

Alternative report by the AEDE collective



2020

Table of contents

Introduction	3
Chapter 1: General measures of implementation	4
Chapter 2: Definition of a child	7
1 - The harmful effects of age thresholds	7
2 - Young adults	7
Chapter 3: General principles	10
1 - Gender-based discrimination.....	10
2 - Best interests of the child	10
3 - Participation	11
Chapter 4: Civil rights and freedoms	13
1 - The rights to association, publication, assembly, and expression	13
2 - Taking children’s views into account.....	13
Chapter 5: Family environment and alternative care	15
1. The child’s place in the family environment and the need to better support parents to prevent violence	15
2. Strengthening and consolidating our child protection system: taking care of each child through an appropriate and needs-sensitive approach	16
Chapter 6: Health and well-being	18
1 - Children with disabilities	18
2 - Children's physical and mental health	19
3 - The right to decent living conditions.....	19
Chapter 7 - Right to education, leisure, cultural and sporting activities.	21
1 - Unequal access to school and unequal school opportunities and results.....	21
2 - Inequalities in access to leisure, culture, and holidays	22
Chapter 8: Special protection measures	23
1 - Assessing Unaccompanied Minors (UMs)’s minority	23
2 - Human trafficking (sexual and economic exploitation).....	24
3 - Children in conflict with the Law.....	25
Appendixes	28
Appendix 1: Acronyms	28
Appendix 2 : List of organizations	30
Appendix 3: 10 priority questions	30
Appendix 4: Young people’s report	33

Introduction

Together with the Childhood Group (“Groupe Enfance”)¹ who wrote the section on international solidarity, 40 civil society organisations working in all areas of childhood have come together with children and young people in the frame of AEDE’s² project to monitor the implementation of children’s rights in France. This is the second time our collective has drafted a participatory report for the UN Committee on the Rights of the Child.

As this report is being finalised, we are concerned that the current health crisis is exacerbating inequalities, violence, and the lack of respect for children’s rights. We also highlight the inequalities between mainland and overseas territories.

This report does not claim to be exhaustive; the highlighted topics draw on our members’ field expertise as they are in direct contact with children and young people.

¹ <https://collectif-aede.org/>

² <https://www.groupe-enfance.org/>

Chapter 1: General measures of implementation

By ratifying the CRC, France has made a legal and political commitment to promote and strengthen fundamental human rights ‘efficiency in all public policies, including children’s rights. This commitment is being upheld. France adopted the Sustainable Development Goals in 2015 and signed the third Protocol to the CRC in 2016. While ratification of the third Protocol is an important step forward, the Protocol and notably its communications procedure remain insufficiently known. Society remains very reluctant to these mechanisms, as evidenced by the violence against Greta Thunberg and the other young people who brought cases to the Committee based on this Protocol.

There is a growing knowledge of children’s rights, but their promotion should be greatly improved. This knowledge is very formal and does not translate into the daily lives of children and professionals, and it is not sufficiently taught. Still, many actions are carried out in the field, particularly by civil society actors. The Ombudsman (“Défenseur des droits”) is getting involved and has the means to act. His actions are progressively paying off and are being enhanced by Case law that is gradually giving some effect to the consideration of these rights.

At the national level, the first signs of strategies were seen with the creation of bodies such as the High Council on Family, Childhood and the Elderly (“HCFEA”) – the only institution that includes children to its reflections – and the National Council for Child Welfare (“CNPE”) created in 2016³. In January 2019, a Secretary of State for Children was appointed, and a Deal for Children was launched. Its three main parts read as follows:

1/ reflection on the first 1,000 days of the child;

2/ reform of child protection, with the introduction of a strategy on child protection on October 14th, 2019. *Its findings are shared by civil society and taken on by the Government, but the responses and resources allocated are highly insufficient to meet the challenges faced;*

3/ a third component on combating violence against children. Although this Deal for Children is a step forward, it mainly focuses on child welfare. This strategy for children must be taken a step further to be truly comprehensive and cross-sectional, and a comprehensive training policy on children’s and young people’s rights must be developed for professionals working with them.

The Committee's recommendations 10, 12, 14 and 16 are still relevant:

- Extend youth impact clauses to children for all new legislation and for all new national and local policies.
- Implement an action plan for children containing measurable objectives.
- Improve data collection to build efficient public policies.
- Strengthen the national coordinating bodies for children's policies (HCFEA, CNPE) and grant them sufficient means to coordinate all activities related to the implementation of the Convention at the intersectoral level and at the national, regional and local levels, including in the overseas territories.

³ The HCFEA has undertaken the drafting of a note on children’s rights, a document reviewing how the Council’s proposals have been received and implemented since the Council was created in 2017. The study was conducted by and with members of the Council and it aims to give a perspective on how the Council’s work coincides with the Convention on the Rights of the Child (CRC) as well as to appreciate how many of its proposals are implemented and the evolution of the political and social awareness on children’s rights-related issues.

Questions:

1. What actions does France intend to take to publicise the 3rd Protocol to the CRC and facilitate referral to the Committee?
2. How does France plan to continue its efforts to implement an actual strategy for children that is both comprehensive and cross-sectional, giving every child the opportunity to know and exercise his/her rights, and developing a genuine multi-year action plan and a dedicated budget?
3. How does France plan to improve the collection of data on children in order to implement effective and efficient public policies?

Focus on development assistance and international solidarity, by the “Childhood Group” (18 NGOs)

As the world's fifth-largest provider of development assistance, France has a primary responsibility to promote and respect children's rights in the frame of its development assistance and international solidarity policy. French programmes, initiatives and diplomatic actions in multilateral, European and international frameworks directly or indirectly impact the lives of many children in developing countries.

Considering this huge challenge, France's cooperation and development assistance policy must take greater account of children's rights and do so in a cross-cutting manner. For example, sub-Saharan Africa, a priority area for French development assistance, is home to half of the children of primary school age who are out of school, i.e. nearly 34 million⁴.

However, we note that thus far, children's rights have not been the focus of France's strategic, programmatic, and financial plans for its international action. The latest Statement of Conclusions of the Inter-Ministerial Committee for International Cooperation and Development (CICID) of 2018, which sets out the Government's thematic and geographical priorities as well as their budgetary translation, makes no mention of children or their rights. Children are also missing from the finance Bill on inclusive development and the fight against global inequalities currently being drafted.

While France is committed to integrating a rights-based approach into its international cooperation activities, as stated in the 2019 "Human Rights and Development" strategy, we note that the rights-based approach and its fundamental principles remain little known, promoted, understood and applied by French cooperation actors.

Moreover, the budgetary aspects of France's official development assistance devoted to children and the realization of their rights cannot thus far be identified and as a result cannot be effectively monitored – especially by civil society actors – in order to assess France's compliance with its obligations under Article 4 of the International Convention on the Rights of the Child and its Optional Protocols.

Questions:

1. How does France ensure respect for and promotion of the rights of the child and their mainstreaming in its cooperation and development assistance policy, both in the

⁴ One in Five Children, Adolescents and Youth is Out of School, UNESCO, February 2018

implementation of its programmes and in its bilateral and multilateral diplomatic action, in accordance with the Convention and the Optional Protocols it has ratified?

2. How does France ensure that the Ministry of Europe and Foreign Affairs' staff and its operators are aware of, promote, understand, respect, and implement children's rights and a children rights-based approach? Are there any mechanisms for preventing, monitoring, and punishing violations of children's rights in the frame of France's foreign policy?
3. What means/methods/tools/resources can France use to ensure the monitoring and accountability of the development assistance allocated to the realisation of children's rights, notably in financial terms?

Chapter 2: Definition of a child

Article 1 of the Convention provides that *"For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier"*. This conventional age aligns with the legal understanding that provides protection to children because of their vulnerability, the latter being justified by their dependence on adults in many aspects of life.

Within this age group, other approaches (medical, psychological and social approaches in particular), use semantic nuances to designate different ages in children's lives, referring to the stages of child development (infant, new born, early childhood, adolescence, preadolescence...). The latter approaches invite us to consider childhood by looking at the satisfaction of children's basic needs and the stages of their development that characterize it, rather than by looking at the administrative measures that apply to children.

1 - The harmful effects of age thresholds

As early as 2015, AEDE highlighted public authorities' tendency to challenge 16 to 18 year olds' right to specific protections and to distinguish two categories among children: the youngest ones, who need protection, and the oldest ones, whose responsibility should be achieved by treating them almost like adults.

Unfortunately, this is still the case today. We call on public bodies to exercise the utmost caution when setting age thresholds below 18 years for specific (age) "majorities". The exercise of children's freedoms should be determined applying the principle of their best interests and in relation to their basic needs rather than by relying on their age.

Moreover, with regard to young people with disabilities, the age considered for various services and referrals is not the age of majority but the age of 20: young people up to the age of 20 are referred to social and health care institutions or services for children, while people with disabilities over the age of 20 are referred to adults' institutions; parents of a child with a disability can be granted an allowance for the education of their disabled child ("AEEH") until their child turns 20 and, *conversely*, a young person can receive the allowance for adults with disabilities ("AAH") if they are at least 20 years old. This multiplicity of age thresholds makes managing inherent rights more complex as this 20-year-old threshold is added to other ones that are considered to delimit the transition between childhood and adulthood (16 for the end of compulsory education, 18 for legal majority, 21 for the end of "contrats jeunes majeurs" ("young adult contracts" extend the protections of former children in care beyond the legal age of majority) and 25 for the first social benefits).

2 - Young adults

Continued support for young people leaving Child Welfare services ("ASE") or Judicial Juvenile Protection Services ("PJJ") is essential to ensure continuity of the path from childhood to adulthood. Preparation of such a continuity must take place while the child is still a minor (for example by making sure the 17-year-old interview actually takes place) and it must continue after she/he comes of age by offering each young person a project supporting them

towards adulthood. Yet almost 26%⁵ of homeless people are former children in care who have been supported by “ASE” and/or “PJJ” services⁶.

Over the last few years, local Councils (“conseils départementaux”) have been more and more reluctant to granting temporary measures for young adults (“APJM”), also known as “young adult contract”. When granted, this contract is often for a limited period (about 3 to 12 months) and the grantee must prove his/her ability to commit to a clearly defined project. While the right exists, a lot of the most disadvantaged young people do not exercise it because they want to emancipate themselves from Child Welfare service's educational support. Moreover, state-funded judicial protections are virtually non-existent.

The most vulnerable young people thus find themselves without any support, which leads to many difficulties: the emotional and educational ties they have forged during their care process are severed, they have insufficient social interactions, they struggle accessing housing and sometimes end up wandering, they have no educational points of contact, their course/career choice is imposed to them, they face difficulty accessing healthcare, therapeutic support and resources (such as the Youth Guarantee, the “Active Solidarity Income” (“Revenu de solidarité active”) for those under 25...), etc.

Faced with the urgency of the situation and being called out to by many actors working with children, public authorities have tackled the issue by:

- Focusing on young adults as part of the strategy to prevent and combat poverty and by setting up a reference document for local Councils within the framework of the contractualisation process.
- Adopting a Bill at the National Assembly at first reading on May 6, 2019. This text was intended to be a step forward (it includes an obligation to provide support for young people up to the age of 21), but it has been distorted in the version voted at first reading by the National Assembly. It creates a parallel mechanism to the “APJM” and lays down cumulative criteria of precarity for access to support, as well as an age criterion and a clause imposing at least 18 months of support by institutions before reaching the age of majority. As a result, this leaves many young people out. This text thus paves the way for further discrimination and for double standards in child protection.
- The introduction by the Secretary of State on 14 October 2019 of a national child protection strategy containing four commitments, including one on young adults. Unfortunately, there are too few proposed measures and they are incomplete. The proposed contractualisation is only intended for some 30 local areas (“départements”). The issues of preserving relationships and socio-educational support are not addressed as such. The means for implementing the strategy therefore need to be strengthened.

Questions:

1-How does France ensure equal treatment of all children on its territory, namely any person under the age of 18?

2-How does France intend to guarantee support and transition from minority to legal majority, and to implement protection and support for young adults until their full inclusion in society is

⁵ <https://www.ouest-france.fr/societe/logement/un-quart-des-sdf-sont-d-anciens-enfants-places-alerte-la-fondation-abbe-pierre-6207035>

⁶ <https://www.rtl.fr/actu/debats-societe/fondation-abbe-pierre-un-sdf-sur-4-ne-en-france-est-un-ancien-enfant-place-7796433487>

achieved, without any differential treatment (regardless of the place of residence and the length of support before majority is attained) ?

3-How can young adults who have not been supported by Child Welfare services but who are nevertheless in a situation of extreme vulnerability be included into the frame of this protection?

Chapter 3: General principles

The AEDE collective would like to draw the Committee's attention to the fundamental principles of the CRC: non-discrimination - particularly in relation to gender- the best interests of the child; and participation.

1 - Gender-based discrimination

The principle of non-discrimination concerns all children, regardless of their origin, language, religion, social background, gender, or disability. In 2016, the Committee recommended that France *“strengthen its efforts to challenge gender stereotypes, including within the framework of the action plan for equality,[...] aimed specifically at children in all levels of education [...] and to make relevant training for educators compulsory”*⁷. Following the National Debate on Domestic Violence in November 2019, a working group between the Ministry of Education and non-profit organisations was set up to implement measures to educate on non-violence and equality between girls and boys. However, this recommendation does not appear to be the Government's primary concern. Much remains to be done for the protection of LGBTQ+ minors and young people: fighting against “conversion therapies”, young people being thrown out of their homes by their parents, aggression and discrimination based on sexual orientation or gender identity on the rise in 2019-2020⁸.

2 - Best interests of the child

As AEDE pointed out in 2015, Article 3 paragraph 1 of the Convention, relating to the best interests of the child, remains poorly understood, whether in the family sphere, at school, in the justice system, in social work or in politics. The concept of the best interests of the child is often misinterpreted as a competition between adults' and children's interests, especially in the professional sphere. Its application is left to the discretion of adults, who are often insufficiently informed on the subject, and the professionals working with children rarely receive training on the best interests of the child. One reason for this is a poor translation from English to French of *“best interests”* which was translated *“intérêt supérieur de l'enfant”* (i.e. in the singular form). The latter actually means that: *“Decisions should be made in the best interests of the child and in a collegial manner, by listening to the child and taking due account of his/her views, but also by inviting all of the people who surround the child to fully participate in making those decisions”*⁹. Yet this is rarely the case.

While the concept of the best interests of the child is a common reference in all international, European and national treaties, it is not a standard with universal content but rather an overriding objective in decision-making, and it must be interpreted on a case-by-case basis, taking the child's needs and point of view into account in order to avoid arbitrary interpretation. Training of professionals and awareness-raising among parents on the best interests of the child are therefore necessary. In order to take better account of the interests of the child, the appointment of lawyers and special legal representatives for the child should also be encouraged. This is still uncommon today.

⁷ Concluding observation of the Committee on the Rights of the Child CRC/C/FRA/CO/5

⁸ See Ministry of the Interior and figures regarding reports to LGBTQ+ non-profit organisations

⁹ Excerpt from the SOS booklet - The rights-based approach, a compass for child protection - 2019

3 - Participation

Children and young people are full-fledged citizens with real expertise and experience. If public authorities wish to implement efficient and appropriate public policies, it is more than necessary to involve children in the policymaking. The Committee's Recommendation No. 30 is still relevant to encourage the State to set up systems or procedures to ensure children's participation and to train all professionals working with children (social workers, teachers, administrative or judicial authorities, and more generally public decision-makers).

Admittedly, the issue is improving in society: Children and Youth Councils and participatory bodies have been created within local authorities and throughout the territory including overseas France and in schools and children's homes; a children and teenagers' Council within the High Council for Family, Childhood and the Elderly was established in 2016; the Orientation Council on Youth policies was created in 2017; the Equality and Citizenship Act was adopted in 2017 and its Article 55 encourage the development of the establishment of Youth councils within local authorities; and finally its Article 54 provides for the association and participation of young people in the annual process of structured dialogue.

These bodies are still too little known by children and young people – who cannot therefore benefit from them – but also more generally by childcare professionals (teachers, social workers, etc.) and all citizens.

Moreover, although more and more professionals and public decision-makers are convinced by the importance of this participation, they do not receive sufficient training on its stakes.¹⁰¹¹

France must further support initiatives promoting the participation of children and young people and develop new ones, notably by giving an impulse to participatory bodies at the territorial level, by reforming the Children's Parliament in order to turn it into an actual and effective body for the development and monitoring of public policies, etc.

Non-profit organisations play a key role in supporting public authorities in the actual implementation of this participation, in creating this “culture of participation” and in setting the conditions for children's free and authentic expression, using appropriate methodologies. Public authorities must therefore develop a “listening and consideration culture”.

Questions:

1 - What measurable objectives and timeline does France plan to implement to effectively fight gender stereotypes at all levels?

2 - How does France intend to inform and train parents, childcare professionals, and public policymakers on the principle on the best interests of the child so that each of them can apply it at his/her own level?

3 - How does France intend to concretely support relevant actors in order to strengthen and promote children's and young people's participation in the development of public policies at

¹⁰ National Association for Child and Youth Consultation (ANACEJ) - 25 Proposals for strengthening the participation of children and young people - https://anacej.asso.fr/wp-content/uploads/2017/10/25_proposals_17_web.pdf

¹¹ HCFEA - Children's participation in the ecological transition and consideration of their opinion- 2019 - <http://www.hcfea.fr/spip.php?rubrique31>

both national and local levels, alongside or within non-profit organisations, institutions, and organisations?

Chapter 4: Civil rights and freedoms

The adoption of the Convention on the Rights of the Child more than 30 years ago established the child as a full-fledged subject of rights such as the freedom to association and publication, the freedom of assembly and to expression, but also the right to participate in decisions affecting him/her.

1 - The rights to association, publication, assembly, and expression

Articles 41 and 43 of the Equality and Citizenship Bill of 2017 bring innovations for minors on the legal recognition of their capacity to be responsible and autonomous in managing an association and its publications.

However, three years later, despite these formal advances, there is still a gap between the Law and its effective application. It is still difficult for underage children to create and take part in non-profit organisation (“1901 Bill non-profit organisations”) and they still struggle to express themselves and sometimes even face censorship. When publishing at their secondary school, 68% of pupils confessed to “being forbidden from talking about certain issues”¹².

The rights of assembly and expression are still controversial in France. Numerous secondary schools’ protests movements have marked 2018 and 2019 (reforms of the “Baccalauréat” (secondary school exams), of vocational education, of selection to get into University and finally the Climate March). Public authorities’ reactions were surprisingly violent: young people were injured by Law enforcement officers, arrested, and taken into police custody.

A shared effort between public authorities and civil society is essential to intensify information and training for professionals, young people, and the public in order to overcome preconceived ideas and even opposition.

2 - Taking children’s views into account

AEDE members share the observation that children are unaware of their rights in the various structures of their daily life: within their family, at school, in the different leisure facilities, and in public space. The same applies to children in care, particularly before the judge in charge of educational assistance: right to be heard at their request, right to access their file, right to attend with a person of their choice, right to appeal, etc.

In France, the understanding of participation slowly emerged. In Child Welfare services, as in most families, it is adults who decide for children and young people, and the latter are not always involved in decisions that affect them. Childcare professionals and adults as a whole need to better reconcile the imperative of protection with the recognition of the child's capacity to act as a person, to have control over his/her own life and not just be “the object” of decisions made by others. This is particularly essential when it comes to student guidance. The necessary protection should not hinder participation, but rather act as a lever and a guarantee to build a future for the child.

¹² Survey by the Observatory of secondary school press practices - “Where do we stand with the right to publishing in secondary school? “; 2017

Children under a care order are not systematically heard when they disagree with their legal guardians' decision or with the choice of the proposed protective measure, if any.

The situation is similar for children with disabilities, who are rarely consulted about their own healthcare and rehabilitation and are very seldom invited to take part in meetings that concern them (project meetings, follow-up on schooling...).

Moreover, listening to the child's views is too often limited to the child's feelings about what s/he is experiencing. The child's views do not appear in a separate document, they are instead part of the report drafted by the caseworker, the point of contact with Child welfare services and the psychologist. His/her verbatim record should explicitly appear in the "Personalized Project for the Child" provided for in Act 2002-2 of January 2002 and in the Child Project, introduced in 2007.

The same observation is made when considering the Commission for reviewing the situation and status of children in care (procedure for abandonment and delegation of parental authority) or the Family Council for wards of the State: all documents are drafted by childcare professionals. The only representation of children and young people in child protection is provided by the "ADEPAPE", the Local Organisation for mutual help of children in care ("Association Départementale d'Entraide des Personnes Accueillies en Protection de l'Enfance").

The underlying problem is childcare professionals' lack of knowledge of the CRC. The most recent social work degrees have not incorporated this knowledge as an area of expertise. Young childcare workers graduate without learning about implementation of the CRC. The same gap can be found in school teachers' initial training. The recommendations for good professional practices drawn up by ANESM (National Agency for the assessment and quality of social and medico-social institutions and services) in 2014 and updated in 2018 by the HAS (High Authority for Health),¹³ – which broadened their scope and made them easier to understand – are very poorly implemented.

Questions:

1- In the absence of any assessment and impact measurement methods, how can the Equality and Citizenship Act's actual impact be assessed?

How does France concretely organize, finance, and guarantee the assessment of this Act's actual impact? To this day, no effective method has been defined.

2- How does France organise, finance and structure a general mobilisation in favour of compulsory (initial and ongoing) training for childcare professionals and of systematic information for the concerned groups?

3- How can we encourage children's actual participation in institutions (schools, child welfare structures, leisure centres, etc.) and ensure that their opinions are considered and that they bring about consequences and measurable changes?

¹³ https://www.has-sante.fr/jcms/c_2836142/fr/l-expression-et-la-participation-du-mineur-de-ses-parents-et-du-jeune-majeur-dans-le-champ-de-la-protection-de-l-enfance

Chapter 5: Family environment and alternative care

In this chapter, AEDE wishes to draw the Committee's attention to the importance of better supporting parents in order to prevent all forms of violence and to implement a rights-based approach to child protection.

1. The child's place in the family environment and the need to better support parents to prevent violence

Better support for parents

Becoming a parent and parenting cannot be parents' sole responsibility. Instead, it requires society to get involved. Shared knowledge of basic rights and needs is one of the keys to best meet the imperatives of the best interests of the child.

In the same vein, the launch of mission "first 1000 days"¹⁴ is a step forward, since supporting families also starts with social support. Any lasting bond that can be established with families and children should be developed, such as local sponsorship.

Setting up an actual policy for the prevention of all types of violence against children

In 2018, 122 infanticides were recorded, 80 of which occurred within the family¹⁵. Two-thirds of these 80 children were under the age of 5. AEDE welcomes the adoption in 2019 of the Law on the Prohibition of Ordinary Educational Violence (VEO)¹⁶ and its promising effects once it is known and understood by all.

The national helpline available by dialling 119 provides a listening and advisory service for any person in danger. Despite its usefulness – it answers 400,000 calls per year, a figure that rose by 89% during lockdown¹⁷ – it lacks visibility as well as human and financial resources.

PMI¹⁸ (Maternal and Infant Protection)'s lack of resources prevents it from effectively carrying out its medico-social missions on birth and child development and from coordinating its actions with other actors in the perinatal sector (maternity, paediatrician, general practitioner).

The National Strategy to Support Parenting¹⁹ adopted in 2018 has not produced the expected outcome of articulating public actors' action: Family allowance funds, local Councils, and other public and private actors' work is still too compartmentalized.

¹⁴ Ministry of Solidarity and Health, what are the first 1000 days? - <https://solidarites-sante.gouv.fr/affaires-sociales/familles-enfance/pacte-pour-l-enfance/1000-days/article/les-1000-premiers-jours-w-what-is-it>

¹⁵ 14th ONPE (National Observatory on child protection) report to the Government and Parliament, 2019 - https://onpe.gouv.fr/system/files/publication/14e_ragp_0.pdf

¹⁶ http://www.assemblee-nationale.fr/dyn/15/dossiers/violences_educatives_ordinaires_interdiction

¹⁷ Calls to 119 rose by 89% between April 13 to 19, 2020, during lockdown <https://www.ouest-france.fr/sante/virus/coronavirus/confinement/hausse-des-appels-au-119-numero-d-urgence-pour-l-enfance-en-danger-depuis-le-debut-du-confinement-6814972>

¹⁸ Peyron Report 2019 <https://solidarites-sante.gouv.fr/IMG/pdf/2018-102r-pmi.pdf>

¹⁹ https://solidarites-sante.gouv.fr/IMG/pdf/180702_-_dp_-_strategie_nationale_2018-2022vf.pdf

2. Strengthening and consolidating our child protection system: taking care of each child through an appropriate and needs-sensitive approach

Today, in France, nearly 310,000 children and adolescents are concerned by a care order, whether in their families or through judicial and/or administrative²⁰ foster care.

The Act of 14 March 2016²¹ on child protection is a step forward, placing children at the heart of child protection and articulating both their rights and needs. However, its effectiveness is lessened by territorial gaps in its implementation, particularly regarding young adults (see Chapter 2 of this report) or unaccompanied minors (see Chapter 8).

Our child welfare system is affected by wide territorial disparities:

- A large range of possibilities adapted to the needs and problems of children: family care, institutions, foster carers, occasional or full-time²² family support, living spaces, etc... So far, the type of care order is too often chosen because of its availability at a given time, and not because it is consistent or relevant to the child's protection needs.

- Looking for other solutions : despite the existence of the Commission for assessing the situation and status of children in care ("CESSEC")²³, alternative solutions such as voluntary third parties, trustworthy third parties or even adoption have not been implemented very often.

What about siblings? The lack of available data makes it impossible to know how many siblings are separated for no other reason than the lack of joint housing facilities.

Finally, AEDE is concerned about the "low-cost forms of care" developed by certain local areas, notably for UMs but not only (hotel-sharing with food vouchers, no or little social, educational, psychological support, etc.).

The rights-based approach to child protection

The rights of the child remain to date insufficiently known and they are not integrated into professionals' practices nor in their initial and ongoing training. Children themselves are not informed either personally or collectively of their rights or how to exercise them.

Delays in the implementation of measures and human resources

AEDE wishes to alert the Committee once again on one of the most serious dysfunctions of the French judicial child protection system: the unacceptable delays in the implementation of judicial decisions, and sometimes their non-implementation.

We are concerned about the current shortage of foster carers, their massive retirement in the next 10 years and the difficulty of recruiting educational personnel.

²⁰ 14th ONPE (National Observatory on child protection) report to the Government and Parliament, 2019 - https://onpe.gouv.fr/system/files/publication/14e_ragp_0.pdf

²¹ In line with the 2007 law

²² Depending on the local area, the proportion of children in foster care varies from 17.9 to 87.2% and from 12.8 to 70.6% for children in institutions.

²³ Multidisciplinary and Multi-institutional Commission for assessing children in care's situation and status, art. L. 223-1 of the CASF Act 2016

The initial assessment of children's needs and the regular review of their status – which are fundamental to the transition from one protection scheme to another – are also affected.

Ensuring child protection is steered effectively

In 2019, the Government launched a prevention and child protection strategy for 2020-2022. AEDE shares the Government's analysis but deplores the lack of dedicated resources to remedy the situation.

Child protection in France today lacks effective steering to deal with the multiple territorial inequalities. The State must ensure Child Welfare's missions while respecting the autonomy that local authorities have acquired by means of decentralization, in order to be as close as possible to the realities of territories and families and to ensure that the latter have the necessary skills and resources.

The relationships between relevant actors – that is, the State Secretariat for Children, DGCS (General Directorate for social cohesion), CNPE (National Council on child protection), HCFEA (High Council on Family, Childhood and the Elderly) – lack visibility, effectiveness and financial means to bring about genuine cross-cutting actions (both interministerial and between the State and local Councils) to fight against territorial inequalities. This governance needs to be revamped with all its stakeholders: the State, local Councils, non-profit organisations, professionals, parents, children, and young people. This public policy must necessarily be local and cross-cut other public policies in order to break out of the logic of isolated work that has undermined its effectiveness for too many years.

Questions:

1. How does France intend to strengthen its preventive measures to combat violence against children and better support parents in the exercise of their parental responsibility?
2. What measures does France intend to take to reduce inequalities between children in different parts of France regarding the support provided to them in child protection, to ensure that the range of services on offer, in terms of prevention and protection, is developed in each territory, and to ensure that all judicial decisions are enforced with the appropriate means?
3. How does France plan to review the governance of its child protection policies with a view to achieving a better coordination between the State, non-profit organisations, services users' representatives, and an increased respect for children's rights throughout its territory?

Chapter 6: Health and well-being

The purpose of the CRC is to ensure the child's well-being, in particular by requiring States Parties to *"undertake to ensure the child such protection and care as is necessary for his or her well-being..."* (Article 3.2) and by enshrining the primacy of the best interests of the child (Article 3.1). The child's well-being can be understood as the child's right to live in decent conditions in order to attain *"a standard of living adequate for the child's physical, mental, spiritual, moral and social development"* as enshrined in Article 27 of the CRC, but it also depends on his/her appropriate access to primary and specialized health care (Article 24), not forgetting the well-being of children with disabilities in care and education settings.

1 - Children with disabilities

Their access to mainstream schools

Despite the efforts made to make school as inclusive as possible, the school system is still ill-adapted to the specific needs of children with disabilities. Although the enrolment of pupils with disabilities is increasing in number, "inclusive schools" are limited in terms of extracurricular activities (school meals system, day care, etc.) and accessibility of knowledge. As children grow older, they are more likely to find it difficult to stay or be accepted in mainstream classes. They will first be offered support from a Localized Unit for School Inclusion ("ULIS") and sooner or later, they will be referred to a specialized institution. At the age of 6, 85% of pupils with disabilities are enrolled in regular classes, and by the age²⁴ of 10, only 46% of them are. 14% of students with disabilities are in a medical-social education unit at the age of 10, 18% at the age of 12 and 24%²⁵ at the age of 16. Taking all types of schooling together ("ULIS", "SEGPA" (Adapted General and vocational Education Section)), in 2017/2018, there were 96,884 teenagers with disabilities (with a tailored schooling project) in middle school (34,762 in "ULIS" classes) and only 31,128 in secondary schools (6,786 in "ULIS" classes)²⁶.

Access to education differs greatly depending on the nature of the disorder. Some children barely go to school (children with multiple disabilities, etc.) and the continuity of education is better ensured for pupils with motor, visceral, visual, and hearing disorders than for those with intellectual, cognitive or autism spectrum disorders. Thus, at the age of 16, 24% of students with disabilities are enrolled in a sanitary-social teaching unit. This proportion rises to 31% for students with intellectual and cognitive disorders and 44% for those with autism²⁷ spectrum disorders.

The lack of care in France leads many children with disabilities to get care in Belgium

It is estimated that in 2016, 1,436 French children were cared for in 25 approved establishments in Belgium. A lack of local solutions and a crying lack of space in France justify the reasons for these departures. While 1,850 places were created in facilities and services from 2008 to

²⁴ Directorate for the assessment of prospection and performance (DEPP), information note No. 26, October 2016

²⁵ DEPP, benchmarks, and statistical references ed. 2018

²⁶ DEPP, benchmarks, and statistical references ed. 2018

²⁷ DEPP, benchmarks, and statistical references ed. 2018

2015, less than 4,000 were planned for 2016 to 2019. The current terms and conditions for approvals lead to a compartmentalised offer that does not allow for diversified care.

2 - Children's physical and mental health

AEDE warns about the lack of resources to guarantee the provision of care and support in child psychiatry for children/young people – in the frame of Child Welfare or not – throughout the country. In 2016, the average density was 4 child psychiatrists per 100,000 young people under 20 and 14 local areas (“départements”) had none. The waiting time required to obtain a first appointment in a medical-psychological centre (CMP) and medical-psychological educational centre (CMPP) has steadily increased in recent years. Moreover, the lack or absence of flexible reception structures (with low requirements) does not make it easy for young people in wandering situations to decide to ask for help.

Besides the territorial inequalities in accessing healthcare, the partial reimbursement of so-called “secondary” specialist healthcare (dentist, ophthalmologist, gynaecologist, etc.) combined with the obligation to pay for these treatments in advance also explains why some young people do not have recourse to these types of healthcare. The huge shortage of school doctors (1 doctor for every 12,500 pupils²⁸) makes it impossible to detect and diagnose at an early stage any disorders and illnesses that might affect learning.

3 - The right to decent living conditions

While we welcome the adoption of the multi-year plan to combat poverty in 2018, many children/young people still do not have access to decent housing (600,000 of them live in poor housing conditions²⁹), are insufficiently fed, do not have access to school and to any healthcare. Poverty and precarity keep increasing and affect nearly 3 million children³⁰ today. This is further exacerbated by the health crisis.

Questions:

- 1 - What precise, concrete, and financed measures does France intend to take to:
 - a. Ensure the schooling of ALL children/young people with disabilities, whatever their disability (including severe and complex disabilities) and whatever their age (from kindergarten to University)?
 - b. Enable ALL school children/young people to attend school-related services (canteen, day-care centre, etc.) with other children and to take part in various extra-curricular activities?
 - c. To firstly put an end to the forced departures to Belgium and secondly to allow those who have already gone to come back to France and to receive appropriate and quality support?

- 2 - How does France intend to increase the density of child psychiatrists throughout its territory and to promote concrete and sustainable local coordination between health, social and medico-social actors? What measures does France intend to implement to allow for actual prevention

²⁸ Information report of the mission on health prevention for young people by Mr. ISAAC and Mrs. BAREIGTS, October 03, 2018

²⁹ UNICEF, <https://www.unicef.fr/dossier/enfants-pauvres>.

³⁰ <https://www.franceculture.fr/emissions/la-bulle-economique/3-millions-denfants-pauvres-en-france-et-combien-demain>

in schools and to ensure territorial equity in accessing various types of care (primary and specialized) with a non-discriminatory treatment, and within what time frame?

3 - What concrete and effectively financed measures does France intend to implement in the near future in order to eradicate child/youth poverty, particularly in the areas of housing, food, healthcare, schooling, etc.?

Chapter 7 - Right to education, leisure, cultural and sporting activities.

The impact of public policies on the development and well-being of children is now proven, especially for vulnerable children such as children living in poverty, children with disabilities, unaccompanied minors, sick children, hospitalized children, orphans, children in care etc.. Non-profit organisations working in the fields of education, culture, leisure, solidarity and child protection find that these children cannot access their rights notably because of the inequalities in the territorial provision of mobility, housing, schooling, culture, healthcare and social support services, which add up to the fragility of their situation.

1 - Unequal access to school and unequal school opportunities and results

The exclusion of certain groups of children

According to the Children's Defender in September 2019, at least 100,000 young people's right to education is violated in France. This concerns the poorest and most vulnerable children: unaccompanied minors, Travellers' children, those living in squats and shantytowns, those supported by the "SAMU social" or living in hotels (30% of these children do not go to school³¹), children with disabilities, etc.. More than 80% of children without a permanent home do not attend school because of their living conditions, of evictions and illegal refusals to enrol them at school.

Refusals by local Councils or local education authorities (for young people over 16) to enrol children into school are hard to quantify, but they remain a major obstacle and even a denial of their rights.

In Mayotte and French Guiana, thousands of children living in makeshift housing are out of school. Moreover, the limited capacity of some institutions means students must take turn in attending school.

Inequalities due to some children's families' difficult financial situation

Poverty: in 2019 in France, 1.5 million children were living in a very poor family (the threshold is set at 50% of the median standard of living), i.e. 1 child in 10, and 3 million children were living in a poor family (threshold at 60%), i.e. 1 child in 5 (Inequality Observatory). Unemployment and precarious jobs affect their parents and the situation is even more concerning in single-parent families. These children are imposed course/career choices that do not match their projects or skills in any way, much more than other children.

On average, there is one orphaned child per class in France³². However, this study shows a very clear impact of being an orphan on education, learning and school career. Three-quarters of orphaned students report difficulties at school, particularly in with regards to memory, focus, and attention.

Inequalities due to children' status and health

Children in Child Welfare's school careers are very much marked by longer delays in entering secondary school compared to their peers, an over-representation in adapted classes, early

³¹ 2014 ENFAMS survey in Ile de France

³² OCRIP Foundation /IFOP study: "School and Orphans: Better Understanding for Better supporting", 2017

dropouts and school careers involving mainly short³³ vocational education. Accessing higher education is virtually impossible for young people who do not have a “young adult contract”.

This phenomenon is also very common for UMs. Despite many positive feedbacks on their education, their adaptability and the remarkable progress they make, imposing them a school career only because of their status does not respect their right to a chosen school career in line with their aspirations and results. On the other hand, failure to apply the presumption of minority may hinder their education, as this means they will not be able to claim compulsory education (up to the age of 16).

Inequalities in access to and achievement at school may also depend on children's health, as discussed in Chapter 6 on children with disabilities.

A self-censorship mechanism usually operates among the most vulnerable children and adds up to inequalities in access to education.

2 - Inequalities in access to leisure, culture, and holidays

Inequalities in access to leisure and culture

Because of their fragile situation, some children have little or no access to sports, leisure activities and cultural discovery outside school hours. This is an additional fault line for them: besides the costs that families cannot bear, the withdrawal generated by extreme precariousness represents a major obstacle, depriving these children of encounters, amazement, and astonishment... Moreover, many children with disabilities are unable to attend and/or are excluded from certain activities because of a lack of accessibility, maladjustments (lack of training for professionals) and/or insufficient or inadequate reception conditions.

Inequalities in access to holidays

One third of children in France do not go on holiday³⁴, and this has disastrous consequences in terms of learning, discovery, self-confidence, and academic success. Children living in the poorest households are the least likely to go on holiday. This injustice further strengthens inequalities at school.

Questions:

1. What measures does France intend to implement to ensure that all children have an equal access to education? What measures does France intend to implement to ensure that every child has access to education without any discrimination?
2. What measures does France intend to implement to ensure that every child:
 - a. Can freely choose his/her school career?
 - b. Can actually continue into higher education until her/she graduates, regardless of his/her situation?
3. What social measures does France intend to implement to ensure that every child has access to sports and cultural activities even outside school hours? What social and economic measures does France intend to implement to ensure that every child has access to holidays?

³³ Study by the DREES (Directorate for research, studies, assessment, and statistics): “Children in care fail and lag behind at school”, 2013

³⁴ JPA figure

Chapter 8: Special protection measures

The AEDE Collective believes that France should take urgent and effective action with regard to certain groups requiring special protection measures, first and foremost unaccompanied minors, child trafficking victims (sexual and economic exploitation) and children and young people in conflict with the Law.

1 - Assessing Unaccompanied Minors (UMs)'s minority

UMs sometimes struggle to access the protection and socio-educational support they are entitled to under French law and the CRC. In 2018, 17,022 unaccompanied minors were entrusted to local Councils³⁵ and 16,760 in 2019.

Assessment: whether UMs can be protected by local Councils' Child Welfare services is subject to the assessment of their minority and isolation.

A decree of 20 November 2019 recalls that the assessment must be based on a body of evidence that may include information collected via the Minority Assessment Assistance File (AEM) and its cross-referencing with data from other files relating to foreign nationals, as well as social interviews, bone tests, and civil status records, following verification of their authenticity.

In March 2019, the Constitutional Council authorised the use of bone tests to determine the age of young people presenting themselves as UMs (14 March 2016 Bill on child protection). Bone radiological examinations carried out in accordance with Article 388 of the Civil Code can only be done "in the absence of valid identity documents and when the alleged age does not seem likely". Yet, because of their conditions of exile and the shortcomings of civil status services in their countries of origin, these children very rarely carry identity documents considered as valid with them. Furthermore, the assessment of the plausibility of the claimed age is often based on subjective judgement and the rejection of many claims is based on stereotypes. As a result, the conditions for bone testing are often met. Although it is now legally limited, this practice continues to be condemned by many authorities and organisations not only because of its inaccuracy, but also on the ground of medical ethics. The AEDE collective strongly condemns these tests.

In addition, the implementation of the AEM file (decree of 30 January 2019) allows cross-referencing of foreign nationals' file (AGDREF 2) with visa applications' file (Visabio). With this new procedure, young people who have been assessed as adults can receive an expulsion administrative measure before a Children's judge can decide on the case (and potentially cancel the administrative decision).

15 local authorities ("départements") have announced that they would not use the AEM file because it creates confusion between child protection and immigration control (cf. CNPE opinion 2018 -14).

On 5 February 2020, the Council of State ("Conseil d'État") rejected the appeal lodged by 19 organisations against the decree of 30 January 2019, refusing to recognise violations of the

³⁵ Department of Justice, Annual Activity Report - Unaccompanied Minors, 2018 - http://www.justice.gouv.fr/art_pix/RAA-MMNA-2018.pdf

rights of unaccompanied minors and thus giving priority to the fight against illegal immigration over the rights of the child.

In some areas, non-profit organisations note that fast-track procedures are being introduced: obligation to leave the French territory notices (“OQTF”) are issued on the same day as the fingerprinting administrative appointments. Possibilities for appeal are scarce, and young people are sometimes detained immediately. The direct consequence of this has been a drop in requests for protection by young UMs who fear they will be immediately deported. The AEDE collective is concerned about the implementation of the recording of alleged UMs.

A national guide on the good practices for assessing minority and isolation was drafted by several ministries and published in December 2019. Its goal is to mitigate the differences in assessment practices between local authorities (“départements”).

In some territories, young people who are not considered as minors may not have access to the same rights as those of adult migrants, and they have no rights as minors, since they are not administratively recognised as such. They cannot therefore apply for asylum, a residence permit, child protection support or a scholarship. However, in other territories, children recognized as adults or minors by authorities can apply to each of the statuses.

Each minor has a right to the reconstruction of his/her identity and civil status³⁶, and this must swiftly be undertaken, in particular by referring the matter to the competent consular authorities or to the French Office for the Protection of Refugees and Stateless Persons (“OFPRA”), in order to promote the regularization of the minor when s/he comes off age.

Recent legislative and regulatory evolutions reflect national and local trends of developing a differentiated approach to unaccompanied minors, which meets the needs of migration rather than those of child protection.

The quality of support for children in temporary care, such as those entrusted to Child Welfare services by the courts, varies greatly: they may be accommodated in unsanitary hotels or in children’s home, and they do not always go to school. When they come off age, many of them find themselves with no solution, as the conditions for obtaining a young adult contract are becoming increasingly restricted. However, other solutions exist even when a young adult contract has not been granted (regularisation, application for asylum etc.) but not all professionals know about these.

[2 - Human trafficking \(sexual and economic exploitation\)](#)

Human trafficking is a crime and a violation of human rights. At the international level, it is defined by the “Palermo Protocols”. In France, the offence of trafficking is defined in Article 225-4-1 of the Criminal Code. It implies recruiting, transporting, transferring, accommodating or having a person in one’s home, by means of threat of the use of force or by the use of force or other forms of coercion, abduction, fraud, deception, abuse of power or abuse of somebody’s vulnerability or by giving or receiving payments or benefits in order for a person having control over another person to obtain his/her consent for the purpose of exploitation. For minors, coercion is not required for acts to qualify as human trafficking. Thus, it is not necessary to demonstrate by what means (force, abuse of power, etc.) the minor was coerced.

³⁶ Article 8 of the CRC

Today, too many children victims of trafficking remain invisible because they are unidentified. It is therefore exceedingly difficult to know their exact number. The lack of knowledge on all forms of exploitation (forced labour, forced begging and coercion to commit offences) leads to a lack of detection and identification, to the lack of recognition of victims' status by the relevant institutions, and sometimes even to criminal prosecution and imprisonment of the concerned children.

Despite the identification of some minors and the prosecution of their exploiters, there is still a lack of effective protection for these children, due to the absence of adequate protection measures (lack of suitable structures, inadequate legal, psychological and health support).

The significant arrival of unaccompanied minors on the territory has led to an increase in trafficking, due to their vulnerability.

Despite this:

France does not have uniform and country-wide specialized structures dedicated to housing minors who are victims of trafficking, although this is essential to provide them with a dignified and appropriate housing. Only some areas ("départements") have specialized structures partially dedicated to these victims.

Within each local authority's Child Welfare services, there are no units dedicated to the issue of trafficking with a point of contact who could coordinate and locally manage the search for remote accommodation.

The increase of trafficking and prostitution of minors, but also of the "sugar babies" phenomenon³⁷ are due to the worsening of minor's reception conditions in France, especially unaccompanied minors. The lack of schooling and medical care combined to the trauma of exile make them easy preys for potential exploiters.

3 - Children in conflict with the Law

It follows from the provisions of Articles 37 and 40 of the CRC that "the detention of a child shall (...) be used only as a measure of last resort, (...) that whenever appropriate, measures for dealing with such children without resorting to judicial proceedings should be taken".

In France, these provisions are not always respected: criminal justice for minors is increasingly based on that for adults and is ever more punitive. It sacrifices the priority of education over repression and the importance of considering the minor's personality, his/her analytical abilities and minority – which should always be a mitigating factor to his/her criminal responsibility – and his/her capacity to be administered a sanction that is appropriate, necessary and suitable. Moreover, France has not set an age for criminal responsibility yet. Instead, it is replaced by a criterion on "analytical abilities" used in the Code of Juvenile Criminal Justice as a relative presumption, which can therefore be rebutted. This derogates from the principle of mitigation of criminal responsibility of underage children.

While the 1945 Decree had the merit of promoting an educational, protective and humanist vision of juvenile justice, it has been repealed by the Decree of 11 September 2019, initially due to enter into force on 1 October 2020, and it has been replaced by a Code of Juvenile

³⁷ A form of prostitution in exchange for gifts or benefits in kind (accommodation, etc.).

Criminal Justice (“CJPM”), whose repeal is called for by some actors. It indeed pursues the logic of speeding up the procedure and aligning it with the justice system for adults, without resolving the main difficulty, namely the lack of resources for prevention, Child Welfare and Judicial Protection of Juveniles services. It also conceals a whole area of juvenile justice: the prevention of first-time offences.

Pending parliamentary debates that should allow for modifications and amendments to the CJPM before its entry into force – postponed for the time being in a context of unprecedented health emergency – France's current response to this impoverishment of the educational offer is the opening of 20 closed educational centres (“CEF”) by 2022, bringing their total to 72 for an annual amount of 150,000 million euros. These centres were supposed to reduce the number of incarcerated children, but they are far from having achieved that goal and are in fact places of confinement rather than education.

As of 1 July 2019, there were 894 detained children – a figure not attained in France since 2002 – which adds up to the number of young offenders convicted for offences committed when they were underage, as well as minors placed in the 52 closed centres. These figures have recently fallen sharply (680 children incarcerated) only because of the changes in the criminal Law policy during the Covid-19 epidemic, but practices have not been deeply challenged.

The recourse to open custody and educational homes has fallen by 32% and 40% in the ten past years while the number of CEFs increased, although no assessment of their effectiveness has been undertaken to date. This cuts back on all other criminal and preventive responses and takes over most of the funding.

Questions:

Topic 1: Unaccompanied minors

- 1- How can the national guide on assessing age and isolation be supported in all territories in order to guarantee the effective standardisation of practices?
- 2- How can referral to the juvenile judge be included regarding the care arrangements for the young person? What measures has France implemented to enable young people who bring cases before the juvenile judge/the Court of Appeal, in the event of the non-recognition of their minority by local authorities, to still be protected in the frame of the minority assessment process?
- 3- Does France intend to such grant a suspensive effect to referrals to the juvenile judge/Court of Appeal by a young person who has been considered to be an adult by local authorities?
- 4- In the context of the reconstitution of civil status documents, how does France intend to guarantee access by UMs, throughout the country, to procedures allowing a supplemental judgment for a birth certificate?

Topic 2: Human trafficking

- 1- What resources does France intend to dedicate to the training of childcare professionals, especially those working for child welfare services, PJJ and legal and Law enforcement professionals?
- 2- How does France intend to involve Child Welfare services in each local area (“département”), in order to enable the creation of a network of specialised contact persons on these issues?

- 3- What date can France announce for the generalisation of accommodation structures specialising in the reception of minors who are victims of trafficking?
- 4- Could France justify the use of detention for minors presumed to be victims of trafficking who are forced to commit offences in the context of exploitation?
- 5- How does France intend to set up measures to reach out to these wandering minors, in order to locate them as quickly as possible and prevent their exploitation?
- 6- What means does France intend to put in place to systematically protect unaccompanied minors during the minority assessment process in order to limit their exploitation?

Topic 3: Children in conflict with the Law

- 1- When is France going to implement the principle of prioritising educational measures over penal sanctions and guarantee that measures ordered by the Courts are adapted to the age, personality and analytical capacities of any child in conflict with the Law?
- 2 - What means does France intend to grant in order to reconcile the interests of the child offender with those of his/her victim(s) and society, and to avoid the excessive use of places of detention by taking an interest in the fate of young first-time offenders and by no longer ignoring the local criminal justice system dedicated to them?
- 3 - How does France intend to guarantee the allocation of sufficient resources to prevention, thereby restoring it to its rightful place, in particular through an interministerial prevention policy?

Appendixes

Appendix 1: Acronyms

ADEPAPE

AEDE: Acting Together for Children's Rights (Agir Ensemble pour les Droits de l'Enfant)

AEEH: allowance for the education of the disabled child (Allocation d'Education de l'Enfant Handicapé)

AEM: Minority Assessment Assistance (Aide à l'Evaluation de Minorité)

AGDREF: Application for the Management of Foreign Nationals' Files in France (Application de Gestion des Dossiers des Ressortissant Etrangers en France)

ANESM: National Agency for the assessment and quality of social and medico-social institutions and services (Agence nationale de l'évaluation et de la qualité des établissements et services sociaux et médico-sociaux)

APJM: Temporary housing for young adults (Accueil Provisoire Jeunes Majeurs)

ASE: Child Welfare services (Aide Sociale à l'Enfance)

CEF: Closed Educational Centres (Centres Educatifs Fermés)

CESSEC: Commission for assessing the situation and status of children in care (Commission d'Evaluation de la Situation et du Statut des Enfants Confiés)

CRC: International Convention on the Rights of the Child

CIDID: Interministerial Committee on International Cooperation and Development (Comité interministériel de coopération internationale et du développement)

CJPM: Code of Juvenile Criminal Justice (Code de la Justice Pénale des Mineurs)

CMP: Medical-Psychological Centre (Centre Médico-Psychologique)

CMPP: Medical-psychological educational Centre (Centre Médico-Psycho-Pédagogique)

CNEPE : National Council for Child Welfare (Conseil National de la Protection de l'Enfance)

DGCS : General Directorate for Social Cohesion (Direction Générale de la Cohésion Sociale)

HAS: High Authority for Health (Haute Autorité de la Santé)

HCFEA: High Council on Family, Childhood, and the Elderly (Haut Conseil à la Famille, à l'Enfance et à l'Age)

HCTS : High Council of Social Work (Haut Conseil du Travail Social)

UM: Unaccompanied Minor

OFPRA : French Office for the Protection of Refugees and Stateless Persons (Office Français de Protection des Réfugiés et Apatrides)

OQTF : Obligation to Leave French Territory notice

PJJ: Judicial Juvenile Protection Services (Protection Judiciaire de la Jeunesse)

PMI: Maternal and Child Protection (Protection Maternelle et Infantile)

SEGPA: Adapted General and vocational Education Section (Section d'Enseignement Général et Professionnel Adapté)

ULIS: Localized Unit for School Inclusion (Unité Localisée pour l'Inclusion Scolaire)

VEO: Ordinary Educational Violence (Violences Educatives Ordinaires)

Appendix 2 : List of organizations

ACE : Action Catholique des Enfants

AFEV : Association de la Fondation étudiante pour la Ville

Aide et Action

ANACEJ : Association nationale des conseils d'enfants et de jeunes

APAJH : Fédération des Associations pour Adultes et Jeunes Handicapés

APF France Handicap

Asmae Association Sœur Emanuelle

ATD (Agir tous pour la dignité) Quart-Monde France

CDERE : Collectif pour le droit des enfants roms à l'éducation

CEMEA : Association nationale des Centres d'entraînement aux méthodes d'éducation active

Citizen-Ship

Citoyens et Justice

Croix Rouge française

CSF : Confédération Syndicale des Familles

DEI - France : Défense des Enfants International – France

EEDF : Éclaireuses Éclaireurs de France

FCPE : Fédération des conseils de parents d'élèves

Fédération internationale des cafés des enfants

FIEP : Fédération Internationale pour l'Éducation des Parents

FGPEP : Fédération Générale des Pupilles de l'Enseignement Public

FNEJE : Fédération Nationale des Éducateurs de Jeunes Enfants

Forum Français de la Jeunesse

Les Francas

Grandir Dignement

Hors la Rue

ICEM (Institut coopératif de l'École moderne) Pédagogie Freinet

Initiatives et Changement

Jets d'encre

JOC : Jeunesse Ouvrière Chrétienne

LDH : Ligue des droits de l'Homme

OCCE : Office central de coopération à l'École

OVEO : Observatoire de la Violence Éducative Ordinaire

RNJA : Réseau National des Juniors Associations

SE - Unsa : Syndicat des Enseignants de l'Unsa

SNUipp-FSU : Syndicat National Unitaire des Instituteurs et Professeurs des écoles et PEGCS affilié à la Fédération Syndicale Unitaire

Solidarité Laïque

SOS Villages d'Enfants France

Le Syndicat de la Magistrature

Thémis

Trisomie 21

UNAPP : Union Nationale des Acteurs de Parrainage de Proximité

UNIOPSS : Union nationale interfédérale des œuvres et organismes privés non lucratifs sanitaires et sociaux

Unsa Education

Appendix 3: 10 priority questions

Q.1: How does France plan to continue its efforts to implement an actual strategy for children that is both comprehensive and cross-sectional, giving every child the opportunity to know and exercise his/her rights, and developing a genuine multi-year action plan and a dedicated budget?

Q.2: How does France intend to guarantee support and transition from minority to legal majority, and to implement protection and support for young adults until their full inclusion in society is achieved, without any differential treatment (regardless of the place of residence and the length of support before majority is attained)?

Q.3: How does France ensure respect for and promotion of the rights of the child and their mainstreaming in its cooperation and development assistance policy, both in the implementation of its programmes and in its bilateral and multilateral diplomatic action, in accordance with the Convention and the Optional Protocols it has ratified?

Q.4: How can we encourage children's actual participation in institutions (schools, child welfare structures, leisure centres, etc.) and ensure that their opinions are taken into account and bring about consequences and measurable changes?

Q.5: What measures does France intend to put in place to ensure that every child has access to education without any discrimination?

Q.6: What concrete and effectively financed measures does France intend to implement in the near future in order to eradicate child/youth poverty, particularly in the areas of housing, food, healthcare, schooling, etc.?

Q.7: What measures does France intend to take to reduce inequalities between children in different parts of France regarding the support provided to them in child protection, to ensure that the range of services on offer, in terms of prevention and protection, is developed in each territory, and to ensure that all judicial decisions are enforced with the appropriate means?

Q.8: How does France intend to inform and train parents, childcare professionals and public policymakers on the principle on the best interests of the child so that everyone can apply it at his/her own level?

Q.9: How does France intend to increase the density of child psychiatrists throughout its territory and to promote concrete and sustainable local coordination between health, social and medico-social actors?

Q.10: When is France going to implement the principle of prioritising educational measures over penal sanctions and guarantee that measures ordered by the Courts are adapted to the age, personality and analytical capacities of any child in conflict with the Law?

AEDE Youth Committee



aede
Agir Ensemble pour les Droits de l'Enfant

**Please listen to our voices and
consider our rights for the future
to look like us!**

Table of Contents

Introduction.....	35
Theme 1: Definition of a child.....	36
Theme 2: Discrimination.....	37
Theme 4: The conditions of children's participation.....	39
Theme 5: Fighting poverty.....	40
Theme 6: Children's well-being.....	41
1. Within the family.....	42
2. Violence in institutions (schools, child welfare structures, etc.).....	42
3. Police violence.....	43
Theme 8: School, leisure, culture, sport.....	44
Theme 9: The issue of young adults.....	45
Theme 10: Child and Family/ In child welfare.....	46
Theme 11: Digital technologies.....	47
1. Data protection.....	47
2. Online bullying.....	47
3. Protection against online scams.....	47
4. Paedophilia.....	47
Theme 12: Sex education in schools.....	49

Introduction

The AEDE Collective has made the participation of children and young people one of its main lines of action, notably through the creation of a national network of children and young people in 2015. For this second report, we wished to go beyond the collection of verbatim records carried out and offer children and young people the opportunity to write their own report in 2015.

On three occasions, five members of the AEDE Collective (the National Association of Children and Young People's councils (Anacej), the General Federation of Wards of the State in Public Education (FGPEP), Jets d'Encre, the National Network of Junior Associations (RNJA) and SOS Villages d'enfants) brought together Alix, Camelia, Sibel, Maëlys, Dünia, Marianne, Aminata, Corentin and Madelon, aged 15 to 20 years, in order to draft an appendix to this alternative report, in a simplified procedure for assessing France's compliance with children's rights under the International Convention on the Rights of the Child. The young participants' backgrounds and living environments are very different. Due to the lockdown caused by the Covid-19 outbreak, the work was done remotely. In this respect, we would like to praise their involvement and the quality of our talks.

These meetings allowed several important topics to emerge, based on their expertise and experiences. This document is a digest of their views and it highlights the observations and questions they have about the rights of the child in France. The organisations that worked with them brought these observations and questions together under themes on which the young people wished to question the Committee on the Rights of the Child. These young people hope to get your attention in the preparation of the list of priority questions that you will address France next October.

Theme 1: Definition of a child

Analysis:

Legally, a child is a person under the age of 18, and this confers him/her specific rights. However, in many cases, these rights vary according to the situation: for example, there is nothing in the CRC concerning emancipated young people, and a minor can be imprisoned from the age of 13. Also, maturity varies from one child to another, but this factor is only rarely considered in children's rights. In practice, there are therefore real inequalities between children, depending on their social background, their family, where they live, etc.

Questions:

- How does France protect emancipated minors?
- Isn't the possibility for a minor to be imprisoned from the age of 13, and thus to be considered responsible for his/her actions, in contradiction with the principles of the CRC?
- How can we better take each child's individual maturity into account?

Theme 2: Discrimination

Analysis:

Children as well as adults can be discriminated against (e.g. sexism, racism, discrimination related to disabilities, social background, sexual orientation, religion, gender identity...) but they are also victims of specific discriminations because they are children. We have noted that there is a great deal of discrimination against children in care (by State institutions, notably at school, or by companies when they look for internships, etc.). We also note numerous discriminations based on the age of children (on the right to publication for example) or on their social background (for example, executives' children are more educated than those of workers).

Several specific situations caught our attention:

The situation of unaccompanied minors is a major source of discrimination. Many of them do not have access to education because of their administrative situations. They also have great difficulty living in safe and healthy conditions and accessing certain services that are essential to daily life.

Traveller children are also discriminated against because of their lifestyle. Some cities refuse to enrol them at school. A child's lifestyle should not be a source of discrimination. Finally, we felt it was important to address the issue of children with disabilities. Contrary to what the 2005 Law advocates, many public places are not adapted to physical disabilities. Some schools are not equipped with lifts yet, and this keeps young people out of regular education. Also, members of the educational community sometimes do not consider "invisible" disabilities (psychological or psychiatric disorders, hearing impairment, etc.) and they are not sufficiently trained on these issues.

Finally, it is even more difficult for children with disabilities to integrate into society and to make friends.

Questions:

- What action is France taking to protect children from discrimination?
- What actions is France taking to enable every child, especially those with disabilities, to have access to public places, especially schools, and to train teachers on these issues?
- What action is France taking to enable every child with invisible disabilities to be properly supported and recognised, especially by the educational community?
- In order to reduce gender discrimination, shouldn't a mixed toilet system be introduced?
- What actions is France taking to ensure that Traveller children receive the best possible schooling?

Theme 3: Taking the best interests of the child into account

Analysis:

Usually, decisions concerning a child must always be made with respect for the child and his/her well-being, and his/her rights must take precedence over anything else, including adults' rights. However, compliance with this principle is rare, and children are not consulted when decisions that directly or indirectly concern them are taken (for example during divorces, when they choose their school career, or when schools reopened after lockdown...) We note that children's views are often listened to, but they are hardly ever considered.

In addition, emotional and relational ties are particularly important for a child's development. Unfortunately, these aspects are often overlooked and minimised, and may ultimately have direct consequences for the child's personal development (and especially for children who are already isolated).

An attachment figure is not only a parent or a family member, it can be someone in the family environment or even in child welfare structures, but also siblings. These ties must be safeguarded when the child so requests, to ensure the best possible conditions for his/her personal development and thus limit emotional isolation.

Questions:

- What measures is France implementing to ensure that the best interests of the child are always considered in legal and educational situations and in law-making?
- What is France doing to make parents aware of the principle of the best interests of the child?
- What is France doing to inform children that they are and must be at the centre of all decisions concerning them personally?

Theme 4: The conditions of children's participation

Analysis:

Adults often impose choices on children, sometimes "for their own good" but also without listening to them: this is particularly the case for school career or their choice of activities. They often get asked for their opinion, but it is not considered. When it is, this has no real consequences.

Children and young people do not get to vote and therefore cannot really give their opinion and take part in decision-making in public life, especially at the local level. Yet the impact of these decisions directly affects them. Setting the voting age to 16 would force politicians to address children and youth more and make them a priority.

Questions:

- Should the voting age be lowered so that young people's voices can be better heard?
- Shouldn't children who wish to do so be able to choose their local/national representatives?
- What measures is the State setting up to ensure that every child can express himself/herself and make his/her own choices on matters that concern him/her in particular?

Theme 5: Fighting poverty

Analysis:

The impact of families' precarious situations on children is still insufficiently considered, and the situation proves particularly complicated when school canteens, for example, cannot provide meals, such as during the summer holidays or on lockdown. Living in a poor family can also impact children's well-being, as this can be a difficult social or psychological experience.

Questions:

- How can children from poor families eat their fill when local authorities cannot fulfil this role during school holidays or during crises such as Covid-19?
- How can the impact of poverty on children's health be reduced?

Theme 6: Children's well-being

Analysis:

Members of the educational community do not know, recognise, or take children's anxiety disorders into account.

Questions:

- What actions is France taking to consider and take students' difficult psychological situations (depression, anxiety...) seriously?
- What training does France provide for members of the educational community to support these students?

Theme 7: Fighting violence

Analysis:

1. Within the family

A significant number of children are victims of physical, moral, psychological, and mental violence, notably within the family. This situation worsened during lockdown: some children had to live and suffer daily from the physical and psychological violence of "violent parents". In the context of domestic violence, children are often collateral victims. Such violence is exceedingly difficult to detect. There may also be "normalized" educational violence (forcing a child to finish a plate, locking a child in, spanking, etc.) that children may tend to consider as normal and that they may repeat as adults.

Children do not always have the possibility to file a complaint or simply do not know where to turn because there is not enough prevention on the fight against violence. In addition, their statements may be questioned when they complain, and the intervention of adults sometimes takes time.

2. Violence in institutions (schools, child welfare structures, etc.)

Children may also witness violence on other children, and they might not know how to react. There are also cases of teachers harassing students although they are in a position of authority. They sometimes go unpunished by the system.

There are still cults and religious communities in France that practice mental drilling on young people and believers. Ex: Communauté des Béatitudes.

There are still some traditional religious practices that are dangerous for the health of young girls, such as female genital mutilation. It also exists in France.

When children are in care, often because they have been abused, they sometimes end up in institutions where they are again victims of abuse, even though these institutions are supposed to protect them.

In order to limit the violence committed in child welfare structures as much as possible, we feel it is necessary to strengthen the recruitment process of professionals (with comprehensive psychological interview) and to conduct annual interviews in order to detect certain deviances but also professional overwork: some of the violence is carried out "unconsciously", meaning that exhaustion and overwork can lead an adult to behave negligently or even abusively. More guidance and support for adult is needed to avoid such situations.

Moreover, violence can also occur between children. These situations are unfortunately more frequent than they seem, and they are poorly detected. When they are, their poor management creates a "vicious circle".

Sexual violence within families, schools, child welfare structures etc. is still too taboo and unfortunately far too present, whether perpetuated by adults or other children. Detection and management of such violence are not sufficiently developed. Finally, there are also cases where violence comes from children against adults. Such violence can take any form and is sometimes misunderstood, as it often stems from the child's great angst and poor care and leads to very violent situations.

3. Police violence

We note that there is a differential treatment during police controls depending on the territories, and young minors can be brutalized in these moments. We were especially shocked by Gabriel's story. He is a 14-year old boy who was arrested and brutalized by police officers in Bondy on May 30, 2020. He was on sick leave for 30 days because of his injuries.

In 2019 and 2020, France experienced many demonstrations (against the reform of secondary education, of "Parcours Sup" and of the pension system). Many minors attended. During secondary schools' blockades, we saw that some pupils could sometimes be virulent, but we also witnessed racist and homophobic comments by the police. The arrests of secondary school students were violent and very traumatic, particularly during police custody. Young people testified that they had suffered psychological and physical violence.

Finally, some students who did not take part in the demonstrations nevertheless suffered a traumatic impact caused by the demonstrations of force, including detonations, and they were afraid to go back to school. When the students were in class, they could hear the detonations, among other things. In some secondary schools, these blockades lasted up to 4 weeks and tensions rose as the demonstrations lasted. Law enforcement officials were there all day long, from the opening to the closing of the school. Finally, many of us were shocked by the video of these secondary school students kneeling under police pressure in Mantes-la-Jolie (December 2018).

Questions:

- What is the role of the State in helping child victims of all forms of violence? How can the State be more mobilised towards putting an end to these different forms of violence?
- Why did it take until lockdown for housing to be made available for women and children who are victims of violence?
- What is the State doing to enable the denunciation of this violence against children?
- How can care of minors who are victims of violence be facilitated?
- How can more comprehensive interviews be set up when professionals are recruited in child welfare institutions and throughout their career?
- How does the Law specifically protect minors in the context of arrests?

Theme 8: School, leisure, culture, sport

Analysis:

We note that schools do not have the same means and do not offer the same activities. In addition, access to certain specific classes (e.g. "sport étude", which combine sports to academic studies) have limited capacity, which implies that students who struggle more at school do not have access to them, even when they are particularly talented in the chosen sport. When school trips are organised, families often have to contribute financially and some of them cannot afford it. This prevents these young people from taking part.

There is a great injustice in the access to cultural, leisure and sports activities depending on the child's origin, the family's social habits and where they live (e.g. rural areas).

Access to leisure, cultural and sports activities may be limited by the family's financial situation. Some leisure activities are considered as "elitist" and they are less accessible to some social categories, such as playing a musical instrument, for example. Moreover, activities are still very much gendered in society (ballet for girls, rugby for boys, to give just one example), which prevents children from choosing activities they really enjoy.

Questions:

- How could each child pursue an extra-curricular (sports/cultural) activity regardless of his/her family's financial situation?
- How could each child go on holiday even if his/her family cannot afford it?

Theme 9: The issue of young adults

Analysis:

Some young people in care can be granted a "young adult contract" up to the age of 21, but this varies greatly from one local area ("département") to another, there is no equity on the national territory. As the State provides little care for these young people, they are strongly encouraged to undertake shorter higher education studies as they will potentially only be taken care of until they are 21. This reinforces inequalities between children and between "social classes". Young adults do not seem to benefit from the rights to protection granted by the CRC.

Questions:

- What is France doing to support young adults under contract when they wish to pursue longer higher education studies?
- Why are there so many disparities regarding access to the young adult contract in different territories?

Theme 10: Child and Family/ In child welfare

Analysis:

All children are not equal: depending on their family social background, their chances to succeed are not the same. In some families, children may be abused and may experience differences in treatment between the children of the same family. Children can be asked to take sides when their parents get divorced. In the context of parents' separation, children's views are rarely taken into account. The organization and implementation of alternating custody can be confusing for children, due to a sudden new organisation. Moreover, lockdown has brought difficulties to light in this respect, as visiting rights were not always respected.

Many children cannot have the sexual orientation or religion they want. Besides, parents can pressure children about their behaviour or choices, which can constrain the child personally.

We also find that visiting rights in prison - when parents are detained - are often violated.

Generally speaking, children are not considered. They may be discriminated against or not listened to on certain issues.

Questions:

- Why aren't children's views respected in custody proceedings?
- How does the State ensure that children's voices are heard and respected in all decisions affecting them?

Theme 11: Digital technologies

Analysis:

1. Data protection

We note that many social networks used by teenagers are unclear about their data processing and protection policies and that there is no difference between the processing of adults' and children's data.

We also found that on Snapchat, the "stories" published by young people never disappear and that they are retrieved by the parent company without informing us of how they are used.

2. Online bullying

We find that physical or psychological harassment against children often tends to turn into online harassment.

3. Protection against online scams

Instagram is a popular social network for young people. We noticed that there were a lot of scams on this network, with ill-intentioned people creating fake YouTube accounts offering gifts in exchange for calling premium-rate numbers, for example.

4. Paedophilia

Finally, we felt it was important to address the issue of paedophilia on the Internet and more particularly on social networks, as sexual predators may be present there. Many children have been taught by adults not to accept sweets from adults they do not know, not to follow strangers etc. However, on social networks, ill-intentioned people can usurp identities and pretend to be children/teenagers with fake photos and false accounts. Vulnerable and lonely children could be manipulated into thinking that there are actual children behind these profiles. These paedophiles take advantage of their innocence to steal images of children, and sometimes even to try and meet them and abuse them.

Questions:

- How can the protection of children on social networks be guaranteed?
- How does the State pressure the major digital industries, including GAFAM, to enforce the principle of transparency in data processing?
- How can we make young people and the parents and adults around them even more aware of the dangers of digital technologies?
- On 20 November 2019 at UNESCO, President Macron announced strong measures on digital technologies, but nothing has been done so far. The measures are the following:
 - Default parental control on all mobile phones within 6 months
 - The establishment of sanctions for pornographic websites that are accessible to minors

- Extension of the Higher Council for audio-visual media's mission to the Internet in order to strengthen the control of access to pornographic sites... What is the concrete situation?

Theme 12: Sex education in schools

Analysis:

There are very few actions to raise awareness on the body and little sex education as such within the National Education system. We do not really have courses on these issues, although they are in the school curriculum. We acquire knowledge on our own by reading or watching videos. Regarding contraception, we only talk about condoms but not about the different methods of contraception. Yet, explaining how they work would allow us to choose freely and with full knowledge of the facts.

Question:

- How can all children have access to quality, age-appropriate information on body ownership and sex education?