

Collective for the Freedom of Expression of Autistic People - CLE Autistes

ASSOCIATION law 1901 of autistic adults registered under N° W751246140 (FR)

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**ABOUT US**

 We are an autistic-led group with these goals : organizing the development of a network of mutual aid and solidarity between autistic people in France; defending the freedom of expression, acceptance and representation of autistic people; defending the civil rights, the fundamental freedoms and the integrity of autistic people; awareness and fight against all ableist and dangerous treatments and all abuse of autistic people and their families; defending the autistic culture and all the intellectual and cognitive capacities; helping in the funding of other autistic-led groups.

In particular, we have organized several legal actions during the covid19 epidemic for the application of common law in establishments for people with disabilities and alerted on mistreatment in some establishments. Our actions also focus on peer support and mutual aid between autistic peers with any disability for independent living.

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**Words: 5964.**

EVALUATION OF FRANCE ON THE IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON HUMAN RIGHTS

FOR PEOPLE WITH DISABILITIES - August 2021

*Submission of an alternative report on articles 4, 5, 9 12, 13, 14, 15 and 19 from CRPD.*

**About the report:**

CLE Autistes has chosen to base its alternative report on a short contribution on eight key articles for our objectives and missions. We would like to explain generally some systemic issues in the introduction on articles 4, 5 and 9, and then we will set out our views in the response of the French State on articles 12, 13, 14, 15 and 19.

The report is based on internal exchanges and the different opinions of our members who are autistic but have a variety of disabilities. This includes psychosocial disabilities, intellectual disabilities and language disabilities. We also track the opinions of different people with autism who are not members of our organization.

For material reasons, we do not yet have the means to carry out a broad consultation of autistic people because some barriers are specific to the articles of the UN convention, which France has not fully implemented. For this reason we did not want to write a complete alternative report because we do not have the expertise nor the opinions to answer all the articles and it would not be legitimate.

The articles chosen correspond to our main actions and to the priorities of our members who encounter difficulties in these areas.

The report was written by the directors in charge of advocacy and communication. It has been approved by the Board of Directors of the association, itself democratically elected by all members during the last general assembly of February 27, 2021.

The [] represent sources and references as evidence of our argument. We quote them in the report to make the point explicit and to translate it.

We thank the disability organizations Alliance Autiste and Handi-Social for their comments and observations during our joint exchanges on this alternative report. We also thank the European Disability Forum and the International Disability Alliance for their valuable help, proofreading and comments on this report.

**Introduction on Articles 4, 5 and 9 of the CRPD:**

At first, we would like to focus on two principles of the convention: the representation of associations representing people with disabilities and the concept of reasonable accommodation.

France's legislative provisions for involving people with disabilities in the policies that concern them do not comply with point 4.3 of the UN Convention, since the framework of the main law on disability: the law of 11 February 2005 specifies in its first article : "Art. L. 146-1 A. - In all national or territorial bodies that issue an opinion or adopt decisions concerning policy in favor of persons with disabilities, representatives of persons with disabilities are appointed on the proposal of their representative associations, ensuring the simultaneous presence of associations involved in the management of the social and medico-social establishments and services mentioned in 2°, 3°, 5° and 7° of I of Article L. 312-1 and associations not involved in them."

Charities and groups managing segregated institutions or services not adapted to the needs of people with disabilities are therefore considered as legitimate interlocutors in decision-making bodies from local to national level and in expert bodies. They are often representative while managing services, so this authorization allows them to be heard over the opinions of organizations of disabled people who do not manage services. We draw attention to the fact that these same associations have submitted reports to your committee and that the two functions generate a conflict of interest. Similarly, in many decision-making bodies, the law does not distinguish between users, representatives of users' organizations, organizations of disabled people or organizations of non-disabled families and relatives. The law neither defines the share of each type of association that can sit on these representative bodies nor establishes a democratic process for the election of representative disability organizations This is a major obstacle to the application of the principles of the convention on participation in policies and programmes, as people directly affected by disability do not have access to the same funding and resources as the organisations managing disability services.

This is the case, for example, of the expert bodies that publish recommendations and good practices for disability professionals for rehabilitation or for care in segregated institutions. These recommendations determine the support of disabled people. In France, this is the Haute Autorité de Santé. To date, the protocol allowing the selection of persons to the pilot committee of the Haute Autorité de Santé has not been made public. People with autism are still largely in the minority among the different groups of the committee, and only two are part of the steering group, without being representative of people with autism either. The method used by the Haute Autorité de Santé to write recommendations is called the "method of recommendation by formalized consensus". It allows for the intervention of an enlarged group of experts, for review. However, this enlargement only extends to the health professions and care workers, and to the too general category of "users" - a category which covers indifferently directors of charities and associations, parents, carers, autistic people. Some personalities, directors of parents-led groups for autistic people, are presented as users. We can ask ourselves to what extent the quality of user conflicts with the interests of their respective associations, especially when these are managers of establishments and/or offer training for some treatments and therapies which will then be recommended by this expert committee. This category of user does not seem to have a precise and representative definition, contrary to paragraph 3 of article 4 of the CRPD.

Sources:

 BOARD of the Haute Autorité de Santé for Autism guidelines (FR)

<https://www.has-sante.fr/upload/docs/application/pdf/2011-01/fiche_consensus_formalise.pdf>

<https://www.has-sante.fr/upload/docs/application/pdf/2018-02/20180213_recommandations_vdef.pdf>

In addition, we also rely on the notion of reasonable accommodation in Article 2, 5, which is the main condition for the implementation of the articles under review. We assume that the French State has not always recognized this notion since it does not mention it in its answer on article 5.

There are indeed some reasonable accommodations such as the right to accommodation in exams or a recognition of discrimination in case of refusal of accommodations. But these are specific and minor rights that remain insufficient for us. The proposed accommodations are often global and dependent on services that are not controlled by people with disabilities. There is no individualized request for accommodation of the person's own needs, or they are not respected and listened to when proposed contrary to the definition of article 5 of the CRPD. Discrimination based on this accommodation is not defined in a precise way and also comes up against the inequality of knowledge in terms of accommodation for cognitive and psychosocial disabilities

On the paragraphs of article 9 concerning Accessibility, under the impetus of the parent-led group Espoir pour mon Futur, arrangements for silent hours allowing autistic people to access supermarkets and do their shopping, alone or accompanied, in adequate sensory and cognitive conditions. Environmental modifications have been made: reduction of light intensity, reduction of noise pollution, cessation of loudspeaker announcements and sensory awareness training for staff, and discussions with the Super U supermarket managers to simplify the organization of the shelves and provide visual communication to enable people to orient themselves in the shelves. These initiatives, gathered under the term "silent hours", were then systematized to all Super U stores in France, then to all ERP thanks to the "silent hours" bill.

Once again, it is the users' led-group that must, on a voluntary basis, take the appropriate measures to make these arrangements. Moreover, article 9 provides for the accessibility of facilities open and provided to the public, it would be wise for the French State to question the restrictive nature of the law on silent hours which, to date, only concerns establishments receiving the public of the large surface type of more than 1,000 square meters (which does not correspond to the surface area of local supermarkets in densely populated municipalities such as Paris). Moreover, this law only indirectly concerns other public buildings such as train stations, hospitals and universities, even though the 2005 law on equal rights, opportunities, participation and citizenship of disabled people provides for a certain number of accessibility regulations for these same places. Moreover, public transport is forgotten in this bill.

**On this introduction, we propose the following recommendations for the state to the committee:**

1. **To enshrine in law distinctions between disability organizations that are led by people with disabilities in the majority, those that are not led by people with disabilities, and those that operate services for people with disabilities.**
2. **Strengthen and implement transparent mechanisms so that people with disabilities, through their representative organizations, are the majority of those involved in all procedures and representative bodies for the development of public policies and expertise committees. The State must ensure that all organizations of people with disabilities are consulted, including people with intellectual and psychosocial disabilities, people with autism, and people with disabilities requiring ongoing support.**
3. **The necessary support, funding, reasonable accommodation, and accessibility of information to participate in these representative and expert bodies must be implemented.**
4. **Adopt a definition of reasonable accommodation in line with the Convention, recognizing the right of all persons with disabilities to request reasonable accommodation in all areas and fields of life. Recognize in legislation the denial of reasonable accommodation as discrimination against persons with disabilities.**
5. **Ensure that review and approval committees for research and medical projects and protocols involving people with disabilities include the participation of all people with disabilities through their representative organizations. Ensure that the right to reasonable accommodation is recognized in participation in medical research protocols and clinical trials.**

**Article 12: Equal recognition of legal personality**

France uses a substitute regime for the exercise of the legal capacity of disabled persons. This is the system of guardianship and curatorship or family facilitation as a protective measure. Disabled persons benefiting from these protective measures are called protected adults.

The French state in its response only cites the implementation of **Law No. 2019-222 of March 23, 2019 called "programming and reform for justice."**

CLE Autistes had already sent an open letter [1] to the deputy in charge of a mission on the reform of the legal capacity by underlining the inconsistencies and the lack of values of the convention.

**In its response and in the implementation of this law, the French State cannot say that these provisions are in conformity with article 12 of the ICHRDD. It submits most decisions to the approval of the judge and the substitute regime is not abolished.** Guardianship, curatorship and family facilitation are still enshrined in the civil code and the judge continues to monitor the various situations of the disabled persons concerned by having the right to pronounce a legal protection measure against them.

 In its response to the committee, the French government emphasizes that "Prior authorization by the judge is no longer required for certain property-related acts and the exercise of fundamental rights such as marriage, civil union, divorce, voting or personal consent to care. This diversion aimed at the direct expression of the protected adult's will does not constitute a loss of guarantee, since the judge remains bound by a duty of continuous supervision of protective measures."

This justification cannot reasonably correspond to points 1, 2 and 3 of article 12. Indeed, in the wording, the French State states that "the procedure is diverted for these acts but stresses that the judge remains empowered to supervise and maintain protective measures". The precise application of the law [2] mentions that the judge can "designate an empowered person if he considers that a family habilitation is more adapted to the situation of the protected person or, conversely, to pronounce a curatorship or a guardianship if he considers that a family habilitation does not meet the need for protection of an adult".

On marriage and PACS that the French State is pleased to have authorized without a judge to people under guardianship, but "the persons in charge of the protection measure will have the possibility to oppose it if the circumstances require it."

With regard to property, the reform does not comply with point 5 of article 12 either. Indeed, "Article 1399 of the Civil Code is amended to allow the person in charge of the protective measure to be authorized to conclude a matrimonial agreement alone to preserve the interests of the protected adult". And "only the approval of the amicable division remains subject to the authorization of the judge, which maintains the control of the judge only when the interest of the adult must be assessed".

The guardianship associations recommend the co-construction of decisions between the person in charge of the protection measure and the person under guardianship and curatorship. However, in reality, as it is indicated in the quotation of the application of the reform: the person in charge of the protection measures remains willing to oppose the decision of the person.

Finally, with regard to property, the equality of ownership of property is not respected. It is the principle of "the best interest" of the protected person that is enshrined in this law, which does not correspond to the spirit of paragraph 3 of article 12. The French State further talks about peer-help and expertise in use but without any applicative provision in this law. "The recognition of the expertise of use changes the relations between the disabled person, his family and the professionals" says the French State, is in no way a legal measure and a legislative provision of the mentioned reform. It is also an accompaniment among others, not implemented.

 As a whole, the law does not allow for the necessary accompaniment to enable decisions to be made that have legal effect. The notion of reasonable accommodation not being recognized as mentioned above, this is added to the absence of guarantee on the diversity of the means of accompaniment and support proposed to exercise this legal capacity. Only people with language, communication and reasoning skills will be able to make themselves heard without recognition and implementation of this principle. From our point of view, the legislative changes of this law will not allow people with autism, cognitive, intellectual and psycho-social disabilities to access these "improvements", since no guarantee of these reasonable accommodations is mentioned nor implemented.

As a result, what is presented as a step forward turns out to be of very limited, if any, scope, given the absence of any consideration of assisted decision-making. In this respect, it seems more than likely that people with cognitive and/or psycho-social impairment will be excluded, as they are perceived as not capable of discernment. In fact, even if the judge will be able to meet more easily with the protected adult, the absence of guarantees on reasonable accommodation and assisted decision-making will make the social stigma of cognitive and psychosocial disabilities the main determinant of the judge's decision.

While guardianship is not explicitly banned, Article 12 as a whole makes it clear that legal capacity is not divisible, nor can it be delegated. The Committee's General Comment on Article 12 makes it clear that the default solution should, again according to the Convention, be assisted decision-making.

On the reform of the right to vote for persons under guardianship, this calls for both the non-compliance of Article 5 and Article 9 on the accessibility of polling stations. These are not yet accessible for all disabilities, especially cognitive and psychosocial disabilities. On Article 12, the necessary support to register to vote or to vote is not guaranteed or offered. According to the application of this law, the right to vote can be delegated to family guardians which does not correspond to the regime of assisted decision.

Moreover, in connection with article 19, it has been shown by Baudot et al (2020) [3] that 30% of people administratively recognized as disabled of voting age (against 12.4% for the general population) continue to be excluded from registering to vote. This exclusion is mainly explained by the living conditions and a life in a segregated environment away from society, in segregated settings. People with autism, intellectual disabilities and psychosocial disabilities are therefore mainly concerned by this exclusion from the right to vote, since a large proportion of these people live in France, mainly in specialized residential establishments. Here again, neither reasonable accommodation, nor support to exercise this right, nor the assisted decision has been put in place to ensure this right to vote in the polling stations and at the time of registration on the electoral rolls.

References (FR) :

[[](https://consultation.avocat.fr/blog/nathalie-preguimbeau/article-28012-majeurs-proteges-ce-que-change-la-loi-n-2019-222-du-23-mars-2019-de-programmation-et-de-reforme-pour-la-justice.html)1] <https://cle-autistes.fr/capacite-juridique-rapport-parlementaire/>
[2] <https://consultation.avocat.fr/blog/nathalie-preguimbeau/article-28012-majeurs-proteges-ce-que-change-la-loi-n-2019-222-du-23-mars-2019-de-programmation-et-de-reforme-pour-la-justice.html>
[3] <https://www.cairn.info/revue-francaise-de-science-politique-2020-6-page-747.htm>

On Section 12, we propose the following recommendations for the state to the committee:

1. **To reverse its interpretative declaration of Article 12 and guarantee the right of all persons with disabilities to equality before the law and to establish mechanisms for assisted decision-making in all areas of life.**
2. **To repeal guardianship, curatorship and family facilitation in the Civil Code in order to develop a regime of assisted decision-making and autonomy in decision-making for people with disabilities.**
3. **Adopt an action plan to restore legal capacity for all people with disabilities regardless of their support needs.**

**Article 13: Access to justice**

These measures on legal capacity can thus be completed by an observation on article 13 and access to justice. The French State mentions some possible procedural arrangements in its response to article 13: "The disabled person may be represented, if he or she so wishes, by his or her guardian or assisted by his or her curator, throughout the proceedings. He or she may be assisted by an LSF interpreter, judicially appointed, and paid by the State, or by any qualified person who masters a language or a method allowing communication with a deaf person.

 These are measures that deal exclusively with a sensory disability and not with all disabilities.

The Act does include a requirement to provide "procedural accommodations" to all persons with disabilities, nor does it provide concrete examples of "procedural accommodations" typically required by persons with autism, as per General Comment 5 on Article 5.

This answer definitively confirms the nullity of the 2019 reform and on the application of the convention of Article 12 of the IACHR.

On access to justice, the rest of the French State's response deals exclusively with training "Mandatory training on the legal corpus on disability, including the Convention, is taken by magistrates in charge of children, family affairs, guardianship and protection of adults or by directors of court registry services taking over the management of reception services. The 2019 statutory reform introduces a "disability" module in the mandatory training of PJJ educators. [...] Under the aegis of the Defender of Rights and in connection with the National Consultative Commission on Human Rights (CNCDH), an educational kit for all schools training legal professionals will be available in 2020. The CNSA organizes training for the National School of Magistrates, for guardians, for individuals, for families to guarantee their rights. For all law enforcement officers, initial training contains disability awareness modules. “

While point 2. of article 13 seems to be respected, we do not agree that these trainings are "appropriate". Indeed, without legal and legislative guarantees, there will be no effective access to the courts for all persons with disabilities, let alone cognitive and psychosocial disabilities. The training and awareness-raising modules are for justice and police staff, but from our point of view they do not allow for the implementation of accommodations. Moreover, while magistrates are better trained in the principles of the Convention, this is not the case for other staff or the police, who benefit from an awareness-raising module on disability and not on the same principles and rights permitted by the CRPD. This awareness seems vague and not specific to each disability, and it is not sufficient to act and implement adaptations for people with disabilities to file a complaint or during interactions with the police.

We would like to point out that the French State mentions that these trainings are done with the associations representing people with disabilities (UNAPEI and UNAFAM)". But these associations also manage specialized institutions and services that do not promote inclusion or community participation of people with disabilities (observation of Ms. Catalina DEVANDAS-AGUILAR, UN Special Rapporteur on the rights of persons with disabilities, during her visit to France in 2019). This partnership is a conflict of interest and does not ensure that the values and articles of the UN convention are known.

This lack of awareness of the accessibility of courts and the implementation of procedural accommodations has resulted in several absurd, unfair trials that violate the principles of the convention. The handi-social association of disabled people [4] was tried for activist actions against the lack of accessibility of French trains and planes. Their trial did not implement any accommodation in terms of time, access to toilets or the provision of interpreters contrary to what is claimed. The Toulouse court also reduced the number of people allowed in the room to comply with covid19 sanitary standards, but without a proportionate response to the presence of life assistants for the disabled. The court also justified itself on the standards of physical accessibility but at no time on the procedural arrangements in terms of communication and daily assistance.

The handi-social activists were finally sentenced to heavy penalties for protesting the lack of accessibility, while the trial itself did not respect their right to defense. The Paris Court, although new, also lacked accessibility and procedural accommodations for people with cognitive and psychosocial disabilities.

Another case challenges the fact that sign language interpreters are provided during trials, in 2021 a deaf and foreign person was sent to prison without an interpreter which did not allow for a fair trial [5]. The measure presented by the French State does not seem to take into account the diversity of people with disabilities, including their foreign origins and their lack of knowledge of French.

Finally, it should be noted that at no time did these "improvements" presented by the French State consider disabled people living in segregated residential settings. The procedural arrangements and guarantees of access to justice, as for decisions related to guardianship, have not been the object of a precise legislative measure.

Our association has expressed its opinion on the "vacuum challenge" case [6] which showed that a young autistic person, victim of abuse in his specialized institution, could not be heard during the trial of the educators responsible for this abuse. The perpetrators were finally released without any conviction, including on appeal. The young non-verbal autistic person could not obtain means of communication to make his testimony heard by the judges and could not defend himself.

In the same way, our association has been acting for more than two years for a young autistic person in a segregated residential setting [7] who has been subjected to several abuses. The person being under guardianship, she has no way to file a complaint with the police. However, it is the victims' testimonies and complaints that are considered, and not those of their relatives, especially if they are under guardianship.

 **People with disabilities living in specialised institutions have no means of lodging a complaint and are not affected by the legislative "improvements" of articles 12 and 13, which remain unenforced for the entire disabled population living in medical-social institutions.**

**All these cases show that the point 1. of article 13 of access to justice is not respected by the French State and that its response does not have any legislative measures, accompanying plan and procedural arrangements to change this situation**.

References:

[4] <https://www.20minutes.fr/justice/3005119-20210323-toulouse-accessibilite-tribunal-pointe-doigt-lors-proces-militants-situation-handicap>

[5] <https://www.leprogres.fr/faits-divers-justice/2021/07/01/un-prevenu-sourd-et-muet-envoye-en-prison-malgre-l-absence-d-interprete>

[6] <https://informations.handicap.fr/a-xavier-autiste-vacuum-challenge-poubelle-enferme-12978.php>

[7] <https://cle-autistes.fr/mas-michel-chapuis-punitions-isolement/>

**On Section 13, we offer the following recommendations to the state for the committee:**

1. **Recognize the legal capacity of persons with disabilities and their right to access justice on an equal basis with others and in all legal proceedings.**
2. **Develop mechanisms appropriate legal assistance and support in all areas**
3. **Develop alternative means of information and augmentative communication for legal and judicial procedures according to the principle of universal design and adopt an action plan for the accessibility of courts and legal services.**

**Article 14: Freedom and security of the person**

In the context of a case of guardianship of a young autistic person placed in a specialized institution that we dealt with, the Court of Appeal of Lyon in January 2021 (Ref: UR/CRPD/16/FRA/1) recognized that disabled persons could be deprived of their liberty based on their disability. This ruling is thus in conflict with article 14 of the convention and does not go in the direction of sensitizing judges, contrary to what has been advanced by the French State.

**Article 15: Freedom from torture or cruel, inhuman, or degrading treatment or punishment**

France does not recognize the framework of Article 15 of the Convention and prefers the Oviedo Convention in its 2016 interpretative declaration of the Convention. The notion of consent is not recognized for people with a diagnosis of cognitive, intellectual, or psychosocial disability and most of the time they are subjected to medical and scientific experiments without consent. Forced treatment is the norm in psychiatry, especially in emergency situations and in the care of children. A recent scandal was that many illegal scientific medical experiments were conducted on autistic children. The majority of those involved have not been punished. Overall, identical research projects authorized on the same subjects do not incorporate the notion of consent to clinical trials for children or adults with cognitive, intellectual or psychosocial disabilities if they are perceived as "indiscriminate. Many research protocols lack the ethical reflection necessary to address consent and accessibility in scientific or medical experiments.

**On Section 15, we offer the following recommendations to the state for the committee:**

1. **Reconsider its interpretative declaration on Article 15 and recognize forced treatment based on disability as a violation of the right of persons with disabilities to be free from cruel, inhuman, or degrading treatment.**
2. **Ensure the right of persons with disabilities to make autonomous decisions on their free and informed consent, including decisions-makings process for all medical or rehabilitation treatments, including for children with disabilities.**
3. **Strengthen and implement legal frameworks to ensure free and informed consent and accessibility of research and medical protocols to all persons with disabilities regardless their support needs.**

 **Article 19: Right to Independent Living and Inclusion in Society**

Finally, our association wishes to draw attention to the implementation of Article 19, concerning the choice of one's place of life and residence in society. In its general comment on Article 19, the Committee associates the implementation of this article with a policy of deinstitutionalization and development of personal assistance services.

In its response, the French government writes, "Strategies have already been deployed in the areas of school, employment, housing, health, sports, and culture to develop both "ordinary" and "specialized" arrangements."

This decompartmentalization of the specialized and ordinary environment was also supported by the advisors of the ministerial cabinet of the Secretary in charge of disabled people Mrs Cluzel during meetings on access to employment for disabled people. There is no desire to close segregated residential settings and institutions, but to simplify the different pathways between institutions and living environments. For example, a director of a regional health agency in charge of financing institutions for disabled people emphasized that it was a question of being able to go from a home to an “inclusive-house” without the current administrative constraints. In the same way, a reform of sheltered employment foresees to be made available to ordinary companies while having the status of a sheltered worker with fewer social rights than non-disabled workers [8].

The French State acknowledges that "France has not instituted a moratorium on admissions to institutions but promotes freedom of choice for people by strengthening the supply of inclusive support in a logic of deinstitutionalization", which goes against the observations of Ms. Catalina DEVANDAS-AGUILAR during her visit to France in 2019. The response of the French State only mentions access to school by mentioning a shuttle "between schools and medico-social structures and the deployment of mobile teams".

In addition, the French government has implemented a reform of the pricing of institutions, allowing in its response that "Professionals in the medico-social sector, by developing support services, must put their expertise at the service of and in complementarity with the provisions of common law. “[9]

The terms "complementarity" and "transformation of the offer" are massively used in the governmental communication [10] but this does not correspond to points 1 and 3 of article 19 of the convention. In the latest announcements of the committee for the follow-up of measures on disability [10], the French State has delayed the extension of the Prestation de Compensation du Handicap (equivalent to a benefit for personal assistance) to cognitive and psychosocial disability and the removal of certain assistance barriers such as help with housework, decision-making, or meals. He preferred the reform of the sheltered sector and "the generalization of inclusive housing"[11].

On this last point, the French State provides smaller residential structures and therefore imposes a defined framework on disabled people. It foresees the implementation of a new shared living assistance “inclusive habitat” that will mutualize human help for disabled people. It is not a matter of choosing one's life assistants with enough hours, since these services are not individualized according to the needs of each disabled person. This point does not respect the points 1,2 and 3 of the article 19 even if there is a proposal of new services.

Furthermore, we would like to say that the planned inclusive habitats seem to be very heterogeneous and most of the projects only concern very autonomous people for whom the support would be optional. One inclusive habitat mentioned that you had to be autonomous and looking for a job to benefit from it, another one said very precisely that it was not for people who needed continuous support.

Indeed, in response to our requests, it was mentioned that these inclusive habitats are not "a care of the person as we can see in the medico-social institutions". The proximity service developed allows "the person to improve on the administrative issues related to housing, the security of his or her home, the maintenance of the home and to stimulate his or her desire to socialize in order to avoid a withdrawal due to the fact of living alone in his or her home".

 The device also does not work with the Prestation de Compensation du Handicap since there will be an independent aid for these habitats. He will not have a quota of hours of interventions which gives no way to control his accompaniment.

The service is provided by a provider with no choice of needs and hours and is not a personal assistance device. Most of the other inclusive living projects are also smaller, specialized facilities where therapeutic support will be imposed as well as a living environment and schedule, especially for people with autism. None of these projects meet the principles of the convention and Article 19 on "choice of living arrangement.

Specialized units of 6 persons [12] are also planned for autistic people with "complex situations" and with the highest level of assistance needs. These units will be attached to an existing specialized institution and to medical and psychiatric units. The support will be imposed and intensive without any right to choose one's place of living or to access the activities of one's choice. From our point of view, this is a question of "group homes" which the Committee has repeatedly denounced in its general comment on Article 19.

Between inclusive habitats and segregated settings, these habitats are also organized and managed by the same associations that manage specialized and segregated institutions.

In the spirit of shuttles between institutions and inclusive habitats, managed by the same organizations, this does not guarantee the choice of people said by the French state in its response.

In view of these findings, it is highly likely that it is people who are already autonomous who benefit from these habitats to the detriment of the right to human assistance for people with disabilities who need the most help. Notably because ordinary housing is not very accessible, and the ELAN law of 2018 has restricted the obligation to build accessible housing for people with disabilities to 20%.

Moreover, in our daily life we do not see the appearance of these proximity services that could be easily accessed, while the system of aid allocation is very limited and selective. Disabled adults who cannot benefit from the autonomy allowance for disability and from a job despite their disability, will not be able to be housed in these inclusive habitats, to the detriment of article 19 and article 26 of the convention.

References:

[8] <https://handicap.gouv.fr/presse-actualites/nos-publications/communiques-de-presse/article/un-plan-de-transformation-des-esat-au-benefice-de-tous?fbclid=IwAR1G1GB4u-cBRWMLFml9C96K-zhR0AVevoI_ttEPFtV1f6j8acrsmC-VJgw>

[9] <https://www.pratiquesensante.org/2021-05-18-03/>

[10] <https://www.gouvernement.fr/sites/default/files/document/document/2021/07/dp_comite_interministeriel_du_handicap_05.07.2021.pdf>

 [11] <https://www.haute-vienne.fr/fileadmin/mediatheque/cd87/documents/nos_actions/personnes-handicap/politique-autonomie/programme-actions-prevention-perte-autonomie/Dossier_technique_habitat_inclusif.pdf>

[12] <https://www.iledefrance.ars.sante.fr/creation-de-8-unites-specialisees-dans-laccueil-dadultes-avec-troubles-du-spectre-de-lautisme-en>

**For section 19, we propose the following recommendations to the state for the committee:**

1. **Adopt a deinstitutionalization plan with precise quantified objectives that can be evaluated by people with disabilities through their representative organizations. Redirect all public funding, including European funds, to projects that respect all the articles of the Convention. Launch a moratorium on the construction of and admission in institutions. Ensure that "inclusive housing" or "small unit" programs are modified to respect the principles of the convention and community participation without constraints.**
2. **Develop a personal assistance system based on individualized assessment of the needs of each person with a disability and managed by him or her. This system must include person-centered decision aids and tools to support independent living of people with disabilities in the community according to their preferences, choices, needs and desires.**

**Conclusion:**

In view of these observations, the French State has not provided sufficient changes to convince us on the implementation of articles4, 5, 9, 12, 13, 14, 15 and 19.

With these partial measures, most of the disabled population will remain in specialized institutions because none of the articles of the convention mentioned are implemented. The social stigma of people with cognitive and psychosocial disabilities will also be a determining factor in the choice of living places and access to these new facilities. There will remain a differentiated segregation according to perceived, assumed, or attributed abilities. People with autism, intellectual disabilities and psychosocial disabilities will be the first to miss out on these claimed improvements.