of the professions that run them. Therefore, these tasks fall to overloaded general practitioners who do not specialise in these areas.

In the national education sector, the lack of psychologists leads to a ratio of one practitioner for approximately 3,000 to 4,000 pupils. In addition to this, school psychologists are becoming increasingly invisible, not sufficiently known by their superiors, nor mentioned as resource persons, and not enough involved in interprofessional projects. Finally, the over-solicitation of psychologists, spread over several schools, forces them to react to urgent situations without having the time to carry out prevention projects.

The COFRADE recommends:

* to reopen hospital beds;
* to proceed with the massive recruitment of paediatricians and nurses;
* to proceed with the massive recruitment of psychologists in National Education;
* to upgrade the remuneration of paediatric professionals.

## Adolescent health

Since 2001 —more than twenty years ago— Article L312-16 of the Education Code states that: *“Information and education on sexuality are provided in schools, colleges and high schools at a rate of at least three sessions per year and by homogeneous age groups.”*

If the term “school” were to be understood to include both kindergartens and elementary schools, the law would thus require at least (and this is a minimum threshold) forty-five sessions of education between the first section of preschool and the final year of secondary school.

However, less than 15% of pupils receive three sessions of sex education per year at school and high school and less than 20% at middle school, according to a report by the General Inspectorate of Education, Sport and Research[[23]](#footnote-23). A study by the High Council for Equality between Women and Men in 2016 revealed that 25% of schools responding to the survey stated that they *“had not set up any action or session on sex education.”* Family Planning estimated that in 2022, between secondary school and high school, pupils would only benefit from one or two sessions on average, as opposed to at least 21 sessions provided for in the legislation. According to this association, the causes are: insufficient and fragmented funding, the failure of national steering, strong territorial inequalities, the quantity and quality of actions subject to the arbitrariness of school heads, etc.

One of the consequences of the lack of prevention is the extremely worrying increase in the number of minors in situations of prostitution. Indeed, the victims concerned, as well as the minors buying sexual acts or exploiting the prostitution of others, very often have a stereotyped apprehension of sexuality, with sexist bias leading to relationships of domination and the commercialisation of bodies.

The COFRADE recommends:

* to strictly apply article 312-16 of the Education Code, i.e. to provide each student, from 3 to 18 years old, with at least three sessions of education on emotional and sexual life each year;
* to fight against misinformation and any false interpretation of sex education, through the provision of information on its usefulness by the public authorities to parents.

## Standard of living

When a child suffers from a serious or chronic condition, the presence of a parent is indispensable, and this implies a reduced income and costs caused by the period of hospitalisation. Indeed, these situations lead to expended transport and hotel fees for parents and siblings, meal costs, childcare costs, etc. These situations lead to a loss of income caused by unpaid leave, part-time work, or unemployment.

Families raising children with serious or chronic illnesses do not have adequate social protection:

§ Leave for sick children is unpaid and cannot exceed 3 to 5 days per year, which is insufficient for lengthy hospitalisations of children.

§ The donation of days off to the parent of a seriously ill child is very uncertain, as it depends on employees’ kindness.

§ There are no measures for short or repeated hospitalisation, although this is common for children suffering from serious or chronic illnesses.

§ Parents’ attendance leave adjourns the employment contract and its income. The daily parental presence allowance (AJPP, amounting to €60.14 per day) cannot be cumulated with the disability pension received by the child, or with sickness benefit, unemployment benefit or the daily allowance for the family carer (AJPA, amounting to €56.59 per day).

The rules governing entitlement to AJPP and its leave have recently changed. Indeed, the National Family Allowances Fund (CNAF) now considers that payment of the allowance will only be possible for the remaining days of unemployment, with no apparent legal or regulatory justification. These changes particularly affect people entitled to Pôle Emploi (the Unemployment Centre). They receive notifications of the end of their entitlement without any explanation of the decisions to change. Then, the payment of benefits is suddenly stopped without any possibility of appeal, as the CNAF provides no legal basis or means of appeal against these decisions, even for social services staff.

As a result, associations note the precariousness of families, as illustrated by a survey of the Filière Maladies Rare du Foie (Filfoie) conducted in 2018 among 265 parents:

* 85% of mothers and 46% of fathers noted an impact on their employment;
* 61% of families had financial difficulties due to their child’s illness;
* 81% of families observed consequences on the couple or siblings.

Thus, periods of hospitalisation of a child with a serious illness seriously financially impact families and even more so if the hospital is far from home, which is common for rare diseases. Many families cannot afford the costs, and disadvantaged families are the most affected.

To remedy this, the COFRADE recommends :

* To allow a parent of a seriously ill child, whether it is chronic or not, to stay with the child when hospitalised:
  + maintaining the accompanying parent’s salary or providing equivalent support;
  + the specific aid to compensate for the cost of looking after siblings;
  + payment of travel costs (petrol, train, plane);
* To set specific financial assistance for travelling costs (petrol, train or plane tickets) and accommodation fees (housing for parents set up in hospitals if rooms are available or hotel rooms) for the sick child to benefit from the visit of the non-accompanying parent and the child’s siblings when the hospital is far from their home.

# 

# H. Education, leisure, and cultural activities

## Education, including vocational training and guidance

### Schooling for hospitalised children

Children with chronic illnesses who are hospitalised frequently and sometimes over several months do not have the human and material resources to enable them to benefit from normal schooling. In the above-mentioned Filfoie survey, 62% of families noted an impact on schooling: repeating a year, interrupted studies, etc. Furthermore, an AMFE survey conducted in March 2022 among 29 parents of children with Alagille syndrome showed that:

* the child’s social life was affected in 54% of cases;
* the child’s schooling was affected in 58% of situations due to:
  + repeated absences due to care and hospitalisation for 44% of respondents;
  + poor understanding of the illness by the teaching team and lack of a school-hospital link for 33% of respondents;
  + the feeling of non-integration or exclusion at school for 22% of respondents.

The COFRADE recommends:

* increasing the number of teachers in hospitals to allow better school follow-up and to encourage exchanges between hospital and schoolteachers
* to better inform families about the APADHE system (educational support at home, in the hospital or at school) and make it accessible to more children;
* to better inform parents about the possibilities of distance learning (CNED) provided by the national education system when the situation justifies it.

### School climate and dropout

The ÉVEIL association was involved in the territory of the city of Roubaix during the period 2018-2021, mainly in the integration and orientation of young people in the third year of secondary school to provide them with the necessary support to find an internship. It can only confirm a certain number of observations made in a report on the effectiveness of public policies in Roubaix carried out in 2019[[24]](#footnote-24), which shows that children’s rights under articles 24, 28 and 29 of the CRC are still in abeyance. These findings can certainly be transposed to other territories.

In the reinforced priority education networks (REP+), more than one pupil in three encounters great difficulties in French and mathematics when they enter the first grade. However, at the end of the year, the rate rises to one in two pupils experiencing difficulties in mathematics. The CP year, therefore, does not allow the achievement of the objectives set. The same phenomenon is observed at the national level in REP+, with the rate of fragile pupils being even higher than that of Roubaix, in French as in mathematics, and in CP as in CE1.

Between 2013 and 2017, the number of allophone pupils benefiting from special care rose from 326 to 539 in Roubaix. In primary education, headmasters sometimes discover the arrival of these pupils and their families when they arrive, without even being informed beforehand by the municipal services that issue the registration certificate. They must then immediately organise the reception of the pupil in one of the classes, according to the pupil’s age.

Even if there is no specific problem of violence in Roubaix schools, the number of reported incidents has increased over the last three years, particularly in primary schools. While in 2017-2018, no physical violence was reported in the first level, REP+ secondary schools exclude 20 to 30 pupils per year, the equivalent of a class.

The implementation of citizenship education within academic learning is insufficient. Mainly because of the lack of pupils’ awareness by teachers of this cardinal notion - teachers who do not even receive proper training in that matter. As a result, it makes more difficult learning of civic behaviours and values (active listening, respect, freedom, mutual aid).

The COFRADE recommends:

* developing actions to support parenthood;
* increasing access to medical check-ups to identify better the problems of some pupils that are affecting their schooling;
* strengthening the academic management of priority education by mobilising all inspectorates around the specific pedagogical difficulties encountered by the teams and better evaluating the effect of the actions carried out;
* promote dialogue between headmasters and the municipal services that issue enrolment certificates to understand better pupils’ needs at the start of the school year.

## Protection of children from sleep deprivation

The right to rest —understood in particular as a right to sleep— is recognised by Article 31 of the Convention. Far from being a simple time to recuperate physical and intellectual strength, sleep must be considered a factor in the success of education and health policies, lowering violence and inequalities, etc.

However, French children are increasingly concerned by insomnia - considering insomnia as a reduction in sleep time or a deterioration in its quality. According to two surveys conducted in January 2022, 81% of children say they have difficulty falling asleep, and 76% are tired during the week[[25]](#footnote-25). For children under 10, 52% do not have regular bedtimes[[26]](#footnote-26). These surveys did not include high school students, who have also suffered a lot of sleep disturbances due to, among other things, the COVID-19 pandemic, climate change, and geopolitical news. The increase in the use of psychotropic products to facilitate falling asleep or waking up reveals a strong malaise among adolescents and a significant impact on their nights.

Insomnia is an aggravating factor regarding physical health (stunted growth, weak immune system, weight gain, etc.), psychological health (behavioural problems with hyperactivity, irritability, aggressiveness, depression, etc.), but also in terms of learning difficulties (lack of motivation, lack of concentration, difficulty remembering, etc.). Valuing and facilitating sleep should therefore be a dedicated, comprehensive and coherent governmental public policy.

To date, initiatives to promote sleep exist but are scattered. No national plan considers all the components of insomnia: poor housing, economic and social exclusion, maltreatment, school rhythms, diet and physical activities, sleep education, screen management, diagnostic and care structures, parental awareness, professional training, etc.

The COFRADE recommends adopting a national plan for the promotion of sleep and rest, carried out in an interministerial manner, with a dedicated budget and allowing for the coherence of the different public policy areas in favour of the fight against insomnia in children and their parents.

# I. Special protection measures

## Refugee, asylum-seeking and migrant children

### Measures to prevent unaccompanied migrant children from being placed in “waiting zones”

The issue of detention and retention of unaccompanied children continues to be acute in French territory. Although no official figures are available, associations in the field report the placement of nearly three hundred people claiming to be unaccompanied minors in detention centres[[27]](#footnote-27). A *CIMADE* report counted 67 unaccompanied children locked up in 2019 in the Coquelles centre in Pas-de-Calais alone, even though they claimed to be minors. In the same year, there were 25 unaccompanied minors in Rennes’ administrative detention centre (CRA), 22 in Paris-Vincennes, 20 in Metz, 18 in Rouen, and 17 in Hendaye. Yet, it seems that some of them had been recognised as minors and taken into care by children’s social assistance services. Courts finally released a large majority of these unaccompanied minors confirming the abusive nature of these detentions and the effective violation of these children’s rights.

These figures are the only ones available in the absence of official data. These are necessarily under-representative as they are limited to the individuals included in the statistical study carried out by the association behind the report and do not include unaccompanied minors detained in French Guiana, especially in Mayotte, where detention is particularly problematic. In this department, their presence in the Mamoudzou administrative detention centre is commonplace. In these conditions, the number of unaccompanied minors placed in detention after arbitrary allocations of their date of birth by the administration is constantly increasing.

It is important to remember that confinement is not limited to administrative detention in a dedicated centre. Indeed, many unaccompanied minors are deprived of their freedom following police operations and detained even though they are minors.

### 

### Measures taken to ensure access to health services

Although the French health system is intended to apply to any child present on French territory, a 2011 circular from the Social Security Department conditions children’s eligibility for universal health coverage (CMU), now PUMA, on their admission to the children’s social assistance services (ASE), per se on recognition of their minority[[28]](#footnote-28). Thus, unaccompanied minors awaiting assessment or appeal are only eligible for State Medical Aid (AME). However, these children often do not have the necessary information or support to apply for these rights. Furthermore, the opening of rights under the AME requires the provision of a home address, which is often an obstacle for many unaccompanied minors on appeal who are no longer cared for by the ASE and do not always have a permanent accommodation solution.

The IGAS noted in a 2018 report that *“health care is insufficient during the assessment phase, with, apart from a few exceptions, almost no care for psycho-trauma. Health check-ups are not systematic; the opening of rights to complementary universal health coverage (CMU-C) or state medical aid (AME) during the assessment phase is rare[[29]](#footnote-29).”* In September 2020, a volunteer doctor also testified that: *“During the sheltering period before their assessment in Gap [Hautes-Alpes], young exiles do not benefit from any systematic health examination as required by law[[30]](#footnote-30).”*

According to Médecins du Monde, in 2018, 12% of unaccompanied minors who received medical consultation in their programmes in France had psychological or psychiatric disorders[[31]](#footnote-31). On the other hand, a 2020 study revealed that *“feelings of fear or anxiety and feelings of loneliness were found respectively in 70% and 75% of the unaccompanied minors received by Médecins de Monde teams in Paris, from the first week of confinement,”* during the COVID-19 pandemic[[32]](#footnote-32).

Despite this, a study carried out in 2020 by the Migrations General Estates on data collected from fourteen departments found that *“the mental health of young people is never taken into account in the assessment carried out by the departments analysed[[33]](#footnote-33).”* Volunteers in contact with unaccompanied children also testify that *“no account is taken of the post-traumatic syndrome suffered by some of these children, which manifests itself in sleep disorders (recurrent nightmares), amnesia about their journey, depression, physical pain, addictive tendencies [...]. In this area, volunteer carers, who deal with these problems daily, find themselves at a loss[[34]](#footnote-34).”* However, the assessment of the psychological health of unaccompanied children is seldom included in the initial interviews conducted by the departments, and the psychological follow-up of these children is not provided by the state or its delegates.

## Access to education by unaccompanied minors

Access to education can be conditioned by the unaccompanied minors being in the care of children’s social assistance services. It means that their access to education depends on their minority’s recognition.

Thus, while waiting for their assessment, and then, in the event of an unfavourable one, throughout their non-suspensive appeal (which can last many months), access to schooling is denied to these children.

This practice is not isolated and appears in several French departments:

* In Hérault, faced with the authorities’ silence, associations alerted a Member of the European Parliament to the fate of hundreds of unaccompanied children not enrolled in school for the duration of documentary investigations concerning their identity documents, which were often unjustified.
* In Yonne, those over sixteen years old are not enrolled in school, being told by the school inspectorate that *“no place is available[[35]](#footnote-35).”*
* In the Hautes Alpes, the Aix-Marseille education authority makes the enrolment of unaccompanied children in school conditional on their being taken into care by the ASE, based on a protocol with the prefect and the department[[36]](#footnote-36). However, this condition does not exist anywhere in the legislation. Therefore, it constitutes an artificial and illegal obstacle to these children’s access to education. The Marseille Court ruled in this sense in an 18 October 2018 decision[[37]](#footnote-37).
* In Paris, two associations also denounced the discrimination operated by the CASNAV[[38]](#footnote-38), which blocked access to the evaluation before entry into public school for unaccompanied children based on their administrative situation[[39]](#footnote-39).

In addition, the assessment timeframes of the information and guidance centres (CIO) conducting the tests to determine the school level are sometimes long and are not provided uninterruptedly during the year, leaving many unaccompanied children waiting. As most of these children are between 16 and 18 years of age, these delays eliminate, in practice, any chance for them to be effectively enrolled in school before they come of age.

## Children in the child justice system

### Reform of the child criminal justice system

The Code of Juvenile Criminal Justice (CJPM) has recently superseded the 1945 Order on delinquent children. In its spirit, the CJPM aims to shorten the time taken for a criminal response so that the young minor or adult understands the sanction’s pedagogy. To this end, the hearings have been split: a first hearing must take place quickly (10 days to 3 months) to rule on the possible guilt of the minor, and then, if necessary, a second hearing must be held no more than 9 months later, to determine the sanction.

While the desire to reduce the time taken to process cases is commendable, the new application of these new provisions does not yet provide the necessary hindsight to establish their effectiveness. On the one hand, professionals in the field are having difficulty grasping this new complex body of law, which involves changes in methods. On the other hand, these new methods can be a source of additional pressure on educators in open environments. Indeed, as the number of hearings has doubled and the acceleration of scheduling of hearings means that teams must organise themselves much more quickly to prepare for the hearing of minors. For example, it may be difficult to quickly draw up educational or integration projects for young people to present to the juvenile judge. In short, the processing rate of court cases has increased, although no new professionals have been recruited to cope with the increased workload and the logistical increase in hearings.

To date, it does not appear that the reform reduced the number of minors in detention as it was intended to.

The COFRADE recommends:

* recruiting a substantial number of new open educators;
* to make the specialised education professions more attractive mainly by improving their remuneration.

### Detention of girls

In France, there are currently only three reinforced educational centres (CER) for girls and only one closed educational centre (CEF) for girls. There is also a tendency towards closing CERs in favour of CEFs, for which the government has planned to open 20 new establishments since 2018. However, some local authorities are against setting up these centres on their territory, and staff recruitment is difficult.

To compensate for the lack of response in forced educational placement, girls are sometimes interned in juvenile prisons (EPM), which are managed by the prison administration, in single-sex units. In the worst cases, girls are placed in “juvenile wards” within adult prisons. However, some adult prisons do not have dedicated wards for minors.

This situation poses difficulties in terms of the quality of their reception. Professionals are no longer able to direct girls to places consistent with their educational projects and adapted to their profiles. In search of the smallest available space to accommodate them, professionals are forced to direct them to establishments that do not meet their educational requirements. Finally, mixed units can house girls. While some of them may be very vulnerable due to sexual violence or exploitation, their presence near boys, who may themselves be perpetrators of sexual offences or crimes, exposes them to great psychological distress and may even lead to victimisation.

The COFRADE recommends the creation of new reinforced educational centres for girls.

# J. Optional Protocol on the sale of children, child prostitution and child pornography

### Online sexual exploitation of children

In most cases of procuring minors observed in court, advertisement sites connected the clients to the victims. These advertisements do not mention explicit terms of sexual acts but use euphemisms in line with the terms of use (“accompaniment”, “striptease”, “massage”, “domination”, and so on), often accompanied by suggestive or even erotic photographs. There is no ambiguity about the real purpose of these ads, which is publicly known as prostitution.

Investigation reports systematically mention platforms like Vivastreet or Wannonce. Despite this, they never seem to be investigated by the justice system and are never summoned to appear. However, they meet the material requirements for procuring offences since they act as intermediaries between clients and victims. Besides, they receive income from this intermediation, income amounting to millions of euros per year.

Two investigations are currently targeting the companies Vivastreet and Wannonce. During the preliminary investigation, Vivastreet preventively removed the "Erotica" section from its ads. The investigation procedures are spread over several years, during which the ads are still online. In addition, other ad platforms are committing acts comparable to pimping but are not currently under investigation.

### Legal qualification of sexual exploitation

The French criminal arsenal provides for the offence of trafficking in human beings for all persons prostituted against their will. This offence, similar to the procuring one, differs from it as it includes an intrinsic dimension of coercion and exploitation. According to the national legislation, these two concepts are automatically retained for all children in prostitutional situations since children cannot be considered volunteers for prostitution.

However, even when the investigations prove the coercion and violence, the offence of procuring minors is still in force and almost systematically supersedes the trafficking of human beings. French justice therefore officially recognises that children can consent to be in procuring networks and that they have not been forced into it. The conflict between the qualifications of procuring and trafficking human beings also leads to unequal treatment before the courts because similar cases are qualified differently in different jurisdictions.

The COFRADE recommends:

* To systematically prosecute for pimping online advertising platforms regularly involved in sexual exploitation cases;
* To opt for the offence of trafficking human beings rather than procuring in cases of sexual exploitation of minors.

# K. Optional Protocol on the involvement of children in armed conflict

As of October 2022, there were over 100 French children in Roj. It was estimated that around 90% of these children were under the age of 13 and that two-thirds were under the age of 6. There were even more in the Al Hol camp, but it was difficult to put a figure on them. These children live in extremely degrading conditions, which do not satisfactorily meet their vital needs and infringe on many of their rights in terms of access to material living conditions, education, health, etc.

Although the French government has changed its position on these children’s repatriation several times, Ms Charlotte Caubel, Secretary of State for Children, finally acknowledged on 15 September 2022 that these children were victims and should be repatriated[[40]](#footnote-40). However, France still deploys insufficient means to organise a comprehensive and rapid return of these children. A few days after Ms Caubel’s declaration, France mobilised a whole medical plane for the return of only one mother and her two children, whereas in July, 35 children were able to return to the national territory. On 20 October, 40 children were repatriated. The choice of families to be repatriated as well as the timetable for repatriation is therefore surrounded by arbitrariness, with selection criteria that are not communicated and are incomprehensible.

The government cites technical difficulties and difficulties in accessing the camps as reasons for the slow pace of repatriation. However, Kazakhstan, which has budgetary resources well below the French ones, was able to organise the return of 490 of their minor nationals by July 2022[[41]](#footnote-41). As for humanitarian assistance in the camps pending repatriation, France has not deployed serious logistical solutions to meet the challenges of education and health, unlike, for example, Finland, which has organised distance learning through online chat services in preparation for the return of their nationals.

Concerning the reception of repatriated children on national territory, families regret that these children are placed in children’s social assistance services establishments or foster families as a priority to their placement with family members (grandparents, uncles, and aunts, etc.). When the child arrives in France, a social investigation is initiated to determine the child’s long-term placement. However, these investigations can take more than a year, and the children are deprived of any family ties in the meantime. It is, therefore, necessary to start the social investigations now, in anticipation of the return of these children.

The COFRADE recommends:

* To repatriate without delay all minors of French nationality without exception, with their mothers;
* To anticipate these returns by starting social investigations now to allow a rapid reintegration of these children into their respective families.

# Summary of recommendations

The COFRADE recommends:

## Effects of the COVID-19 pandemic

* Work to bring schools into line with the new health requirements, particularly concerning air quality (ventilation, CO2 sensors, etc.);
* to adopt a plan for preventive equipment of protective materials in case of prolongation of the pandemic, or the occurrence of new epidemics;
* to increase the number of staff to ensure that all pupils are monitored at school and psychologically;
* to strengthen the human and material arrangements for school medicine (taking into account both the physical and mental health of pupils);
* provide free or assisted computer equipment for pupils, particularly in disadvantaged families;
* continue to invest in facilitating access to legal aid for all minors and for those who defend their interests, in particular by centralising legibly and effectively all the legal tools available to those who wish to know how to defend their rights effectively online and by listing the associations that can help;
* simplify procedures and the system of evidence for online violence, as the French judicial system does not allow the production of screenshots as authentic evidence unless they are authenticated by a bailiff, making the evidence system cumbersome and not adapted to the new technologies and features of social networks;
* launch a public awareness campaign on online violence;

## General measures of application

* specific resources to be allocated to the national education system in the overseas departments to curb school delays and drop-outs: better training and remuneration for staff, improving the attractiveness of schools, strengthening support for pupils, diversifying training opportunities, improving local higher education;
* increase the funds allocated to public services and territorial authorities in the overseas territories to strengthen social aid and healthcare provision in the outermost territories;
* facilitate the consultation of companies’ due diligence plans, but also of the general information they hold concerning their responsibilities and those of their subsidiaries in terms of human rights, through an access mechanism administered by a neutral third party under the control of a judge;
* to ensure, beyond the simple publication of plans, the application of concrete measures put in place by the companies covered by the 2017 law, as well as the evaluation of their effectiveness;
* lowering the thresholds for employees and including sectors of activity that are highly sensitive in terms of human rights risks;

## General principles

* to undertake an overhaul of the undergraduate admission system, in particular by:
  + granting a real status to high school and student unions, to be associated with the reforms as of right;
  + facilitating access to higher education, in particular by increasing the number of courses on offer and the number of places in them, with the possibility of bridging and adaptation modules
  + strengthening social support, especially for first-year students: grants, housing assistance, support for the acquisition of equipment, etc;
* Adopt a definition of the best interest of the child (BIC) and a national reference framework to ensure that BIC is assessed and respected in all public policies and procedures that affect children;
* Strengthen the training of child protection professionals on the BIC;
* improve access to quantitative data on professionals’ awareness of BIC;
* make it compulsory for the public prosecutor to refer a case to the family court when the latter receives a report or complaint against a parent suspected of being the perpetrator, co-perpetrator or accomplice to a crime or offence committed against the parent’s child or of being the perpetrator, co-perpetrator or accomplice to a crime or offence committed against the other parent; this should be done without automatically suspending parental authority and without prejudice to the presumption of innocence;
* to require the family court judge, in such circumstances, to rule within six days;
* to make the hearing of a child more systematic and effective in all proceedings concerning the child;
* when a procedure concerns several children, allow each of them to express themselves separately;
* to strengthen the initial and ongoing training of judges on the hearing of children;

## Civil rights and freedoms

* to considerably increase the human resources devoted to the application of the "Studer Act", in particular concerning the staffing of the regional directorates for the economy, employment, labour and solidarity (DREETS) responsible for controls;
* to apply more strictly the provisions of Article 227-24 of the Criminal Code;
* make early childhood jobs more attractive;
* develop the 1,000-day centres as resource centres and intersectoral networks;
* to make the provisions relating to the charter of the "Studer Act" more systematic and binding;
* when a procedure concerns several children, allow each of them to express themselves separately;
* to reinforce the initial and ongoing training of magistrates on the hearing of children.

## Violence against children

* make it compulsory for platforms to have trained referents on cyber-violence and cyber-crime to carry out prevention and moderation and to fight against exposure to pornography and the online sexual exploitation of minors;
* increase the financial, human and material resources of specialised investigators to combat the online sexual exploitation of children by facilitating international cooperation with extraterritoriality measures between countries;
* raise awareness among the police of the issues and offences related to cybercrime;
* adopt a legislative definition of prostitution that would include new online practices; strengthen legislation on image rights and the right to privacy of minors;
* encourage a greater level of detail in reports of concern regarding maternal genital mutilation, to facilitate their efficient treatment by the collection and assessment units;
* prohibit surgical interventions or hormonal treatments for variations in sexual development that do not present vital risks for children, and without the free and informed consent of the latter;
* conduct a national debate on the possible acceptability of ritual circumcision among minors;
* to train health professionals on the functions of the foreskin and to make them aware of the risks of forced pulling back of the foreskin;

## Family environment and alternative care

* reopen hospital beds;
* to proceed with the massive recruitment of paediatricians and nurses;
* to proceed with the massive recruitment of psychologists in the national education system;
* to upgrade the salaries of paediatric professionals;
* strictly apply article 312-16 of the Education Code, i.e. to ensure that each pupil, from 3 to 18 years of age, receives at least three sessions of education on emotional and sexual life each year;
* to combat misinformation and any misleading interpretation of sex education through the provision of information on its usefulness by the public authorities to parents;
* to enable the parents of children suffering from a serious illness, whether chronic or not, to stay with their hospitalised children;
  + maintenance of the accompanying parent’s salary or the introduction of equivalent aid;
  + the specific aid to compensate for the cost of looking after siblings;
  + payment of travel costs (petrol, train, plane);
* so that the sick child can benefit from the visit of the non-accompanying parent (who works) and the child’s siblings when the hospital is far from home: specific financial aid for transport costs (petrol, train, plane) and accommodation costs (parents’ house if there are places or hotel rooms);

## Education, leisure and cultural activities

* to increase the number of teachers in hospitals to allow better school follow-up and to encourage exchanges between hospital and school teachers
* better inform families about the APADHE scheme (educational support at home, in the hospital or at school) and make it accessible to more children
* inform better parents about the possibilities of distance learning (CNED) provided by the national education system when the situation warrants it;
* develop actions to support parenthood;
* increase access to medical check-ups to identify better the problems of some pupils that are affecting their schooling;
* strengthening the academic management of priority education by mobilising all the inspectorates around the specific educational difficulties encountered by the teams and better evaluating the effect of the actions taken;
* encourage dialogue between school headmasters and the municipal services that issue enrolment certificates to understand better the needs of pupils at the start of the school year;
* to adopt a national plan to promote sleep and rest, carried out in an interministerial manner, with a dedicated budget and allowing the various public policy areas to be made consistent in the fight against insomnia in children and their parents;

## Special protection measures

* recruit a substantial number of new open educators;
* to make the special education professions more attractive, in particular by increasing their remuneration
* Establish new reinforced educational centres for girls;

## Optional Protocol on the sale of children, child prostitution and child pornography

* systematically prosecute online advertising platforms regularly involved in sexual exploitation for pimping;
* give priority to the offence of trafficking in human beings rather than pimping in cases of sexual exploitation of minors;

## Optional Protocol on the involvement of children in armed conflict

* to repatriate without delay all minors of French nationality without exception, together with their mothers;
* to anticipate these returns by opening social investigations now, to allow a rapid reintegration of these children into their respective families.



# November 2022

1. https://netino.fr/ [↑](#footnote-ref-1)
2. Etude Caisse d’Epargne/Association e-Enfance sur le cyber-harcèlement des jeunes, 2021. [↑](#footnote-ref-2)
3. Senate information report on behalf of the Finance Committee on the exceptional overseas investment fund (FEI), by MM. Georges Patient and Teva Rohfritsch, 22 June 2022. [↑](#footnote-ref-3)
4. Article L-612-3 of the Education Code. [↑](#footnote-ref-4)
5. https://www.ccomptes.fr/system/files/2020-03/20200227-rapport-premier-bilan-loi-ORE-3.pdf [↑](#footnote-ref-5)
6. *Ibid.* [↑](#footnote-ref-6)
7. Art. 373-2-8 Civil Code. [↑](#footnote-ref-7)
8. Article 40 of Law No. 78-17 of 6 January 1978 on information technology, files and freedoms. [↑](#footnote-ref-8)
9. Regulation (EU) 2016/679 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, (General Data Protection Regulation), 27 April 2016. [↑](#footnote-ref-9)
10. Decree No. 2019-57 of 30 January 2019 on the methods of assessing persons declaring themselves to be minors and temporarily or permanently deprived of the protection of their family and authorising the creation of personal data processing relating to these persons. [↑](#footnote-ref-10)
11. IFOP, OPEN, 2017. [↑](#footnote-ref-11)
12. MG Free sites and other companies publishing pornographic sites were served with a formal notice by Arcom, and then voluntarily intervened in the civil procedures aimed at suspending access to their services by Internet service providers. In August 2022, Arcom was seized by several associations requesting that Twitter France be put on notice. [↑](#footnote-ref-12)
13. Médiamétrie, OPEN, UNAF, 2020. [↑](#footnote-ref-13)
14. Heaven, Génération numérique, 2022. [↑](#footnote-ref-14)
15. Ipsos, OPEN, UNAF, 2021. [↑](#footnote-ref-15)
16. Pointdecontact/INHOPE, 2021. [↑](#footnote-ref-16)
17. Cass. crim. 27 mars 1996. [↑](#footnote-ref-17)
18. https://www.nouvelobs.com/rue89/rue89-nos-vies-connectees/20130926.RUE8988/circoncision-les-antis-s-installent-discretement-en-france.html [↑](#footnote-ref-18)
19. http://www.e-docteur.fr/actu-specialites/la-circoncision-en-2018-quen-pensent-les-urologues/#:~:text=90%20000%20circoncisions%20annuelles%20en,contre%2030%25%20au%20niveau%20mondial [↑](#footnote-ref-19)
20. Article 16-3 of Civil Code. [↑](#footnote-ref-20)
21. FAUCHIER-MAGNAN Émilie et FENOLL Bertrand, La Pédiatrie et l’organisation des soins de santé de l’enfant en France, IGAS, mai 2021. [↑](#footnote-ref-21)
22. *Ibid.* [↑](#footnote-ref-22)
23. IGESR, 2021. [↑](#footnote-ref-23)
24. https://www.interieur.gouv.fr/Publications/Rapports-de-l-IGA/Rapports-recents/L-efficacite-des-politiques-publiques-mises-en-oeuvre-a-Roubaix [↑](#footnote-ref-24)
25. Survey carried out by the COFRADE with the participation of Playbac editions [↑](#footnote-ref-25)
26. Survey conducted in January 2022 by the National Institute of Sleep and Vigilance. [↑](#footnote-ref-26)
27. Cimade, Centres et Locaux de rétention administrative, 2019 Report. See also UNICEF France Report, Review by the Committee on the Rights of the Child of the situation in France submitted to the Committee on 29 June 2020. [↑](#footnote-ref-27)
28. Circular No. DSS/2A/2011/351 on specific points in the regulation of state medical aid, including family situation and household composition (status of minors), 8 September 2011. [↑](#footnote-ref-28)
29. IGA, IGAS, IGJ and ADF, Bipartite mission report of reflexion on unaccompanied children, 15 February 2018. [↑](#footnote-ref-29)
30. Testimony of Dr Françoise Martin Cola (Réseau Hospitalité et Médecin du Monde), 17 September 2020. [↑](#footnote-ref-30)
31. Médecins du Monde, Observatory of access to law and care, October 2019. [↑](#footnote-ref-31)
32. *Ibid.* [↑](#footnote-ref-32)
33. EGM, Working group" Minors ", Synthesis of the questionnaires' analysis, Summer 2020. [↑](#footnote-ref-33)
34. Testimony of Dr Françoise Martin Cola (Réseau Hospitalité et Médecin du Monde), 17 September 2020. [↑](#footnote-ref-34)
35. EGM, Working group" Minors ", Synthesis of the questionnaires' analysis, Summer 2020. [↑](#footnote-ref-35)
36. Hautes-Alpes, Letter from Réseau Hospitalité to the academic inspector, 8 September 2018 ('another distinction will be made between minors with a PPO in the 05 or benefiting from a decision of the children's judge, who will be able to be schooled, and the others'); Académie Aix-Marseille, Letter from the inspector of the academy, academic director of the services of the National Education of the Hautes-Alpes, 12 September 2018; La Cimade, Schooling of young people who are not recognised as minors: a victory in the Hautes-Alpes, 12 November 2018. [↑](#footnote-ref-36)
37. Tribunal Administratif de Marseille, Nº1808286, 18 October 2018. [↑](#footnote-ref-37)
38. Academical centre for the schooling of newly arrived allophone pupils and travellers' children. [↑](#footnote-ref-38)
39. ADJIE and ASMIE, Letter to the Minister of National Education and the Rector of the Paris Academy, 28 January 2019. [↑](#footnote-ref-39)
40. https://www.radiofrance.fr/franceinter/podcasts/l-invite-de-6h20/l-invite-de-6h20-du-jeudi-15-septembre-2022-8627370 [↑](#footnote-ref-40)
41. https://www.rightsandsecurity.org/action/resources/global-repatriations-tracker [↑](#footnote-ref-41)