

UNICEF France Report

Review of the situation in France for the Committee on the Rights of the Child

2020 – 2022

Submitted to the Committee on the Rights of the Child on June 29, 2020

With this report, UNICEF France wishes to bring a non-exhaustive number of subjects which it considers to be priorities to the attention of the Committee on the Rights of the Child. Given the formal restrictions of this exercise, certain of the following categories are not dealt with. Whenever possible, within the context of the Covid-19 pandemic, we have tried to coordinate with our institutional and associative partners to avoid overlooking certain subjects.

1. **General measures of implementation (arts. 4, 42 and 44 (6))**

- **Previous recommendations**
- **Legislation**

If higher jurisdiction jurisprudence allows progressive reinforcement of direct applicability of the principles derived from the Convention on the Rights of the Child, it is regrettable that CRC (CIDE) applicability is not systematic. Moreover, invoking best interests in debates or texts very rarely suffices to allow it to take precedence over other issues.

→ *UNICEF France recommends questioning France with regard to the way the country envisions reinforcing direct CRC applicability.*

- **Data collection**

Despite the existence of multiple organizations likely to produce data on children, there is no exhaustive vision and no consistent, consolidated data regarding the different aspects of children's lives. Certain data, particularly in disaggregated form, is also missing or outdated. The absence of precise and easily accessible data about childhood unfortunately contributes to making the most disadvantaged children invisible, and more generally, the problems linked to childhood. Among much other missing data, the State lacks figures on how many children of school age in France are not enrolled. Nor is there any data concerning abuse committed against children in overseas departments and regions. Despite the 2004 creation of the French Observatory of Child Protection (ONPE) and the Departmental Monitoring Services for Child Protection, a lack of public knowledge about child welfare persists. The number of children exposed to pollution exceeding French standards is also unknown. Even when including the work carried out on Agenda 2030, France has developed few indicators relating to childhood, with the exception of the Sustainable Development Goal 4 and a few sub-indicators: poverty, obesity, smoking, education...

→ UNICEF France recommends that the Committee question France about its plan of action for improving the collection and availability of accurate and disaggregated data concerning children and adolescents.

- **Global policies and strategies & Coordination**

There is a lack of childhood “governance”, despite the expenditures for children (child welfare services, education, training, health...). The January 2019 nomination of a State Secretary for Child Protection partially fulfilled the need to represent children more visibly within the government. The Secretary of State is piloting an essentially decentralised policy – child welfare services – which are implemented by the departments. The State Secretary is not, however, a true Ministry for Children which would centralise all missions and programmes concerning childhood and children.

The existence of numerous organisations and players, both on national levels (National council for Child Protection, High Council on Family, Childhood and Age, French Observatory of Child Protection, SNATED - the French helpline for children in danger, French Adoption Agency ...) and local levels, whose boundaries aren't always clear, add to the lack of coherence and visibility in children's policies. But their missions are important and must be reinforced. The proposal to combine these organisations implicated in child protection (CNPE, ONPE, AFA, ODAS, HCFEA) into a single National Agency for the Protection of Children, which would be piloted by the State and its departments, should only be envisioned if it is motivated by the best interests of children, and not only with an eye to pooling services and controlling public expenditure. It is also vital to ensure its independence, especially in the research/assessment phase. Consideration should be given to the binding nature of its opinions, as well as to the participation of children.

→ UNICEF France recommends that the Committee question France as to how it will reinforce the coherence and visibility of children's policies and children's rights.

- **Allocation of resources**

As confirmed by a recent report by the HCFEA, France has not – as of 1st July 2020 – developed integrated long-term management of public expenditures dedicated to children. This lack of budget planning prevents the development of the accounting literacy needed to measure the credits allocated to children and adolescents across all sectors and fields of public policy. In addition, much of the public policy for children falls under territorial jurisdiction and suffers from serious disparities that so little data make difficult to measure.

The need to control public expenditures, particularly in the social sector, very likely has impacts – although difficult to quantify – on the condition of children. For example, with regard to the protection of children, it can be seen that between 2017 and 2018, the average cost of alternative care (in a child protection centre or in foster care) diminished. This average cost dropped from 37 900 euros in 2017 to 37 200 euros per year and per child (-1,8%), which the ODAS explains as “*the pressure exerted by the departments on the associative sector to achieve better cost control, and the search for less costly solutions than children's shelters, particularly for unaccompanied minors.*”

→ UNICEF France recommends that the Committee question France as to the actions it has taken to measure the resources allocated to children in all public policies, and the monitoring system implemented.

- **Independent monitoring system**

- **Dissemination, awareness, and training on children's rights**

UNICEF France commends the ratification of the 3rd protocol of the CRC in January 2016. This protocol is little known in France, in the same way as the CRC.

Efforts must continue to be made to expand awareness of the CRC for adults and children throughout France. Studies show that between 42% (UNICEF study 2018-2019) and 68% (Defender of Rights study 2016) of adults know little about or have never even heard of children's rights. Among children aged 9 to 12, 77,1% are unfamiliar with or unsure about the CRC (Children's World Survey, 2018), and only 1 adolescent in 10 between the ages of 15 and 18 knows that the CRC exists (Defender of Rights, 2016). The Defender of Rights shows a 6 point increase in lack of awareness of the CRC between 1999 and 2006 among French people.

On the 30th anniversary of the CRC, the Ministry of National Education stated that children's rights may be addressed at school (in the common core of knowledge, competence, and culture; in moral and ethical teaching; and in new high school programmes). However, UNICEF France believes that these indications are insufficient to ensure the systematic and effective comprehension of each student

→ *UNICEF France suggests that the Committee question France regarding the assessment of French knowledge of the CRC, particularly that of French children. UNICEF France suggests questioning France regarding the measures that can be taken to reinforce the presence of the CRC in curricula, as well as in the common core of INSPE (National Institutes of Higher Education) teachings. UNICEF France suggests that the Committee question France with regard to raising the awareness of adults and children to the 3rd protocol of the CRC.*

2. Definition of the child (art.1)

3. General principles

- a. **Non-discrimination (art. 2)**
- b. **Best interests of the child (art. 3)**
- c. **The right to life, survival and development (art. 6)**
- d. **Respect for the views of the child (art. 12)**

4. Civil rights and freedoms

- a. **Birth registration, name and nationality (art. 7)**
 - b. **Preservation of identity (art. 8)**

See focus: Unaccompanied minors

- c. **Freedom of expression and the right to seek, receive and impart information (art. 13)**
- d. **Freedom of thought, conscience and religion (art. 14)**
- e. **Freedom of association and of peaceful assembly (art. 15)**
- f. **Protection of privacy and protection of image (art. 16)**

See focus: Unaccompanied minors

- g. Access to information from a diversity of sources and protection from material harmful to a child's well-being (art. 17)**
- h. Measures to promote the physical and psychological recovery and social reintegration of child victims (art. 39)**

See focus: Protection of children of foreign fighters in Syria and Iraq

5. Violence against children

- a. Abuse and neglect, particularly physical and psychological rehabilitation and social reintegration (arts. 19 et 39)**

See focus: Protection of children of foreign fighters in Syria and Iraq

- b. Measures to prohibit and eliminate all forms of harmful practices, including, but not limited to, female genital mutilation and early and forced marriages (art. 24(3))**
- c. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment, including corporal punishment (arts. 37(a) and 28(2))**

Focus: Immigration detention and house arrest of children

The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment, including corporal punishment (arts. 37(a) and 28(2))

Children outside their countries of origin requesting refugee status, children requesting unaccompanied asylum status, children displaced within their own countries, migrant children, and children affected by migrations (art. 22)

Since 2016, France has continued to use immigration detention for families with children and unaccompanied minors in implementing its migratory policy, to the detriment of the rights of children. In 2019, 279 children and 136 families were placed in "retention centres" in metropolitan France (versus 208 children and 114 families in 2018). The same year, there were more than 3000 held at Mayotte (versus 1221 in 2018). Despite the ban on placing unaccompanied minors in retention centres, the associations intervening in these centres met 275 people claiming to be unaccompanied minors in 2019 (versus 339 in 2018). It is estimated that 50,000 children have been detained in detention facilities (including retention centres and waiting zones) by French authorities over the last 20 years. Immigration detention, beyond being contrary to the best interests of children, has disastrous impacts on their health. Especially given that the situation in these retention centres has worsened over the last few years: rising occupancy rates, longer retention times, higher suicide rates, self-harm, hunger strikes, riots, arson attempts.

→ UNICEF France recommends that the Committee question the government on how it plans to bring its policy into compliance with the Convention by strictly prohibiting all detention of children for migratory reasons. UNICEF also invites the Committee to ask France for all of the disaggregated data relative to immigration detention of children (number, reasons for placement, duration, outcome of placement, access to rights...).

House arrest, the only 'alternative to immigration detention' used in France today, and presented as a less coercive measure than placement in detention, and which maintains family unity, remains nevertheless a measure of control. It restricts the freedom of people to come and go and generates a situation of incertitude and precarity which has a non-negligible impact on children. Nor do these arrests protect children from the risk of being confronted by traumatic events, sometimes including the violent apprehension and forcible removal of their parents. Some orders go so far as to require parents under house arrest to be accompanied by their children when they have to report to the police station, often several times a week, without taking school hours into account. There are no precise figures concerning the number of children under house arrest, but while there were 373 house arrests in 2011 (in total), that number grew to 8791 in 2017.

→ UNICEF France suggests that the Committee question the government regarding the conditions under which families with minor children are subject to house arrest for migratory reasons, specifying the guarantees implemented to ensure the efficacy of the rights of children. UNICEF also invites the Committee to ask France for all the data relative to the house arrest measures for families (number and evolution, grounds for measures taken, duration, outcome of placement, access to rights...)

d. Sexual exploitation and sexual abuse (art. 34)

6. Family environment and alternative care

a. Family environment and parental guidance in a manner consistent with the evolving capacities of the child (art. 5)

See focus: Protection of children of foreign fighters in Syria and Iraq

b. Separation from parents (art. 9)

See focus: Protection of children of foreign fighters in Syria and Iraq

c. Familial reunification (art. 10)

d. Illicit transfer and non-return (art. 11)

e. Parents' common responsibilities, assistance to parents and provision of childcare services (art. 18)

f. Children deprived of a family environment (art. 20)

• Follow-up to reports of child abuse in an intra-family context

Child abuse in an intra-family context is still poorly understood in France and, until winter 2020 and the period of "confinement", little awareness was raised on the subject. Yet a child dies every five days in France after suffering intra-family abuse. Official figures reported 52,000 child victims of neglect, abuse, or mistreatment in 2018; a figure which is certainly lower than reality. It is estimated that 143,000 children were victims of sexual abuse the same year.

The difficulties in protecting children from abuse extend from prevention to management, particularly given the lack of human and financial means, as well as the complexity of coordination between the concerned parties. If it appears necessary to continue to raise awareness among the general public and professionals in contact with children, it is vital to ensure that any report of abuse, if deemed serious, results in an action being taken. But, like

most of the policies implemented at the departmental level, the operation of the Service for Receiving Concerning Information (CRIP) is inconstant and lacks transparency. It is therefore difficult to know very much about the activities of the CRIP and their needs.

It should be noted that during the 2020 period of confinement, calls to 119-Children in Danger hotline increased by 100%, but fewer than one hundred children in France were the object of emergency placements away from their homes.

→ *UNICEF France recommends that the Committee question France regarding the data for processing concerning information (IP) by the CRIP (IP processing times, number of cases processed, follow-up given to each IP, monitoring of measures taken...) as well as the means – including financial – that were deployed to ensure consistency throughout the territory and quality in processing concerning information by the CRIP.*

There persists an important lack of knowledge about child abuse overseas: there is little data available concerning the French overseas departments, both with regard to intra-family abuse and institutional abuse, which prevents taking sufficient and adapted measures.

→ *UNICEF France suggests that the Committee question France about the prevalence of child abuse in overseas departments and regions: awareness-raising actions led on this subject, number of 119 calls received and processed from overseas residents, number of concerning information items transmitted to the CRIP. UNICEF France would also like to know which specific abuses figure in these territories and the ways in which France responds to them.*

- **Quality and monitoring of care by Social Assistance for Children (ASE)**

In 2018, the number of measures taken under the scope of the child protection system was estimated at 341,000 in France (excluding Mayotte), which represents slightly more than 2% of the total number of children in France. The Economic, Social and Environmental Council (CESE) estimates the cost of the Social Assistance for Children (ASE) policy to be approximately 10 billion euros per year. Despite important expenditures, the ASE is struggling to fulfil its missions of protecting the children entrusted to it and supporting young people towards true autonomy. It is noteworthy that 36% of adolescents placed during their childhood assert that they have a “poor” or “very poor” state of health, and that one homeless person out of every four was once a child cared for by the ASE.

As child protection is administered by the departments, the discrepancy between what is needed for child protection and the means allocated varies greatly, and creates an important territorial inequality. The portion of departmental budgets allocated to the ASE – voted by the elected council - varies considerably from one department to the next (from about 5% to 19%, according to a recent report). The carer-to-child ratio is also unequal based on department, but also based on measurements: 58% in living environments, 122% in child welfare facilities, 87% in Social children's home (MECS) (source: CESE). These disparities of treatment create gaps of equality, violate the principle of non-discrimination, and compromise the uniformity of the need to safeguard the best interests of the child throughout the entire territory.

→ *UNICEF France supports the creation of a volume of common minimum specifications, defining the objectives and standards of each measure, including the ratio of carer-to-child and the training of personnel, and invites the Committee to question France regarding the introduction of enhanced requirements and their monitoring, in order to ensure quality care for the concerned children.*

The last few years have seen several highly-publicised cases spotlight the abuse, mistreatment, and neglect sometimes suffered by minors in the care of child protection

institutions. These can be explained in numerous ways: absence of sufficient means, unsuitable handling modes, degradation of working conditions, insufficiencies in the training of personnel, isolation of professionals. Also noteworthy are the absence of transparency, measures of control, and assessment within certain establishments.

→ *UNICEF France reiterates the need for carrying out regular, effective, independent inspections in institutions. These systems must be thought of in a preventive way and not only triggered when a report arises. UNICEF France recommends that the Committee question France with regard to the control and inspection mechanisms it plans to implement to ensure that the care of children conforms in every way to established standards, and to the respect of the rights of the child.*

See focus: Unaccompanied minors

- g. Adoption (national and intercountry) (art. 21)**
- h. Periodic review of placement (art. 25)**
- i. Recovery of maintenance for the child (art. 27(4))**

7. Disability, basic health and welfare

- a. Measures taken to ensure the dignity, self-reliance and active participation in the community of children suffering from a disability (art. 23).**
- b. Survival and development (art. 6(2))**

See focus: Protection of children of foreign fighters in Syria and Iraq

c. Health and health services, in particular primary health care (art. 24)

- Air pollution and its effect on the health of children**

According to the World Health Organisation, three out of four children in France breathe polluted air. The air in many French cities does not respect European standards. To date, there is no specific French data with regard to the exposure of children to air pollution, particularly in schools. Studies carried out by air quality monitoring associations and others show, however, that in cities, many preschools and schools are regularly exposed to exceedances of nitrogen oxides and fine particulates matter standards. Road traffic represents 60 % of nitrogen oxide emissions on the national level, 56 % in Ile-de-France and up to 62 % in Paris. If pollution spikes are very dangerous for children, chronic exposure is the most harmful. It is known that numerous childhood pathologies are linked to it: the development of asthma, allergies, chronic bronchitis, weakened immune systems, and even links with obesity, diabetes, and depression. Yet France has taken no measures aimed at specifically protecting children and their living environments, such as preschools or schools.

→ *UNICEF France suggest that the Committee question France on the ways it plans to ensure that air quality standards will be respected in preschools and schools, as well as in their surrounding areas. What measures does France plan to implement for the schools most exposed to air pollution?*

- **Maternal and infant protection**

A unique policy for prevention at the crossroads of social healthcare, the Maternal and Infant Protection programme (PMI) has been divested by the State for several years and its future left in the hands of the departments.

Despite its utility, the funding of the PMI is fragile. French healthcare only marginally finances the PMI (35 million euros), although it is a preventive health policy with strong ROI in terms of risk management. At the departmental level, the PMI is often in competition with other social expenditures. The funds dedicated to it diminished by 25% over 10 years and the health activity of the PMI toward vulnerable audiences has dramatically lessened. The PMI also suffers from a lack of appeal: half of available positions are vacant in certain departments, and numerous doctors leaving to retire have further weakened its services.

The State Secretary for Child Protection announced in December 2019 that certain PMI missions would be reinvested within the context of the “pact for children” (which aims for the PMI to cover 20% in terms of early prenatal care needs by 2022, double the number of prenatal home visits by PMI midwives by 2022, double the number of infant post-natal home visits by paediatric nurses, and achieve 100% of preschool health checks by 2022 compared to the current 70%). One component will focus on the first 1000 days of life. However, there is a risk that one-off measures will replace consistent, integrated support. Despite these announcements, the outcome, the steering and the “rescue” plan (in terms of professional appeal and financial means) have in no way been clarified.

→ *UNICEF France recommends that the Committee question the government with regard to the measures which will be implemented to ensure that each department is able to offer a quality PMI service (with sufficient human and financial means), particularly to those families most isolated from medical and social services.*

- **Restrictions to medical coverage access for foreigners**

In December 2019, the government announced the imposition of a 3 month waiting period prior to granting social security access to asylum seekers, established a period of 3 months of residence in France from the date of expiry of the visa or residence permit for obtaining State medical aid (AME) to “prevent people from entering the territory with a visa in order to obtain the AME immediately upon its expiration”, and to reduce to 6 months (rather than the current year) the period during which a person may continue to benefit from the healthcare protection after the loss of his right to reside in France. If these measures are not all directly applicable to children – particularly the 3 month waiting period prior to accessing Universal Healthcare – they will have a serious effect on access to care for families and will very likely have indirect effects on children. Specialised associations have warned that these measures will result in delays or even forfeitures of care and that families at risk, deprived of access to preventive and early curative care, will see the state of their health worsen and will need to consult already saturated emergency services more frequently. The impact of these measures on the access to the rights and to the care of children has not been evaluated, particularly with regard to minor rights holders or unaccompanied minors or former unaccompanied minors who have become adults.

→ *UNICEF France invites the Committee to question the State with regard to the impact of measures restraining access to care and to medical coverage for foreigners on families with children.*

d. Social security and childcare services and facilities (arts. 26 et 18(3));

e. Standard of living and measures taken, including material assistance and support programmes with regard to nutrition, clothing and housing, to ensure children's physical, mental, spiritual, moral and social development, and to reduce poverty and inequality (art. 27, paras 1–3)

• Homeless children

Today, 4 million people - including 600,000 children - suffer from inadequate housing. Among these, some 16,090 people live in 497 slums and squats in metropolitan France as of 1st July 2018. UNICEF France estimates that approximately 8000 children and adolescents grow up in these unfit places. In addition, 48,700 people, including at least 20,000 children, are housed in social hotels in Ile-de-France, due to a lack of availability and adapted accommodation structures. The conjunction of an increase in demand for lodging and inadequate means dedicated to the real needs of the populations has led to the saturation of existing accommodation facilities, resulting in disturbing consequences for families. For example, in 2018, the government announced a plan to save 57 million euros in 4 years of appropriations affecting accommodation and social reintegration centres. Due to a lack of availability and adaptation of accommodation structures, at-risk families are mainly housed in social hotels, are sometimes separated, or find themselves more and more frequently homeless: more than 500 children sleep in the street or in makeshift shelters every night in Paris (Paris emergency social services, SAMU). Their extremely precarious existence and degraded living conditions have drastic consequences on the development of children, their security and their well-being. In 2019, 146 children were born in the street (Protestant Centre for Social Action, CASP) and at least 11 children died there. The invisibility of these tremendously at-risk children and families contributes to the failure to take their needs into account; the last important institutional study on homeless people dates back to 2012.

→ *UNICEF France invites the Committee to ask the State which measures are in place to ensure that no child be without shelter – particularly to better understand this situation (collection of data), to guarantee the principles of unconditional protection, continuity of protection and non-return to the street without relocation; include the right to family unity in the accommodation arrangements and ensure the development of suitable accommodation facilities which guarantee this right; to prohibit all “sorties sèches” (sudden cessation of protective measures) from institutions, particularly expulsions from maternity hospitals with no safety nets in place.*

→ *UNICEF France recommends that the Committee ask the State which measures are in place to ensure the means necessary for supporting the “Logement d’abord” (“Housing first”) plan, which aims to prioritise access to decent lodgings for homeless and poorly-housed people, especially families.*

→ *UNICEF France also suggests questioning France regarding the measures implemented to accelerate the efficiency of the plan for the resorption of slums, squats and unliveable settlements – particularly by associating the relevant territorial collectivities, and by replacing expulsions with concerted, decent family relocations.*

• Maraudes mixtes (Multi-actor outreach)

As part of its strategy to prevent and combat child and adolescent poverty, the goal of “maraudes mixtes” (multi-actor outreach) is, according to the government, to help guarantee, on a daily basis, the fundamental rights of children living on the streets. The Strategy specifies that this measure consists of establishing “outreach activities” [specialised in child protection] to ‘approach’ families with children living on the street and eradicate childhood begging”. A contract with departmental councils enabled this measure to begin during 2019.

→ UNICEF France recommends that the Committee ask the State for a preliminary assessment, both quantitative and qualitative, of the implementation of this measure across all the concerned departments.

→ UNICEF France recommends that the Committee ask the State how it will ensure that the work of identification and detection be imperatively associated with an approach towards the realisation of the rights of concerned families and children; and of cooperation and coordination between all partners.

f. Measures to protect children from substance abuse (art. 33)

See focus: Unaccompanied Moroccan Minors (MNA)

8. Education, leisure and cultural activities

a. The right to education, including vocational training and guidance (art. 28)

Focus: “the right to education for children in French Guiana”

Educational provision in French Guiana struggles to meet the needs of a population under strong demographic pressure, young and primarily concentrated on the coast and in densely-populated areas. Added to the economic difficulties of the territory (19% unemployment in 2018) are alarming social difficulties, especially for children living in isolated communes: a lack of child protection care, a high rate of early pregnancies, a suicide rate 8 to 10 times higher among young Amerindians living in interior populations than the average in metropolitan France.

The accumulation of these social fragilities negatively affects the efficacy of the right to education for children and adolescents in French Guiana. Today, the estimate of out-of-school children is particularly imprecise, varying between 3 and 10% for ages 6-16, a rate that bears no resemblance to that of metropolitan France. The local associative partners have long emphasised the absence of enrolment of newly-arrived immigrant children and children of French Guiana’s autochthonous nations.

Due to the effect of demographic growth, the schools lack the space to teach all school-age children in good conditions. The challenges to school access will only increase in the coming years, with estimations regarding school enrolment indicating an average increase of 55% between 2015 and 2030. The educational provision remains located, for the most part, on the coastal fringe of French Guiana, which deprives children from the interior of their family environment at an early age.

Added to the difficulties of school access are the challenges of educational success for children and adolescents in school. The multilingual context necessitates important tools to adapt teaching methods to the specific needs of students. The lifting of France’s restriction relative to article 30 of the CRC concerning the cultural, religious, and linguistic rights of minorities would promote the adaptation of education to the needs of children and adolescents in French Guiana. Educational failure and illiteracy later strongly impact access to employment for these young people.

→ UNICEF France recommends that the Committee question the government with regard to the ambition and implementation of the Education and Academic Success Observatory by the local educational authorities (Rectorat) of French Guiana, as described in the 2018-2021 academic project, in order to obtain shared diagnostic elements and coordinated responses.

→ UNICEF France recommends that the Committee question the government about the continuation of the remedial education policy begun in 2017 within the Emergency Plan for French Guiana, in order that it meet the real needs of Guianese youth.

→ UNICEF France recommends that the Committee question the government with regard to these measures to ensure the stability of teachers, on taking multilingualism in both initial and continued training of teachers into account, and on the sustainability of the “Native Language Speakers” (Intervenant Langue Maternelle) programme (definition of missions, contractualisation, INSPE training, field follow-up).

- **Right to education for children living in precarious housing**

Children living in precarious housing (see estimations above) encounter significant difficulties in accessing education. There is an important lack of detection and identification of children living in precarious housing which prevents their support, difficulties of enrolment in school due to illegal practices in certain municipalities, a failure to take the precariousness of children and its effects on regular school attendance into account, and the discontinued attendance due to the forced mobility of families. School closings in the Spring of 2020 due to the Covid 19 health crisis exacerbated these difficulties. The lack of access to learning materials and conditions were also an obstacle to educational continuity, even though educational continuity was meant to be a provision for all students during this crisis. The government focus on children who left school due to the health crisis must not omit children invisible to statistics, those who weren't formerly enrolled, and whose living conditions have also become precarious. UNICEF France focuses primarily on the difficulties linked to school enrolment, which despite recent legislative modifications and announcements of school mediation development in certain territories, continue to damage the effectiveness of the right to education of many children¹.

→ UNICEF France invites the Committee to question France with regard to the impact of the two most recent versions of article L131-5 of the Education Code providing for interim school enrolment (law n°2018-778 of 10 Septembre 2018), then definitive (law n°2019-791 of 16 July 2019²), by the Academic Director of National Educational Services in place of the Mayor. What appropriation of this disposition (procedures for identifying situations, analysis of legitimate grounds...) and what monitoring has been implemented by the National Educational services for the education of these children and adolescents, and for their access to extracurricular services?

→ UNICEF France suggests that the Committee question France more generally about the means it plans to implement to ensure the efficacy of the right to education for all children in its territories: detection and identification of children and of their specific needs, links with their families...

¹ Sources: [« Enfants des bidonvilles : au seuil de l'école – Repères pour les maires et les acteurs nationaux »](#), Décembre 2017, UNICEF France, “Inventory of shantytowns in mainland France” ([Etat des lieux des bidonvilles en France métropolitaine au 1er juillet 2018](#)), Délégation interministérielle à l'hébergement et à l'accès au logement/Trajectoires et Secours catholique France, “Inhabitants of shantytowns in France, knowledge of journeys and access to common law” (« [Habitants des bidonvilles en France, connaissance des parcours et accès au droit commun](#) », mai 2017 et CDERE, “Teens in slums and squats: is school impossible? A study on the schooling of youths aged 12 to 18” (« [Ados en bidonvilles et en squats : l'école impossible? Etude sur la scolarisation des jeunes âgés de 12 à 18 ans](#) », septembre 2016/ [L'enquête Enfams de l'Observatoire du Samu social de Paris](#) montrait ainsi dès 2014 que 10,3% des enfants qui vivaient à l'hôtel (parmi 10 280 familles) n'étaient pas scolarisés.

² Paragraph 7 of Article L131-5 of the Education Code from Law No. 219-791 of 16 July 2019: “In case of refusal of registration on the school list by the mayor without legitimate reason, the academic director of the national education services acting on delegation of the prefect carries out this inscription, in application of article L. 2122-34 of the General Code of Local Authorities, after having requested it from the mayor.”

See focus: Unaccompanied minors

See focus: Right to education for children in French Guiana

b. The aims of education with reference also to the quality of education (art. 29)

• Sexuality education at school

En 2019, 65% of adolescents aged 15-19 years questioned by UNICEF France said they had received no sexuality education class during the preceding school year, despite the provision of the Aubry Act of 4 July 2001 (declared in the circular of 12 September 2018) which states that each student may benefit from three sex education sessions at elementary, middle, and high school, per grade and level. UNICEF France observes, however, that many establishments do not respect this law. An investigation was requested at the inspections of the Ministries of National Education and Social Affairs regarding the implementation of this measure.

→ *UNICEF France suggests that the Committee question France regarding the way it plans to ensure the effectiveness of this measure (human and financial means) and its monitoring, both on a qualitative and quantitative level.*

• Continuous training of teachers

Insufficiencies with regard to the continuous training of teachers damages the educational quality received by children in France, especially the most vulnerable. The 2018 TALIS study by the OECD showed that French teachers want to be better trained, especially with regard to pedagogy, classroom management, students with special educational needs, personalised pedagogical approaches, and digital skills. Law n° 2019-791 of 26 July 2019 for a School of Trust aims at the standardisation of continuous training provisions, but the means for achieving it are limited, and the training period (during class vacations) doesn't meet the needs felt and expressed by the teachers.

→ *UNICEF France recommends that the Committee question the government regarding the means deployed to ensure the effectiveness of the continuous training of teachers in France and the adaptation of provisions to meet the needs of teachers.*

c. Cultural rights of children belonging to indigenous and minority groups (art. 30)

d. Rest, play, leisure, recreation and cultural and artistic activities (art. 31)

• Access to culture and leisure for children living in poverty

UNICEF France observes that access to recreational, cultural and artistic activities is still strongly linked to living conditions and the residential stability of children residing in France. The 2014 ENFAMS study of homeless families in Ile-de-France showed that only 38% of children living in shelters played in their rooms with other children living in the structure, and that residentially stable children were far more likely to leave their neighbourhoods to practice an extracurricular activity than children who moved at least once during the year.

→ *UNICEF France suggests that the Committee question the government regarding the measures put in place to facilitate access to recreational, cultural and artistic activities for children living in precarious housing (slums and squats, social hotels, and especially emergency shelters).*

9. Special child protection measures

- a. Children outside their country of origin seeking refugee protection, unaccompanied asylum-seeking children, internally displaced children, migrant children and children affected by migration; (art. 22)**

See focus: Unaccompanied minors

See focus: Immigration detention and house arrest of children

- b. Children belonging to a minority or an indigenous group (art. 30)**
- c. Economic exploitation, including child labour, with specific reference to applicable minimum ages (art. 32)**
- d. Use of children in the illicit production and trafficking of narcotic drugs and psychotropic substances (art. 33)**
- e. Sale, trafficking and abduction (art. 35)**
- f. Other forms of exploitation (art. 36)**

See focus: Unaccompanied Moroccan Minors (MNA)

- g. The sentencing of children, in particular the prohibition of capital punishment and life imprisonment (art. 37 (a)) and the existence of alternative sanctions based on a restorative approach;**
- h. Children deprived of their liberty and measures to ensure that any arrest, detention or imprisonment of a child shall be used as measures of last resort and for the shortest amount of time and that legal and other assistance is promptly provided (art. 37 (b)–(d))**
- i. Children in armed conflicts (art. 38), including physical and psychological recovery and social reintegration (art. 39)**

Focus: “Protection of children of foreign fighters in Syria and Iraq”

According to UNICEF, some 9000 children of foreign fighters from 60 countries, including 300 French children, are trying to survive in the camps in northeast Syria. They are with their mothers, sometimes unaccompanied, or orphans. As of today, France has only repatriated a small number of isolated children and refuses to repatriate their mothers. The humanitarian situation in these camps is catastrophic. The children suffer from malnutrition, profound health problems, wounds and traumatism caused by the war and by a lack of access to water, food, and medical care. Many have died from exhaustion and preventable diseases. While the physical and psychological mistreatment is important, the situation of children imprisoned in Syria and Iraq alone or with their mothers is equally very disturbing.

In this context, UNICEF has been urging the States for several months to carry out their duty to protect every child under the age of 18 years, in accordance with the CRC, and to treat these children above all as victims of grave violations of their rights, whatever their age and their status. It is urgent that these children be repatriated and taken care of in a suitable

manner, compliant to child protection, and that they be accompanied in the construction of their future. It is essential not to separate nor distance them from their mothers, and to maintain the emotional bonds which they have been able to form within this context.

In addition, it would be wise to refer the Children's Judges in departments outside the Yvelines and Seine Saint-Denis, depending on the place of incarceration of the mother or domicile of the extended family, so that the services of these two departments are not overwhelmed.

Lastly, families remaining in France are confronted with extremely long delays between the return of children and their first meeting with the family (an average of more than 6 months), children having been placed in foster families in the interval. To avoid new trauma for these vulnerable children, and to rapidly reconstruct bonds with their original families, it is essential that investigations be rapidly carried out and that the children can, as soon as they arrive, meet their grandparents, uncles and aunts through visits in the presence of a mediator.

→ *UNICEF France recommends that the Committee question the State regarding the urgent measures put in place to ensure the rapid repatriation of all children of French fighters in Syria and Iraq, operating in the best interests of each child and ensuring that each decision conforms to international standards, particularly the preservation of the family unit through the return of the child and the mother, and research and family reunification efforts.*

→ *UNICEF France also invites the Committee to ask France what is being done to ensure that children are not pursued by local or French authorities solely because they are the children of adults having participated in a conflict or having been part of an armed group.*

→ *UNICEF France suggests that the Committee ask the State for the information it has relative to the situation of incarcerated women and children on site, and what actions it is taking to ensure that their rights are being respected.*

→ *UNICEF France suggests that the Committee question France with regard to the measures taken to ensure that the children of parents with French nationality are not rendered stateless.*

→ *UNICEF France invites the Committee to ask France how it will organise the return of these children to France so that they may live in the country without suffering the consequences of their years spent in Syria or Iraq, ensuring the mobilisation and training of the social services of several departments, establishing an adapted psycho-social monitoring system, and taking care to preserve family ties as much as possible.*

→ *UNICEF France suggests asking the State to ensure that the extended family be involved in their protection upon the child's return, and that placement of the child with them or with a trustworthy third party be favoured over placement with a foster family whenever possible.*

j. The administration of juvenile justice (art. 40), the existence of specialized and separate courts and the applicable minimum age of criminal responsibility.

- **Juvenile justice**

Recent and ongoing reforms in the area of juvenile justice show a worrying shift towards adult justice. Even though the recovery of the individual is one of the principles of the Ordinance of 1945, the educational dimension of child justice is falling, as evidenced by texts, procedures and budgetary priorities.

On the first point, the reform by ordinances presented by the Minister of Justice in the summer of 2019 - which is to enter into force in 2021 after a simple discussion in parliament - mentioned

an “educational test” (*mise à l'épreuve éducative*), clearly reflecting the tendency of educational measures to be seen as a “probationary stay”, which could be accompanied in the future by additional prohibitions and obligations.

On the second point, the reform creates a cut-off point – which is a potentially useful measure for the comprehension of the procedure by the youth – but the delays imposed in the text do not adapt to the child’s educational monitoring, yet the role of the children’s judge is also to assess the time necessary for the young person he is overseeing.

On the final point, the insufficient means of justice for minors obviously adversely affects quality educational accompaniment for the young person. Today, in many courts, the first convocation takes more than three months, and educational measures can take several weeks or even months to effectively begin.

Despite the human and financial requirements for reinforcing the educational missions of the Judicial Protection of Youth and offering solutions adapted to the needs of youths in conflict with the law, several million euros are dedicated to the construction of some twenty new closed educational centres (CEF), whose assessments are, however, very mixed. Massive investments in these CEF rather than in other solutions for youth raises concerns that minors may end up in these centres due to a lack of more appropriate available solutions. In addition to a potentially inadequate follow-up, repetition or recidivism in CEF increases the risk of imprisonment.

Finally, it should be noted that the text for a reform by ordinance presented in the summer of 2019 did place France more in conformity with the CRC by introducing a presumption of non-disclosure at age 13 (and with it, a threshold of penal responsibility), but without clearly defining this concept or rendering the presumption incontrovertible.

→ *UNICEF France petitions the Committee to ask France to obtain a recent CEF review addressing both expenditures and costs incurred by these measures since 2016, the training of personnel recruited, the educational offer proposed, as well as the results of these programmes (recidivism, reinsertion). Ideally, a comparison with less coercive educational measures would be useful.*

Focus: Unaccompanied minors (UAM)

Preservation of identity (art. 8)

Children deprived of a family environment (art. 20)

Children outside their country of origin seeking refugee protection; unaccompanied asylum-seeking children, internally displaced children, migrant children and children affected by migration; (art. 22)

Protection of privacy and protection of image (art. 16)

UNICEF France alerts the Committee with regard to the situation of unaccompanied minors which has considerably worsened since 2016, particularly due to the impact of the latest legislative and regulatory developments. While the law of 5 March 2007 had enshrined the fact that unaccompanied minors depend on the common law of child protection, the law of 14 March 2016 has ratified specific and derogatory dispositions to organize their “sheltering, assessment and orientation” (by incorporation into law of the dispositions of the circular of 31 January 2013, or Taubira). More recently, the law of 10 September 2018, on asylum and immigration, followed by the implementing decree of 30 January 2019, modified the assessment procedure to allow prefecture services to intervene prior to the assessment carried out by the departments

which applied it and to create a “national biometric file”. These latest developments prioritize the fight against irregular immigration over the best interests of the child and have grave consequences on the effectiveness of their rights. There exists no reliable data on the exact number of unaccompanied minors present in the territory, nor its evolution. All that is known is the number of people declared as unaccompanied minors and brought to the attention of the bureau of Unaccompanied Minors of the Ministry of Justice each year. This was the case for 16,760 people in 2019, versus 17,022 in 2018 and 14,908 in 2017.

→ *UNICEF France invites the Committee to question France regarding the number of people declaring themselves to be unaccompanied minors and whose situation is brought to the attention of departmental councils and the proportion of them that is admitted to child welfare services after assessment of their minority and their isolation. Whereas the law provides transmission of the number of UAM present to the Minister of Justice by the presidents of the departmental councils on 31 December of each year (article R221-14 CASF), UNICEF invites the Committee to request that the State make this data public.*

In many departments, UNICEF France has observed the practice of “refusal of provisional protection” (also known as “refus guichets”) which, for departmental councils or delegated public service associations, consists of refusing minors access to child welfare services the day of their presentation without assessing their situation or notifying or defending their decisions. The implementation of the decree of 30 January 2019 (see below) in most departments spread this practice. In several departments, unaccompanied minors do not benefit from provisional emergency protection during the “Minority Assessment Support Procedure” in the prefecture. This illegal practice, which generates breaches of equality and violations of fundamental rights, is rarely documented. The conditions for provisional emergency protection, when implemented, usually in hotel accommodation, are called into question.

→ *UNICEF France invites the Committee to question the State regarding to the number of unaccompanied minors who appear before the departments and the number of provisional emergency administrative protection measures they have been granted, in order to deduce the practice of “refusal of provisional protection”*

→ *UNICEF France invites the Committee to question France regarding the care conditions offered to minors in the context of provisional emergency protection, its average duration, the proportion of unaccompanied minors placed in hotels, its cost and the manner in which this mode of care fulfills or does not fulfil the realisation of their rights.*

- ***Impacts of the decree of 30 January 2019 and of the Minority Assessment Support Procedure (AEM)***

UNICEF France is extremely alarmed by the impact of the application of the decree of 30 January 2019 (drawn from article 51 of the law of 10 Septembre 2018), creating a biometric file of foreign minors, on the effectiveness of the rights of children. The dual purposes of these two objectives, meaning the fight against irregular immigration and the protection of children, are totally incompatible. These dispositions upend the presumption of minority and the benefit of doubt and appear to be contrary to articles 3, 20 and 8 of the Convention. Moreover, the recording of the personal data of minors to other ends than those related to their protection is manifestly contrary to the recommendations of the Committee.

While there is currently no public data relating to the application of these instruments, several observations are worrying. There is an absence of guarantees and safeguards around the collection of personal data (fingerprints, photographs, marital status, phone numbers...) of minors in the prefecture: untrained or non-specifically authorised agents, direct contact with

children with no intermediaries, lack of educational accompaniment, single window between prefecture and department, absence of interpreters, lack of dedicated or adapted spaces, lack of provisional emergency protection during the procedure. Another concern is the recording of personal data conditioning the continuation of the age assessment, negative consequences drawn from the mere refusal to submit to the collection of their personal data, admission decisions based solely on the results of file consultations. By providing for the collection and comparison of their personal data with the VISABIO file, the use of the file constitutes an additional source of error in the assessment of the age of minors. Lastly, the decree is giving prefectures the ability to rapidly deport young people without giving them the possibility to exercise a suspensive remedy before the Children's Judge, based on a simple (temporary) administrative decision made by a department. The result is a dissuasive effect: in certain departments, one of every two youths abandons their request for protection and runs away for fear of going to the prefecture and being deported to their country of origin.

→ UNICEF France suggests that the Committee question the government regarding the results of the application of the decree of 30 January 2019 by the departments integrating the following elements: provisional protection of minors during the procedure, number of youths running away between presentation to the CD and passage in prefecture, conditions and modalities of data collection, training of agents, presence of interpreters, methods of consent obtention, number of people recorded, conclusions of consultations, decisions of non-admission based solely on consultation, number of transfers of data in the AGDREF³ file, number of Obligation to leave French territory (OQTF), number of appeals made against the OQTF and outcomes.

- **Age assessment and lack of an effective remedy**

Although there is no reliable public data, a progressive decrease in the rate of admissions to the Child Welfare Services (ASE) can be observed following the age assessment procedure. In the absence of suspensory appeal, the provisional decision to refuse admission to the ASE excludes young applicants from all forms of protection: they cannot access suitable accommodation, care, or education; nor can they satisfy their most vital needs. Yet it is not uncommon that, following decisions to refuse protection delivered by departmental councils, the minority of young applicants are finally established following a non-suspensive appeal they form by requesting the Judge for Children under article 375 of the Civil Code. This is the case of one out of every two youths having appealed to the judge in certain departments.

→ It appears useful to question the State with regard to the number of minors subjected to a provisional decision of non-admission to the ASE that requested the Judge for Children under article 375 of the Civil Code and the outcome of this referral, as well as to the number of appeals (by the minor or the administration) and their results. UNICEF France invites the Committee to more broadly question France about how it guarantees the right to an effective remedy for persons who have been refused following an age assessment, and how it ensures their protection until a final court decision in accordance with the benefit of doubt has been reached.

This significant share of minors, whose right to protection is not recognised until the end of the appeal before the judge, can be explained in large part by the failures/insufficiencies of the first protection they first received, and by the lack of reliability of the assessment of their minority, particularly the common failure to take their civil status documents into consideration.

“Social assessment”, whose modalities were redefined by the order of 20 November 2019, contains many biases attached to training the people responsible for the assessment, the

³ Application of case management of foreign nationals in France.

conditions in which the interviews are carried out, the number of interviews, and their length. The extreme precision required with regard to the spatiotemporal details of their journeys and the chronology of events doesn't seem adapted to the capacities of the youths questioned, especially if they haven't received satisfactory protection measures. The assessment "of physical appearance and behaviour of the person assessed" will, by its nature, produce subjective interpretations. The use of bone x-rays to determine age has been included – under certain conditions – in the law of 14 March 2016. The Constitutional Council approved their use in their decision of 21 March 2019 while evoking the applicable guarantees. This method remains highly controversial due to the lack of scientific validation of the methods used, the absence of therapeutic benefit, and the current lack of collection or misappropriation of consent from youths subjected to these tests.

→ *UNICEF France suggests that the Committee question the government regarding the evaluation of the use of "social assessments" (training and profiles of assessors, conditions, length and average number of interviews, pluridisciplinary character, importance of conclusions of social assessment in the admission decision), and bone x-rays to determine age (respect of the subsidiary character of tests – uniquely as a last resort – of the insufficient character – added to other indices – respect of the principle of benefit of doubt).*

- **Recognition and restoration of civil status documents.**

In the large majority of situations, even when young applicants present a civil status document whose authenticity is uncontested, social assessment interviews are carried out, and even medical exams to determine age may be ordered by the public prosecutor's office. The presumption of validity of civil status documents issued abroad codified in article 47 of the Civil Code is applied in principle, without requiring that the authenticity of those documents be corroborated by additional evidence. In practice, it is common for administrative or judicial authorities to disqualify documents presented by young applicants for the reason that they contain no photograph and that it is therefore impossible to confirm whether they really belong to the youth. Furthermore, the departmental councils often merely perform a cursory review of the documents presented during the social assessment interview by professionals with no training in document expertise. Finally, it is very common that the mere possession of forged documents or documents belonging to a third party be considered by the authorities in and of itself as proof of majority of young applicants. The results are often disastrous for the exercise of the rights of young people whose minority is disputed. In certain cases, they may become the object of criminal prosecution for forgery and use of forgery leading to prison sentences, reimbursement of expenses incurred to cover them to the ASE (up to 200,000 euros in some situations) and prohibited entry to French territory (up to 5 years). It is extremely rare that at the assessment stage, the services charged with accompanying minors in restoring their civil status be absent.

→ *UNICEF France suggests that the Committee question France regarding the proportion of minors presenting themselves in possession of civil status documents, their admission rate, the procedure in place, whether or not the assessment is continued in the presence of civil status documents whose authenticity is uncontested, the practice of assessing civil status documents during social assessment interviews, the link between the prefecture and State services with regard to document expertise, the follow-up given to the receipt of documentary evidence, the contestation of ownership of documents by concerned parties in case of absence of photographs, the consequences in case of possession of forged documents (continuation of assessment, refusal of systematic protection, criminal prosecution). UNICEF France also suggests that the Committee invite the government to communicate the details of the civil status restoration procedure when this is missing.*

- **Care and legal representation**

The conditions for protecting unaccompanied minors entrusted to the departments by judicial decision vary from one department or service to another and are very unequal. While many unaccompanied minors benefit from quality care, for some, a judicial decision is not always synonymous with effective protection. Some minors remain without protection despite a judicial decision: it may be that the departmental council doesn't carry out the decision, in violation of the law; or that after implementation of the "equalisation mechanism", the department or judicial authority challenges the initial judicial decision or carries out a reevaluation of the situation of the minor. Once in the hands of the departments, their legal representation is not always guaranteed and the family judge is not always seized to designate a legal representative or delegate parental authority. Consequently, many minors are just cared for by the Child Welfare Services which, as a "guardian" authority, can only take ordinary measures for their benefit.

→ UNICEF France invites the Committee to question France regarding the number of judicial decisions not executed by departments entrusting unaccompanied minors to the ASE and the number of judicial decisions contested following the national equalisation mechanism by judicial authority or host department. It also appears relevant to question France about the number of guardianship or delegation of parental authority measures ordered for unaccompanied minors.

- **Unaccompanied Moroccan minors and bilateral cooperation**

Children deprived of a family environment (art. 20)

Measures to protect children from substance abuse (art. 33)

Sale, trafficking and abduction (art. 35)

Children outside their country of origin seeking refugee protection, unaccompanied asylum-seeking children, internally displaced children, migrant children and children affected by migration (art. 22)

Since 2016, among unaccompanied minors without protection, the visible presence of many dozen isolated Moroccan minors surviving in a situation of terrible distress has been observed in several large French cities (Paris, Rennes, Brest, Montpellier...), as is also the case throughout many European countries. Often multiple drug users, perpetrators of petty crimes but also victims of violence, and under the influence of human trafficking networks, the state of their health is particularly degraded. French child protection services struggle to find suitable solutions to protect them. In June 2018, the report of a meeting between the Paris police prefecture and the Moroccan Embassy revealed the participation, in the context of police custody, of a team of Moroccan police officers tasked with "examining isolated Moroccan minors and collecting information enabling the launch of investigations for their identification and return to Morocco."

These examinations, sometimes referred to as "social interviews", are conducted outside of any legal context and without the presence of a lawyer. Certain witness statements report police brutality. Records of questioning reveal that "representatives of the Moroccan Consulate" have "access to the Respondent's search" and in particular to the contents of his telephone and social networks. The fingerprints taken on this occasion are compared to those contained in the Moroccan civil status files to enable the identification of the youths. It appears that the existence of a potential request for asylum was not verified. On 15 October 2018,

Moroccan agents heard 122 youths, 85 of whom were of Moroccan nationality: 35 were identified as adults and 50 as minors. UNICEF France learned of the situation of at least four young people who were detained in immigration detention centres and then deported to Morocco even though they alleged their minority.

Cooperation measures between the French and Moroccan Ministries of Justice and the Interior have been engaged for the identification of these youths and the search for their families in Morocco. An outline for the procedure for unaccompanied Moroccan minors (MNA) has been developed restating “the conditions for organising returns and placements in families or institutions which may be ordered by the juvenile court if the best interests of the child so warrants”. This procedure, which would allow the French children’s judge to entrust these minors to Moroccan child protection services, has not been used in 2019. It remains to be seen whether these services are actually capable of accommodating children who, with few exceptions, have so far defeated the French system. Today, despite significant efforts made by the government, the support conditions in the existing systems in Morocco today do not guarantee sufficiently protective accommodation. UNICEF thus considers that cross-border placement in Morocco would have no added value under these conditions, when compared to placement in France, and would not be in the best interests of the children. UNICEF France is worried by the lack of transparency in these procedures (identification in France, implementation plans, file tracking) and the use of cross-border placements provided for in the Hague Convention of 1996 for the purpose, not for the protection of the child, but for migratory control. Other bilateral collaborations may also be concerned.

→ *UNICEF France proposes that the Committee question France with regard to police and judicial cooperation in the framework under which the return of unaccompanied minors to their countries of origin is envisioned, and about the methods and results of such cooperation, in order to analyse their compatibility with the provisions of the CRC.*