

**FOLLOW-UP BY THE UNITED NATIONS COMMITTEE ON THE RIGHTS OF THE CHILD OF THE APPLICATION,
BY FRANCE, OF THE INTERNATIONAL CONVENTION ON THE RIGHTS OF THE CHILD (27 June 2020)**

Contribution of the “Together against trafficking in human beings” Collective to the Sixth Periodic Report of France

I.INTRODUCTION .1.2

The “Together against trafficking in human beings” Collective (le Collectif “Ensemble contre la traite des êtres humains”), which is coordinated by Secours Catholique-Caritas France, presented a **detailed report** at France’s previous examination by the UN Committee on the Rights of the Child. It now proposes to pursue its contribution to the examination beginning this year in a new form proposed by the United Nations. By taking up some of the most urgent issues, **the report covers all rights of all children**. The associations of the Collective, which are **strongly committed to the protection of the child (in all areas: education, legal, health, social, etc.)**, propose questions to be put to France, following talking points laying out the issues.

The plan takes up the Concluding Observations of the UN Committee on the Rights of the Child concerning France’s fifth periodic report ([CRC/C/SR.2104](#)), which was adopted on 29 January 2016; after a reading of France’s replies ([CRC/C/FRA/Q/5/Add1](#)).



MEMBERS OF THE “TOGETHER AGAINST TRAFFICKING IN HUMAN BEINGS” COLLECTIVE:

Action Catholique des Femmes. AFJ, Agir Contre la Prostitution des Enfants. Agir Ensemble pour les Droits de l'Homme, Amicale du Nid, Armée du Salut, Association pour la Réadaptation Sociale, Aux Captifs la libération, Comité Contre l'Esclavage Moderne, Comité Protestant évangélique pour la Dignité Humaine, Congrégation Notre Dame de Charité du Bon Pasteur, Conseil Français des Associations pour les Droits de l'Enfant, ECPAT France, Fédération des Acteurs de la solidarité (FAS), Fédération de l'Entraide Protestante, Espoir CFDJ-Service Jeunes errants, Fondation Jean et Jeanne Scelles, Hors la rue, Justice et Paix France, Koutcha, La Cimade, La Voix de l'enfant, Les Champs de Booz, Mouvement du Nid, Organisation Internationale Contre l'Esclavage Moderne, Planète Enfants et Développement and SOS Esclaves, as well as Secours Catholique Caritas France, which coordinates the Collective.

The "Together against trafficking in human rights" Collective* is a network created to combat more effectively all forms of this denial of human rights. Established by Secours Catholique in 2007, it brings together 28 French associations or federations of associations, which directly or indirectly assist trafficked victims in France or in the trafficking countries of transit or origin. Determined to resist the commodification of human beings, it is mobilizing with a twofold objective: raise public awareness of this complex issue, and convince French and world policy-makers to take a strong stand against this form of criminality. It covers the different types of trafficking for purposes of sexual exploitation, domestic slavery, forced labour, forced begging, coercion to commit offences, servile marriage, organ harvesting, etc.

ITS FIELDS OF ACTION:

Prevention targeting groups at risk of trafficking, public awareness-raising, victim assistance, networking at national and international level, advocacy in France, elsewhere in Europe and worldwide to amend international texts and domestic legislation to favour victims.

In June 2016/2017, the “Together against trafficking in human beings” Collective assisted the French Government with the first statistical study on human trafficking in France: an opportunity to make visible this problem, which is all too often hidden to the detriment of the persons concerned. It is pursuing its action in this field.

In 2019, it asked the Government, more than two years after the end of the first Plan, for a second National Plan of Action accompanied by means for its implementation.

On the basis of the experience, talent and potential of trafficked persons of all ages and nationalities, the “Together against trafficking in human beings” Collective, through its efforts to combat this crime against humanity, works to ensure access to the law for all, rejecting all forms of exploitation of one human being by another. Several member organizations of this Collective of French associations also boast an international dimension, which is an asset for combating this scourge.

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As at 27 June 2020

Covid-19

Observation

The Covid-19 health crisis has heavily impacted the rights of children in France, particularly the most vulnerable, in the following fields:

- **Education:** the closure of schools and reliance on work from home and teleworking have reinforced the difficulties of vulnerable groups (lack of remote working tools for social protection actors, lack of computers for children – especially in the case of large families –, or in some *départements* (for example the overseas ones).
- **Health:** limited access to health centres, disruption of counselling, overcrowding of children’s homes precluding physical distancing, lack of means of protection (masks, hand sanitiser gel, etc.).
- **Safety:** overcrowding in substandard housing, unaccompanied minors on the streets, families in precarious situations, young people entrusted to the Child Welfare Agency (Aide sociale à l’enfance) put out on the streets, eviction of students living with a family at the beginning of lockdown for fear they would contaminate the persons – often elderly or at risk – housing them, children in shantytowns or makeshift camps, “sheltering” in school gyms.
- **Violence:** in families and homes (increase in the number of calls to the 119 hotline).
- **Breakdown of family ties:** children sent back to unstable families without preparation, impossibility for some children to see their family, a halt to consultations that are vital to children’s mental health.
- **Disability:** parents obliged to keep their autistic child with them 24/7, for example, along with all the other family members in a few square meters.
- **Detained children:** right to private and family life constrained by the breakdown of family ties and visits during lockdown.
- **Unaccompanied minors:** abandonment, by the Departmental Council, of minors in proceedings to recognise their status as minors and their isolation. More than ever before, these minors’ accommodation and access to care and food depend on the commitment of citizens’ associations and collectives, without the authorities offering them any suitable protection.
- **Legal system:** children’s rights limited by legislative provisions linked to Covid-19 (right to be heard in proceedings that concern them and the principle of adversarial proceedings: juvenile court judges were able to rule without conducting a hearing and without gathering comments from the parties with regard to educational measures; liberty and custody judges had the option of legitimately extending pretrial detention for minors over the age of 16); hearings in the Pediatric Reception Units for Children in Danger have been suspended.
- **Exploitation and trafficking of children:** the Covid-19 crisis has increased the **vulnerability of trafficked minors**. In addition to psychological trauma and physical injury, there is a lack of livelihood opportunities. The pandemic has led to a worsening of the situation for many children, whether they be migrant minors, young people with irregular employment – for example in agriculture, where there were many needs during lockdown –, without social, psychological or medical protection, without papers, means or safe accommodation. Some survive on the streets, in sweatshops, in the fields, filling jobs in the informal sector. Criminals took advantage of these circumstances to exploit them: domestic slavery, sexual exploitation, forced labour, coercion to commit criminal offences, bill-palming and financial scams. Some have accumulated debts that will have to be paid off once the lockdown starts to ease... and which mean they will continue to be exploited.
- **Poverty:** the economic consequences of this health crisis will affect the most vulnerable, increasing the risk of labour exploitation.

Warning

- In the event of a crisis, France is not prepared to protect all children inside the country and has not displayed sufficient political will to grant all of them the same protection.

Questions to the French Government

- Does the French Government consider that it has taken the necessary child protection steps for all children during the Covid-19 health crisis – both during lockdown and afterwards? How was due account taken of the most vulnerable children (disabled, foreign, children living in so-called priority neighbourhoods)?
- What lessons has France learned from the Covid-19 health crisis in terms of points of consideration for the respect of children's rights during the next crisis (health, environmental, etc.)?

II.FOLLOW-UP MEASURES ADOPTED AND PROGRESS MADE BY THE STATE PARTY

III.MAIN AREAS OF CONCERN AND RECOMMENDATIONS

A. GENERAL MEASURES OF IMPLEMENTATION (ART 4, 42 ET 44 -PARA 6- OF THE CONVENTION)

Coordination

Observation.11

In France, child protection is a decentralised mission that is the responsibility of the departmental councils. Moreover, efforts to combat trafficking in minors are decentralised at the prefectural levels. Finally, not all public prosecution offices apply the same penal policy with regard to the legal characterization of the offence of trafficking in minors.

Warning.11

- We note significant regional disparities in relation to the protection of minors and efforts to combat trafficking, whether it be with regard to prevention, sheltering or punishment. Accordingly, all children are not on an equal footing depending on their place of residence or exploitation.

Questions to the French Government.11

- How does the French Government intend to enforce compliance with the principle of the equality of all children, whereas the *départements*, courts and prefectures conduct disparate or even incoherent policies?
- What steps and means does it plan to implement to guarantee the exercise of the rights in the Convention for each child, in accordance with France's international commitments?

Observation.12

Owing to a general policy of public spending cuts, all administrations suffer from a chronic lack of funding.

Warning.12

- Whether it be for MIPROF, the governmental body responsible for combating both human trafficking and violence against women, which has only two full-time equivalent (FTE) staff members to deal with human trafficking for the entire country; for social and child protection services, whose timeframes for intervening are completely inconsistent with victims' needs; or for investigation services forced to choose between several cases: all public services are under stress and have very limited means in relation to the scope of the problem of trafficking in minors. As a result, France is powerless to prosecute alleged offenders and truly assist victims.

Question to the French Government.12

- When will France establish a mission exclusively dedicated to efforts to combat human trafficking in all its forms, with a mission specifically dedicated to children?

Allocation of resources**Observation.14**

Credits allocated to efforts to combat human trafficking are insufficient overall and divided between several ministries.

Warning.14

- This reduces opportunities for protection and action to assist child trafficking victims.

Question to the French Government.14

- What is the French Government's estimate of the needs, means and credits that must be allocated to the fight against trafficking, particularly the trafficking of minors? Can the French Government provide clear, precise and exhaustive information on the budgets allocated to the various main lines of action for public policy to combat human trafficking?
- What is the plan for allocating effective means to efforts to combat trafficking in minors?
- Can funding agreements and multi-year goals be put in place to ensure that grassroots associations can implement their projects with medium-term visibility?

Data collection**Observation.15**

In France, statistical studies to count the number of trafficking victims are conducted by MIPROF and ONDRP (a body that is being phased out). However, the data available to these bodies are entirely based on the work of associations, which put a significant amount of time into collecting these data free of charge.

Warning.15

- France has a very fragmented, non-exhaustive statistical apparatus. As a result, it is unable to establish reliable, credible figures for keeping track of trafficking in minors.

Questions to the French Government.15

- How does the French State intend to give credibility to the collection of data on minors in France?
- What is the situation with regard to statistics cross-matched between the Ministry of the Interior, the Ministry of Justice and associations combating the trafficking of minors, for the purposes of improving data analysis?

Outreach, awareness-raising and education**Observation.19**

The French public, adults and children alike, is not familiar with the International Convention on the Rights of the Child.

Warning.19

- This lack of awareness has been flagged by COFRADE and by the Children's Ombudsperson. A 2015 COFRADE survey showed that 63% of adults and 71% of children were not familiar with the contents of the Convention. A survey conducted by the Children's Ombudsperson revealed that 68% of the French had not heard of the Convention.
- This lack of awareness of children's rights leads to a failure to claim rights and a lack of public reaction when these rights are scorned.
- The role of school is to educate young people in children's rights. This education must be comprehensive and cannot be limited to a poster or a single class.

Questions to the French Government.19

- How does the State intend to educate parents, social workers and teachers about children's rights?
- Why not use the Youth Ambassadors system for children's rights? How can we preserve the perimeter of child protection within the institution of the Human Rights Defender and make it visible?

Children's rights and companies**Observation.21.22**

France has adopted Act No. 2017 – 399 of 27 March 2017 on the duty of vigilance of parent companies and instructing undertakings making it possible to denounce both child labour and forced labour.

Multinational enterprises in France with more than 5,000 employees must ensure that there are no children working at the end of supply chains. Significant gaps remain with regard to the implementation of this Act in France.

Warning.21.22

- There is a need for higher-quality vigilance plans. And some ten companies among the largest have not yet started working on the 2017 Act.

Question to the French Government.21.22

- What effective means are available to monitor application of these standards and to investigate, punish and remedy any breaches of these obligations that can be attributed to French companies or their subsidiaries operating abroad, particularly when child labour is involved?

B. GENERAL PRINCIPLES (ART. 2, 3, 6 AND 12 OF THE CONVENTION)**Principle of non-discrimination****Observation.23.24**

Many children face discrimination because they live in squats and shantytowns or because they are of foreign nationality: their reception in child welfare services is more complicated, access to schooling is difficult, etc.

Warning.23.24

- Roma children or unaccompanied minors face daily discrimination owing to their milieu, administrative status, nationality, origin, etc.

Question to the French Government

- To what extent does the French Government plan to give itself the means to enable every child to attend school and live in decent housing regardless of their identity?

Best interests of the child**Observation.25**

Police services recall that their missions consist of catching offenders and conducting judicial investigations. The role of the police in France is not viewed as being primarily that of assisting the victims of offences.

Warning.25

- When police services are investigating child trafficking networks, operations may last several weeks or even months. Consequently, even when a minor who is a victim of trafficking has been identified and located by the police, the victim is sometimes deliberately left in the child exploitation networks for the sole purpose of collecting evidence against the suspects. This means that minors are deliberately left to suffer long additional weeks, whereas they could be immediately sheltered and cared for. There is a need to set priorities in proceedings involving minors who are victims of trafficking.

Questions to the French Government.25

- Why has France decided to postpone its international commitments with regard to child protection and the best interests of the child, by giving priority to investigative and enforcement missions to the detriment of relief for victims?
- How does the French Government intend to ensure that investigations, prosecution and other proceedings are always conducted with due consideration of victims' age and gender, in such a way that they are not traumatized, victimized once again or stigmatized? (A/HRC/44-45, No. 25)

Observation.26

Depending on the precinct or court, children may be recognised as victims of procuring or human trafficking, or even sometimes be prosecuted or released for having participated as victims. Sometimes they are not even able to lodge a complaint owing to the myth of consent or sexual majority.

Warning.26

- In fact, depending on the person, department or court dealing with a situation involving human trafficking (for purposes of sexual exploitation or other), treatment can vary widely. This constitutes unequal treatment before the law.

Question to the French Government.26

- How can the police and the courts better respond to the best interests of the child?

C.CIVIL RIGHTS AND FREEDOMS (ART. 7,8 AND 13 TO 17 OF THE CONVENTION)

Registration of birth and nationality

Observation.31.32

With surrogacy, more commonly known as "gestation pour autrui" (surrogate motherhood) in France, a woman bears a child for another and entrusts the child to a couple at birth. In practice, this agreement between the surrogate mother and the couple is associated with a financial agreement.

Although surrogate motherhood is prohibited in France

<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000549619&dateTexte=20190227>), children born of surrogate gestation abroad benefit from recognition on French soil

(CRC Art. 3.1 States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.)

In her report of January 2018, the UN Special Rapporteur on the sale and sexual exploitation of children recognized surrogate motherhood as the sale of children, and adoptions resulting therefrom are also deemed illegal (December 2016 report).

➤ **Warning.31.32**

- Surrogate motherhood for commercial purposes is similar to the sale of children, and it is essential to protect children against such practices.
- There is a contractual relationship between the surrogate mother and the family receiving the child that encourages a risk of “commodification”. The inalienability of the human body is an essential principle of French law.
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➤ **Questions to the French Government.31.32**

- What is France’s position on surrogacy on French territory and abroad?
- What steps is the French Government taking to guard against the risk of the sale of children in surrogate motherhood practices abroad?
- How are children born of surrogate gestation protected by French law?
- What steps has France taken in anticipation of the present and future challenges posed by surrogate motherhood practices abroad?

D.VIOLENCE AGAINST CHILDREN (ART 19, 24 (PARA 3), 28 (PARA 2), 34, 37a AND 39)

Children’s right to protection from all forms of violence

Observation.42 .43

Child protection professionals do not always receive systematic training in human trafficking and victim identification. To date, there is no suitable specialized structure for child trafficking victims. School-based efforts to combat human trafficking, as foreseen by the Acts of 2001 and 2016, are far from satisfactory, characterized by insufficient class time and uneven emphasis on the most important topics. The Government has launched consultations to combat children’s exposure to pornography.

Warning.42.43

- The Government’s Plan of Action to combat violence against children for 2020-2022 primarily concerns violence within the family and exploitation for sexual purposes, and does not focus enough on the various forms of exploitation and trafficking which also constitute violence suffered by children.

Question to the French Government.42.43

- Why has the French Government failed to incorporate all forms of violence, including exploitation and the trafficking of children as such, into its Plan of Action to combat violence against children?

Harmful practices

Sexual violence

Observation.47

Even though the law has banned child prostitution since 2002 and the Act of 13 April 2016 has confirmed this prohibition, the majority of child protection professionals are unaware of this and of the tragic consequences of prostitution on children’s lives and physical, mental and sexual health.

Warning.47

- According to child protection associations working in the field, child protection appears to be on the rise on French territory.
- Minors of foreign origin may lack documents attesting to their date and place of birth and/or be forced by a pimp or network to say that they are of age.

Questions to the French Government.47

- How and within what timeframe is the French Government implementing the various components of the Act of 13 April 2016 concerning human trafficking for purposes of sexual exploitation, in the different *départements* in France?
- How does it intend to pay closer attention to assessing the age of people working in prostitution, given that they should always enjoy the benefit of the doubt as to their underage status?
- What initial and ongoing training is available to all child protection professionals, including on the prostitution system and its harmful effects on the lives and health of the children subjected to it?
- What steps is the French Government taking to alert public opinion to the consequences of the sexual exploitation of children and the consequences of child prostitution?
- How is the French Government implementing emotional and sexual education in establishments that come under the Ministry of Education (*l'Éducation Nationale*)?
- What steps has the Government taken to identify child victims of sexual predation with a view to addressing their suffering?
- How is France strengthening the fight against networks of trafficking for sexual exploitation?
- Is the State planning to obtain recognition for minors involved in prostitution as victims of rape and sexual assault?

E. FAMILY ENVIRONMENT AND ALTERNATIVE CARE (ART 5, 9 TO 11, 18 (PARAS 1 AND 2), 20, 21, 25 AND 27 (PARA 4))

Children deprived of a family environment**Observation.53**

The vulnerability of the children handed over to the Child Welfare Service turns them into prey who are often spotted by pimps and networks of trafficking for sexual exploitation. In addition, children sometimes stay with third persons who put them in situations of labour exploitation, not to mention children forced to commit offences.

The professionals working at the Child Welfare Service are not familiar with the question of human trafficking and are unprepared to protect the children entrusted to them.

The same holds true for all child protection professionals.

Warning.53

- Child trafficking appears to be on the rise on French territory, particularly via the social networks.

Questions to the French Government.53

- To overcome child protection professionals' lack of awareness of human trafficking in all its forms, what is the French Government's timeframe for including this question in the initial and ongoing training syllabus for such professionals?
- Are there plans to step up prevention and awareness-raising campaigns on the hazards of the Internet?
- To deal with the consequences of the violence stemming from prostitution and trafficking, particularly psychological trauma, what steps is the French Government planning to meet the healthcare and counselling needs of the children concerned?

F. DISABILITY, BASIC HEALTH AND WELL-BEING (ART 6, 18 (PARA 3), 23, 24, 26, 27 (PARA 1 TO 3) AND 33)

Standard of living

Housing / Accommodation: children living on the streets and precarious housing

Observation.69.70

In France, thousands of children live on the streets or in precarious housing: the number of families with children living on the streets or in precarious housing is rising sharply. Every evening in Paris, 700 children sleep on the streets with their parents (according to a news release from the Federation of Actors of Solidarity that was signed by a number of associations and published on 20 November 2019 on the occasion of "International Day for Children's Rights").

Warning.69.70

- **Since the beginning of 2020, more than eight minors have died on the streets in France**, according to the Collective of Deaths on the Streets. Associations are seeking additional resources, in particular the creation of new places in shelters, because the emergency system is saturated.

Questions to the French Government.69.70

- In view of the fact that emergency shelters are saturated, what steps does the French Government plan to take to prevent children from sleeping on the streets or in camps?
- Measure 24 of the 2019-2021 National Plan of Action to Combat Trafficking provides for "Specialising shelter structures in the national system for asylum seekers" (page 18). In reality, upon closer reading this measure is limited to the creation of 300 places in shelters for migrant women in three regions by the end of 2019. Have these places been created? What are 300 places compared to the number of people living on the streets nationwide? What does the Government foresee for children?

Housing / Accommodation: living conditions in slums and evacuations

Observation.69.70

The latest figures from the Human Rights League for operations concerning the dismantling of Roma camps are as follows: "in 2017 in France, 11,309 people from the Roma community or designated as such were subjected to eviction, an increase of 12% compared with 2016 (10,464)".

Two examples – among others – of evacuations of camps in Paris:

- On 28 January 2020, a camp for migrants situated at Porte d'Aubervilliers in Paris with 1,436 inhabitants, including 93 children according to AFP, was dismantled. To quote the Prefect of Police, these camps are "not only places of poverty and despair but also high-crime locations."

- On 7 November 2019, at Porte de La Chapelle, a large-scale operation was mounted to evacuate two migrant camps, including many families with children.

Warning.69.70

- **The dangers to which the children living in these situations are exposed are of real concern:** health hazards, various forms of exploitation, roaming, etc.
- Eviction has a **serious impact on children: trauma related to the police operations**, aggravation of **precariousness, exclusion, interruption of schooling and health and social monitoring, loss of documents.**

Question to the French Government.69.70

- **When the camps are evacuated, rehousing is in principle proposed. On which conditions? What percentage of people are evicted and subsequently rehoused? For how long? What structures are available to assist families?**

Housing / Accommodation of minors in hotels

Observation.69.70

In 2020, thousands of children are living in hotels (unaccompanied minors, children of migrants, asylum seekers, etc.) This is a worrying situation for minors who are already more exposed to the risk of exploitation than other minors. In Ile-de-France, 20,000 minors are living in hotels with their family, according to the news release of 20 November 2019 quoted above.

Thousands of children are not in school. On 30 April 2020, several organizations sent an email to the Minister of Education. These children missed out on the return to school, just as they have missed out on the school continuity arrangements since the health crisis began. The problem is the same for unaccompanied foreign minors over 16, who were prevented by school directors from enrolling in an educational establishment on the grounds that compulsory schooling stops at the age of 16.

The example of unaccompanied minors: in Marseille, on 4 April 2019, 174 unaccompanied minors left the "St Just squat" (a building occupied by a collective of citizen activists) to be rehoused in hotels. These minors, but also families of asylum seekers with children, had been living for more than three months, and are still living (as of 4 March 2020) in precarious hygienic and sanitary conditions.

Young people find themselves alone in hotels, far away educators and often spread out in different parts of the city, at the mercy of potential exploiters.

Warning.69.70

- It is absolutely necessary to create places in shelters for foreign minors awaiting assessment but also for those who have been assessed and are waiting for a spot in a children's home; and also to create shelter places for the families of asylum seekers.
- With regard to housing, the 2019-2021 National Plan of Action for Combating Human Trafficking provides for reinforcing the secure reception (*accueil sécurisant*) system and matching the supply of housing to the number of trafficking victims (Measure 22, page 18 of the National Plan of Action). However, it does not provide as such for creating places for migrant minors or migrant children who have been victims of trafficking.

Questions to the French Government.69.70

- What kind of protection, assistance and supervision is there for children housed in hotels, a great many of whom have however been recognized as unaccompanied minors and benefit from an Interim Placement Order (OPP)?
- Under such circumstances, how does the Government intend to guarantee the application of the law with regard to child protection and respect children's equal right to education mentioned in the International Convention on the Rights of the Child?
- How can the physical and mental well-being of children left to their own devices in hotels be guaranteed?

G. EDUCATION, LEISURE AND CULTURAL ACTIVITIES (ART 28 TO 31)

Education, including vocational training and guidance

Observation.71.72

In its last concluding observations concerning France's fifth periodic report, the Committee on the Rights of the Child was "concerned that (b) some children, including Roma children, unaccompanied migrant children and children living in precarious housing, face numerous difficulties with regard to enrolling in ordinary schools [...] and in some cases have not been allowed to do so by municipalities."

Warning.71.72

- To this day, these children still suffer from the same discrimination and their schooling is far from effective. Indeed, in a report published on 23 April 2019, the National Consultative Commission for Human Rights (CNCDH) flagged the difficulties of access to school for thousands of children based in the French overseas *départements*, young Roma and unaccompanied minors.
- Many municipalities still refuse to admit Roma children or migrant minors, particularly those who are 16-17 years of age and wish to undergo vocational training.
- If these children do not attend school, they are all minors who are likely to be recruited with a view to their exploitation.
- If they are not attending school, they become invisible for Ministry of Education professionals, which makes it even more difficult to identify such children as victims of trafficking.
- Some victims of exploitation are not identified even though they have a real desire to break with their present situation (exploited in catering, hair or nail salons, agriculture, etc.), whether boys or girls.

Questions/recommendations.71.72

- What steps does France intend to take to correct these disparities and put a stop to the discrimination these children face? (Principle of non-discrimination B)
- Does France plan to conduct censuses in shantytowns and camps to evaluate the number of minors not attending school in France?
- Does France intend to take outreach or school mediation measures advocated by numerous actors in the field with a view to facilitating school attendance for children in shantytowns or precarious housing, thereby effectively combating human trafficking?

H. SPECIAL PROTECTIVE MEASURES (ART 22, 30, 32, 33, 35, 36, 37 AND 38 TO 40)

Asylum-seeking children, unaccompanied migrant children and refugee children

Unaccompanied minors: bone tests

Observation.73.74.75.76

On 21 March 2019, the Constitutional Court ruled that the Act authorising the use of bone tests to determine the age of foreigners claiming to be minors was constitutional.

Warning.73.74.75.76

- The “Together against trafficking in human beings” Collective regrets that bone tests are still in use and that the Constitutional Council has acknowledged the use of such tests to be constitutional whereas **their reliability is challenged by the entire scientific community.**

Question to the French Government.73.74.75.76

- The Constitutional Council is inviting limited use of such tests. In practice, how can this “limitation” be monitored? Moreover, what does “limited use” mean? This is a subjective interpretation, raising fears of significant leeway in practice and differences depending on the *département*.

Unaccompanied minors: supporting file for the assessment of minor status

Observation.73.74.75.76

On 5 February 2020, the Council of State validated the decree of 30 January 2019 relating to the modalities for assessment of the age of persons claiming to be unaccompanied minors and authorizing the introduction of personal data processing (“biometric file”).

Warnings.73.74.75.76

- This decree was challenged by 19 associations, unions and foundations, including UNICEF, Secours Catholique and the *Syndicat de la magistrature* (one of the magistrates’ trade unions), which considered in particular that the measures in the decree were contrary to the “best interests of the child”.
- These organizations denounced the option for *départements* in charge of this assessment of referring unaccompanied minors to prefectures where their fingerprints could be compared with those of foreign nationals using visa applications (Visabio).
- Despite the clarifications provided by the Council of State with a view to overseeing the implementation and limiting the use of such files, the Collective is concerned about the consequences of the validation of this decree, particularly with regard to the protection of the rights of unaccompanied minors. We are worried about the use and purpose of such files. Our concern regarding violations of the best interests of the child remains.

Question to the French Government.73.74.75.76

- What guarantees is the Government offering to avoid misuse of these files?

Unaccompanied minors: legal representation

Observation.73.74.75.76

The lack of a national legal representation system (system of guardianship and ad hoc administrators) leads to disparate practices depending on where the child is, in terms of both the timeframe for the implementation of measures and the follow-up and supervision of missions. This heightens children's vulnerability to the risk of trafficking, because access to effective and immediate protection is hampered.

The general problem of access to a legal representative, which the Committee on the Rights of the Child had flagged in its previous observations, persists.

Moreover, as a result of failure to designate an ad hoc administrator, many unaccompanied minors are unable to lodge an application for asylum.

Warning.73.74.75.76

Even though, in a few *départements*, unaccompanied minors taken into care by the Child Welfare Agency automatically benefit from guardianship, the reality nationwide remains that of under-reliance on family court judges (*juge aux affaires familiales*): as timeframes are sometimes excessively long, such procedures are generally not initiated for unaccompanied minors over the age of 16, the average age of entry into the child protection system. This results in genuine legal uncertainty for these young people, who are not able to fully enjoy their rights, as the Child Welfare Agency only has guardianship over the minors and can only perform so-called "usual acts" relating to everyday life.

In a decision dated 26 February 2019 relating to access to rights and justice for unaccompanied minors, the Human Rights Defender recalled that "the measure of educational assistance constitutes a prerequisite for the introduction of guardianship, as it provides an opportunity to determine the advisability and necessity of a comprehensive, lasting protective measure." A information mission on the Child Welfare Agency,¹ set up in 2019, also called for the systematic designation of guardians for unaccompanied minors.

Moreover, some ad hoc administrators have reported that they deal with up to 180 cases at the same time, which raises questions as to the quality of the missions taken on,² in view of the resource and awareness gap relating to trafficking situations and assistance for underage victims.

Questions to the French Government.73.74.75.76

- Does France intend to assess the capacity or resources of the legal representation system at national level?
- Is consideration being given to the creation of a single, independent guardianship system for all children – regardless of nationality or age? What alternatives is France proposing to overcome the gaps identified in the activation of protective measures, which are however essential?
- What steps does France plan to take for ensuring an effective system of mission follow-up and supervision?
- What means does France intend to allocate to the training of guardians and ad hoc administrators in contact with children at risk of or victims of trafficking?

¹ http://www.assemblee-nationale.fr/dyn/15/rapports/miaidenf/l15b2110_rapport-information

² *Ibid*, p.67

Sale, trafficking and abduction of children

Observation.79.80

The adoption of a new national plan of action to combat trafficking in 2019, which had been awaited for more than three years, is to be welcomed. However, the plan presented without a reference to a number of deadlines or the exact budget allocated does not seem very operational and raises questions as to the order of priority for the measures mentioned and the way in which the parties concerned by the plan could introduce it and render it operational. What is more, the Coordinating Unit for the new National Plan of Action to combat human trafficking for 2019-2021 remains under the authority of the Secretariat of State for Gender Equality and Non-discrimination and not the Prime Minister, as the associations of the Collective had hoped and as the National Consultative Commission for Human Rights had recommended (see its view of October 2019 on the National Plan of Action to Combat Human Trafficking). This tends to reduce the problem to trafficking for sexual exploitation.

Today, all too many child victims of trafficking remain invisible because they are not identified. The lack of awareness linked to all forms of exploitation (sexual exploitation, forced labour, forced begging and coercion to commit offences) leads to a failure to identify victims, a lack of recognition of their status as victims by the competent institutions, or even to their criminal prosecution and imprisonment.

Despite the identification of some minors and the proceedings initiated against those who have exploited them, there are always problems with the absence of effective protection for these children, owing to the lack of adequate protective measures (absence of suitable structures, inadequate legal assistance, counselling and healthcare).

The large numbers of unaccompanied minors arriving in France have led to an increase in situations linked to the problem of trafficking, owing to the special vulnerability of such children.

Moreover, social media, digital apps and online classifieds websites have become “enablers” for human trafficking, particular during the two months of lockdown.

Some firms have played an ambiguous role with regard to French law, like Vivastreet, which has been the subject of a judicial investigation for “aggravated procuring” to ascertain whether the website knowingly hosted prostitution advertisements involving at least one minor. In addition, many underage victims have been sexually exploited in apartments rented on the Internet or in hotels.³

Warning.79.80

- To date, France has not always established specialized structures dedicated to housing child trafficking victims, which are however essential for receiving them in a dignified, appropriate manner.
- Within the Child Welfare Agency structures in each *département*, there are no units dedicated to the problem of trafficking, with a contact person capable of coordinating and managing, via short channels, the search for places in shelters located at some distance where necessary.
- The increase in the number of trafficking situations is linked in particular to a deterioration in reception conditions for minors in France, especially unaccompanied minors. The fact that children are not attending school, lack medical care and are traumatized by their exile make them easy prey for possible exploiters. It can also lead to the commission of offences, sometimes under coercion, which can constitute trafficking situations.

³ See for example the recent dismantling, in Seine Saint Denis, of a human trafficking network for sexual exploitation. Many victims, the youngest of whom was only 14, were sexually exploited in apartments rented on the Internet or in hotels.

Questions to the French Government.79.80

- The NGOs of the “Together against trafficking in human beings” Collective, along with the National Consultative Commission for Human Rights, regret the late arrival of the second National Plan of Action to Combat Human Trafficking. We feel that placing such efforts under the authority of the Prime Minister would moreover mark major progress and a strong message sent by the Government, as a sign of recognition of the gravity of the problem of trafficking. Is the French Government prepared to attest to the priority given to efforts to combat trafficking and their urgent nature?
- What means does France intend to dedicate to training professionals in contact with these children, particularly agents from the Child Welfare Agency, the judicial protection of juveniles and professionals from the legal world and the police?
- How does France plan to mainstream the Child Welfare Agency into each *département*, to enable the establishment of a network of contact persons specialized in such questions?
- Measures 25 and 26 of the National Plan of Action to Combat Human Trafficking, which call respectively for the general implementation of the Parisian experimental system for the protection of underage trafficking victims and the establishment of centres for taking such children into care, have not yet been applied. What timetable for application and dedicated means have been defined?
- How does France intend to introduce mechanisms for reaching these roaming minors, in order to identify them as soon as possible and prevent their exploitation?
- What means does France intend to introduce for systematically sheltering unaccompanied minors during their assessment, with a view to limiting their exploitation?
- How does France intend to ensure greater accountability for digital players in efforts to combat the exploitation and trafficking of minors?
- Is the State envisaging greater cooperation with the operators and hosters of Internet sites and social networks with a view to the prosecution and conviction of child traffickers?

Observation .79.80

Given that the purchase of sexual acts stems from the existence of a market; given that this market is conducive to prostitution and trafficking for sexual exploitation; given that the Act of 13 April 2016 to reinforce efforts aimed at combating the prostitution system and helping prostitutes exit prostitution has yielded some encouraging results in the *départements* where it has been applied...

Warning.79.80

- Our patriarchal society continues to focus on people working in prostitution, whereas the origin of the prostitution system is the permanence of the idea that access to women’s bodies is a right for men, especially if it is purchased. This idea, which has generated immense suffering in victims, especially child victims, must be combated much more vigorously than it is today.

Question to the French Government.79.80

- What would be the timeframe for an information campaign targeting the entire population on the real nature of prostitution and trafficking for sexual exploitation?

Observation .79.80

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As at 27 June 2020

Young mothers working in prostitution do not find protective shelter for themselves and their newborn on leaving the maternity ward: one can fear for their health and the possibility that they might fall into the hands of a criminal network.

Warning.79.80

- Motherhood for young women working in prostitution must be protected, along with their newborns, all the more so in a country that has an enviable maternal and infant protection system.

Question to the French Government.79.80

- How many priority shelter places are there in France that are suitable for young women who have recently delivered and their children, are immediately offered and are protective of women working in prostitution? What means are available?

Child victims and witnesses of crimes

Children not recognized as victims, sometimes in prison

Observation.83.84.85.86

In accordance with the spirit of the ordinance of 1945, the imprisonment of minors must remain an exception and must only take place as a last resort. In practice, however, recent observations by various institutions are alarming. For example, the National Consultative Commission for Human Rights (CNCDH) denounced in 2018 the fact that “locking up minors has become commonplace”, and the latest report of the Controller General for Places of Deprivation of Liberty (CGLPL) dated March 2019 warns of the high number of such minors who have been brought before a court and placed in detention, particularly unaccompanied minors.

Warning.83.84.85.86

- **Detention, in particular for unaccompanied minors, is used widely, supposedly for purposes of protection.** However, it appears in practice that it is precisely the precarious situations these minors are facing, combined with a lack of proper care and difficulties of access to schooling, medical care and counselling, which can sometimes lead to the commission of offences, often under the coercion of others. Once they have served their sentence, these minors generally find themselves facing the same human trafficking networks that were exploiting them prior to their imprisonment, when they are not transferred to the Administrative Detention Centre (CRA) once they come of age then expelled from French territory.
- More broadly, **minors incited by third parties to commit offences rarely remain identified as victims of trafficking.** As the criminal charges against them are not dropped, these minors are subjected to sanctions for having taken part in unlawful activities whereas they were forced to do so, a situation which is inconsistent with France's international commitments.⁴ These sanctions can also lead to their detention. Consequently, the question of their identification as victims remains paramount at each stage of the criminal justice process, to allow recognition of this status and offer them specific assistance. It seems essential to ensure that the response to the acts committed takes this status into consideration, so that the above-mentioned principle of non-sanction results in a concrete response (educational measures, restorative justice, redress for victims) and not a lack of response or solely the imprisonment option.

⁴ Art 26 Convention of the Council of Europe

Questions to the French Government.83.84.85.86

- How can France justify reliance on imprisonment for minors who are presumed to be victims of human trafficking?
- What means does France intend to allocate for training professionals (police, judicial protection of juveniles) in the question of the trafficking of minors forced to commit offences?
- There is a need to reassert the value of educational measures and give priority to alternatives to detention. What additional means does France intend to allocate for preventive actions to non-formal education departments, judicial protection of juveniles and the creation of new day structures rather than new closed educational centres and youth penitentiary institutions (EPMs)?

Child exposed to domestic violence

Observation.83.84

A child exposed to physical or mental violence inflicted by one parent on the other is himself or herself a victim of violence even if the violence does not target him or her directly. For the child, perceiving such violence can have a major impact on his or her development.

The parental authority of a parent who exposes his or her child to the violence that he or she inflicts on the other parent is rarely called into question, even though the Act of 28 December 2019 aimed at combating violence in the family calls for the automatic temporary suspension of the exercise of parental authority and visiting and accommodation rights in the event of prosecution or conviction for a crime committed by one parent against the other parent, pending a decision by the family court judge.

Warning.83.84

- The child psychiatry sector does not sufficiently meet these needs.

Questions to the French Government.83.84

- How can the consequences of violence between parents on children be incorporated into initial and ongoing training for child protection professionals?
- How can the parental authority of the violent parent be immediately and systematically challenged?
- How can child psychiatry services be developed to respond adequately to the needs of all children exposed to violence between parents?
- How can duly trained professionals in all educational establishments use prevention kits on emotional and sexual education, as foreseen by the law?

Online sexual violence against children

Observation.85

Online sexual abuse and exploitation of children have been increasing exponentially for several years and even appear in new forms, as can be seen from solely the appearance of the “phenomenon” of live streaming.

The situation is alarming: according to INHOPE’ annual report for 2019, France is the third largest hoster of online material involving child sexual abuse. Between 2014 and 2018, there was a 650% increase in contents and materials involving child sexual abuse reported to Point de Contact. Moreover, some twenty live streaming files have been handled by the Central

Office for the Punishment of Violence Against Persons (OCRVP). By the end of 2019, this unit had identified 300 targets in France, with financial transaction amounts attesting to the dangerous nature of this new type of criminal. And there is only a fine line between online violence and trafficking.

The adoption of the second mobilization plan for combating violence against children 2020-2022⁵ can be welcomed insofar as it incorporates protection of children in the digital world and proposes interesting measures. One of them seeks to “increase punishment for those convicted of regular consultation, acquisition or possession of child pornography images.” However, there is an urgent need to undertake a wide-ranging review of the way in which the new phenomena of cyber child pornography (including “grooming”, for example) are understood from a legal perspective. The plan also foresees a measure for combating children’s exposure to pornography, as illustrated by draft legislation of 10 June 2020 introducing stricter monitoring of the age of surfers who access porn sites via an obligation to verify their age, failing which the site hosters can be blocked by Internet access providers. The draft legislation also foresees new powers for the President of the High Council for Broadcasting (CSA), enabling him to patrol the Web and send warnings to porn sites which fail to comply with French legislative requirements.

Warning.85

- Today for example, offences involving live streaming give rise to contested legal decisions, because they are restricted to the possession of images of a pornographic nature, a legal characterization that tends to minimize the acts undergone by children, namely assault and/or rape. Whereas the conviction, in January 2019 and for the first time, of a French national for “complicity in sexual assault” raised awareness of the gravity of the phenomenon of live streaming, the judicial trend that might emerge, with an amendment submitted in the wake to create a new offence of “solicitation” for remote rape or sexual assault,⁶ has been deemed insufficient overall.
- The key to combating the new dangers of the digital world is the elaboration of a genuine body of cybersecurity law, which is currently fragmented, and an effective legal system for combating violence against children, including when such violence is linked to the online environment.

Questions to the French Government.85

- How has France planned to anticipate the present and future legal challenges posed by these new forms on online violence and the expansion of data encryption?
- How does France intend to implement the decisions and recommendations set out in the second Plan for Combating Violence Against Children (including the introduction of the possibility, for the CSA, on imposing fines on video sharing platforms)?
- How does France intend to ensure greater accountability for digital players in efforts to combat sexual exploitation and trafficking involving minors?

Observation.85

The prosecution of consumers of human trafficking remains very incomplete. Moreover, depending on the court, some judges seek to prove that consumers were aware that the victims were minors whereas others do not do so. There is unequal treatment before the law.

⁵ « Je veux en finir avec la violence. Et vous ? » : plan de lutte contre les violences faites aux enfants, novembre 2019, https://solidarites-sante.gouv.fr/IMG/pdf/dossier_de_presse_-_plan_violences_faites_aux_enfants.pdf.

⁶ http://www.assemblee-nationale.fr/dyn/15/amendements/2478/CI0N_LOIS/CL109

Alerte.85

- The practice of “correctionalisation” (downgrading of a serious crime to a lesser offence, for trial in the ‘Tribunal correctionnel’) is still widespread. In addition, France has yet to adopt a legal age of sexual consent, and a child may be recognized as consenting at any age. Another problem is that under the offence of pimping, a child may be recognized as consenting, but from the perspective of human trafficking, coercion is automatically assumed for minors. Consequently, depending on the legal characterization of the facts, for judges, a child may be recognized as consenting or non-consenting. Finally, in France, human trafficking involving a child under 15, which is regarded as a misdemeanour, is punished less severely than pimping involving a child under 15... which is a crime.

Questions to the French Government.85

- How does the French State intend to enforce the principle of equality of all children before the law?
- What steps will the French State take to ensure the proper application of the Convention in this field?

Observation.86

The lack of specific training for child protection services on the question of trafficking and suitable socioeducational support measures, to ensure that all child victims receive suitable and stable legal, social, educational and medical assistance.

Questions to the French Government.86

- What steps is the French Government taking to improve these measures, particularly with regard to child victims of labour exploitation?

Observation.87

On 28 April 2020, France ratified Convention 190 of the International Labour Organization on eliminating violence and harassment in the world of work.

Warning.87

- However, Convention 189 on domestic workers remains unratified. This can have an impact above all on underage girl trafficking victims who are exploited in domestic work.

Question to the French Government.87

- What is the reason for this contradiction with the principle of violence in the world of work if this violence takes place in connection with work in a private residence?

I. RATIFICATION OF INTERNATIONAL INSTRUMENTS RELATING TO HUMAN RIGHTS**J. COOPERATION WITH REGIONAL BODIES****V. MAIN AREAS OF CONCERN AND RECOMMENDATIONS****A. FOLLOW-UP AND OUTREACH**

B. NEXT REPORT**Original version is in french (20 pages)**
