



ngo group for the crc

## STATE PARTY EXAMINATION OF FRANCE'S THIRD AND FOURTH PERIODIC REPORTS

51<sup>ST</sup> SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD

25 MAY – 12 JUNE 2009

### Contents

Opening Comments .....	1
General measures of implementation .....	2
General principles .....	4
Civil rights and freedoms .....	4
Family environment and alternative care .....	4
Basic health and welfare .....	6
Education, leisure and cultural activities .....	7
Special Protection Measures .....	7
Concluding Remarks .....	9

*France ratified the Convention on the Rights of the Child (CRC) on 7 August 1990. On 26 of May 2009, the Committee on the Rights of the Child (the Committee) examined the third and fourth periodic reports of France. It was last examined on 2 June 2004.*

### Opening Comments

The delegation was led by Ms. Nadine Morano, the State Secretary responsible for the family in the Ministry of Labour, Social Affairs, Family and Solidarity. She was supported by a large delegation consisting of representatives of the Ministry of Foreign and European Affairs, Ministry of National Education, Ministry of the Interior, Ministry of Justice and the Permanent Mission in Geneva.

Ms. Morano stated that France had child rights close to its heart. Since ratifying the CRC, it had made significant efforts to fully implement the Convention. Great progress had been made in developing a legal framework. In March 2007, France had adopted a framework law for the protection of children, which aimed to prevent mistreatment and improve alert system to detect dangers to children. There was further progress in coordinating the work of state departments and associations. The state provided strategic guidance and was responsible for legal matters. The government collaborated with the *Defenseur des Enfants*, an independent authority established by the March 2007 law. There was a focus on protecting the family environment, as children had to be seen in the family context. Action for children was needed in areas such as the protection of children who reached the age of 18 and child pornography. A matter of great concern was the 2009 reform of guardianship, as there were many children (estimated at around 700,000) affected by guardianship. As adoption is a child's right to be protected, the President was engaged in the reform to ensure that the adoption policy was better understood. A bill was before Parliament to give prosecutors a more active role in detecting cases of mistreatment. There was great concern that family conflicts were worsening and leading to more child abduction, over 250 notified in early 2009. There was a

free number, namely 119, for children in danger which would be fully operational at the end of the summer. Ms. Moreno also highlighted that France had comprehensive legal provisions on pornography, so the production and circulation of child pornography was prosecuted (French law also applied if the crimes were committed abroad). Perpetrators could be sentenced to ten years in prison and 1.5 million Euros fine. The young age of the victim would be an aggravating factor. France had attempted to mobilise the European Union (EU) in protecting children from the danger of the Internet. Some of these measures included free software for parental control and a monitoring committee for child protection on the Internet. Having the highest birth rate in the EU, France had many crèches at the workplace. There was 1.3 billion Euros for the establishment of 100,000 more places in nurseries. The Head of delegation was therefore pleased to mention all France's efforts to meet its obligation under the CRC.

The Country Rapporteur, Mr. Citarella, welcomed the delegation and thanked them for the comprehensive report and presentation. However, he noted that the report did not provide information on children in overseas territories, nor did it explain the process for preparing the report. It seemed to have been produced without much involvement of civil society. One of the main issues was of the limited direct applicability of the CRC, which led in some cases to conflicts between the Council of the State and the Court of Cassation. He noted that only 11 of the 54 articles of the CRC were directly applicable. He stressed the need for more progress to enable people to invoke the CRC before national courts and tribunals. Efforts should be made to create a new law in relation to the CRC. Although he praised the delegation for the progress in adopting legislation, in particular law 368 of 2007, which settled many aspects of children's lives, he noted that other measures should be taken at national level.

The Co-Rapporteur, Mr. Kotrane, noted that children were a priority in the French system and considerable progress had been made since the second report, especially with regard to the legal framework. France had reformed the affiliation system, which abolished the distinction between a legitimate and illegitimate child and had ratified several new international instruments, such as the International Convention for the Protection of All Persons from Enforced Disappearance. Although the report provided substantial information on the implementation of the CRC, NGOs had not been involved in this process. France should strengthen this coordination with civil society. As there was no body responsible for all aspects of the CRC and to ensure coordination with overseas departments, he asked if there were any intentions to create a national coordination mechanism following the Committee's previous recommendations. He also asked what had happened to the global action plan that was previously discussed. He stressed the need for more reliable data and asked if the government intended to follow-up the Committee's recommendations. Concerning the reform for criminal procedures for children, he noted that they had envisaged raising the age of criminal responsibility to 13 and asked for confirmation. He was particularly concerned that in the current system, children of 7 or 8 could be expected to shoulder responsibility even if they were not sentenced. He also asked if the information about the rights of the child was disseminated to all professionals, including teachers and magistrates. He remarked that parents and teachers often see rights as being problematic and asked how the government addressed this issue.

## **General measures of implementation**

### ***Legislation***

The Committee enquired about the judicial approach to applying the CRC and the relationship between ratification and non-applicability. The delegation said that under French law, an international convention was applicable if the provisions were clear and specific and it was up to the judiciary to decide which articles were directly applicable. It noted that eleven of the 54 provisions were directly applicable, which was huge progress. The Committee remarked that 11 articles were too few, as ratification entailed certain obligations and there could not be national barriers for the application of international provisions.

### ***Coordination and monitoring***

The Committee commented on the selective implementation of the CRC by the Council of State and the Court of Cassation. Given the independence of the justice system, it asked about the actions taken to resolve the situation. The Committee also remarked that France lacked a global policy on the implementation of the rights of the child. It noted that such a strategy would complement the existing family policy and would facilitate coordination among the departments and the overseas territories. This sort of strategy should not only focus on the protection of the child, but also include child survival, the development of the child, as well as child participation. Children's perspectives could be included in the policy through the participation of children and civil society. The delegation noted that children did not live alone and therefore had to be considered in the family context. However, it was a crosscutting issue which affected justice, education, health and other ministries. If children did not live within a family it was the inter-ministerial strategy that protected those children.

### ***Dissemination and training***

Despite progress in awareness-raising campaigns, especially on violence and the Internet, the dissemination of the CRC was very limited. There were positive steps in training professionals working with children, but this did not extend to the education system and communities. According to data, two thirds of adults and a high proportion of children did not know about the CRC. The Committee asked how state would ensure that the CRC would become a social value that could be passed on from generation to generation. The delegation replied that the CRC could be consulted on the website of the Ministry of Family and the Ministry of Foreign Affairs. Information for children was provided in primary and secondary schools as well as within the family unit. The delegation highlighted the government's commitment to improving the provisions. A national event would be organised to mark the twentieth anniversary of the CRC in order to raise awareness about the treaty.

### ***Data Collection***

The Committee noted that the report did not provide much data on different groups of children, except for homeless children. It lacked disaggregated data on groups of children and families. More data, especially on children's living conditions were necessary. The delegation responded that efforts were being made to improve the quality of data. The report had, for the first time, included data on the overseas departments.

### ***Resource allocation***

The Committee asked about the measures in place to ensure that the economic crisis did not have a negative impact on spending on children. It noted that the Children's Defender 2005 report pointed out an increase in the budget for the justice system but France only ranked twenty-third in the EU. Given the difficulties in identifying the spending on children and the lack of data on the matter, the Committee noted that there was a need to develop a global plan of action to implement the CRC and suggested that it also include a budget with the necessary

resources. The delegation responded that the economic crisis did not have any real effect on the social budget. Although there was no childhood budget as such, children were covered by different programmes. They had recently set up the system of the Caisses Nationales des Allocations Familiales. As a result, four billion Euros, not including cash allocations and benefits, were intended for families. Around 700'000 people should be able to cross the poverty line thanks to the new provisions.

### ***International cooperation***

The Committee noted that the report did not provide much information on international cooperation. The delegation responded that France played an important role in the European Union's child rights policy, especially under the French presidency. The Committee asked for more information on the influence and the achievements in this area. The delegation provided no response to this question.

## **General principles**

### ***Non-discrimination***

The Committee wanted to know if foreigners legally residing in France who were entitled to benefits for their children were really receiving them.

### ***The best interests of the child***

As the report stated that the principle of the best interest of the child was an integral part of family law and was at the heart of recent reforms, the Committee asked about the practical implementations of this principle and if there were special legislative provisions to ensure it. The delegation said that France always asked itself where the higher interest of the child lay.

### ***Respect for the opinions of the child***

The Committee reiterated its concern that this principle had not been well implemented, especially children victims of sex crimes. It asked about the measures to inform children about their right to be heard and how this right was applied in criminal proceedings. The Committee expressed its concern and suggested that much needed to be done in terms of legislation and its implementation.

## **Civil rights and freedoms**

### ***Birth registration and the right to identity***

The Committee asked about the existing measures to guarantee a child's right to a name, nationality and family ties. It was particularly concerned about the latter, since there was a veto against the child's wish to know his/her origins. The delegation responded that in cases of adoption France wanted to strengthen the link between children and their biological families. They also wanted to ensure that children were not sent from one family to another, as this could have repercussions on their adult life. The Committee asked for clarifications on children in the overseas territories with regard to birth registration, access to school and health services, since there was insufficient information in the report.

## **Family environment and alternative care**

### ***Adoption***

The Committee noted that around 5,500 adoptions took place every year, of which 1,500 were national and the rest were international adoptions. Given that an estimated 30,000 people wanted to adopt, the Committee asked for the reasons for such a big demand for adoption and why there were so few national adoptions. It also wanted to know if there was a study explaining this high demand. The Committee noted that around two thirds of the adoptions were from countries that were not party to the Hague Convention, and no steps seemed to be taken to discourage adoption from such countries. The Committee asked whether France could guarantee the same treatment for all children regardless of whether their countries of origin were party to the Hague Convention. It expressed concern about the volunteers working in French embassies to find children to adopt. This would open a third way of adoption and undermined the centralised system. France should not invent a third way because it would be impossible to monitor the procedure. It recommended that they strengthen their use of the appropriate measures as well as the accredited bodies provided by the Hague Convention. The delegation noted that to improve adoption provisions, it had been decided that an Inter-ministerial Committee for adoption would be established. Eighty per cent of adoptions occurred internationally and the Ministry for Family Affairs was working with the Ministry of Foreign Affairs and ambassadors were appointed to deal with cases of adoption. As for the individual adoption, the delegation said that they preferred adoptions that went through agencies and respected ethical criteria. The procedure was the same for adoption from countries that had ratified the Hague Convention and those that had not. They also had bilateral agreements with 50 countries. Special support was needed for children adopted from foreign countries, children unfit to be placed immediately and children asking about their origins or who were abandoned. In these cases, families needed to be aware of these additional responsibilities. It also added that there were children who were more difficult to adopt, because they were older, had a disability or lived with brothers and sisters and the information system was not good enough to link parents with children with special needs. Concerning the national representatives in foreign embassies, the delegation said that an official in an embassy provided a guarantee that prospective parents received adequate information. It was an approach that was in line with the Hague Convention.

### ***Corporal punishment***

The Committee remarked that corporal punishment was not totally eliminated and asked if they intended to adopt a law to ban this practice. It remarked that the Council of Europe had launched a campaign for banning all forms of corporal punishment and asked if France intended to join it. The delegation responded that there was no need to sign this European campaign, as national legislation covered corporal punishment. The Committee noted that corporal punishment was not just a physical punishment but also included belittling and other forms of verbal abuse. It noted that smacking did not usually leave a mark, but according to the French code there had to be extreme violence and a mark on the child. It would therefore have to be extremely serious to trigger the provisions in the criminal code. The Committee noted that corporal punishment should be forbidden even if it is not aggregated violence. The delegation clarified that there was no tradition of corporal punishment that warranted an explicit prohibition. There were provisions for violence against children, which covered corporal punishment, so there was no need to amend the legislation. Instead, there was a need to implement policies in parenting support to provide better training for parents in educating their children.

### ***Violence on television***

The Committee stated that the influence of the media was very important on the construction of the child's identity and behaviour. Bearing in mind the obligation of the state to protect children from violent pictures on television, the Committee asked about the measures being taken to prohibit such violence and the sale of violent video/computer games to children. The delegation responded that violence on television and in games was of concern to them. The National Council for Audio and Visual Affairs had a code on the age threshold of different programmes since 1996. Television advertising programmes informed parents of this threshold. A working group was created to train staff not to sell violent video/computer games to children and to inform them of the risks.

## **Basic health and welfare**

### ***Children with disabilities***

The Committee criticised the medical approach to treating children with disabilities and asked about the measures to integrate children with specific disabilities, such as autism and mental disabilities, into society. The delegation did not provide any answer to this question.

### ***Health and health services***

The Committee asked about the safeguards to ensure that France did not lose its position as one of the best healthcare providers, especially given the financial constraints and the increase in birth rate. It asked for more information on the breastfeeding policy, stressing the feeding and attachment needs of the mother and child, and wanted to know if parents were taught about these needs. It also asked if any research had been conducted on the influence of day care on children. Regarding maternal and paternal leave, the Committee asked why the government opposed the minimum maternity leave of six months to allow for breastfeeding. It also wanted to know the proportion of men staying at home for parental leave. The delegation responded that there was legislation under the labour law that obliged companies to set up places for breastfeeding and noted that families needed to be informed of the benefits of breastfeeding.

The Committee commended France on its efforts in adolescent health. However, problems persisted in terms of alcohol and drug abuse, teenage pregnancies and suicides. It enquired about any studies on adolescent health problems. The Committee noted the high suicide and attempted suicide rates. Around 10,000 cases were reported and the total rate was believed to be over 40,000 cases. It therefore asked about measures to analyse the root causes of this phenomenon and wanted more information on the effectiveness of the adolescents' centres, which were opened in 2004.

The Committee also had information that there was a severe shortage of paediatric psychiatry and enquired if there was a strategy to address this. It asked if France focused on social and educational strategies and not just on hospitalisation and medication. It also enquired why so many children ran away from home, given the strong emphasis on the family. More information was needed on the effectiveness of the kidnapping helpline in reaching all children. The delegation said that many studies had been undertaken. In the case of children running away from home, the alert was raised immediately and their name was put on the missing persons file. Around 40,000 children had been reported; half of them had run away from home and the others from the establishment where they lived. The Committee also expressed concern about early pregnancies. On drug and alcohol policies, the Committee remarked that efforts appeared to be directed to reduce the supply of alcohol and wanted to

know what had been done to prevent emotional and health problems as well as strengthen self-esteem which would help reduce drug and alcohol abuse.

## **Education, leisure and cultural activities**

The Committee expressed concern about the high dropout rates. As school dropout often marked the first step towards social exclusion, it asked about the measures taken to find the appropriate solutions to this problem and if there had been any studies to discover the root causes of this phenomenon, especially among foreign children. The Committee remarked that Roma and traveller children did not have access to education and asked about the measures taken to improve their access. It also raised the issue of children wearing conspicuous religious symbols, which could be excluded from school and asked for an update on this issue. It also enquired if human rights education was included in the school curricula. The delegation explained that school dropout was a great concern of the Ministry of Education and they had a target to reduce the rate by 10 percent over three years. They worked closely with families and social workers when children had unexplained absences. They also had specific provisions for children abandoned by the school establishment. Assistance was provided to children after school to help them do their homework or get involved in cultural activities. Concerning citizenship education, the delegation said that human rights were part of the civic educational programme, especially in the primary and secondary school curricula. Education for development, which was one of the priorities of the ministries, as well as education for sexuality and health were all ways to ensure that children understood citizenship issues and their rights. There was also a child rights day in November.

### ***Violence in school environment***

In response to the question on the measures to address violence in schools, the delegation said that they needed tools to monitor violence in order to have reliable data. A software system called *civis* was put into place to monitor the most serious acts of violence that occurred in certain schools. The government had created six instruments to prevent and combat violence in school as part of the national education reform. They were: prevention by means of education; fight against children failing at school as a significant factor leading to violence; learn social and citizenship skills; respect for other's views; the diversity of curricula which had been an important reform of secondary school; the fight against illiteracy (15 percent of students entered secondary school without being able to read properly). In addition, each school had a liaison officer and was encouraged to have a violence prevention plan.

## **Special Protection Measures**

### ***Children in armed groups***

The Committee noted that there were cases when children under 17 had joined the armed forces and asked how that could be in line with the CRC. The delegation said that the legislation was in line with the CRC, since no child under the age of 18 took part in external military actions. Although in some cases the French legion could recruit soldiers of 17 years old, but to date there were no soldiers under the age of 18. Concerning arms and child soldiers, the Committee wanted to know whether there were policies on the sale of arms to ensure that they did not get in the hands of children, for example in the Great Lakes region.

### ***Refugee children***

The Committee asked about the measures to ensure that children were not separated from their families when they entered France. As children were held with adults in detention centres for foreigners, the Committee asked how they determined the age of unaccompanied children. The delegation explained that certain criteria had been established to set up an immigration and integration policy for children in an irregular situation. It noted that family reunification was a right and France's policy was family-oriented. The delegation noted that the issue mentioned was an exception and administrative detention should not be confused with detention. When unaccompanied children arrived at the airport, they were put in waiting areas and received support from the Red Cross. Legal guarantees and medical assistance was provided to the children and an ad hoc administrator was appointed immediately. They were not detention centres, but rather family-oriented centres, where families and children were not separated. An inter-ministerial working group had been set up to deal with such issues. Concerning the determination of age, the delegation said that bone examination was only used when there was serious doubt about the age on the documents and there were no other methods to determine age. As for the waiting area, the Committee said that children of 13 to 18 were treated as adults and did not get special treatment. It also expressed concern about the appointment of ad hoc administrators and about children arriving without documents. It asked about the measures to ensure that people who were sent back to their country of origin were welcomed there.

### ***Juvenile justice***

The Committee noted that some provisions in the law were not in line with the CRC, such as children between 16 and 17 being tried as adults. Under the 2007 law, some provisions had been withdrawn, which seemed to be a violation of the CRC. Noting that educational measures had very good results in other countries, it asked for follow-up on such measures in France. Concerning the principle of discernment, the Committee remarked that it was sometimes respected, but it depended on the courts. It was partly respected in the overseas territories, but it seemed very arbitrary. The delegation responded that there was no fixed age of criminal responsibility leaving it up to the discretion of the judge. It denied that children had been judged as adults. Magistrates did not decide alone but had recourse to psychiatric recommendations. A threshold for the age of criminal responsibility of 13 had been fixed. Below this age, children were not considered to be criminally responsible. A reform had been undertaken in relation to the Criminal Code focusing on educational solutions. There were 38 closed educational centres with 414 places where specialized educators were working with children and ensured that family ties were maintained. Of the 2000 young people who had left such centres, 32 percent had gone back to school and 25 percent had gone into vocational training. Another matter of great concern was the issue of repeat offenders. To be considered a repeat offender at the age of 16 to 18, the children had to be sentenced at least once to prison. For the repeat offenders, the provisions were stricter, but depending on the character of the child the court could rule for educational measures. Most rulings in courts were educational measures, and only 0, 5 percent of those were prison sentences.

### ***Sexual exploitation***

The Committee remarked that the information on sexual exploitation focused more on preventive measures. It therefore wanted to know if there was any monitoring mechanism, such as law officials, who were appointed to deal with sexual exploitation. The delegation responded that many plans had been set up for adolescents. Structures had been put in place,

most of which in health facilities, where adolescents could meet with professionals. There were about 50,000 consultations annually.

### ***Child abduction***

Regarding child abduction, the Committee commended the progress made, especially in the legal framework. It knew about the bilateral agreements between France and other countries and the law of the 4th of March 2002, which provided that parents could involve children in decisions affecting them, when appropriate. It therefore asked if there was any campaign to inform families on this law and any support provided to ensure that children participate in the process. The delegation explained that they wanted to beef-up such agreements, since children that were abducted, usually by a parent, were in huge distress.

### **Concluding Remarks**

Mr. Kotrane thanks the delegation for the constructive and fruitful discussion and noted that the recommendations and positive points would be recorded especially in terms of legislation. The Committee encouraged France to broadly disseminate the concluding observations. He noted that France should be more vigilant with regard to certain laws that were not fully implemented and issues such as adoption, children separated from parents and juvenile justice.

Mr. Citarella remarked that the Committee had received substantial information from the delegation. He emphasised the need to adopt a global policy for children. There were many initiatives or laws, but no comprehensive approach for children. Some things had not been discussed and the debate had not really covered the overseas departments. Crucial problems remained in relation to immigration policy, unaccompanied minors and the lack of a global policy for minorities and juvenile justice.

The delegation thanked the Committee for their questions. Regarding the applicability of the CRC, the delegation noted that they had been reproached that only 11 of 54 provisions were directly applicable. Given that there only used to be five, this was considerable progress. It also noted that it did not mean that the rest were not applicable. As for the issue of minorities, the delegation noted that there was an ongoing debate and it was a constitutional point. There were many initiatives, reports and a lot of thinking in this area and pressure had been put on the overseas departments to provide information on these issues. The delegation also reacted to the Committee reproach for not being self-critical, noting that it was difficult to criticize something that was still work in progress.