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**ALTERNATIVE REPORT**

**PRESENTED BY JURISTES POUR L’ENFANCE**

**TO THE COMMITTEE ON THE RIGHTS OF THE CHILD,**

**ON THE OCCASION OF THE 6TH PERIODIC REVIEW OF FRANCE**

**CRC – OPSC**

**Report presented in English language on November 29th, 2022 by**

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**Juristes pour l’Enfance** (JPE) is a non-political Association (NGO), gathering lawyers and people involved with children, willing to dedicate their expertise to serve defending children’s rights.

JPE benefits from the status of consultant with the UN Economic and Social Council.

To elaborate this report, JPE relied on:

* Its own expertise developed since 2008 (date of its creation), for which it receives solicitations from members of Parliament, international experts, national authorities, professionals involved with children, and parents and children;
* Accounts collected through the association’s internet website, its email address or on the occasions of events to which the association participates (conferences, symposiums, educational events, …).

*Methodology note: to provide the CRC fluent reading of this alternative report, by comparison with the French State’s report, the association Juristes pour l’enfance reiterated the numbering of the French State’s report for the paragraphs to which it wishes to answer. As it does not answer to all the matters raised by the French State, le numbering of paragraphs may be discontinued.*

# I/ New developments

***1. a) Adoption or amendments of laws, policies and programs and any other important measure for the implementation of the Convention and its optional protocols.***

French State enacted some measures intended to reinforce the efficiency of the childhood protection public policy, as law dated April 21st, 2021, that inserted in the Penal Code that the so called “consent” of a child under 15 to a sexual intercourse with an adult is impossible, or further the introduction of timid regulations to protect the children from pornography.

Nevertheless, such measures lack of ambition and do not meet the issues. Thus, some victims’ associations have criticized the insufficient nature of law dated April 21st, 2021. Furthermore, thus far no one has seen the effects of children protection against pornography and, broadly speaking against the violent contents of cartoons, movies and videogames intended for children, even if, since 25 years, many studies show the detrimental effects of such contents.

Furthermore, such few efforts may not hide nor compensate the major attacks on children carried by laws that sacrifice the child to the desires and ideologies:

* Damage to the child’s identity, its physical and psychic health, through the generalization of ART with third donor, carried out by the law on bioethics dated August 2nd, 2021;
* Continuation of the creation of supernumerary embryos;
* Consistent and unpunished infringement of French regulation prohibiting surrogacy;
* Repeated statements in French parliamentary that the Child’s interest may not be construed as superior but only as its higher interest;
* Adoption’s reform focused not on the child’s need to find a family but on an egalitarianism between the candidates to adoption and suppression of the possibility for a woman to entrust her child to an authorized body for adoption (OAA);
* Suppression to a large extent of the possibility for a child to be instructed within its family.

Juristes pour l’enfance would also like to underline the lack of political will in crucial matters as pediatrics and child psychiatrics, justice dedicated to minors, social support to childhood, support of the families, with a double talks promoting, for instance the importance of the father during the child’s first 1000 days and, in the same time, encouraging the creation of single-parents’ home with the opening of ART to single women and the absence of means dedicated to the support of steady couples to raise children.

It regrets the dithering in the fight against access to pornography for underage people, the absence of commitment to eradicate the violent and degrading contents and the deficiency in the means dedicated to the fight against child’s pornography.

**Lastly, Juristes pour l’enfance wishes to emphasize the emergence of a totally new issue, i.e., the care of children questioning their gender (so called “transgender” children) that did not give rise to recommendation in the previous cycles. Such issue generates serious preoccupations, linked to the quasi-systematical guidance of the children to a medical transition and to the discredit of the prudent and holistic psychotherapeutically follow-up that should be offered to such children. Such issue is addressed in the part dedicated to the “Violence against children” (C), in the sub-party 5 “Extent and type of harmful practices to which the children are exposed”.**

# II/ Rights deriving from the Convention and its optional protocols

## General measures of implementation (art. 4, 42, 44(6))

***1. Reservation to article 30 and interpretative declarations to articles 6 and 40 of the Convention.***

In its report dated July 11th, 2022, French State declared that it maintains its declaration related to article 6 (inherent right to life and abortion in the conditions stated by law).

As stated by the Lyon Appeals Court [[1]](#footnote-2), “*such statement proves, on the contrary, that such Convention was likely to concern the fetus of less than 10 weeks, legal period in France for abortion”[[2]](#footnote-3).* As a matter of fact, if it is necessary to expressly exclude the Convention in a case where the fetus is concerned, it means that the fetus is concerned by the Convention. If not, such statement has no utility.

Yet, the Supreme Court (Court of cassation) disregards the Convention when it ignores the unintentional attack on the life of an unborn child and refuses to punish it according to the criminal code’s definition of unintentional attack on other’s life.

The Supreme Court upholds a false interpretation of the French criminal law but, even if the law itself was inappropriate, there would still be the same disregard of the Convention.

The cases submitted to courts concern mainly:

* road accidents that have resulted in the death of an in-utero child (fetus at various pregnancy stages).
* medical mistakes or negligence that have resulted in the death of the child just before his or her birth, the mother being in the hospital for delivery.

The Court of cassation refuses to consider there is an involuntary homicide if the child is not born alive (*Cass. Ass. Plen. June 29th, 2001,* ***n° 99-85973*), even though it states that there is** *homicide when the child is born alive but not viable, doomed to die because of the injuries received in utero and has therefore no legal personality (Cass. Crim. June 24th, 2014, n° 13-84542).*

This results in serious inconsistency: the person who hurts a fetus is guilty of involuntary injuries, whereas the one who causes its death faces no penalty.

The law regarding abortion may not explain such inconsistency as the possibility for a woman to terminate her pregnancy may not give to others the right to terminate such pregnancy by accident, against the woman’s will.

Such denial of the life of an unborn child is furthermore in contradiction with the Civil Code that allows registration of the in-utero dead child in the civil registry, as child without life. The Court of cassation has decided that such civil registration may be performed regardless the duration of the pregnancy (Cass. 1st civ., February 6th, 2008, n° 06-16.498), that it may be registered on the family leaflet and receive a first name and now a family name (art. 79-1 of the Code civil as amended by law dated December 6th, 2021).

Such denial of the existence of unborn child is further contradictory with the French State’s declarations regarding its Pact for childhood. Thus, in the report sent to the CRC, the State clearly indicates that the “1000 first days strategy” targets the key issues of the child development, from the 4th month of pregnancy to the child’s second birthday[[3]](#footnote-4), pleading thus for the protection of the unborn child’s from the 4th month of pregnancy (i.e., the end of abortion delay).

**The association JPE would like to suggest to the CRC to make the following recommendations to France:**

* **Involuntary homicide of the in-utero child shall be recognized as such and give right, as the case may be, to indemnification for its legal representatives.**

***2. Assessment process of the impact on the child’s rights of any new legislation. Promotion of the recourses granted by the optional Protocol on a communication process with the professionals working with children and with the children themselves.***

Contrary to what French State is claiming, the impact studies organized before any new legislation often skip the child’s rights, despite the alerts issued by the professionals working with children and the children themselves.

* Thus, the French parliament passed on February 21st, 2022, a law aiming to amend the adoption, containing some contestable and contrary to the children’s interest measures, that had yet been criticized by childhood and adoption professionals. In particular, such law suppressed the possibility for the authorized bodies for adoption (OAA) to act as intermediaries for an adoption, which is in contradiction with the advice issued by such bodies and by the adopted persons. Every child entrusted to such OAA, including the children with disease or handicaps, was adopted, which is not the case for the children with similar particularities entrusted to the Social support to childhood.
* Another example may be given with law dated August 24th, 2021, “comforting the Republican principles” that significantly restricted the possibility for a child to be instructed within his/her family. The associations gathering such children and their families have not been consulted prior to such law and the relevant children who expressed the restrictions of their rights imposed by such law have not been heard. One year after the promulgation of such law many relevant children have been denied the authorization to be instructed within their family, while this instruction mode is beneficial for them.

Furthermore, French State does not promote the implementation of the International Convention on the rights of the child, on the contrary: thus, the administrative courts render the Convention ineffective when they prohibit to the victim children to bring an action relying on the Convention after they coming of age, while they did not have legal capacity to bring an action during their minority.

A young woman submitted a complaint to a French administrative court [[4]](#footnote-5) she had been conceived through third party-ART and she requested to know the identity of her donor and if her brother was from the same donor. She based her request on the right of the child “as far as possible to know and be cared for by his or her parents” (art. 7). The court disapplied the Convention stating that “the claimant was older than 18 when she applied to the CECOS (French medical authority in charge of gametes conservation and donation)”. Yet she was not entitled to do so earlier.

The Administrative Appeal Court [[5]](#footnote-6) confirmed the impossibility to refer to the Convention: “Miss C..., who was older than 18 at the date of the contested decision, may not benefit from the provisions of such article” (§ 16).

As for the Administrative Supreme Court (Conseil d’Etat), on a similar request, it quoted the Convention at the beginning of its decision but did not bother to examine the request in respect with the **Convention: the point was simply not addressed, as if the Convention does not exist[[6]](#footnote-7).**

**The association JPE would like to suggest to the CRC to make the following recommendations to France:**

* **Prior to any new legislation, a search on the impact on the children’s rights shall be implemented. In such frame, the civil society’s organizations defending the children’s rights in the relevant fields shall be heard;**
* **France shall recognize the possibility for any person to rely on the International Convention on the rights of the child during any judicial proceedings related to the violation of their rights incurred during their minority, even when such proceedings have been initiated only after the coming of age of the relevant person.**

***4. Alignment of the 2020-2022 strategy for the children with the other current plans and strategies.***

The French State details the budgets affected to the childhood related policies. The association Juristes pour l’enfance deplores that some crucial policies benefit only from widely insufficient financing and that no measure is taken to remedy to the same:

The association Juristes pour l’enfance criticises in particular:

* the deficiency of the means allocated to the paediatrics and child psychiatrics, leading to a sharp deterioration of the children’s care, due to a lack of caregivers (doctors, nurses, paediatrics nurses, assistants), despite the multiple warnings and proposals of the relevant professions[[7]](#footnote-8) ;
* the deficiency of the means allocated to the minors’ justice[[8]](#footnote-9): the lack of judges materializes among others by the fact that the judges in charge of children, who are supposed to judge in collegial formation are obliged to judge as unique judge; a lack of social assistants and educators may also be observe, including for the implementation of the various educative measures ordered by the judges ; there is also a lack of specialized psychologists: the psychological or psychiatric follow up of the children ordered by the judges are very often not implemented, due to a lack of relevant professionals;
* the insufficient means allocated to the Social support to childhood, leading to a lack of trained educators, dilapidated or insufficient premises, defective structures’ control .[[9]](#footnote-10)

**The association JPE would like to suggest to the CRC to make the following recommendations to France:**

* **France shall submit a plan of significant increase of the budgets allowed to childhood, in the essential fields constituted by health (pediatrics and child psychiatry in particular), the justice dedicated to minors and social support to childhood.**

***9. Taking into account of the best interests of the child in laws, policies and processes.***

The French State claims that it considers the best interests of the child as an essential and key criterion in the creation, application and implementation of all administrative, judicial and politic measures related to children. It reminds that the Court of cassation (high court) recognized the direct implementation of article 3-1 of the CRC.

Nevertheless, in the recent parliamentary debates, the French Government indicated repeatedly that “the child’s interest may not be considered as superior but only as his/her higher interest”. Such was the case in particular during the debates related to law dated February 21st, 2022, aiming to amend adoption.

Such law, as the law on bioethics, shown that the enacted provisions were not enacted in the best interests of the child, but instead by favoring the adults’ interest when they were competing with the best interest of the child. For example, the law amending adoption created new provisions not for allowing more children to be adopted, but in order to establish an equality in rights between all candidates to adoption, even when the measures would not respect the best interest of the child (as the suppression of the intermediation activity of the Authorized Bodies for Adoption).

The failure to take the best interest of the child into consideration is especially blatant in the provisions of the law on bioethics that extended the access to ART with third party donor, that favors the adults’ desire over the best interest of the child.

Even if the best interest of the child is not defined by the Convention, it lies first in the respect of his/her rights, including the right to know his/her parents and be cared for by them.

Even though the hazards of life may deprive some children of one or both of their parents, it is unjust for the law to voluntary deprive some children of such right, through the organization of ART with third party donor.

To that extend, the law on bioethics dated August 2nd, 2021, takes one more step in favor of the predomination of the adults’ desire over the best interest of the child as this later is now not only deprived of his/her biologic father but also of paternal lineage.

Yet the prejudice incurred from deprivation of father is recognized and indemnified by the Court of cassation, even if the father deceased before the birth and if the child never met him[[10]](#footnote-11).

The French State asserts that the child born from an ART to the benefit of a single woman or a couple of women shall necessary be satisfied from the intended filiation (in the case of a couple of women) or of the unique filiation (in the case of a single woman) that would have been imposed on him/her as he/she is the result of such intention. And the child would not suffer from the absence of father as the man who would have given his sperm cells had no intention to become his/her father.

This is a fiction to the benefit of adults, but this does not take into account the interest of the child who is not interested by the intention of his/her progenitors. In the files of accidental death of the father before the child’s birth, the courts did not consider whether the father, at the time of the conception, had the intention to have a child. The justice did not condition the facts’ analysis to the existence of a recognition of the child before his/her birth that would have evidenced the intention of the deceased father to establish a filiation link with the child. The child born after the accidental death of his/her father does not know what it is to have a father. Nevertheless, the child’s suffering is established by experts and indemnified by the courts.

The same detriment of the deprivation of a father is denied for the children conceived to the benefit of couples of women or single women: under the pretense that it is organized by the mother, the law authorizes it and denies the child’s suffering and interest. A way to remedy to such deprivation would be to allow the child born from such donation to contest his/her legal filiation arising from the ART and to seek the donor’s paternity, to value the damage arising from the absence of father.

The children’s interest is also violated through the trivialization of the ART with third party donor: while the testimonies given by the so conceived persons show that, even when they have access to their donor’s identity, they suffer in the building of their identity, the French State encourages ART with third party donor by enacting measures as the eggs’ auto-conservation for personal convenience, double gamete donation, access to the ART for single women or couples of women.

The child’s interest is not taken into account in the ART practices leading to the creation of supernumerary embryos:

The embryo’s freezing has been permitted by the law in 1994 to save women from the constraints of the repeated eggs extractions as, at such time, the eggs did not endure freezing well and it was necessary to fertilize them to preserve them.

Today, the high-speed freezing method, i.e., vitrification, allows their freezing in good conditions: such practice is authorized in France since 2011; today it is even trivialized and encouraged out of the frame of strictly speaking ART as the law on bioethics dated August 2nd, 2021, authorized the eggs’ auto-conservation (implying their extraction and their freezing for years) to any women without any medical need.

The conception of supernumerary embryos and their freezing are then avoidable.

Nevertheless, the French medical teams continue to conceive and freeze supernumerary embryos, while the freezing is contrary to the child’s interest: to suspend as such the development of a child during months, sometimes years, and to lead to a delay between his/her conception and birth could be qualified as inhuman and degrading treatment.

Furthermore, the freezing exposes the child to difficulties in his/her psychic construction, to perceive his/her place in time and in the chain of generation, as he/she is sometimes born many years after his/her conception; to perceive his/her place in the siblings as some brothers and sisters different in age are in fact twins as they have been conceived the same day.

Furthermore, the fact to know that he/she originates from a “stock” of embryos among which some have been destroyed exposes the child to the survivor’s syndrome, i.e., the guilty feeling to exist while the other embryos have been destroyed.

Such violations of the child’s interest arising from the freezing are all the more unacceptable that the eggs’ vitrification allows nowadays to stop the embryos’ freezing.

The child’s interest is set aside, to the benefit of the adults and of the growth of the ART market, in the policies implemented in relation to the use of the extracted gametes: under the pressure of the requests from persons coming from donation, the law on bioethics theoretically implemented new processes to allow the children conceived through ART with third party donor to access to the donor’s identity. Such processes are implemented only for the gametes donated after the enacting of the law, the donor expressly agreeing to the fact that his/her identity will be known.

Yet the French State gave express guidance, in a decree dated August 25th, 2022, for the use in priority of the gametes extracted under the previous donation regime, without possibility to access to the donor’s identity. To avoid a gametes scarcity situation, the State does not comply with the undertakings made on the occasion of the law on bioethics and willfully allows the continued utilization of gametes allowing the conception of children that will not be granted access to their donor’s identity.

Broadly speaking, the best interest of the child has not been thoroughly evaluated in France in the process of ART and especially in those that will deprive the child of a father: there was no study on the impact on the children nor any valuation process of the measures, contrary to the recommendations made by the CRC to France[[11]](#footnote-12).

The members of parliament satisfy themselves to quote American studies, that have not been communicated, even though the association required such communication to the spokesperson of the parliamentary mission. Furthermore, the ethics Committee enhanced the non-scientific character of such studies “*often voidable by methodological mistakes and devoid of statistical power*[[12]](#footnote-13)».

The expertise of child psychiatrists that took position against the draft legislation has been neglected[[13]](#footnote-14). The report of the parliamentary mission relies on the adaptability of the children, stating that “*the child would be enough resilient to face the potential difficulties that may arise from the conditions of his/her conception”* (p. 75), which reveals the confession of difficulties for the child. The report concludes even that “*in the best interest of the child, a preliminary medical consultation is necessary, completed by a follow-up. The proposition to integrate a child psychiatrist to the follow-up post ART […] seems wise”* (p. 45): such recommendation expresses the acknowledgment that the situation is at risk for the child.

**The association JPE would like to suggest to the CRC to make the following recommendations to France:**

* **In every law related to children, the French State shall mention and emphasize “the best interest of the child”;**
* **France shall implement studies to objectively quantify the impact of the ART techniques on the children, distinguishing between the autologous ART and those implying one or two third party donors;**
* **France shall terminate the creation of supernumerary embryos;**
* **France shall authorize the children born from ART with third party donor to contest the legal filiation arising from the ART that have been imposed to them, to have established the filiation with the donor or donors, and to assert the damage suffered due to the absence of father;**
* **France shall destroy the stocks of gametes from donors who did not agree to the lifting of their anonymity.**

## Civil rights and freedom

***1. Filiation of children born by surrogacy abroad. Ratification of the European Convention on nationality dated November 6th, 1997, and of the Council of Europe Convention on the Avoidance of Statelessness in relation to State Succession dated May 19th, 2009.***

In France, the surrogacy contract (GPA) is void in accordance with article 16-7 of the Civil Code that states that "any agreement on procreation or gestation for others is void". The offence of matchmaking for the purpose of a surrogacy and the offence of induction to the abandonment of a born or unborn child are punished (article 227-12 of the penal Code). The court of cassation considered that “the agreement through which a woman undertakes, even if gratuitous, to conceive and bear a child to abandon him/her upon his/her birth is an infringement to the fundamental principles of unavailability of the human body and the unavailability of the civil status of the individuals” (Cass. ass. plén., May 31st, 1991, n° 90-20105). The French President Emmanuel Macron and the Minister of Justice have publicly asserted several times between 2020 and 2022 that surrogacy is a red line that France shall not cross. The national advisory Council on ethics, in an advice dated June 15th, 2017, opposed to surrogacy because of the "violence (...) on the women recruited as gestational carriers and on the children that are born and are object of agreements executed between very unequal parties". It indicated being in favor of the elaboration of an international convention of prohibition of surrogacy.

Surrogacy violates the women’s rights as the children’s rights. Woman’s dignity is questioned due to her use as a machine to manufacture a child and often due to the exploitation of her precarious or distressful situation. The child is the object of an agreement of availability, on his/her person and his/her filiation.

Despite of this official French position, we can witness with concern that the women’s and children’s rights are infringed by a step-by-step implementation of surrogacy. Thus:

The Court of cassation agrees to the total transcription of the foreign birth certificate, as regard to the biological parent (the man having provided his gametes) and as regard the intended parent, man or woman, if the foreign birth certificate is drafted in the usual forms of the country where the surrogacy has been performed and if it has not been evidenced by other documents that the birth certificate is irregular, forged or contrary to the reality (Civ. 1st chamber, December 18th, 2019, n°18-11.815 ; 18-12.327 ; 18-14.751). Such jurisprudence has the effect to encourage French people to go abroad to perform surrogacy operations that are yet contrary to the law. Furthermore, it is useless regarding the rights of the relevant children as there is no need to transcribe a foreign birth certificate to live in France a normal and peaceful familial life.

During 2022, in the context of war in Ukraine, some French people that had subscribed surrogacy agreements in this country, brought the gestational mothers in France, to have them give birth under the French regime of anonymous childbirth (“accouchement sous X”) and abandon the child so that the orderers may reclaim the child and establish a filiation link between the child and themselves. Some of these women had left behind them in Ukraine young children and came to France only for the end of the pregnancy, before returning in their country in war. Such facts constitute induction to the abandonment of a child, criminal offense punished by the French penal law. They also perform a diversion of the anonymous childbirth and the criminal offense of simulation violating the civil status of the child, also punished by the French penal law. There is also an obvious induction of the adoption. The Ukrainian women’s distress is exploited. According to the medias, the French Minister of Justice gave orders not to sue such criminal and violating the human rights facts.

Some foreign companies merchandising surrogacy’s offers consistently canvass French people with impunity, by organizing professional events with the full knowledge of the authorities (as the show Child’s Desire, held in Paris in 2020 and 2021). Some complaints have been lodged but, as for todays, the French justice did not examine them.

A draft Code for private international law, elaborated by a group of experts put in place by the minister of justice contains a provision aiming to endorse without conditions the surrogacies performed abroad. This would have for effect to legalize the induction of French law and to deprive the child and the women from the protection granted by French law when invalidating the surrogacy.

The French attitude may be particularly criticized as it consists in prohibiting surrogacy on the French territory while doing every possible thing to facilitate the performance of surrogacy abroad for French citizens.

**The association JPE would like to suggest to the CRC to make the following recommendations to France:**

* **France shall precise the criminal offense of intermission for the purpose of surrogacy, so that the foreign companies canvassing French people and merchandising surrogacy offers fall within the scope of the law, even if surrogacy is later on performed abroad**
* **France shall prosecute the brokers offering performance of surrogacy**
* **France shall introduce in the law a specific offense of performance of surrogacy in France as abroad, excluding the exigence of dual criminality**
* **France shall defend the best interest of the child and women’s rights by committing for the elaboration and ratification of an international legal instrument for the universal prohibition of surrogacy**

***2. Root causes of the abandon at childbirth. Content and status report on the draft law on bioethics.***

The obligation to register the child upon his/her birth implies the establishment of a birth certificate compliant to reality, recounting the event of the birth and indicating when, where and from who the child is born. Yet, such obligation is not enforced in France in various situations:

The right of the child is not always enforced when he/she is born from transgender persons, and when his/her birth certificate instead of indicating his/her actual generation and birth reflects his/her progenitors’ feelings. The following case is a good example: a married man, father of two children born from his marriage, required a gender reassignment on his civil status. Such person did not undergo any surgery and kept having sexual intercourse with his/her wife, who, three years later, gave birth to their third child, thus naturally conceived. Now identified as a woman in the civil status, the father of the child refused to be indicated as such in the birth certificate of his child and required to be indicated as the mother. The Appeal Court of Toulouse accepted such request on February 9th, 2022[[14]](#footnote-15): the child, third in the brotherhood and conceived in identical conditions as the elders, has therefore a different birth certificate indicating two mothers instead of a mother and a father, denying the objective fact of the generation resulting from the physical union of a man’s body with a woman’s body. Doing this, French Courts disregarded the right of the child to benefit from a full and precise birth certificate.

It must be further added that the number of de-trans people in France is very important. Should the father of the child, in a few years’ time, decide to retake his masculine birth identity, his child will be obliged to bear a birth certificate indicating the sexual identity’s changes of his father.

The situation is similar for the children born from women at birth who change the indication of their sex on their civil status to choose a gender identity felt as masculine, yet keeping the feminine sexual organs, and who can therefore bear their child and deliver to give birth. Such women at birth who have become men at the civil status require to be indicated as the father on the child’s birth certificate, which doesn’t reflect the reality of the events leading to the child’s birth.

Furthermore, the deliberated intention of the intended parents in the frame of an ART with third party donor, including ART without father, or of a surrogacy performed abroad disregards the child’s rights as it deprives the child of a birth certificate in accordance with the truth to establish a certificate in accordance with the adults’ desire.

This has been explained above regarding surrogacy.

Regarding the ART with third party donor, French Law disregards the right of the child born from it to know his/her parents and be cared for by them, as possible.

As indicated above, the French government required from the ART centers to keep on using the gametes for which the donors did not agree to the lifting of anonymity[[15]](#footnote-16). Thus, and contrary to the undertakings in the law on bioethics, children are still conceived in conditions where they will not have access to the identity of their donor. When reaching 18, should they require to know the identity of their donor, the answer would be that the donor did not agree to the lifting of anonymity and that they may receive no information on such donor.

Regarding the other children conceived with the gametes for which the donor has agree to the lifting of anonymity, admittedly the law on bioethics dated August 2nd, 2021, grants the possibility for the child to require to know, at 18, the identity of the donor. But even should the child have access to the identity of the donor upon the coming of age, this is insufficient. Indeed, the child has the right not only to know his/her parents upon his/her majority, but from his/her birth: to be deprived of the identity of the donor all along his/her minority disregards his/her right.

Furthermore, the information on the identity of the genitor is not equivalent to the fact to know his father. The links between a child and his/her father are tied during childhood and adolescence and, even if the child managed to meet the donor upon coming of age, this would not compensate the father of whom he/she had been deprived from his/her birth.

The lifting of the anonymity upon the child’s turning of age doesn’t end the disregarding of his/her right.

Some people put this right in perspective as it is proclaimed “*as far as possible*”. Indeed, the State can’t guarantee to all children such possibility, as some parents are unknown or deceased. The positive obligations devolved to the State could therefore be discussed, but it is certain that the State must, as a minimum, refrain to inhibit the exercise of such right: now, the legal prohibition for the child born from a donation to obtain the identity of his/her progenitor, as well as the prohibition to seek for his paternity, prevent the child to exercise such right.

Some people also object that the Convention does not define the parents and does not designate the biological parents. Such interpretation may not be considered:

* article 7 establishes the rights at the very time of the birth, which is evidence that the targeted parents are the biological parents.
* this article states that the child has the right to know “his or her parents” and not “the ones who have the intention to be his or her parents”, nor the one who may have obtained such quality through a contract. “Parents” means parents of birth, otherwise this right of the child would be emptied out of its content.

Besides, in its observations dated 2015, the CRC recommended to France “to take all appropriate measures to fully enforce the child’s right to know his or her biological parents and siblings and (…) to adopt the necessary measures for all information about parent(s) to be registered and filed, in order to allow the child to know, to the extent possible and at the appropriate time, his or her parents[[16]](#footnote-17)”: such recommendations evidence that article 7 refers to the biological parents of the child.

French jurisprudence agrees on this point: by reference to article 7-1, the Court of cassation examined the request of a man, biological father of a child to be adopted, who wanted to recognize this child (Court of Cassation, Civ. 1st, June 1st, 2011, n° 10-19028). The request has been rejected upon its merits, but the argumentation was considered as admissible, which shows that the man was one of the “parents” under the meaning of article 7-1.

Some people also put this right of the child in perspective, noticing that the childbirth in secret or the full adoption, provided for by French law, give the same result to take away the biological parents. Nevertheless, such measures are consistent with the right of the child as they intervene in his/her interest. Thus:

* childbirth in secret sets the birth mother aside in order to preserve health and even life of the child. Furthermore, it does not prevent the exercise of a maternity suit.
* the adoption of the child does not deprive a child from his/her original parents, it repairs the fact that he/she had been deprived of parents by the hazards of life.

ART with third party donor for single women or for couples of women, introduced in French regulation by law dated August 2nd, 2021, worsens such infringement of the right of the child as it adds the legal erasing of the paternal lineage. Even if it was possible to discuss the exact definition of “parents”, in any case the father is part of it and the legal interdiction of a paternal lineage is inconsistent with the right of the child.

It should be underlined further, regarding such prohibition of filiation’s establishment, that, since the abrogation of the differences between children born within or outside of marriage, all children but those born from ART with third party donor have, in France, access to the paternity and maternity suit, to the sole condition of the limitation period. They have the right to seek in court their biological filiation, if they so whish. In particular, they have the right to bring a paternity suit to establish the filiation link with their genitor (article 327 of the French Civil Code). Thus, only children born from ART with third party donor shall be deprived of such right: they are legally prohibited to bring such actions as article 342-9 of the French Civil Code states that: “In case of ART requiring the participation of a third donor, no filiation link may be established between the donor and the child born from ART”. The children so conceived are thus victims of a discrimination based on their conception mode.

Such obstacles to the child’s right are yet in no way unavoidable: German law, that allow gametes donation, leaves the possibility to the child born from the donation to contest his/her legal filiation arising from the ART and to seek the donor’s paternity.

**The association JPE would like to suggest to the CRC to make the following recommendations to France:**

* **For the children whom parents required their civil statute’s sex change, France shall ensure that birth certificates are established in accordance with the biological truth of the conception and birth and not in accordance with the gender identity’s feeling of the child’s parents;**
* **France shall destroy the stocks of gametes whose donors did not give their agreement to the lifting of anonymity;**
* **France shall grant access to the donor’s identity since the child’s minority;**
* **Any child, without discrimination and including child born from ART with third party donor, shall be entitled to contest the legal filiation that has been imposed to him/her and to bring paternity or maternity suits.**

### **3 bis. Freedom of thought, conscience and expression (art. 14)**

This issue has not been addressed in the French State’s report, but the association Juristes pour l’enfance wishes to alert the CRC’s experts on the violations to freedom of thought, conscience and expression from which the children are victims, including at school.

Among the numerous illustrations, Juristes pour l’enfance wishes to point out the following:

* In some early secondary schools (“collèges”) (age of the relevant children: 11 to 15 years old), some activist interventions have been performed to convince the children of the need to give their gametes upon their turning of age. Such interventions are highly contestable:
  + Young people’s natural empathy is used by highlighting the suffering of adults having recourse to ART with third party donor, without raising awareness on the responsibility inherent to the gametes’ donation: collected testimony “the nurse distributed to each pupils a leaflet on the gametes’ donation. She said that by donating eggs and spermatozoids ones can make a gesture of solidarity and help persons to become parents.” The distributed flyer limits the information on the donation’s consequences to the fact that it allows adults to be happy (See Schedule n°1). No information has been given upon the identity quest of the persons born from a donation, about their steps to find their donors and for some, to have a filiation link established;
  + The given information is biased as the campaign, targeting pupils, has been made on the occasion of information on the organ donation, leading the youths to believe that the gametes donation was of the same kind as the organ donation (collected testimony: “such intervention contributed thus to create confusion by mixing gametes donation and organs donation”);
  + The respect of freedom of thought, conscience and expression is sacrificed to the benefit of the ART market: as France lacks gametes donation, it doesn’t hesitate to solicit potential donors that are young adolescents still in construction, not yet able to perceive the ins and outs of such donations.

In primary and secondary schools, the children are summoned to conform with the claims of their fellow pupils who declare themselves “transgender”:

A circular form the Minister of National Education, youth and Sports “for a better awareness of the questions related to the gender identity at school”, dated September 29th, 2021, obliges thus to take into account the felt gender identity of a pupil (for instance, a boy who declares being a girl), imposing to all the use of his chosen first name and the share of the intimate places (toilets, changing rooms, dormitories).

Children are thus obliged to abandon their freedom of conscience, together with their freedom of thought and expression to adopt the perception and subjective feeling of the pupil who declares being transgender. They are prohibited to express the slightest doubt, questioning or reservation regarding their fellow pupil’s affirmation, even though a great number of young persons claiming being transgender change their mind in the following years. They are constraint to use, to speak to the so called trans pupil, a gender that does not correspond to the civil status nor to their perception of the truth nor to their belief, and worse, they are constraint to let them enter into their intimate places, without being entitled to assert their rights to have the non-mix places respected. Thus, boys claiming they are trans come into the toilets and changing rooms of the girls, putting them in uncertainty, regarding the masculine anatomy of such so-called trans.

**The association JPE would like to suggest to the CRC to make the following recommendations to France:**

* **France shall cease the campaigns of promotion of gametes donation with children and young minors who do not have the necessary judgement and capacity to appreciate in a free and informed way the issues of such donation;**
* **France shall have freedom of thought, conscience and expression respected at school;**
* **France may not impose at school to the other children the feeling of a child who identifies himself/herself as trans.**

***4. Children’s Protection against access to inappropriate contents.***

The association JPE regrets the absence of protection of the children against material injurious to their well-being, including pornography. In 2015, the Committee expressed its concern that “*no regulatory framework exists at present to protect children from inappropriate media and digital content and that many features for regulating children’s access to inappropriate information on television, the Internet and smartphones, such as parental controls, are not effective in practice*”[[17]](#footnote-18).

The violence of the pornography is nowadays widely criticized [[18]](#footnote-19). Professionals alert on the damaging effects of the exposure of children on pornography and denounce:

* The fact that *“pornography contributes to prepare boys to become beneficiaries and even “predators”, whereas the girls are prepared to be considered as “objects*”[[19]](#footnote-20),
* The trauma of the children as a consequence of the violence of the scenes,
* The harmful impact on the health and the mimicking,
* Behavioral disorders and social withdrawal,
* Increase of the risk to be victim of a sexual predator,
* substitution to the parental discussion and to the emotional and sexual education[[20]](#footnote-21).

The children’s exposure to pornography leads to sexual violence between underage people. The French national college of gynecologists and obstetricians (CNGOF) indicated that the gynecologists receive more and more young underage girls in complex consultations (vaginal tears, abuses, early pregnancies) who offered no resistance, as the boys justified their acts with what they saw on the Internet[[21]](#footnote-22).

Despite the requests made by gynecologists [[22]](#footnote-23), professionals of childhood, associations [[23]](#footnote-24), families and children [[24]](#footnote-25), France has still not taken appropriate measures to ensure an effective protection of the children. Admittedly, since a law dated July 30th, 2020[[25]](#footnote-26), article 227-24 of the French penal Code indicates that the offense of exposition of a minor to pornography has occurred, including if the access to the website requires a statement of majority by the web user. But as of today, the formal notices sent by the Arcom (public body regulating the television channels and the services of on demand audiovisual media services) to the issuer companies of pornographic websites to implement practical measures to prevent the access of minors to their contents, have not been effective.

On September 27th, 2022, an alarming information report has been published by the French Senate “porno, Hell behind the scenes”,[[26]](#footnote-27) denouncing “a pornographic industry that generate systemic violence against women” with a massification of the porno on the Internet and with productions reaching the violence’s paroxysm.

Such report draws attention to the massive, trivialized and toxic consumption of the children and adolescents, with these eloquent figures: 1/3 of the children under 12, 2/3 of the children under 15, 95% of the boys under 18 and 86% of the girls under 18 have been exposed to pornography: “the consequences on youth are numerous and worrying: traumas, sleep, attention and food disorders, distorted and violent view on sexuality, difficulties to link relationships with persons of the opposite sex, premature (hyper) sexualization, increase of risky or violent conducts, etc.”[[27]](#footnote-28). Such consequences with the children are observed since primary school, i.e., with children from 6 to 11[[28]](#footnote-29).

The association JPE also laments the absence of fight against the pornographic websites featuring sexual violence against children and the absence of efficiency on the fight against websites bringing online videos and photos of child abuse:

* During the containment period of spring 2020, the giant of online pornography, Pornhub, put at the free public disposal the premium version of its contents, without any reaction of the public authorities, while some videos of sexual abuse against women or minors could be found, as sexual assault on minors and videos on young victims of “[revenge porn](https://www.terrafemina.com/article/benjamin-griveaux-pourquoi-le-revenge-porn-ne-devrait-rejouir-personne_a352492/1)”, collecting millions of views[[29]](#footnote-30).
* In 2021, France alone represented 6.12% of the whole contents with child abuse reported in Europe. 928 278 URLs have been reported in France[[30]](#footnote-31). The offences rate keeps on increasing year-on-year without any implementation of measures allowing actual results.

**The association JPE would like to suggest to the CRC to make the following recommendations to France:**

* **France shall implement truly efficient measures to protect the children against pornography through the identity checking and the outright blocking of the websites that do not comply with their undertakings**
* **France shall completely block the pornographic websites whose content notoriously infringes children’s dignity**
* **France shall implement measures to make the online services providers accountants, for them to seek, report and block the unsuitable contents.**

### Role of the medias in the promotion and protection of the child’s rights

Some medias specialized in the youth sector produce works imposing to children a language and/or images that are crude, brutal and with traumatic content, that do not respect their development nor their maturity.

For instance, some parents indicated to the association that, in the cinema rooms, the trailers broadcasted before the movies for children are sometimes inappropriate and impose contents that are not intended to the age of children.

Some works are also proposed to children without proper judgement in schools or media libraries. Too often, the adults in charge refuse to take such works away. For instance, the association has been informed of the following: a mother, accompanying her child in a media library, was shocked by the content of a book suggested to children. She indicated her astonishment to the manager, who refused to take it into account. The mother asked the manager to read aloud, in front of the children, the section that seemed inappropriate. After a few words, the manager, embarrassed, stopped, saying that she could not go on such reading in front of children.

**The association JPE would like to suggest to the CRC to make the following recommendations to France:**

* **France shall implement measures to guarantee that the public bodies intended to receive children put at their disposal only works respecting their modesty and their innocence**

## Violence against children

In accordance with the committee on the rights of the child, violence includes non-physical and/or non-intentional harms inflicted to children: “*In common parlance the term violence is often understood to mean only physical harm and/or intentional harm. However, the Committee emphasizes most strongly that the choice of the term violence in the present general comment must not be interpreted in any way to minimize the impact of, and need to address, non-physical and/or non-intentional forms of harm (such as, inter alia, neglect and psychological maltreatment)*”[[31]](#footnote-32).

The law on bioethics dated August 2nd, 2021, enlarging access to ART with third party donor for couples of women and single women leads, for the children, to the following non-physical and non-intentional harms: legal deprivation of a father, deprivation of the double filiation link, erasing of their biological filiation for the benefit of a filiation chosen and imposed by the adults.

The complacent attitude of the French authority regarding foreign surrogacy leads to validation of similar harms suffered by the child born from surrogacy: deprivation of the maternal lineage, erasing of the biological filiation for the benefit of the intended filiation agreed upon by the contractors. Furthermore, the surrogacy violates the psychological integrity of the child, when it organizes the separation with the woman who carried him/her, exposing the child to the traumatic shock of the wound of abandon.

In both cases, the message sent to the child is that his/her sole value is to meet another’s needs, which constitutes a violence against him/her, identified by the CRC: “Mental violence”, as referred to in the Convention, (…) can include all forms of persistent harmful interactions with the child, for example, conveying to children that they are (…) only of value in meeting another’s needs”[[32]](#footnote-33).

Children are also exposed to violence in the frame of mandatory learning of Sciences and life of the Earth (secondary schools), and of education to sexuality since primary school. Adolescents and even children report shocking lectures, during which their intimacy has not been respected:

* Either as the participant adults forced them to speak on intimate aspects of their life, asking intrusive questions,
* Either by reason of the format of the lecture, including the frequent refusal to put in place non-mixed groups to speak about intimate matters.

The Committee reminded that “*adolescence is a life stage characterized by significant vulnerability[[33]](#footnote-34)”. “Individual children reach maturity at different ages. Puberty occurs at different ages for boys and girls, and different brain functions mature at different times»[[34]](#footnote-35).* Now, the learnings imposed at school and the web sites recommended by the speakers[[35]](#footnote-36) do not take this into consideration and are traumatic for some children. Some child psychiatrics and childhood professionals launched a petition reminding that “*the early meeting of the child with the adult sexuality or with a sexuality conceived by adults may be highly traumatic and runs counter the respect of his/her emotional and cognitive rhythm, his/her psychic growth, his/her maturation*”[[36]](#footnote-37).

The current format of sexual education given at school is highly risky for the children, as child psychiatrics denounce: risk that the adults take a place of seducers, initiators of the sexuality; risk of traumatic intrusion in the children’s emotional growth; absence of respect of what fall within the public and what remains in the intimacy of each child; risk of introduction of sexuality in the family space; risk of introduction of a trouble in the child’s sexual identity under the pretense to diminish the man-woman inequality”.[[37]](#footnote-38)

Information should be given to young people in order to prevent sexual abuses, early pregnancies, sexually transmitted diseases, discrimination. Nevertheless, it appears that the speeches and the associated media constitute in fact an invitation to sexual consumption, separated of any link with the emotional field. Some interventions can be considered as corruption of a minor (conducts intended to pervert the minor’s sexuality or to encourage the same to have a depraved sexuality), punishable offense under article 227-22 of the French penal Code. Thus, in a secondary school (lycée) a movie has been shown, telling the “loving relationship” between a young girl and a merry-go-round, where the young girl can be seen masturbating herself with an orgasm on the merry-go-round, the film projection being intended to sensibilize the pupils to the reconsideration of the standards in the sexual relationship and to convince them that it is possible to have such a relationship with objects[[38]](#footnote-39).

Yet, the gynecologists assert that “*the most important is to put the emotional and relational dimension in the core of sexuality as it is the outcome of a complex relationship between the personal experiences, the external influences and the social or moral contingencies*”[[39]](#footnote-40).

An education to sexuality without link to the emotional and relational dimension puts the children at risk and the particularly important sexual violence between children shows that the children must be educated to master their impulses: half of the rapes committed on a minor under 15 are performed by another minor[[40]](#footnote-41).

Some childhood professionals require the education at school to be limited to scientific data, such limit being requested by the teenagers. Those professionals also require the development of spaces for private relationships for those who need more personal information, in surroundings that are not traumatic for them[[41]](#footnote-42). Such requirement seems not to have been heard as regard to secondary school (i.e., for children between 11 to 17 years).

Violence may also arise for the children from books or shows imposed in other subjects. The syllabus for French studies, for classes between 3rd to 1st (14 to 17 years old), contained a book with crude language and sections that fall into pornography (See Schedule 2, extracts of the book).

**The association JPE would like to suggest to the CRC to make the following recommendations to France:**

* **Surrogacy and ART with third party donor constitute violence made to children; they must be prohibited in France**
* **Education to emotional and sexual life given into the school shall respect the children’s modesty and intimacy; it shall be restricted to scientific data, not encourage the minors to the actual sexual activity, not trivialize the sexual relationship and educate the children to the beauty and meaning of the sexual act.**

*3. a) Sexual abuses on children.*

The association JPE warns the Committee of the rights of the child on the important increase of the sexual violence performed between minors and on the growth of youth prostitution at school. The increase of those two trends can be linked to the lack of protection of the minors against pornography and with the incentive to sexual consumption separated from any feelings granted in the schools and indicated above: child pediatrics report that the adolescents prostituting themselves at school are absolutely not aware that it is prostitution[[42]](#footnote-43).

**The association JPE would like to suggest to the CRC to make the following recommendations to France:**

* **Some learning programs to emotional life shall be implemented to fight against sexual violence performed between minors and against the phenomenon of youth prostitution at school.**
* **France shall support the parents to facilitate the discussion with their children on these issues.**

***b) Children’s protection against online exploitation and sexual abuses.***

The Children are the targets of predators requesting pornographic pictures, videos, or representations, inducing them to perform sexual intercourses on themselves or with a third party, disseminating against their will sexual records or documents, very often accompanied of blackmail.

Thus, the children are induced to send “nudes”, i.e., sexual photos or videos of themselves or of their genitals. Children receive then threats to see those photos or videos disseminated in their school,on the Internet etc.

Here again, the French State is responsible of the endangerment of minors to whom the school teaches to trivialize anything related to sexuality: this is specially the case when, during the courses of “sexual education” given at school, some websites are promoted, as “on sexprime”[[43]](#footnote-44) whose aim is clearly to induce young people visiting it to perform sexual intercourse, firstly on themselves (as masturbation is clearly praised) and with others (with the description of the multiple possible practices).

No education is given at school on the dangers from the social networks and the necessary access limitation for the minors.

Furthermore, the State does not implement the necessary budgets to set up the measures allowing to arrest the online predators, and to prohibit the access to websites and social networks that disseminate online contents arising from sexual exploitation and abuse.

**The association JPE would like to suggest to the CRC to make the following recommendations to France:**

* **France shall provide at school information on the dangers of the social networks;**
* **France shall promote at school a sexual education awakening the children to the beauty of their body and the respect that his due to it.**

***5. Extent and type of harmful practices to which the children are exposed.***

***a) Prevention and fight against the feminine sexual mutilations.***

The trans-affirmative care of children questioning their gender in France can be considered as sexual mutilations, mainly feminine due to the prevalence of the relevant young girls, but also masculine.

Such issue of the care in France of children questioning their gender (called “transgender children”) is new and no recommendation has been made in the previous cycles. It raises high concerns.

The situation is the following: for several years now are emerging children and adolescents questioning their identity. Soon, such identity questioning has become a questioning on the sexual identity. Boys and mostly girls, more and more numerous, gain the conviction transmitted in particular by the social networks that their biological sex would be an accident and a violence from the nature and that, in contrast, they have an innate gender that may not be questioned, and that would be of the opposite sex or non-binary (such children or youths would be neither boy, nor girls, or they would be both in the same time). This is what is commonly called gender dysphoria or gender incongruence.

Until very recently, 77% to 94% of children questioning their gender when psychologically supported ultimately declare that they felt in coherence with the birth sex, when becoming adults[[44]](#footnote-45), [[45]](#footnote-46).

But now, those children and adolescents to which one makes believe that it is possible to “be born in the wrong body” are offered in their vast majority a medical transition path that dazzle the promise to be able to change their sex.

Simultaneously, the disqualification of the holistic and cautions approaches, including psychotherapeutic, of the gender dysphoria can be witnessed in France. The only valuable one would be the “affirmative” approach advocated by the World Professional Association for Transgender Health (WPATH) that leads the child in a medical transition path. The numerous preoccupations and concerns raised about those medical transition paths are accused of being transphobic.

Thus, very young children and fragile adolescents get to “medical transition paths” to conform their physical appearance to the one of the opposite sex to their birth sex. They are minors whose body is healthy and does not need treatment; in particular, their internal and external genitals are normal and correspond to the sex in which they have been declared at birth. Those children and youths will absorb chemical hormones on which they shall depend all their life, and that are given “off label” (out of the scope of their market authorization); for some, they will suffer the removal of their secondary sex characteristics and their genitals yet fully functioning, which make them often sterile and at high risk for the satisfying exercise of their sexuality. 60 to 70% of those young people suffer from psychological vulnerabilities preexisting before their gender questioning[[46]](#footnote-47). Now, they are at least a thousand in France, for the majority young adolescent girls.

A medical transition path for a minor involves three phases: puberty blockers administration for the youngest ones (since the puberty stage Tanner 2, i.e., around 10 years for the girls and 11-12 years for the boys); cross hormones administration from 15-16 years (testosterone for the young girls claiming being boys; estrogens for the boys claiming being girls); and incomplete surgery: mastectomy (removal of both breasts) is performed in France for the young girls since 14-15. So far, the other types of surgery (facial and ENT surgery (vocal cords, Adam’s apple) for the boys), and the surgery on the genitals for both sexes seems to be delayed to the majority (subject to rare exceptions).

Such medical transition paths for the minors raise high questioning regarding the voluntary sexual mutilations and regarding health law, especially for the vulnerable population of the children: indeed, the taking of hormones and the mastectomy for the young girls damage the sexual capacity of those children, lead to more or less important consequences on their fertility, and change them into chronically disease patients. Some recent studies and other still in progress denounce the skeletal, neurocognitive, and sexual side effects of such treatments. Some youths having followed medical transition paths complain, some years after having followed such paths, about the final and often deep alteration of their sexual capacities.

Several countries stalled the trans-affirmative care.

- In the United Kingdom: in July 2022, the National Health Service ordered the closing of the special service of the London clinic Tavistock. Such closing decision was taken after an independent experts’ enquiry, that ascertain serious defects in the care of children that were systematically directed to a transition path, even though most of them had psychological or traumatic troubles that would have necessitate a holistic care. The NHS recommends now to favor the children’s care taking into account their whole person and not from the sole symptom of gender dysphoria[[47]](#footnote-48).

- Sweden and Finland, yet pioneering countries in the treatment approach so-called “gender affirmative”, have distance themselves from such treatment model for dysphoric children and adolescents, considering that the hormonal treatment’s risks were superior to the possible advantages; now they favor the psychological care over the medical interventions[[48]](#footnote-49).

The available information up to now on such paths are questioned, whether on the consequences of the transition paths on the minor’s psychic health, on the unknown effects of the puberty blockers given off label or on the side effects of the cross hormones[[49]](#footnote-50).

The children’s and young people’s ability to understand the information related to the medical transition path and their capacity to give a free and informed consent leave serious doubts.

The characteristics and consequences of the medical transition path are highly complex. Some trans adults witness that, event in the frame of the transition initiated after the age of 40, they consider having been unable to decipher the complexities of the transition path. Difficulty is higher for the minors.

For the minor’s consent to be valid, it is necessary that such minor understands, remembers and assesses the immediate physical and psychological consequences of the treatment, the fact that each step of the treatment brings to another, the consequences of the intake of the opposite sex hormones on the birth genital sex, leading sometimes to a mandatory surgery, the fact that the intake of hormones may lead to a fertility loss, the impact of each treatment step on the sexuality and thus on the future interpersonal relationships for a life time, the unknown consequences of the intake of puberty blockers and hormones, the fact that the long term consequences of such treatment are yet very uncertain.

More and more young people regret their medical transition path and would like to come back to their birth sex. Regarding such path’s consequences, such ”de-transition” doesn’t allow young people to regain their former state, which constitutes a great difficulty for them and generates bitter remorse. It is difficult to obtain figures on the number of de-transitions as the relevant young people do not return to the professionals or healthcare institutions that had them transition. It is yet known that the number of relevant young people is increasing.

The “affirmative” approach, that intends to be the unique one in France and that leads the child in a medical transition path, poses thus severe risks to hundreds of children regarding their right to health. It deprives such children of the appropriate protection that they deserve by fixing a frequent and fluctuating identity questioning in a final request, that mutilates their body, damages their fertility and compromises the satisfying exercise of their sexuality.

**The association JPE would like to suggest to the CRC to make the following recommendations to France:**

* **France shall conduct an independent investigation regarding the risks and consequences of the medical treatments granted to children and adolescents in full growth and having no physical health problem;**
* **France shall conduct an investigation to collect the data on the puberty blockers’ and cross hormones’ prescription “off label” (out of the scope of their market authorization) for minors;**
* **France shall conduct an investigation on the short-, medium-, and long-term alteration of the sexual capacity of children and young people caused by a medical transition path;**
* **France shall issue good practice recommendations for a holistic and cautious care of the gender questioning young people;**
* **France shall grant to the public child psychiatrics the means to take care of the uneasy children and adolescents and those questioning their sexual identity;**
* **France shall prohibit the prescription of medical transition path without exploratory psychotherapeutic follow up sufficiently long for the minors;**
* **France shall prohibit the prescription of medical transition path for minors outside a research protocol driven in a multidisciplinary frame.**

***b) Intersexes children.***

The association Juristes pour l’enfance wishes to raise the issue of the treatments given to the children whose genital development is abnormal. Intersex activists put pressure for such children not to be operated upon their birth nor in the following months, in order to wait for them to take their own decision to choose one gender or the other or to remain unspecific.

Such revendication exposes those young children to deprivation of health care: a general prohibition of surgery may only be harmful to children whose interest requires appreciation on a case per case basis, each situation being unique and requiring an appropriate medical response.

Generally, and subject to a medical necessity based on the risk to cause a higher prejudice to the child, the surgery is not delayed for a child born with a cardiac abnormality or any other pathology requiring a quick surgery.

The right to quality health care requires to consider the abnormalities of the genital development in the same view of the interest of the child to receive adequate health care. While medicine gives to many children the possibility to grow in a sex as well identified as possible since early childhood, to differ the care could be very harmful to some children.

On a practical point of view, at what age would the child be able to choose?

Medically, many surgeries benefit from being held as soon as possible.

Psychologically, delaying under the pretense of requiring his/her view to the child imposes him/her to grow without any determined sex, which could expose him/her to a violence not lesser than the one that is intended to be avoided. According to Christian Flavigny and Michèle Fontanon-Missenard, child psychiatrics and psychanalysts, “*it is mistaken to estimate that a child could develop thus a judgment capacity, as the psychic maturation is dependent of the establishment of the sexuation: it is impossible to grow as child and then defines as boy or girl, the child grows only as “boy or girl”*. Keep the child waiting, *«is therefore resignation from the adults’ role toward the child, that is to ensure to childhood enough frivolity to discover the world, it is deliver the child to the utopia of a future decision that will haunt in vain his/her psychical awakening”[[50]](#footnote-51)*.

**The association JPE would like to suggest to the CRC to make the following recommendations to France:**

* **The access to healthcare shall be guaranteed for all children, including children with abnormalities of the genital development, respecting parents’ responsibility to take, with the medical team, the most appropriate decision for each child.**

## Family environment and replacement protection

The association JPE regrets that the teenagers are encouraged, by the law, to act without concertation and discussion with their parents.

As an example, teenage girls may abort without information to their parents but must inform their school in order for the management of the school not to inform the parents of their absence. They are therefore encouraged to put their truth more in the management of their school than in their parents. Yet, “*factors known to promote the resilience and healthy development of adolescents include: (a) strong relationships with and support from the key adults in their lives[[51]](#footnote-52)*”. To encourage teenage girls to deprive themselves of their parents’ support at the difficult moment of an early pregnancy, is a violation to article 5 of the convention.

Furthermore, the family environment and the parents are sometimes discredited in the values they pass on their children, to the benefit of the lines of thinking defined by the governmental policies. Thus, at the occasion of the de-containment and the come-back to school of the children, the forms distributed to the teachers sustain the suspicion on the action of the parents with their children during the containment period[[52]](#footnote-53).

**The association JPE would like to suggest to the CRC to make the following recommendations to France:**

* **France shall implement measures to consolidate, and in some case reestablish, the links between children and parents, including between adolescents and parents, and put those later in capacity to support their adolescents, for instance when they are confronted to hardships as early pregnancies.**

***2. Right of foster children.***

The fate of the children deprived of a family environment is still worrying in France. According to the French State report, at the end of 2018, 355 000 measures of social assistance to childhood (ASE) were implemented (against 341 000 in 2017)[[53]](#footnote-54). The foster children constitute 53 % of the ASE measures and their number increase every year. But only a minority of the children may be lodged in a host family. The majority must be lodged in a community center or autonomous lodge, for lack of host families.

This lack of host families is detrimental to the children: separation of the siblings, excessive number of children in some host families, housing unfit to the child’s needs, abnormal length of the lodging in community centers[[54]](#footnote-55).

Furthermore, France did not develop enough alternative solutions as the sponsorship that “*remains highly neglected; yet it gives the child a possibility to benefit from privileged links with an adult or a third party family to create a new emotional relationship complementary to the one with his/her parents, and to them to find a rest and sometimes a support in their parenthood*”[[55]](#footnote-56).

With such needs, the persons wishing to become parents could be oriented to such alternative fertilities.

**The association JPE would like to suggest to the CRC to make the following recommendations to France:**

* **France shall implement measures helping the persons wishing to have children to know the crucial needs of the children deprived of a family environment**
* **France shall develop a promotion plan for the foster families and the sponsorships**
* **France shall describe the foster families and the sponsorships as an alternative to the ART industry for the persons who wish to have a fecundity.**

## Disabled children

A discrimination remains in France against disabled children. The Committee raised concern on such point in 2015, in particular for accessing education and recreational and extra scholar activities[[56]](#footnote-57).

Progress made are held back by the negative look on disabled children. Many politics and scientists, men and women, hold negative discourses on disabled people, requiring for instance the legalization of “positive eugenics”[[57]](#footnote-58) through the extension of the preimplantation diagnosis for aneuploidies. Such discourses encourage the view that the disabled children are a malediction for a family and a weight for the society.

The association receives solicitations from parents whose children have not been admitted in school, under various pretexts.

They have the feeling that the society disapprove the existence of their children. They are told that it would have been better if their child was not born or had not survived.

Women expecting a disabled child indicate to our association, or to our correspondents, that they feel pressures to terminate their pregnancy: “your life will be spoiled”, “the life of this child will not worth living”, “he/she will be a burden for the society”.

**The association JPE would like to suggest to the CRC to make the following recommendations to France:**

* **France shall implement measures to change the look on the disabled persons.**
* **France shall prevent the pressures faced by pregnant women to abort when they carry a disabled child.**

## Health and basic social protection

***2. Implementation and impact of the public policy of sexual education.***

The association JPE wishes to alert on the endangering of the teenagers and even the children through the promotion at school of sexual consumption described above.

A recent survey evidences a significative statistical link between the number of sexual partners during the life and the cancer diagnosis, for men as for women.[[58]](#footnote-59)

Refusal to promote the mastering of the sexual impulses encourages children and teenagers to give a free hand to their sexuality[[59]](#footnote-60), as long as such sexuality is agreed upon by every partners. Doing this, France endangers the future health of the children and teenagers.

In 2015, the Committee indicated its preoccupation regarding the high number of cases of voluntary terminations of pregnancy of teenage girls [[60]](#footnote-61). Such number is still important.

A worrying precociousness of the age of the first sexual intercourses may be witnessed, linked with a risky behavior of children and teenagers who do not have the maturity to exercise their sexuality in a responsible way.

The early entrance of children in sexuality questions more widely than the mere issue of their access to contraception. Gynecologists see young underage girls in complex consultations (vaginal tears, rapes, early pregnancies from the age of 11)[[61]](#footnote-62). At the same time, doctors sparsely report the violence incurred by children (5% of the reports), even though they are often the first contacts of the children and their families.

It would be necessary to implement a specific consultation to allow doctors prescribing a contraceptive to an underage girl, to have an extensive conversation to identify the existence of potential forced intercourses incurred by such young girl and to restore the emotional and relational dimension in the core of the sexuality.

**The association JPE would like to suggest to the CRC to make the following recommendations to France:**

* **France shall implement programs educating children to the mastering of their sexual impulses, and promoting a responsible sexuality not separated from the emotional life**
* **France shall allocate means to doctors to allow them, during their consultation, to check the absence of violence or constraint, and to give the essential information to put the emotional and relational dimension at the core of sexuality**

### 

***3. Implementation and assessment of the strategy for prevention and fight against poverty 2018-2022. Measures aiming to reinforce the standard of living of the families with children and aiming to prevent that the children end to live in the street.***

In 2016[[62]](#footnote-63), The Committee indicated its preoccupation regarding the situation in France of children and families living in poverty, particularly in families headed by single parents.

The association JPE would like France to be interrogated on the deliberated creation of single-parent families contemplated in the draft law on bioethics allowing ART with third party donor to single women.

The Observatory for inequalities evidenced in 2018 the overrepresentation of families headed by single parents amongst the poor or precarious families [[63]](#footnote-64).  The children are also more at risks when a life crisis arises: burning out of their single parent, conflicts, job loss of the parent, disease, accident, death …

During the debates on the draft law on bioethics, the members of parliaments rejected such arguments, claiming that single women who use MAP would present enough guarantees on their social, financial, health background. This may not be considered as no refusal could be opposed to a woman for reason of her poor health, lack of job or precarious revenues and the ART doctors witness of the very fragile situation of some women received for consultation, to whom they cannot refuse the requested ART.

Any State shall assist single parents, above all the precarious ones. Nevertheless, to organize by law the conception of a child in a single parent family is to willfully expose such child to a higher risk of poverty.

**The association JPE would like to suggest to the CRC to make the following recommendations to France:**

* **ART shall be restricted to couples.**

## Education, entertainment and cultural activities

Juristes pour l’enfance denounces the suppression of the freedom of choice for the children to be instructed within their family, suppression arising out of Law dated August 24th, 2021 “comforting the Republic’s principles”.

Up to such law, the children could freely make the choice to be instructed within their family in the frame of a regime of declaration, with a control of the instruction given at home: the parents had to declare to the mayor and the academy (local education authority) that they had their child instructed within the family. The children were subject to enquiry from the city’s council and to a survey by the academy. 55 000 primary or secondary pupils (i.e., 0.45% of the whole number of school children) beneficiated from such instruction within the family (home schooling).

The law dated August 24th, 2021, replaced the declaration regime by a prior authorization regime, for some specific cases restrictively indicated in law, under the pretense to fight against radicalization and against Islamism that would have exist in such instruction modes. Actually, it was only false pretense and the true aim, admitted by several politicians, was to obtain the radical reduction of the instruction within the family.

This is an infringement of fundamental freedoms: the choice of instructing children within the family doesn’t contain any rejection of the democratic values and is an answer to various requirements: adjustment to the child’s personality, rhythm, needs or desires, a child threatened at home, to offer an alternative pedagogy, etc. Such choice may be made for one child or all the siblings, for a year or several: the modalities are several and adjust to each child.

The instruction within the family has always existed and allowed the hatching of famous talents: from Mozart to Ampere through Blaise Pascal, Agatha Christie, Marguerite Yourcenar, Pierre-Gilles de Gennes etc.

It rests upon a solid base shared between the persons implementing it, who benefit from numerous resources that are always reworked and renewed, allowing the emergence of different and innovative methods that may inspire the conventional institutions, as the introduction in France of the Singapore mathematic method. It carries therefore education progress.

French[[64]](#footnote-65) and international studies[[65]](#footnote-66) are unanimous: children instructed within the family develop a rich, diverse, and respectful socialization. The school level is very satisfying[[66]](#footnote-67), and the adults having benefited from an instruction within the family are more involved, civically and in the associations, than those having been at school[[67]](#footnote-68).

Despite this, the law has unjustly restricted the children’s freedom to be instructed within their family: one year after the enactment of this law, many relevant children were denied authorization to be instructed within their family, even though this instruction mode is beneficial for them. They are obliged to seek administrative remedies, sometimes successfully but not for all. But is it normal that a child has to seize justice to benefit from the instruction mode corresponding the more to him/her and that is the most necessary to his/her right development?

**The association JPE would like to suggest to the CRC to make the following recommendations to France:**

* **France shall restore the freedom for children to be instructed within their family.**

***1. b) Inequality reduction and promotion of the social diversity.***

The association JPE wishes to express it concerns regarding the inadequacy of the French school system.

France favorizes an intellectual schooling for the vast majority of the population. In 1968, 19.6% of the young French people passed the general baccalaureat (end of school exam), against 42.1% in 2018. In the same time, a professional and a technological baccalaureats were created, that increased such number of young French people passing the baccalaureat to 79.9% of an age group. This induced:

* The collapse in the level of the general baccalaureat, with overvaluation of the results;
* An important number of young people oriented toward longs theorical studies that are not fit for them, ending on a diploma often inadequate and leading to unemployment;
* The depreciation of the vocational stream joined with a lack of means and of quality trainings.

Thus, even if the unemployment rate in France is around 8% at the end of 2021, the unemployment rate of young people is higher than 18%[[68]](#footnote-69).

As a comparison, Switzerland directs 2/3rd of the young people toward a vocational stream matching school and practical training and only 1/3rd toward an education preparing to study in a high school[[69]](#footnote-70). As a result, its unemployment rate as of 2019 is limited to 2.3%[[70]](#footnote-71), with a similar rate for young people (2.2 %).

**The association JPE would like to suggest to the CRC to make the following recommendations to France:**

* **France shall implement a true reform of its school system to upgrade the vocational stream and the manual occupations, direct there an important number of children and thus allow young French people to find a job at the end of the school training years.**

***c) Fight against school harassment.***

The figures of the school harassment do not decrease in France, despite of the campaigns purportedly dedicate to it by the French State. The children are harassed younger and younger, and the school often refuse to examine the pupils’ claims.

Furthermore, it is established that the school harassment is more and more with a sexual connotation. In particular, the girls are more and more targeted by a sexual or sexist harassment through the class groups in the social networks: insults, false rumors, diverted photos or videos are widely sent.

The increase of such harassment phenomenon is due in particular to the possession of smartphones and to the registration on the social networks since primary school or the first year of secondary school, with the access to contents inadequate for children.

A law has been passed on March 2nd, 2022, to fight against the school harassment but it will remain insufficient as long as good sense educative measures are not implemented by the French State.

**The association JPE would like to suggest to the CRC to make the following recommendations to France:**

* **France shall ensure compliance with the inscription prohibition on the social network before 13, and the inscription with parental control above such age;**
* **France shall implement measures to encourage the use by the youngest ones of phones that do not allow access to the Internet, nor exchange or receive photos and videos;**
* **Harassed children shall have the possibility to benefit from an exemption to the school map to be registered in another school than the one of their area or city;**
* **Harassed children shall have the possibility to be instructed within their family if they so require, without condition and at any time of the school year.**

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

The association JPE reminds that the object of a surrogacy contract is the conception, the in-utero development and the delivery of a child upon his/her birth to the orderers, with financial consideration most of the time. Even when surrogacy is agreed upon without consideration, which is extremely rare, the child is the object of a contract of availability of his/her person and filiation: the contractors exercise a prerogative of owner, which refers to the definition of slave indicated by the Convention of Geneva and by the French penal code: a person on which is exercised one attribute of ownership right.

The impunity of the foreign companies canvassing French people, to offer the performance of surrogacies in foreign countries, constitutes a backing of this trafficking of children and a violation by France of its undertakings taken by the ratification of the CRC.

The use of foreign surrogacy by French people is not specified in French criminal law and may therefore not be punished.

The Court of cassation closes its eyes on the violations of the children’s rights resulting from a foreign surrogacy and satisfies the adults by allowing as well the transcription of the birth certificates, even when they are deceptive and indicate an intended parent[[71]](#footnote-72), and the adoption of the child by the spouse of the biological father.

The transcription has no interest but for adults, because the absence of transcription does not create any prejudice for the child: the transcription is not a condition for any right and is even not mandatory. The foreign filiation, even not transcribed, have full effects in France[[72]](#footnote-73) :

* The parents indicated on the birth certificates exercise parental authority and may engage in litigation as legal representative of the children [[73]](#footnote-74).
* It is sufficient to transfer French nationality to the child [[74]](#footnote-75) and to designate him/her as heir of the parents registered on the foreign birth certificates [[75]](#footnote-76).

The adoption has no interest for the child either: on the contrary, it endorses the fact that the child has been willfully deprived of his/her mother in order to render him/her free for adoption, which constitutes an abuse of adoption.

As for the foreign intermediaries who offer their services to French people, they are guilty of the offense of procuration for the purpose of surrogacy, punished by criminal law. Thus, there has never been any prosecution against these companies.

**The association JPE would like to suggest to the CRC to make the following recommendations to France:**

* **France shall precise the offense of mediation aiming to surrogacy, so that the foreign companies canvassing French people and merchandising surrogacy offers fall within the scope of the law, including when the surrogacy it then performed abroad**
* **France shall sue any intermediary offering the performance of surrogacy**
* **France shall introduce into the law a specific criminal offense of performance of surrogacy in France as abroad, in removing the dual criminality requirement**
* **France shall defend the best interest of the child and the women’ rights by committing for the elaboration and enactment of a legal international instrument for the global prohibition of surrogacy.**

**Summary of the recommendations that the association Juristes pour l’enfance suggests to the Committee on the Rights of the Child to address to France :**

## General measures of implementation (art. 4, 42, 44(6))

***1. Reservation to article 30 and interpretative declarations to articles 6 and 40 of the Convention.***

* **R1: Involuntary homicide of the in-utero child shall be recognized as such and give right, as the case may be, to indemnification for its legal representatives.**

***2. Assessment process of the impact on the child’s rights of any new legislation. Promotion of the recourses granted by the optional Protocol on a communication process with the professionals working with children and with the children themselves.***

* **R 2: Prior to any new legislation, a search on the impact on the children’s rights shall be implemented. In such frame, the civil society’s organizations defending the children’s rights in the relevant fields shall be heard;**
* **R 3: France shall recognize the possibility for any person to rely on the International Convention on the rights of the child during any judicial proceedings related to the violation of their rights incurred during their minority, even when such proceedings have been initiated only after the coming of age of the relevant person.**

***4. Alignment of the 2020-2022 strategy for the children with the other current plans and strategies.***

* **R4: France shall submit a plan of significant increase of the budgets allowed to childhood, in the essential fields constituted by health (pediatrics and child psychiatry in particular), the justice dedicated to minors and social support to childhood.**

***9. Taking into account of the best interests of the child in laws, policies and processes.***

* **R5: In every law related to children, the French State shall mention and emphasize “the best interest of the child”;**
* **R 6: France shall implement studies to objectively quantify the impact of the ART techniques on the children, distinguishing between the autologous ART and those implying one or two third party donors;**
* **R. 7: France shall terminate the creation of supernumerary embryos;**
* **R 8: France shall authorize the children born from ART with third party donor to contest the legal filiation arising from the ART that have been imposed to them, to have established the filiation with the donor or donors, and to assert the damage suffered due to the absence of father;**
* **R 9: France shall destroy the stocks of gametes from donors who did not agree to the lifting of their anonymity.**

## Civil rights and freedom

***1. Filiation of children born by surrogacy abroad. Ratification of the European Convention on nationality dated November 6th, 1997, and of the Council of Europe Convention on the Avoidance of Statelessness in relation to State Succession dated May 19th, 2009***

* **R.10: France shall precise the criminal offense of intermission for the purpose of surrogacy, so that the foreign companies canvassing French people and merchandising surrogacy offers fall within the scope of the law, even if surrogacy is later on performed abroad**
* **R 11: France shall prosecute the brokers offering performance of surrogacy**
* **R 12: France shall introduce in the law a specific offense of performance of surrogacy in France as abroad, excluding the exigence of dual criminality**
* **R 13: France shall defend the best interest of the child and women’s rights by committing for the elaboration and ratification of an international legal instrument for the universal prohibition of surrogacy.**

These recommendations are also made in relation to the **Optional Protocol on the sale of children, child prostitution and child pornography**

***2. Root causes of the abandon at childbirth. Content and status report on the draft law on bioethics.***

* **R 14: For the children whom parents required their civil statute’s sex change, France shall ensure that birth certificates are established in accordance with the biological truth of the conception and birth and not in accordance with the gender identity’s feeling of the child’s parents;**
* **R 15: France shall destroy the stocks of gametes whose donors did not give their agreement to the lifting of anonymity;**
* **R 16: France shall grant access to the donor’s identity since the child’s minority;**
* **R 17: Any child, without discrimination and including child born from ART with third party donor, shall be entitled to contest the legal filiation that has been imposed to him/her and to bring paternity or maternity suits.**

### **3 bis. Freedom of thought, conscience and expression (art. 14)**

* **R 18: France shall cease the campaigns of promotion of gametes donation with children and young minors who do not have the necessary judgement and capacity to appreciate in a free and informed way the issues of such donation;**
* **R 19: France shall have freedom of thought, conscience and expression respected at school;**
* **R 20: France may not impose at school to the other children the feeling of a child who identifies himself/herself as trans.**

***4. Children’s Protection against access to inappropriate contents.***

* **R 21: France shall implement truly efficient measures to protect the children against pornography through the identity checking and the outright blocking of the websites that do not comply with their undertakings**
* **R 22: France shall completely block the pornographic websites whose content notoriously infringes children’s dignity**
* **R 23: France shall implement measures to make the online services providers accountants, for them to seek, report and block the unsuitable contents.**
* **R 24: France shall implement measures to guarantee that the public bodies intended to receive children put at their disposal only works respecting their modesty and their innocence**

## Violence against children

* **R 25: Surrogacy and ART with third party donor constitute violence made to children; they must be prohibited in France**
* **R 26: Education to emotional and sexual life given into the school shall respect the children’s modesty and intimacy; it shall be restricted to scientific data, not encourage the minors to the actual sexual activity, not trivialize the sexual relationship and educate the children to the beauty and meaning of the sexual act.**

***3. a) Sexual abuses on children.***

* **R 27: Some learning programs to emotional life shall be implemented to fight against sexual violence performed between minors and against the phenomenon of youth prostitution at school.**
* **R 28: France shall support the parents to facilitate the discussion with their children on these issues.**

***b) Children’s protection against online exploitation and sexual abuses.***

* **R 29: France shall provide at school information on the dangers of the social networks;**
* **R 30: France shall promote at school a sexual education awakening the children to the beauty of their body and the respect that his due to it.**

***5. Extent and type of harmful practices to which the children are exposed.***

***a) Prevention and fight against the feminine sexual mutilations.***

* **R 31: France shall conduct an independent investigation regarding the risks and consequences of the medical treatments granted to children and adolescents in full growth and having no physical health problem;**
* **R 32: France shall conduct an investigation to collect the data on the puberty blockers’ and cross hormones’ prescription off label for minors;**
* **R 33: France shall conduct an investigation on the short-, medium-, and long-term alteration of the sexual capacity of children and young people caused by a medical transition path;**
* **R 34: France shall issue good practice recommendations for a holistic and cautious care of the gender questioning young people;**
* **R 35: France shall grant to the public child psychiatrics the means to take care of the uneasy children and adolescents and those questioning their sexual identity;**
* **R 36: France shall prohibit the prescription of medical transition path without exploratory psychotherapeutic follow up sufficiently long for the minors;**
* **R 37: France shall prohibit the prescription of medical transition path for minors outside a research protocol driven in a multidisciplinary frame.**

***b) Intersexes children.***

* **R 38: The access to healthcare shall be guaranteed for all children, including children with abnormalities of the genital development, respecting parents’ responsibility to take, with the medical team, the most appropriate decision for each child.**

## Family environment and replacement protection

* **R. 39: France shall implement measures to consolidate, and in some case reestablish, the links between children and parents, including between adolescents and parents, and put those later in capacity to support their adolescents, for instance when they are confronted to hardships as early pregnancies.**

***2. Right of foster children.***

* **R. 40: France shall implement measures helping the persons wishing to have children to know the crucial needs of the children deprived of a family environment**
* **R. 41: France shall develop a promotion plan for the foster families and the sponsorships**
* **R. 42: France shall describe the foster families and the sponsorships as an alternative to the ART industry for the persons who wish to have a fecundity.**

## Disabled Children

* **R. 43: France shall implement measures to change the look on the disabled persons.**
* **R. 44: France shall prevent the pressures faced by pregnant women to abort when they carry a disabled child.**

## Health and basic social protection

***2. Implementation and impact of the public policy of sexual education.***

* **R. 45: France shall implement programs educating children to the mastering of their sexual impulses, and promoting a responsible sexuality not separated from the emotional life**
* **R. 46: France shall allocate means to doctors to allow them, during their consultation, to check the absence of violence or constraint, and to give the essential information to put the emotional and relational dimension at the core of sexuality**

***3. Implementation and assessment of the strategy for prevention and fight against poverty 2018-2022. Measures aiming to reinforce the standard of living of the families with children and aiming to prevent that the children end to live in the street.***

* **R. 47: ART shall be restricted to couples.**

## Education, entertainment and cultural activities

* **R.48. France shall restore the freedom for children to be instructed within their family.**

***1. b) Inequality reduction and promotion of the social diversity.***

* **R. 49: France shall implement a true reform of its school system to upgrade the vocational stream and the manual occupations, direct there an important number of children and thus allow young French people to find a job at the end of the school training years**

***c) Lutte contre le harcèlement scolaire.***

* **R. 50: France shall ensure compliance with the inscription prohibition on the social network before 13, and the inscription with parental control above such age;**
* **R. 51: France shall implement measures to encourage the use by the youngest ones of phones that do not allow access to the Internet, nor exchange or receive photos and videos;**
* **R. 52: Harassed children shall have the possibility to benefit from an exemption to the school map to be registered in another school than the one of their area or city;**
* **R. 53: Harassed children shall have the possibility to be instructed within their family if they so require, without condition and at any time of the school year.**

1. CA Lyon, March 13th, 1997. [↑](#footnote-ref-2)
2. Such delay is now of 14 weeks. [↑](#footnote-ref-3)
3. §3.a of the French State’s report [↑](#footnote-ref-4)
4. Administrative court of Montreuil 4th and 7th ch. united., 14-06-2012 ; n° 1009924. [↑](#footnote-ref-5)
5. CAA Versailles, July 2nd, 2013, n° 12VE02857. [↑](#footnote-ref-6)
6. **Conseil d’Etat, December 28th, n° 396571.**  [↑](#footnote-ref-7)
7. https://www.lefigaro.fr/actualite-france/des-representants-de-la-pediatrie-hospitaliere-portent-leurs-doleances-a-l-elysee-20221102 [↑](#footnote-ref-8)
8. https://www.francetvinfo.fr/societe/justice/reportage-des-magistrats-face-au-manque-de-moyens-cela-vaut-il-la-peine-de-sacrifier-notre-vie-pour-une-justice-dont-on-nest-meme-pas-fiers\_5448676.html [↑](#footnote-ref-9)
9. https://www.nouvelobs.com/societe/20200117.AFP2054/les-carences-de-l-aide-sociale-a-l-enfance-au-c-ur-d-une-nouvelle-enquete-choc.html [↑](#footnote-ref-10)
10. Cass. Crim., November 10th, 2020, n°19-87136 [↑](#footnote-ref-11)
11. CRC, Concluding observations above, § 25. [↑](#footnote-ref-12)
12. Advice of the CCNE on the social demands of ART, n° 126, June 15th, 2017, p. 6 [↑](#footnote-ref-13)
13. See Dr Pierre Levy-Soussan, *To scientifically sacrifice the father is an ultimate form of violence done to children*, <https://www.lepoint.fr/sacrifier-scientifiquement-le-pere-est-une-forme-ultime-de-violence-faite-aux-enfants-03-07-2017-2140075_19.php> ;

    Dr Maurice Berger in <http://mauriceberger.net/wpmaurice/wp-content/uploads/2015/10/Homoparentalit%C3%A9-d%C3%A9veloppement-affectif-de-l-enfant.pdf> ;

    Drs Christian Flavigny and Michelle Fontanon-Missenard <http://institut-thomas-more.org/2020/02/04/avec-la-pma-la-venue-au-monde-de-lenfant-nadvient-plus-depuis-la-famille-mais-dans-la-famille/> ;

    Pr. Bertrand Vergely <http://www.genethique.org/fr/pma-pour-toutes-devenir-tout-puissant-en-decretant-ce-que-la-nature-doit-etre-grace-une-majorite#.XlYpQmhKiUk> ;

    Dr Christian Flavigny: <https://www.valeursactuelles.com/clubvaleurs/societe/le-pere-est-celui-qui-procree-et-transmet-son-propre-heritage-paternel-116094> ;

    Dr Jean-Pierre Winter in *A Psuchoalaysis’s advice on ART: the symbolic function of the father may not be replaced* <https://www.lefigaro.fr/vox/societe/l-avis-d-un-psychanalyste-sur-la-pma-la-fonction-symbolique-du-pere-est-irremplacable-20190927> [↑](#footnote-ref-14)
14. Appeal Court of Toulouse, 6th chamber, February 9th, 2022, n°20/0312 [↑](#footnote-ref-15)
15. https://www.legifrance.gouv.fr/jorf/article\_jo/JORFARTI000046221042 [↑](#footnote-ref-16)
16. CRC, Concluding observations, above, § 33. [↑](#footnote-ref-17)
17. CRC, Concluding observations, above, article 38. [↑](#footnote-ref-18)
18. *See “Pornographic contents are more and more violent and trivialized. Some extreme behavior as triple penetration, brutal sodomy, without other preliminary, or even physical violence, torture and crime against children are common. Such process creates an addiction phenomenon to violence, that desensitize the consumers who seek always more violent contents”*

    <https://www.centre-hubertine-auclert.fr/article/retour-sur-la-causerie-pornographie-etape-ultime-de-la-liberation-sexuelle-ou-bien-forme> [↑](#footnote-ref-19)
19. Ibid [↑](#footnote-ref-20)
20. <https://www.stopauporno.fr/accueil-nos-combats/les-dangers-du-porno/enfants-en-danger/lempreinte-du-porno-sur-les-enfants/> [↑](#footnote-ref-21)
21. <http://www.cngof.fr/patientes/presse/596-pornographie-protection-enfants-adolescents> ; press file page 13 [↑](#footnote-ref-22)
22. Appeal of the French national college of gynecologists and obstetricians, June 15th, 2018, protection of children and teenagers against pornography [↑](#footnote-ref-23)
23. <https://www.generation-nt.com/ennocence-balancetonsite-signalement-actualite-1954266.html> [↑](#footnote-ref-24)
24. <https://www.citizengo.org/fr/lf/175348-protegeons-les-enfants-du-porno-faisons-grande-cause-nationale-2020> [↑](#footnote-ref-25)
25. Law n°2020-936 dated July 30rd, 2020 intending to protect the victims of domestic violence [↑](#footnote-ref-26)
26. “Porno: Hell behind the scenes”, Information report from the Senate delegation to women’s rights: https://www.senat.fr/notice-rapport/2021/r21-900-1-notice.html [↑](#footnote-ref-27)
27. “Porno: Hell behind the scenes”, Information report from the Senate delegation to women’s rights: https://www.senat.fr/rap/r21-900-1/r21-900-1-syn.pdf [↑](#footnote-ref-28)
28. https://www.lefigaro.fr/actualite-france/les-enfants-face-a-une-alarmante-pornopandemie-20211129 [↑](#footnote-ref-29)
29. <https://www.terrafemina.com/article/pornhub-pourquoi-le-boom-du-trafic-sur-le-site-porno-est-inquietant_a353194/1> [↑](#footnote-ref-30)
30. https://info.haas-avocats.com/droit-digital/comment-lutter-contre-la-pedopornographie [↑](#footnote-ref-31)
31. CRC, General Comment The right of the child to freedom from all form of violence dated April 18th, 2021, § 4 [↑](#footnote-ref-32)
32. Id., § 21 [↑](#footnote-ref-33)
33. Id., § 2. [↑](#footnote-ref-34)
34. Id., § 5. [↑](#footnote-ref-35)
35. Recommended websites by the Ministry of education: www.onsexprime.fr; <https://matilda.education/app/course/index.php?categoryid=26> ; [↑](#footnote-ref-36)
36. <http://petitionpublique.fr/PeticaoVer.aspx?pi=P2017N49527> [↑](#footnote-ref-37)
37. <https://proscontreeducsex.files.wordpress.com/2017/07/lettre-appel-dr-maurice-berger.pdf> [↑](#footnote-ref-38)
38. Zone interdite – The Internet and the social networks, sexuality: which dangers for the children? https://www.6play.fr/zone-interdite-p\_845/ados-et-sexualite-quels-dangers-les-guettent-c\_12917650 [↑](#footnote-ref-39)
39. Pr Israël Nisand: <https://www.fondspourlasantedesfemmes.org/gynco-la-rencontre-des-ados> [↑](#footnote-ref-40)
40. Senate’s report dated March 21st, 2018, on the orientation and program draft law for a better protection of sexually abused underage children: https://www.senat.fr/leg/tas17-084.html [↑](#footnote-ref-41)
41. <http://petitionpublique.fr/PeticaoVer.aspx?pi=P2017N49527> [↑](#footnote-ref-42)
42. <https://www.europe1.fr/societe/Prostitution-au-college-une-campagne-choc-contre-un-tabou-686480> [↑](#footnote-ref-43)
43. https://www.onsexprime.fr/ [↑](#footnote-ref-44)
44. 7th version of the des Standards of care for Transgender health (WPATH, French version, p. 18): https://www.wpath.org/media/cms/Documents/SOC%20v7/SOC%20V7\_French.pdf p. 18. [↑](#footnote-ref-45)
45. Laetitia Martinerie, Pediatrician, “Role of the endocrinologist-pediatrician in the backing of the teenager and pre-teenager transgenders”. Periodical Soins Pédiatrie-Puériculture n°320 – May/June 2021 [↑](#footnote-ref-46)
46. Hall J, Mitchell L., Sachdeva J, Access to care and frequency of detransition among a cohort discharged by a UK national adult gender identity clinic: retrospective case-note review, online on Cambridge University Press: October 1st, 2021, BJPsy Open, Vol 7, Issue 1 [↑](#footnote-ref-47)
47. <https://www.england.nhs.uk/commissioning/spec-services/npc-crg/gender-dysphoria-clinical-programme/implementing-advice-from-the-cass-review/> [↑](#footnote-ref-48)
48. <https://segm.org/sites/default/files/Karolinska%20Guideline%20K2021-4144%20April%202021%20%28English%2C%20unofficial%20translation%29.pdf> [↑](#footnote-ref-49)
49. https://www.observatoirepetitesirene.org/post/les-traitements-hormonaux-utilis%C3%A9s-pour-les-adolescents-en-transition-mineurs-et-jeunes-majeurs [↑](#footnote-ref-50)
50. [Christian Flavigny, Michèle Fontanon-Missenard, child psychiatrists and psychoanalysis, Le Figarovox, May 17th, 2019](http://2zn7.mj.am/lnk/ANAAAD7vpbkAAcfDJigAAAAAB0gAAOdJOlYAAEBZAAMWTABc-k-I0lbAIRMQThu2srgkdiWHtAAC9LI/1/JMZqhdMiV-pBA_nH9qAP3g/aHR0cDovL3d3dy5sZWZpZ2Fyby5mci92b3gvc29jaWV0ZS9wb3VycXVvaS1sLWF2aXMtZHUtY29uc2VpbC1kLWV0YXQtc3VyLWxlcy1lbmZhbnRzLW5pLWdhcmNvbi1uaS1maWxsZS1ub3VzLWlucXVpZXRlLTIwMTkwNTE3). [↑](#footnote-ref-51)
51. CRC, General comment on the implementation of the rights of the child during adolescence dated December 6th, 2016, § 17. [↑](#footnote-ref-52)
52. <https://cache.media.eduscol.education.fr/file/Reprise_deconfinement_Mai2020/69/2/Fiche-Derives-sectaires_1280692.pdf> et <https://cache.media.eduscol.education.fr/file/Reprise_deconfinement_Mai2020/69/3/Fiche-Ecouter-favoriser-parole-des-eleves_1280693.pdf> [↑](#footnote-ref-53)
53. <https://drees.solidarites-sante.gouv.fr/IMG/pdf/er1090.pdf> [↑](#footnote-ref-54)
54. Report of the information mission on social assistance for childhood – Jully 3rd, 2019 : <http://www.assemblee-nationale.fr/dyn/15/rapports/miaidenf/l15b2110_rapport-information> [↑](#footnote-ref-55)
55. Ibid [↑](#footnote-ref-56)
56. CRC, Concluding observations on the fifth periodic report of France, dated February 23th, 2016, § 57. [↑](#footnote-ref-57)
57. <http://www.genethique.org/fr/loi-de-bioethique-et-diagnostic-preimplantatoire-quest-devenue-cette-culture-des-limites-qui-72801#.Xo3gfcgzZPY>. [↑](#footnote-ref-58)
58. Survey published in the magazine [British Medical Journal](file:///C:\Users\Olivia\AppData\Local\Microsoft\Windows\INetCache\Content.Outlook\0EJSQLWS\British%20Medical%20Journal) : <https://www.doctissimo.fr/sante/news/Une-correlation-entre-le-nombre-de-partenaires-sexuels-et-le-risque-de-cancer> ; <https://www.sciencesetavenir.fr/sante/sexualite/avoir-un-grand-nombre-de-partenaires-sexuels-serait-lie-a-la-survenue-du-cancer_141545>

    * Amongst men who declared 2 to 4 sexual partners, the number of cancer diagnosis was 57% higher than amongst men who declared 0 to1 partner. Such percentage rises to 69% amongst those who declared 10 partners or more.
    * Amongst women who declared 10 partners or more, the observed risk is 91% higher than amongst women who declared 0 to1 partner. For women, having a high number of sexual partners would also be linked to a higher risk of development of a chronical disease affecting the day-to-day life.

    [↑](#footnote-ref-59)
59. Websites recommended by the National Education: www.onsexprime.fr ; <https://matilda.education/app/course/index.php?categoryid=26> [↑](#footnote-ref-60)
60. CRC, Concluding observations above, § 65 et 66. [↑](#footnote-ref-61)
61. <http://www.cngof.fr/patientes/presse/596-pornographie-protection-enfants-adolescents>; press file page 13 [↑](#footnote-ref-62)
62. CRC, Concluding observations above, § 69. [↑](#footnote-ref-63)
63. “*24.6 % of the poor persons live in a single-parent family (…). Very often, it is composed of a woman with children. The poverty rate of people living in a single-parent family is 19%, a little above twice the national rate (8%) (…) the fact to benefit from two incomes partially protects from poverty. In addition to the low-income situation, the single-parent family encounter other difficulties: the difficult access to childcare makes it more difficult to find a job, which, in return, breeds poverty”*.

    <https://www.inegalites.fr/La-pauvrete-selon-le-type-de-menage?id_theme=15> (Données de juillet 2018) [↑](#footnote-ref-64)
64. <https://www.cairn.info/load_pdf.php?ID_ARTICLE=RFPED_205_0005&download=1> [↑](#footnote-ref-65)
65. Taylor, John W. (1986). *Self-concept in home-schooling children* (Doctoral dissertation, Andrews University, 1986). *Dissertation Abstracts International*

    <https://www.fraserinstitute.org/sites/default/files/Homeschooling2007.pdf> [↑](#footnote-ref-66)
66. Senate’s, report n° 595 dated July 7th, 2020 *on the public authorities’ answers to the growth of Islamic radicalization and the way of fighting it* p. 154. [↑](#footnote-ref-67)
67. Ray, « Home education reason and research », 2009, available at the address: <http://www.nheri.org/HERR.pdf> [↑](#footnote-ref-68)
68. https://www.insee.fr/fr/statistiques/4805248 [↑](#footnote-ref-69)
69. Report presented by Switzerland to the UN: HRI/CORE/CHE/2017 [↑](#footnote-ref-70)
70. <https://www.rts.ch/info/economie/11002153-le-taux-de-chomage-en-suisse-a-2-3-en-2019-du-jamais-vu-depuis-1997.html> [↑](#footnote-ref-71)
71. Court of Cassation, AP, October 4th, 2019, 10-19.053 [↑](#footnote-ref-72)
72. According to the French Court of Cassation, the lack of transcription “does not deprive the children from the maternal and paternal filiation recognise by the Californian law, nor prohibit them to live in France with the spouses X” *(Cass. 1re civ., 6 avr. 2011, no 10-19.053)* [↑](#footnote-ref-73)
73. “the foreign civil registrar, whatever it is, may always be used in France as such. This allows the child to live with the intended parents, to have access to medical care and to registration at school” *(Advice CCNE no 126, June 15th, 2017)* [↑](#footnote-ref-74)
74. Circular dated January 25th, 2013, validated by the Conseil d’Etat,*CE, Dec. 12th. 2014, no 365779* [↑](#footnote-ref-75)
75. *Note C1/499-2013/1.8.7/ML/MGD, Apr. 13th. 2015* [↑](#footnote-ref-76)