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增进和保护所有人权——公民权利、政治权利、
经济、社会和文化权利，包括发展权

买卖儿童、儿童卖淫和儿童色情制品问题特别报告员纳贾特·马拉·姆吉德的报告

增编

对法国的访问* * * * *

概要

在本报告中，买卖儿童、儿童卖淫和儿童色情制品问题特别报告员根据国际人权标准探讨了法国的买卖儿童、儿童卖淫和儿童色情制品问题。本报告以访问之前、期间和之后收集的信息为基础，对这些问题及其应对措施进行了分析，并提出了一系列具体建议，以防止买卖儿童、儿童卖淫和儿童色情制品，并切实保护儿童免遭上述行为。

* 本报告的概要以所有正式语文分发。报告全文载于概要附件，仅以提交语文和英文分发。

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*** 迟交。



Annex

Report on the mission to France of the Special Rapporteur on the sale of children, child prostitution and child pornography (21 November–2 December 2011)

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I. Introduction

A. Conduct of the visit

1. The Special Rapporteur on the sale of children, child prostitution and child pornography made an official visit to France from 21 November to 2 December 2011.¹ She met with a number of stakeholders involved in the issues covered by her mandate in the cities of Paris, Lyons, Marseilles and Bordeaux.²

2. The Special Rapporteur is grateful to the French Government for having arranged meetings with the official bodies, and for its cooperation before, during and after her visit.

3. The Special Rapporteur held discussions with the Minister for Solidarity and Social Cohesion, as well as with the Secretary of State responsible for the family and representatives of her ministry. The Special Rapporteur met representatives of the Ministry of Foreign and European Affairs, the Ministry of the Interior, the Ministry of Justice, the Ministry of Education, the Subdirectorate for Tourism at the Ministry of the Economy, Finance and Industry, as well as of the Ministry of Labour, Employment and Health (see appendix). The Special Rapporteur also met with representatives of the General Councils involved in the work of the Child Social Welfare Service (ASE). She spoke with the Defender of Rights and his deputy, the National Consultative Council of Human Rights (CNCDH), the Chairperson of the Higher Council for Adoption, a member of parliament and representatives of the Public Interest Group Children at Risk (GIPED). The Special Rapporteur also met with officials from the International Criminal Police Organization (INTERPOL).

4. The Special Rapporteur also held discussions with representatives of the UNICEF France Committee. She met representatives of civil society and the private sector and visited reception centres for children at risk.

B. Purposes of the visit

5. The purpose of the Special Rapporteur's visit was to establish the scale and impact of the sale of children, child prostitution and child pornography and to look at the general child protection framework, the initiatives and measures taken by the French Government, local authorities, members of third-sector associations and private-sector stakeholders in terms of prevention and to protect, care for and reintegrate children, as well as the penalties meted out to the perpetrators of such crimes and those who exploit children. The Special Rapporteur paid particular attention to the causes and risk factors at the root of these problems.

6. During her visit, the Special Rapporteur consulted the various stakeholders involved in child protection, discussing both the measures that had proved successful and those in need of strengthening, with a view to elaborating specific and targeted recommendations that were appropriate to the context and viable.

¹ The second visit undertaken under the mandate, her predecessor having visited France in 2002.

² This report largely focuses on metropolitan France; the Special Rapporteur did not visit the Overseas Departments and Territories and was not therefore able to obtain enough information in that regard.

II. Situation analysis

A. Scale and forms of the sale of children, child prostitution and child pornography

7. The true scale of these problems remains difficult to gauge because of their clandestine nature and the lack of centralized and disaggregated data.

1. Sale of children

8. The sale of children in France appears to be limited. The police services and some judges mentioned a case prosecuted in 2007 which involved the sale, between 2003 and 2006, of 22 babies of Bulgarian origin. The children had apparently been sold for between €6,000 and €15,000 for illegal adoption by French families. The police services also cited an isolated attempt to sell a baby in the car park of an Angoulême supermarket. Some of the associations consulted also raised cases of the sale of young girls, mainly from sub-Saharan Africa, for the purposes of sexual exploitation³ or to be sold as domestic labour (one case was cited in Paris and another in Marseilles).

9. It is difficult to determine the true scale of sale for international adoption. However, given the large number of French families wishing to adopt (30,000) and the possibility of resorting to individual adoption procedures, the adoption of foreign children through commercial intermediaries continues to pose a significant risk.

2. Child prostitution

10. None of the services consulted was able to provide the kind of official data — disaggregated by gender, profile, age and status — on the victims or on the perpetrators apprehended and prosecuted that could provide an overview of child prostitution. According to many of the stakeholders consulted, child prostitution in France mainly involves foreign minors (whether or not unaccompanied), mainly from Eastern Europe or sub-Saharan Africa, and sometimes the victims of trafficking networks. To a more limited extent, it may also involve unaccompanied minors or minors who have run away (from their hostel or from reception centres) and are using prostitution to secure a livelihood.

11. The police services consulted recognized that little was known about child prostitution and that it was a difficult issue to come to grips with, but they did not consider that it was on the increase. The police had, however, observed a constant increase in sexual assaults on minors, and that development was confirmed by the forensic medical unit at Créteil intercommunal hospital centre.⁴

12. The police services of the Paris Prefecture reported about a dozen children working as prostitutes in the area around the Gare du Nord in Paris, as well as a few other cases around the Bois Boulogne, largely involving minors from Eastern Europe. The Minors Brigades (*brigades de protection des mineurs*) in Lyons, Bordeaux and Marseilles provided vague estimates identifying only between two and seven cases annually. It emerged from the conversations which the Special Rapporteur had that the minors who were the victims of sexual exploitation were between 14 and 18 years-old. The statistics provided by the Parisian police services are in marked contrast to the estimates provided by the associations involved in protecting minors, who are the victims of prostitution, which carry out regular patrols. According to those associations, there are about one hundred minors who are the victims of sexual exploitation in Paris. One of the associations, which focuses its efforts at identifying victims principally in the 18th district of Paris, has apparently identified some 40 minors, mainly from sub-Saharan Africa, who are the victims of prostitution.

13. The research and interviews conducted by the Special Rapporteur have highlighted the clear absence of a centralized system of information and data collection that would

³ Largely noted by those associations in the 18th district of Paris.

⁴ See paragraph 70 below.

make it possible to provide reliable disaggregated data. The last study commissioned by the Ministry of Justice⁵ on the subject dates back to 2006 and does not consider the problem over the country as a whole, which again underscores the need for a more comprehensive and updated analysis of the problem.⁶

14. As regards sexual tourism involving children, the Central Office for Combating Violence against the Person (*Office central pour la répression des violences aux personnes*, OCRVP) mentioned 20 French offenders apprehended since 2007. But, according to those consulted, that is far from the true figure, given the difficulty in obtaining information from destination countries

3. Child pornography

15. As far as child pornography is concerned, all of the stakeholders consulted were unanimous in confirming that there had been a worrying increase in recent years, with a growing pattern and viewing of child pornography images on the Internet, but also increasingly violent images and ever younger victims.

16. The Central Office for the Repression of Human Trafficking noted that these crimes were more often the work of individuals (who could have entirely different profiles) than of criminal networks. The National Gendarmerie services for the prevention of cybercrime flagged up the figure of 600 reports annually and 106 victims identified in France by the police services, out of a total of more than 1 million images collected in the database. The Association of Internet Access and Service Providers (*Association des fournisseurs d'accès et de services Internet*) (AFA) recorded a peak of 8,000 reports between 2004 and 2005.⁷

17. According to the police services, the number of instances of grooming on the Internet has reached alarming proportions. A cyber-infiltration exercise⁸ had revealed that in less than five minutes about a dozen adults were explicitly grooming children for sexual purposes.

18. A new development in recent years involves the circulation of pornographic photographs or films, which are sent by young girls to their partners and then distributed without their consent.

19. The circulation of all of those images has irreparable consequences for the victims, in both the short and the long term, because once they have been put into circulation, they can never be completely withdrawn and may re-emerge at any moment in their life.⁹

20. However, all of the statistics put forward are far from reflecting the true scale of the problem, particularly because of the lack of human resources devoted to the issue. The difficulty in preventing child pornography, which has a cross-border dimension, is basically the consequence of the alarming rise in such crimes, the ultra-sophisticated technologies used by the criminals which are difficult to penetrate (ultra-secure encrypted peer-to-peer forums such as *Gigatribe*) and the fact that the identification of victims is highly dependent on the quality of the technological expertise and access to the information that is held by the Internet access providers.

B. Causes and risk factors

21. The factors underlying the sale of children, child prostitution and child pornography are multiple and correlated: on the one hand, pressure factors (absent or dysfunctional

⁵ *La prostitution de mineurs à Paris*, commissioned from the Anthropos consultancy by the Ministry of Justice.

⁶ The Children's Ombudsperson raised the possibility of making a problem-oriented study of the issue.

⁷ Substantiated by the Act on numerical reliability promulgated in 2004.

⁸ Act 2007-297 enabled the police services to establish cyber patrols and even exchange illegal files for infiltration purposes.

⁹ Only the "Photo DNA" system makes it possible to prevent re-victimization by preventing a photograph from being uploaded on to a network.

families, economic instability, mobility/migration, children's ease of access to information and communication technologies which it is difficult to control, early hyper-sexualization of children, dropping out of school, absconding, etc.) and, on the other, the demand factors (international increase in demand for sexual services involving children, very profitable sex industry, increasingly structured abuser networks, increasingly sophisticated technologies, swift and frequent development of sexual tourism destinations involving children and high demand for international adoption).

22. Some categories of children are more vulnerable, namely: children living on or wandering the streets; children placed in an institution [according to the National Observatory for Children at Risk (*Observatoire national de l'enfance en danger*, ONED),¹⁰ more than 267,000 children had been taken into care by the ASE at 31 December 2008 (an increase of 6 per cent compared with 2004)]; children who are the victims of sexual abuse within the family; children who are drug- or alcohol-dependent; and unaccompanied foreign minors¹¹ (estimated to number between 6,000 and 8,000), some of whom are the victims of trafficking networks seeking to use them for sexual purposes, begging or for crime.

23. France has currently to contend with a deteriorating economic situation: unemployment (in the second quarter of 2011, the employment rate in France was 9.2 per cent); insecurity and poverty (there were 8.2 million people living below the poverty line in 2009, nearly 2 million of them children);¹² housing difficulties or homelessness [16,000 children under 18 had no fixed abode in 2005,¹³ making it difficult for them to enrol in school (enrolment being contingent on domicile)]; dropping out from school (according to the Ministry of Education's Directorate-General of School Education, 230,000 children have dropped out of school) despite the legislation in force (any child, whatever their gender or nationality, is entitled to receive free, compulsory education between the ages of 6 and 16) and the efforts made by the Government.¹⁴

24. All of the stakeholders consulted were concerned at the early hyper-sexualization of children as a result, among other things, of their being exposed to pornographic material which had a marked impact on their sexual conduct. This was borne out by the increase in the number of sexual assaults committed by one minor on another, the rise in the abortion rate and the use of the morning-after pill by adolescents,¹⁵ and the availability online of erotic photographs and videos of sexual acts carried out by minors. Sex education programmes, which have been made compulsory by statute, have been introduced to tackle the problem. However, given the early age of sexual relations, some contributors propose that such programmes should be systematically provided from primary level.

¹⁰ Sixth annual report of the National Observatory for Children at Risk submitted to the French Parliament in June 2011.

¹¹ "An individual under the age of 18 who is outside his or country of origin without being accompanied by a parent or person exercising parental authority, that is to say without someone to protect and take important decisions in his or her regard", *Les mineurs isolés étrangers en France*, report by Isabelle Debré, member of parliament seconded to the Minister for Justice (*Garde des Sceaux*), May 2010.

¹² Threshold at 60 per cent of average income.

¹³ National Institute for Statistics and Economic Studies (INSEE).

¹⁴ Including the recent Act No. 2010-1127 to combat truancy.

¹⁵ According to the mother and child protection services in Lyons.

III. Measures to combat and prevent the sale of children, child prostitution and child pornography

A. Regional and international instruments for the promotion and protection of human rights

25. France ratified the Convention on the Rights of Child in 1990.¹⁶ It further ratified, in 2003, the two additional protocols to the Convention: the Optional Protocol on the Involvement of Children in Armed Conflict and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography.

26. France is a State party to all of the main international human rights treaties except for the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

27. In 1990, France ratified International Labour Organization (ILO) Convention No. 138 concerning the Minimum Age for Admission to Employment (1973) and, in 2001, it ratified ILO Convention No. 182 on the Worst Forms of Child Labour (1999). France also ratified, in 1998, the Convention on Protection of Children and Cooperation in respect of Intercountry Adoption (1993) and, in 2002, it ratified the supplementary Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000).

28. As a Member State of the European Union and the Council of Europe, France has ratified many regional instruments, including the European Convention on the Exercise of Children's Rights (2007) and the Council of Europe's Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, known as the Lanzarote Convention, (2010). France is in the process of transposing into national law Directive 2011/93/EU of the European Parliament and of the Council on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decisions 2004/68/JHA, and the resolution adopted, in 2011, by the General Assembly of INTERPOL, promoting victim-centric management of child abuse at the national level. Ratification of the Council of Europe's Convention on preventing and combating violence against women and domestic violence is under way.

B. National legislative framework

1. General legislative framework for child protection

29. The mechanism for child protection is essentially rooted in Framework Act No. 2007-293 on the reform of child protection. The main objectives of that piece of legislation are to: prevent ill-treatment; improve the early warning system; identify the threat of risks to minors; and diversify the methods of intervening and of supporting children and their families. The framework act also clarified the rules on professional secrecy and stepped up training for professionals. Without interfering with the overall arrangements, the legislation has restricted systematic recourse to the justice system in favour of social measures. It has improved the circulation of information between the various stakeholders in the system, particularly the ASE and the judicial authorities.

2. Sale of children

30. While French law does not contain provisions specifically banning the sale of children, as defined by the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, the Criminal Code contains many provisions under which sale in various forms is punishable by law.

¹⁶ France has entered declarations in regard to articles 6, 30 and 40, as well as reservations in regard to articles 30 and 40.

31. French law prohibits offering for sale, handing over or accepting a child, whatever the means used or the intended aim: for the purposes of the sexual exploitation of the child (see the section below); for the purpose of transferring the child's organs for payment (art. 511-2 to 511-5 of the Criminal Code); for the purposes of forced labour [prosecution for conditions of work contrary to the dignity of the person or complicity in that offence (art. 225-14 to 225-16 of the Criminal Code)]; or for the purposes of illegal adoption (art. 227-12, paras. 1 to 3, of the Criminal Code).

3. Child prostitution

32. French law protects minors who engage in prostitution, even on an occasional basis, since they are regarded as children at risk and benefit from the protection of the juvenile court judge under the educational welfare procedure (art. 13-II of Act No. 2002-305 of 4 March 2002).¹⁷

33. French law specifically punishes both the person using the child prostitute and the person who benefits as a result, namely the procurer.

34. Articles 225-12-1 and 225-12-2 of the Criminal Code penalize "soliciting, accepting or obtaining, in return for payment or the promise of payment, relations of a sexual nature from a minor engaging in prostitution, including on an occasional basis".¹⁸

35. Procuring is punishable under articles 225-7 and 225-7-1 by 10 years' imprisonment and a fine of €1,500,000 when committed in relation to a minor, and by 15 years' imprisonment and a fine of €3,000,000 when committed in relation to a minor under the age of 15.

36. It is important to note that, pursuant to article 7, paragraph 3, of the Code of Criminal Procedure, the time-limit for bringing a prosecution (10 years) in respect of crimes committed against minors does not begin to run until a minor has reached the age of majority.

37. Article 225-12-3 provides that these penalties are applicable even if the offences are committed abroad by a French national or a person ordinarily resident in French territory. That extraterritorial jurisdiction therefore enables France to act in cases of sexual tourism involving children.

4. Child pornography

38. The law penalizes producers of child pornography images and the consumers and perpetrators of crimes who use the Internet for sexual exploitation (art. 225-7 of the Criminal Code) or for grooming a minor (art. 227-22-1 of the Criminal Code).

39. For example, the law prohibits the fixing, recording or transmission of pornographic images of minors with a view to their distribution (art. 227-23); the distribution of pornographic images if likely to be viewed by a minor (art. 227-24); and habitually viewing or possessing child pornography images (art. 227-23).¹⁹ The pornographic representation of minors includes any montage constructed using photographs of children, but it also includes entirely virtual images of a paedophile nature (montage or drawing).

¹⁷ The guarantee of protection is reinforced by the Act of 5 March 2007, although prime responsibility for protecting children at risk now resides with the General Council.

¹⁸ The penalties may vary between 3 and 5 years imprisonment and a fine of between € 45,000 and €75,000. The penalties are increased to 7 years imprisonment and a fine of €100,000 where the victim is a minor under the age of 15.

¹⁹ It is important to note that the last subparagraph of that article provides for a presumption of minority ("pornographic images of a person whose physical appearance is that of a minor").

40. Act No. 2007-297 of 5 March 2007 established the responsibility of Internet website hosts by introducing a system of self-regulation, based on informatics and prevention, for which professionals in the sector bear responsibility.²⁰

41. Act No. 2011-267 of 14 March 2011 (LOPPSI 2 – *Loi d'orientation et de programmation pour la sécurité interne*) called into question the arrangements provided for under the Act on confidence in the digital economy (the LCEN – *Loi pour la confiance dans l'économie numérique* – of 21 June 2004) and made it possible to require Internet access providers to block access to websites publishing child pornography content. A blacklist of sites, which is not published, is drawn up by the police services; for their part, the Internet service providers are required to block access to such sites and filter the Internet protocol addresses designated by administrative order. Some of the stakeholders consulted voiced reservations about the actual effectiveness of the act which, while blocking sites, does not make it possible to eliminate their content.

42. All of the stakeholders consulted agreed that France had a very solid legislative framework which imposed severe penalties on offenders. However, the police services expressed some regret at the slowness of the judicial process and the fact that the judicial system minimized the seriousness of certain cases of cyber child pornography because of the “virtual” aspect of the crime.

43. The Special Rapporteur noted the difficulties encountered by the various stakeholders in getting to grips with the plethora of constantly changing child protection legislation. The representatives of the Ministry of Justice also flagged up the legislative inflation taking place at European Union and the Council of Europe level, which constituted an additional burden in terms of the transposition and application of that legislation.

5. Juvenile justice system

44. The 1945 order on young offenders, which has been recast on numerous occasions, is the cornerstone of the juvenile justice system in France. It had provided for judges (juvenile court judges) and specialist courts (juveniles courts and juvenile assize courts), as well as for the focus to be on educating rather than punishing, by taking into account a child's background and personality in order to determine the most appropriate response possible.

45. The provision of care for foreign unaccompanied minors is contingent on proof that they really are minors.²¹ Despite the legislation²² which attaches priority to the documents establishing minority, the authenticity of the documentation provided by minors is often challenged, in some cases requiring birth certificates with identity photographs.²³ As soon as he or she is detained in a holding area, a foreign unaccompanied minor who does not have a civil-status document, or whose identity papers are challenged, may be subject to a forensic report (including bone tests) carried out by the medical-judicial facility with local responsibility. However, the medical profession does not recognize the reliability of bone

²⁰ The warning “may not be access by minors” (*mise à disposition des mineurs interdite*) becomes mandatory if a document poses a risk to young people because of its pornographic nature. That act, supplemented by the Decree for the suppression of certain forms of computer crime and the prevention of child pornography of 30 March 2009, has given officers and officials with responsibility in the field the possibility of “taking part in electronic exchanges using a pseudonym; being in contact via that exchange with persons likely to have committed offences; extracting, transmitting in response to a specific request, acquiring or storing illegal content in conditions laid down by decree” (cyber-infiltration).

²¹ According to article 47 of the Civil Code, foreign civil-status documents are regarded as authentic but subject to a number of conditions, which are set out in the circular of 1 April 2003 on fraud in relation to foreign civil-status documents submitted to the French authorities.

²² Article 47 of the Civil Code.

²³ Most birth certificates do not include a photograph.

tests, as the margin of error is at least 18 months, particularly from the age of 15.²⁴ As policy on migration has been tightened, bone tests are carried out extensively. Children declared to have reached the age of majority are then either immediately excluded from the ASE arrangements — without even giving them time to provide proof that they are in fact minors, thus leaving them alone and on the streets, from one moment to the next, with no money and nowhere to turn to — or placed in holding centres to await deportation.

46. The Special Rapporteur shares the concerns of many of the stakeholders consulted, including the CNCDH and UNICEF, in regard to the punitive approach adopted in recent years in the field of juvenile justice. From the Perben I and II Acts of 2002 and 2004 to Act No. 2011-939 of 10 August 2011 on citizens' participation in the operation of the criminal justice system and the prosecution of minors, and including Act No. 2007-297 on the prevention of [youth] crime, it is clear that penalties have been, and are increasingly being, stepped up.

C. Institutional child protection framework

47. The organization of child protection in France is based on a particularly complex structure involving many stakeholders. Since the legislation on decentralization, which was introduced between 1983 and 1986, responsibilities for child protection have been devolved to the *départements* (General Councils). The State does, however, have a role to play in the system of protection: it has sovereign powers under the laws and provisions governing the conditions under which the social welfare bodies may intervene, as well as responsibilities in the judicial field. The State also retains a presence through the many institutions involved in child protection: the police services; the hospitals and the national education system. The arrangements for child protection are twofold, taking the form of administrative protection (General Council) and judicial protection (public prosecutor and juvenile court judge).

48. The Ministry of Solidarity and Social Cohesion prepares and implements French Government policy in regard to solidarity and social cohesion. The Directorate-General for Social Cohesion drives forward the national policies of solidarity, social development and the promotion of equality. Its Director-General performs the role of inter-ministerial delegate for the family and heads the Subdirectorate for children and the family which oversees child protection policy. During discussions with the Special Rapporteur, the Minister of Solidarity and the Minister of State responsible for the family stressed that, as far as child protection was concerned, prevention was a priority for the Ministry, particularly by way of the national policy on parenting support.²⁵ Under a call for projects, the National Fund for financing child protection²⁶ allocated, in June 2011, €6 million distributed among 48 innovative projects.²⁷ Some stakeholders consulted expressed regret that the funds had been deployed very late and frugally.

49. The *départements* have a pivotal role in the arrangements for the administrative protection of children, linking up closely with the judicial protection system. The responsibilities of the ASE are entrusted to the General Councils. Defined by the Social Welfare and Family Code, and revised by the act of 5 March 2007, those responsibilities include measures of prevention and support for the benefit of children and families experiencing psycho-social difficulties, and child care measures which may take the form

²⁴ It is established that if there is doubt as to whether, in the light of the medical examination, a young person is a minor, the young person must be given the benefit of the doubt and, in those circumstances, automatically be declared to be a minor.

²⁵ The objectives of combating poverty, which, according to the commitment entered into by the Government in 2007, should fall by a third between now and 2012, have also been emphasized by the Directorate-General for Social Cohesion DGCS. The objectives include reducing child poverty.

²⁶ Set up under the act of 5 March 2007. In 2011, the Fund's total revenue amounted to €40 million.

²⁷ The purpose of the Fund was to offset the cost to the *départements* of implementing the act and to support activities falling within the scope of the reform. The projects funded largely correspond to the latter objective.

of a variety of support measures, placement with a foster family or in an institution.²⁸ Each General Council organizes its responsibilities as it considers most appropriate, within the framework of the various laws governing its actions and taking account of the powers reserved for the State. The General Councils organize ASE on the basis of five-year departmental child protection strategies. As set out in the 2007 act, through its units responsible for collecting information giving rise to concern and its departmental child protection monitoring services, the General Council is also the linchpin in the system for collecting and evaluating information giving rise to concern and relating to children at risk. The General Councils also provide the public health services for the protection of the maternal and child health and work closely with the other social services such as the regional health agencies. The *départements* have also to deal with the heavy burden of responsibility,²⁹ which has grown significantly in recent years as a result of the arrival of increasing numbers of unaccompanied foreign minors. This additional care burden has led to significant tensions, as the General Councils consider that the reception of foreigners, their admission and the issuing of a residence permit are traditionally sovereign State responsibilities. The issue has led to a rift between the partners responsible for child protection arrangements, and, in several *départements*, they have engaged in a veritable trial of strength.³⁰ Many professionals involved in ASE activities expressed their regret at seeing the State gradually withdraw from the area of child protection.

50. It should be noted that there are differences between the General Councils in terms of approaches, practices, programmes and the allocation of resources. In addition, the implementation of the multi-year strategy remains highly dependent on the budgets allocated annually.

51. The Ministry of Justice is responsible for the judicial protection of children through its prosecutors and juvenile court judges. The act of 5 March 2007 clearly stipulated that intervention by the judiciary was subsidiary to administrative protection, which means that a situation must not be reported to the prosecutor and an educational support measure ordered by the juvenile court judge unless intervention by the General Council is not enough to resolve an at-risk situation. This principle of subsidiarity has been put into effect by reformulating the criteria governing the mandatory referral to the judicial authorities of situations of children at risk, or likely to become at risk, in such a way as to make them more restrictive.³¹ The new provisions were intended to remedy certain shortcomings, including: the lack of coordination between stakeholders; the watering down of responsibilities; the tendency excessively to refer reports and measures to the courts leading to a backlog at prosecutors' offices; an increase in the time taken to process cases; and increased distrust of social workers by families. The various prosecutor's office and juvenile court judges consulted generally stressed that cooperation with the ASE services was good, but they pointed out that the number of cases referred to them remained very high and that it had not been possible to resolve the problem of an overburdened judicial system.

52. Since the 2007 reform, the Department for the judicial protection of young people has seen its responsibilities in relation to educational support cut and the focus shifted to the criminal aspect. It was none the less tasked, in December 2010, with providing inter-ministerial coordination in order to improve coordination between the different stakeholders and harmonization of practices and procedures to secure better care for unaccompanied foreign minors. The representatives of the Department for the judicial

²⁸ No measure of administrative protection may be set in place without the agreement of the parents. Where their agreement cannot be obtained or the situation of the child requires the imposition of mandatory measures which affect the exercise of parental authority, the juvenile court judge is asked to intervene.

²⁹ Caring for 266,951 children and 20,995 young adults (aged between 18 and 21) benefiting from at least one support measure from the ASE services.

³⁰ Particularly in Seine-Saint-Denis during the second half of 2011.

³¹ That referral is now mandatory in three sets of circumstances: if the administrative protection set in place has failed to yield effective results; if the parents refuse the support measures offered by the services of the General Council; or if it is impossible to evaluate the situation.

protection of young people highlighted a number of difficulties in that regard during their conversations with the Special Rapporteur, including the position of minors approaching their majority and the slow pace and complex nature of the asylum-seeking process.

53. Along with the various police services involved, and most particularly the Minors Brigades (*brigades de protection des mineurs*), the Ministry of the Interior plays a key role in protecting children from sexual exploitation, sale and trafficking. While some Minors Brigades deal solely with victims who are minors (the Parisian Minors Brigade has a section which deals exclusively with sexual assault on minors), others deal with both minors who are victims and minors who have committed offences. The resources allocated vary from one brigade to another³². The different brigades³³ with which the Special Rapporteur met explained that the limited resources available to them meant that they were no longer able to conduct patrols (or exercises to identify children at risk on the streets) as often as in the past.

54. The OCRVP focuses 90 per cent of its activity on combating child pornography and 10 per cent on sexual tourism involving children. With a particularly expert staff, the group provides its expertise to the territorial departments of the police services. It also acts as the central national INTERPOL office and as the EUROPOL contract point. The Central Office for Combating Cybercrime linked to Information and Communications Technologies holds the blacklist of Internet sites to be blocked because of their child pornography content.

55. The Department for combating cybercrime within the National Gendarmerie also plays a key role in preventing cyber child pornography. With only five non-commissioned officers who conduct investigations and two analysts from the National centre for the analysis of child pornography images, this police service is not able to process all of the offences which need to be dealt with. They engage in cyber infiltration (as do the OCRVP, the Paris Minors Brigade and some sections of the National Gendarmerie). The National Gendarmerie and police services work closely together in combating cyber child pornography in order to prevent any duplication. The Special Rapporteur noted, however, that their work would be made easier and they would be more effective, if all of the services involved were coordinated by a single body.

56. National policy on adoption in France is steered by the Ministry of Solidarity and Social Cohesion, relying on the opinion of the Higher Council for Adoption. Set up in 2009, the International adoption service (Ministry of Foreign and European Affairs) is the central authority for international adoptions, as provided for under the Convention on Protection of Children and Cooperation in respect of InterCountry Adoption. It draws up a strategy for intercountry adoption after consulting the other French stakeholders involved in intercountry adoption: the French Adoption Agency and the 34 authorized adoption agencies.³⁴ The stakeholders consulted highlighted the mismatch between the number of children available for adoption and the demand. A new bill designed, among other things, to facilitate national adoptions, improve the process of according approval and secure the Agency's accreditation in all countries was due to be debated in the National Assembly in early 2012.³⁵

57. The Ministry of Education helps protect children through its educational policy of risk prevention but also through its educational establishments, working closely with the General Councils. As well as providing information and awareness-raising, in cases of risk or the likelihood of risk, these establishments forward the information giving rise to

³² The Paris BPM, for example, has 85 staff members specializing in assaults on minors (compared with 14 in Bordeaux).

³³ Cases involving minors who have been the victims of prostitution may also be referred to the Anti-procurement Squad (*Brigade de répression de proxénétisme*) (formerly the Vice Squad – *Brigade des mœurs*).

³⁴ In 2010, 3,504 children were adopted abroad by French families. Haiti was the main source of adoptive children (992 children), followed by Ethiopia, Vietnam, the Russia Federation and Colombia. Only 800 French children are available for adoption annually.

³⁵ The adoption system in France was reformed in 2005, but the reform was subsequently judged to be inadequate.

concern to the president of the General Council and report the most serious circumstances to the State Prosecutor.

58. GIPED, comprising the National Monitoring Service for Children at Risk (ONED) and the National Helpline for Children at Risk (119 – *Allô Enfance en danger*, a freephone number funded by the State), is a key player in the child protection system. ONED is tasked with collating the statistics collected for the purpose of better coordinating interventions, making an inventory of and evaluating the practices of prevention, screening and care of children, and conducting studies. Since the act of 5 March 2007, ONED has in particular been tasked with collecting from the departmental child protection monitoring services all of the data relating to information giving rise to concern that has been collected and processed within their territory.

59. The professionals working in GIPED stressed the challenges posed by coordinating among the different stakeholders involved in child protection and the efforts made by ONED to develop tools to ensure a common perception, as the very concept of children at risk remains problematic.

60. The third sector also plays an important role in child protection. Within the framework of contractual undertakings entered into with the *départements* or the State, it assumes the role of intermediary or service provider by carrying out patrols,³⁶ providing assistance in an open environment, reception, accommodation and care, as well as the reintegrating children or young adults.

National coordination and strategy

61. The complex nature of the child protection framework and the large number of stakeholders, but also the sensitive relationship between the administrative and judicial branches make coordination particularly difficult.

62. Many efforts have been made in that regard, by ONED in particular.³⁷ In addition, the Directorate-General for Social Cohesion is responsible for enhancing cooperation between the State, the local authorities and the associations either through its exchanges with the Assembly of French *Départements* or directly with the local authorities; it is also involved in the inter-ministerial work on social welfare. The Special Rapporteur noted, however, that the efforts at coordination undertaken would benefit from being stepped up, including by defining the areas of competence and the responsibilities of those involved in child protection.

63. The Special Rapporteur noted that while the act of 5 March 2007 is the framework recognized by all stakeholders, there is no genuine integrated national child protection strategy based on an approach with the focus is on the rights of the child.

D. Programmes of detection, care and child monitoring

64. Caring for and effectively protecting children who are the victims of sale, trafficking, abuse or sexual exploitation is a complex process that requires an interdisciplinary and holistic approach, which makes it possible to monitor the child from the point at which he or she is identified and taken into care (which may take the form of accommodation in a refuge centre) to that child's rehabilitation/reintegration which it is essential to monitor, via a period of medical, legal and psychological support.

³⁶ The aim of street patrols being to respond to immediate needs, to build a dialogue and help steer minors to reception or support facilities.

³⁷ For instance, the Technical steering committee established in 2011 for improved transmission to the departmental child protection observatories and to ONED of empirical evidence of the child protection processes.

1. Identification, reporting and complaint procedures

65. In France, there are several methods of reporting or filing a complaint which are accessible to everyone, including children. A child victim may be identified in a number of ways. First of all, by using 119, a freephone service that operates around the clock. The purpose of the 119 service is to take calls concerning children who are at risk or likely to become at risk, in order to make it easier to protect them. The service is also tasked with passing information giving rise to concern to the appropriate services of the General Councils or to report it directly to the prosecutor's office if the information obtained justifies this. The police services, doctors, school staff, social workers, children themselves or any other person within their environment may also make a report to the ASE services or to the prosecutor's office.³⁸

66. As regards complaints of sexual abuse on the Internet, several avenues for reporting such abuse have been established, including via the contact point set in place by the Association of Internet Access and Service Providers (*Association des fournisseurs d'accès et de services Internet* – AFA) and the official portal for reporting illegal content on the Ministry of the Interior's website (www.internet-signalement.gouv.fr).

67. In November 2011, the OCRVP submitted a proposal for an online reporting system for cases of sexual tourism involving children, drawn up jointly with End Child Prostitution in Asian Tourism (ECPAT) (a network working for the prevention of child prostitution, child pornography and the trafficking of children for sexual purposes). A decree authorising the proposal will have to be issued before it can be put into effect.

2. Assistance to and care of children

68. Psycho-social support and integrated care for the victims of sexual crimes, and minors in particular, have been stepped up for several years now. For instance, article 706-52 of the Code of Criminal Procedure, introduced by the Act of 17 June 1998 requires the audio-visual recording of a child victim's evidence, particularly where that child is the victim of a sexual crime. In order to make the experience less traumatic for the minor, the act also provided that the taking of evidence from a child who has reported offences of a sexual nature must take place in the presence of either a psychologist, a child psychiatrist or a child specialist, or an ad hoc administrator or person appointed by the juvenile court judge. As emerged from a number of the interviews with the Special Rapporteur, some investigators direct the victim to a victim support group once the hearing is over.

69. During her visits to the Minors Brigades, the Special Rapporteur did, however, note that limited technical resources meant that it was not always possible to make video recordings.³⁹

70. A noteworthy aspect of the care of the child, once he or she has been identified, is the existence in some hospitals of forensic medical units which specialize in taking evidence from the child. Victims thus benefit from multi-disciplinary care provided by psychologists and doctors. Specially fitted out interview rooms have been set up to ensure that the victim's evidence is taken in the best possible way by specialist investigators, with the result that the child is not required to go through the painful process of having to repeat his or her account of the facts. The Special Rapporteur noted, however, that none of the Minors Brigades with which she met used these interview rooms. She visited the forensic medical unit at Créteil hospital centre which has the advantage of offering a complete platform of care facilitating cooperation with the other services.

³⁸ In April 2011, at the instance of the High Authority for Health, the Ministry of Justice took part in the preparation of a fact sheet for doctors entitled "Identification and reporting of incest by the medical profession: recognizing sexual abuse within the family in relation to minors".

³⁹ In some case, the recording camera had been out of action for several months. In another brigade, the interview room for victims had been converted for other uses, so that interviews took place in the investigators' own offices, on occasion at the same time as another victim was being interviewed.

71. The General Councils spend more than €6 billion annually on child protection. Children at risk or likely to become at risk may be subject to a variety of care measures in the form of educational support in the home by agreement, or care in a foster family or child protection facility.⁴⁰

72. Children placed, by agreement, in care facilities run by either the ASE or by non-governmental organizations benefit from psychological and educational support. Some facilities offer a specific type of care, focusing on certain categories of minor, such as minors experiencing family break-up, unaccompanied foreign minors or young adults.

73. The care of unaccompanied foreign minors, which is currently the focus of a major controversy, remains inadequate and varies from one *département* to another, as a result, among other things, of the capacities of those *départements* which are taking in large numbers of these young people simply becoming overburdened. The Government has therefore set up a working group involving the State and the General Councils to identify solutions that will enable the young people to be distributed more evenly through the whole country. The majority of the professionals involved in caring for unaccompanied foreign minors also voiced great frustration regarding the efforts made to develop a way forward with these minors, who may then be deported once they reach the age of 18.

74. As regards children who are the victims of networks of exploitation, the various stakeholders have great difficulty in extracting them from the circle of exploitation, as the victims feel tied to their exploiters through fear or duty. As a rule, these minors run away from the centres which taken them in. In addition, the lack of alternatives for these minors, who are forced into prostitution, makes it hard to reintegrate them.

75. All of the stakeholders interviewed stressed a number of problems: namely the high numbers of children absconding from centres; “institutional vagrancy” with children moving from one facility to the next, resulting in a breakdown or discontinuity of care; the lack of safe facilities for children who are the victims of networks or procurers; the slow pace of judicial and asylum procedures; and the desperate shortage of places available with foster families and also in residential facilities, which is a major obstacle to providing appropriate care for children.

76. During these meetings and visits, disparities also emerged in relation to programmes, resources allocated and practices.

3. Reintegrating and monitoring children

77. The Special Rapporteur noted that there were few initiatives to ensure that the children taken into care by the ASE services were monitored. Limited resources mean that the stakeholders involved in child protection do not have the wherewithal to ensure monitoring of children, and so prioritize cases in need of urgent attention. Some *départements*, such as the *départements* of la Gironde and of Paris, have conducted selective studies on what has happened to children who have benefited from ASE support, but these monitoring arrangements have yet to be systematized.⁴¹ According to the representative of ASE Paris with whom the Special Rapporteur spoke, one third of persons currently of no fixed abode in Paris were “former ASE children”. That is an alarming statistic indicating that greater attention needs to be paid to reintegrating and monitoring these children

78. The Special Rapporteur noted that the process of caring for and monitoring the child victims who had been identified remains fragmented because there is no comprehensive and integrated system, equipped with the necessary means and properly qualified resources, and tailored to children’s profile, experience and needs. Hence the need to implement relevant and personalized programmes which are provided by properly qualified staff.

⁴⁰ All care programmes seek, as far as possible, to guarantee that the child’s family links are maintained.

⁴¹ The implementation of the Decree of 28 February 2011 organizing the anonymous transmission of information on children at risk to the departmental observatories and to ONED should, however, make it possible to gain a better knowledge of these processes.

E. Measures of prevention

79. Preventing any form of exploitation of minors is a lengthy task which must extend beyond mere awareness-raising campaigns. Effective protection attacks the root of the problem, including vulnerability factors, pressure and demand factors.

80. Many of the professionals working in child protection (the police services, health-care professionals, teachers, social workers, the third sector, etc.) visit schools to discuss directly with the children such issues as the problems of sexual violence and abuse, addiction (to drugs and alcohol), use of the Internet, [mobile] telephony, television and video games (the Ministry of Education draws up guides for educators in that regard).⁴² The Directorate of School Education regretted the fact that syllabuses do not include a specific slot for these sessions, and noted the difficulty in integrating them into other lessons. The Ministry of Health has set in place a significant number of preventive measures in relation to health (drugs, HIV, sexual health, etc.).⁴³

81. Combating dropping out from school and a rise in truancy is a priority for the Ministry of Education which introduced parental support measures and a “parental responsibility contract”⁴⁴ in 2006. The Special Rapporteur was sorry to see that the number of specialist support networks for pupils in difficulty was in decline.

82. In addition, advertising spots that pack a real punch are broadcast on French public television networks to bring to the attention of parents and children the dangers of inappropriate use of the Internet and other telecommunications media, as well as of video games. It would be helpful if these campaigns of education, information and awareness-raising were continued over the long term.

83. In partnership with the association *e-enfance*, the Ministry of Education provides an anonymous and confidential freephone line (*Net Écoute*), aimed at children, to respond to their questions or problems concerning use of the Internet, [mobile] telephony or video games. The *Web de Net Écoute* website provides a link to the AFA reporting site.

84. The authorities have set in place various mechanisms to prevent offenders from re-offending.⁴⁵ However, there has yet to be a specific study on offender profiles or on the increasing demand.

F. Training and capacity-building

85. Appropriate and interdisciplinary training of professionals working with the children is a vital component of an effective policy of prevention. The Subdirectorate for training and capacity-building of the Ministry of the Interior provides police officers with high-quality in-service specialist training in relation to child victims, and that training is also open to judges and social workers. However, limited resources mean that there are few trainers and they are able to provide only a limited amount of training. The Special Rapporteur also noted that training levels were uneven across the police services.⁴⁶

86. Judges are required to complete five days of in-service training a year provided by the National College for the Judiciary, which offers a wide range of targeted modules and placements within other partner agencies in the justice system (Minors Brigades, Central Office for Combating Cybercrime linked to Information and Communications

⁴² Since the 2011 Abortion Act, sessions on information and sex education have become compulsory three times a year (they had been taken place for years but had not been made a formal requirement).

⁴³ Some initiatives, like the “information cyber-spaces” (*cyberespaces d’information*) are particularly innovative.

⁴⁴ Repeated truancy may lead to the payment of family benefits being suspended.

⁴⁵ For example, minimum sentences (act of 10 August 2007) and the national computerized database of sex offenders (art. 706-53-1 *et seq.* of the Code of Criminal Procedure).

⁴⁶ The vast majority of the staff of the Paris and Bordeaux Minors Brigades had, for example, had that training, whereas other brigades had received only very little such training.

Technologies, etc.). On changing post (to become a juvenile court judge, for example), the judge must complete two weeks of prior training.

87. In recent years, many multi-disciplinary diplomas have been introduced, such as the diplomas in child protection, in forensic practices and in dealing with difficult adolescents.

88. Although education in human rights instruments, including in the Convention on the Rights of the Child, is provided for in school syllabuses, the Special Rapporteur noted inadequate knowledge of not only those instruments but of a rights-centred approach, particularly in the case of some stakeholders working directly with children.

G. Participation of children

89. The 32 Young Ambassadors for Children's Rights reporting to the Defender of Rights, under the citizenship initiative, meet with children in educational establishments but also in leisure centres and specialist facilities to raise children's awareness of various issues relating to their rights, including protection against any form of violence and exploitation.⁴⁷

90. The Young People's Consultative Committee, made up of 20 young people between the ages of 14 and 18, meets twice a year with the Children's Ombudsperson to discuss matters linked to the rights of the child. The Committee also contributes to preparing the thematic forums *Paroles aux jeunes* (Giving Young People a Voice).

91. The *Engagement Jeunes-Éducation au développement* (Engaging with Young People-Education in Development) service of UNICEF France performs a role of awareness-raising and advocacy in relation to the rights of the most vulnerable children in the world through its programmes Club UNICEF Jeunes, *Jeunes Ambassadeurs* and UNICEF Campus.⁴⁸

92. The Special Rapporteur noted, however, that participation by children in France remains relatively limited. It was not clear that children were actively involved in decisions pertaining to them. During her discussions, the Special Rapporteur stressed, on a number of occasions, the importance of taking account of the words and views of children and regarding them as an integral part of the solutions to be applied in preventing, and protecting children from all forms of abuse, violence and exploitation.

H. Watchdogs

93. The Defender of Rights, a new body under the Constitution since 1 April 2011, combines the responsibilities of four other — previously separate — bodies: the Ombudsman of the Republic, the Children's Ombudsperson, the National Security Ethics Committee and the High Authority to Combat Discrimination and Promote Equality. The Defender of Rights may be approached directly and free of charge by any natural or legal person on various issues relating to the defence of rights and freedoms, and has its own powers of investigation. The Defender of Rights is assisted by deputies with expertise in all areas of its activity (defence of children, security ethics and combating discrimination).

94. The Deputy Children's Ombudsperson, Vice-chairperson of the Council for the defence and promotion of the rights of the child, promotes the rights of the child and has powers to act on her own initiative.⁴⁹ It is probably too soon to gauge the effectiveness of this new institution, but the Special Rapporteur took note of a number of concerns about the limited autonomy of the Children's Ombudsperson.

⁴⁷ Between September 2010 and June 2011, the Young Ambassadors met with 27,000 children.

⁴⁸ For the moment, the awareness-raising and advocacy activities do not relate to the situation of the rights of the child in France.

⁴⁹ In 2010, 2,042 complaints relating to 2,899 children were processed. Currently, 50 voluntary delegates are able to receive complaints at 650 centres.

95. The CNCDH is the national institution that promotes and protects human rights in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). Its role is to act as a watchdog, make proposals, provide monitoring and raise awareness in relation to Government, Parliament and citizens, on all issues relating to human rights and international humanitarian law. During the meeting with the Special Rapporteur, the CNCDH reiterated its great concern over the punitive approach taken by the authorities, to the detriment of an educational approach, and the reception and care of unaccompanied foreign minors.

I. Social responsibility of the private sector

96. The AFA⁵⁰ was set up in 1997 on the initiative of the main Internet access providers to draw up a code of ethics for the industry. The AFA makes available to Internet users a form which they can use to report any offensive content on the Internet.⁵¹ At the meeting with the Special Rapporteur, the staff of the AFA (numbering just three professionals) stressed the need to act at domain name level (by deactivating them and preventing them from re-registering elsewhere) and not just block hosts.

97. As regards the prevention of sexual tourism, many stakeholders, from both civil society and the private sector are mobilizing. For example, ECPAT⁵² France is conducting several initiatives and awareness-raising campaigns in partnership with tourist industry professionals like Air France, Petit Futé, Club Méditerranée, the French Federation of Tourism Technicians and Professionals, the National Trade Union of Travel Agencies, as well as the ACCOR group and other associations like the Association against child prostitution.

98. At the round table organized by the Subdirectorate for Tourism and involving associations and professionals in the tourist industry, the point was made that, as the premier international tourist destination, France had to remain particularly vigilant about sexual tourism involving children in France. Some participants highlighted the need for greater involvement of the media and the Subdirectorate for Tourism in efforts at prevention.

J. International and regional cooperation

99. The Special Rapporteur took note of the significant efforts made by France in relation to international and regional cooperation. This is demonstrated by the commitment of France within INTERPOL, EUROPOL and EUROJUST. At the meeting with INTERPOL, the commitment of France was noted in terms of contributing to the INTERPOL image bank and to the identification of victims and offenders. The police services consulted generally stressed the good cooperation with their colleagues in several countries, which had made it possible to identify a number of victims, arrest offenders and dismantle exploiter networks.

100. A member of many francophone networks (such as FRANCOPOL),⁵³ France takes part in European programmes, such as the European Police College (for the purpose of harmonizing and coordinating activities) and the European Union's PHARE programmes for the benefit of countries applying to accede to the European Union.

⁵⁰ The members of the AFA are: Aricia, Azuria, Bouygues Telecom, Can'L, Google, Mana, Numericable, Orange and SFR.

⁵¹ This initiative has the support of the European Commission and, since 1999, an international scope with the creation of the International Association of Internet Hotlines (INHOPE), made up of foreign counterparts of the contact point. The main purpose of the international association is to remove child pornography content at its source.

⁵² Network for the prevention of child prostitution, child pornography and the trafficking of children for sexual purposes.

⁵³ International francophone police training network.

101. Within the framework of bilateral or multilateral cooperation, France is involved in many cooperation projects with several countries outside the European Union relating to the training of police officers and judges, the exchange of best practice and technical support.

102. The International Adoption Service is involved in international cooperation projects relating to intercountry adoption, particularly for the benefit of countries which are not signatories to the Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.

103. Nevertheless, difficulties persist, largely as a result of differences in legislation concerning the legality of certain acts and the applicable penalties, in procedures and working methods (particularly in regard to preventing cyber child pornography and sexual tourism involving children), but also as a result of a lack of will to cooperate on the part of some countries when it comes to information exchange and feedback and mutual judicial assistance.

IV. Conclusions and recommendations

A. Conclusions

104. **The Special Rapporteur welcomes the commitment of France and its high level of mobilization, working with many stakeholders from both the third sector and the private sector, to prevent, and to protect children from, sale, prostitution and child pornography.**

105. **Indeed, the results are encouraging: an extensive arsenal of legal measures in tune with the main international and regional instruments, effective decentralized arrangements for prevention and protection, with many programmes of assistance, support and care for children in difficulty and a universal education and social welfare system.**

106. **However, despite these significant achievements, some challenges remain: the build-up of legislation and the current trend towards a punitive approach are likely to jeopardize the achievements of a solid legislative framework that has made it possible to set in place very detailed child protection arrangements; children, often the most vulnerable children from dysfunctional and/or insecure families, slip through the safety net. Unaccompanied foreign minors seem to be the most disadvantaged and the most vulnerable to all forms of exploitation. Despite all of the efforts made by the authorities and the high degree of mobilization by civil society, care of children remains fragmented and uneven, depending on the department, and suffers from a lack of intersectoral cooperation. The social welfare services are swamped, and their capacities to take in and support children are overwhelmed.**

B. Recommendations

107. **In a spirit of dialogue and cooperation, the Special Rapporteur wishes to set out the following recommendations which are designed to consolidate and enhance the French Government's current efforts. She is persuaded that all necessary resources will be employed to put them into effect and is prepared to offer her full cooperation and assistance.**

108. **As regards the legislative aspect, the Special Rapporteur recommends that the French Government:**

(a) **Incorporates all of the texts of the legislation on child protection in a single practical guide to make it easier to understand and implement them;**

(b) **Ensures the full implementation of the solid range of legal instruments in place designed to protect minors, particularly the Act of 5 March 2007 reforming child protection;**

(c) Protects what has been achieved in relation to justice for minors by opting for the educational approach in preference to an exclusively punitive approach, including in the case of children who, although they have committed offences, are the victims of networks of exploitation or trafficking;

(d) [Ensures that] a restrictive policy on migration is not prejudicial to the protection of unaccompanied foreign minors, who are the most vulnerable to all forms of abuse and exploitation. Establishing minority must not solely be based on the not very reliable practice of bone tests; similarly unaccompanied foreign minors who have established an educational or occupational project in France must not be deported because they have reached the age of majority;

(e) Speeds up the process of reforming the adoption system in France to encourage national adoptions, particularly by means of the bill on abandoned children and adoption tabled in that connection in September 2011; reviews the procedures for issuing approval for adoption by the General Councils;

(f) Improves the professionalism of the authorized adoption agencies;

(g) Issues the decree making it possible to implement the proposed system for reporting online instances of sexual tourism submitted by OCRVP and drawn up jointly with ECPAT;

(h) Ensures that children's involvement in the judicial process⁵⁴ is consistent across the board, in order to prevent re-victimization;

(i) Speeds up judicial procedures and simplifies procedures for the granting of asylum;

(j) Systematizes training for police officers, gendarmes and judges, while providing them with the necessary resources, in order to harmonize practices and guarantee that children are effectively protected.

109. As far as policies and strategies are concerned, the Special Rapporteur strongly encourages the French Government to adopt a cross-cutting approach with the focus on the rights of the child, designed to establish a national strategic framework for child protection. The departmental child protection strategies would then become a variant of this national strategic framework, thus constituting integrated regional child protection systems that are harmonized and consistent with international rules and standards. In order to achieve this, the Special Rapporteur recommends:

(a) Mapping all of the programmes and actors involved in child protection in order to identify: (i) good practices and then pass them on; (ii) duplication in order to secure synergy of action and complementarity; and (iii) inefficiencies and disparities in order to remedy them;

(b) Defining the areas of competence and responsibility of each stakeholder: (i) by establishing effective intersectoral coordination arrangements; and (ii) by introducing accountability arrangements for each area of intervention;

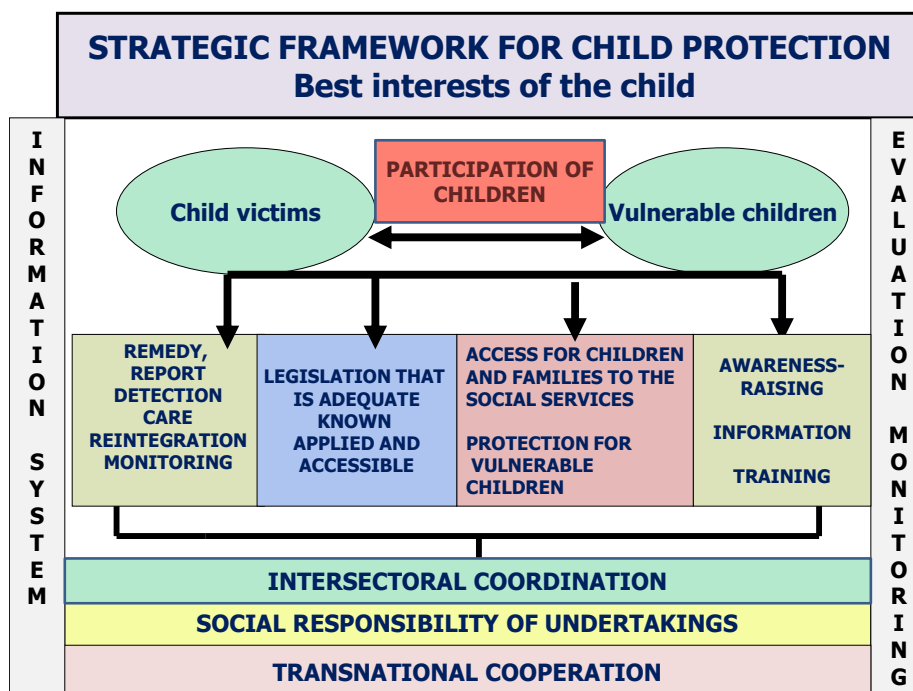
(c) Introducing a centralized, standardized and reliable system for the collection and processing of data, aggregated by age, gender, profile, status and a clear description of the nature of the crime committed against the child;

(d) Devising child protection indicators, on a participatory basis, with all stakeholders;

(e) Establishing rigorous monitoring and evaluation procedures concerning: (i) the implementation of the national strategy; (ii) its regional variants; (iii) the extent to which the child protection indicators have been achieved; and (iv) the impact of the strategies on the situation of children and their rights;

⁵⁴ Guidelines concerning the judicial process in cases involving child victims and child witnesses of criminal acts.

- (f) Determining the resources needed and timetable for implementing the national framework and its regional variants;
- (g) Maintaining the level of resources allocated to child protection despite the constraints imposed by the current economic climate;
- (h) Embarking upon a process of inclusive consultations with all stakeholders with a view to preparing the fifth periodic report to the Committee on the Rights of the Child.



110. In terms of prevention, the Special Rapporteur recommends:

- (a) Improving access to education and care for vulnerable children;
- (b) Bolstering support for families in difficulty;
- (c) Running awareness-raising campaigns over the long term, with strong involvement of the media, the third sector, the private sector and, above all, children's or young people's organizations; according major importance to information on how children can protect themselves, make reports and get help;
- (d) Enhancing sex education programmes targeting all children, including children at primary level;
- (e) Boosting assistance and support services in the home, before opting for residential care for a child;
- (f) Improving monitoring procedures where a child is placed in residential care or with a foster family;
- (g) Conducting studies/practical research in order better to identify the scale, trends in, causes, demand, risk and vulnerability factors for children.

111. In order to consolidate the arrangements for protection and make them accessible to all children without any discrimination, the Special Rapporteur recommends:

- (a) Improving the reporting channels geared to children, guaranteeing their protection, security and confidentiality;
- (b) Better identifying children at risk on the streets;

(c) Increasing the number of forensic medical units capable of providing interdisciplinary care for children who are the victims of abuse and sexual exploitation;

(d) Ensuring that the care programmes develop an integrated psycho-social approach focusing on the best interests of the child and that child's participation, by involving the child in every decision taken in his or her regard;

(e) Establishing sustainable alternative methods of reintegration;

(f) Ensuring that the capacities of facilities are expanded and that they are provided with the necessary resources;

(g) Systematizing the in-service and interdisciplinary training given to professionals who are, or are likely to be, in contact with child victims, in order to harmonize practices and guarantee effective protection for children; formally recognizing the experience and skills resulting from that training;

(h) Ensuring that children are monitored on a regular basis.

112. As far as the participation of children is concerned, the Government should improve:

(a) Easy access to information for children;

(b) The consideration given to their views in the decisions concerning them;

(c) It should encourage and support the actions and organizations of children and young people, so that they are better equipped to ensure their own protection and that of their peers.

113. As far as the watchdogs are concerned, the Special Rapporteur underlines the need to improve:

(a) Ease of access for all children, without discrimination, to these institutions;

(b) The monitoring and evaluation of the programmes and strategies and their impact on the situation of children and their rights;

(c) Cooperation with the CNCDH;

(d) The promotion and monitoring of the implementation of the Convention on the Rights of the child, its Optional Protocol[s] and the other relevant international and regional instruments.

114. As regards the social responsibility of the private sector, the Special Rapporteur encourages the Government to:

(a) Develop and reinforce its partnerships with the private sector, particularly the tourism and travel industry, the Internet service providers, the telecommunications companies, the banks, the trade unions in the transport sector and also the media, in order to prevent sexual tourism involving children and child pornography on the Internet;

(b) Make the wider public aware of the AFA contact point by publicizing it through a powerful element of the media such as television;

(c) Reinforce the blocking of websites with a child pornography content by acting at the level of domain names and not just in relation to hosts;

(d) Align the costs invoiced to the police services for obtaining Internet protocol addresses and ensure a rapid response;

(e) Make a strong contribution to the European financial coalition formed to detect and dismantle financial arrangements used to conclude transactions concerning the sexual exploitation of children.

115. To boost regional and international cooperation, in order effectively to combat these phenomena which transcend frontiers, the French Government should:

(a) Pursue and reinforce the efforts made in terms of training and the pooling of information in order to: (i) identify a greater number of victims and help supply the INTERPOL database; (ii) apprehend the perpetrators of sexual crimes against minors; and (iii) dismantle the networks for the sale of and trafficking in children;

(b) Continue with and expand the technical and logistical support to countries lacking resources and expertise;

(c) Support, at European level, the establishment of common legal frameworks and the coordination and harmonization of measures, with the best interests of the child being the prime consideration in regard to all measures taken to combat these crimes.

Appendix

List of the services, structures and organizations consulted but not cited in detail in the report⁵⁵

State and departmental services consulted

Ministry for Solidarity and Social Cohesion: Directorate-General for social cohesion; Subdirectorate for children and the family

Ministry of Foreign and European Affairs: Directorate for the United Nations; International Adoption Service

Ministry of the Interior: Delegation for international and European affairs; Directorate for international cooperation; Subdirectorate for training and development; Division of the National Gendarmerie for the prevention of cybercrime; Central Office for Combating Violence against the Person; Central Office for [the Repression of] Human Trafficking and Cybercrime; Central Office for the Prevention of Mobile Crime; Criminal Investigation Department; Minors Brigades; Vice Squads

Ministry of Justice: Directorate for criminal matters and pardons; Directorate for the judicial protection of young people, prosecutors and juvenile court judges; National College for the Judiciary

Ministry of Education: Directorate-General of School Education

Ministry of the Economy, Finance and Industry: Subdirectorate for Tourism

Ministry of Labour, Employment and Health: Directorate-General for Health

Département/City of Paris: Children's social welfare service; Deputy-Mayor of Paris

General Council of Lyons: Vice-President of the General Council; Department for child social welfare, the protection of mothers and children; Youth-offending Prevention Squad (Gendarmerie)

General Council of Marseilles: Directorate for children and the family

General Council of Bordeaux: Directorate for children and the family

Children's court and prosecutor's office, Paris

Prosecutor's office, Lyons

Children's court and prosecutor's office, Marseilles

Children's court and prosecutor's office, Bordeaux

Reception centres visited

Centre Mélingue, Paris

Association Thélémythe, Paris

Centre Raba-Bègles, Bordeaux

Centre mère-enfant (Family reception and support centre), Gradignan, Bordeaux

Foyer de la Rose (association for social reintegration), Marseilles

⁵⁵ Because of the word limit stipulated.

Service d'accompagnement des mineurs isolés étrangers (support service for unaccompanied foreign minors), Lyons

Centre Enfants du Monde/Red Cross, Kremlin Bicêtre, Paris

Non-governmental organizations

Amicale du Nid

Association contre la prostitution enfantine

Association française d'information et de recherche de l'enfance maltraitée

ANAFE

Arc75

Centre Enfants du Monde/Red Cross

COFRADE

Defence for Children International

ECPAT

Enfance Majuscule

Esclavage Tolérance Zéro

Children's Village Foundation

Fondation Scelles

France Terre d'Asile

GISTI

Hors La Rue

INAVEM

Journal du droit des jeunes

L'Ange Bleu

La Voix de l'enfant

Le Mouvement du Nid

Protégeons nos enfants

Secours Catholique

Private operators (telecommunications and tourism)

Association des fournisseurs d'accès et de services Internet (Association of Internet Access and Service Providers) (AFA)

Club Méditerranée

Fédération française des techniciens et scientifiques du tourisme (French Federation of Tourism Technicians and Professionals)

Petit Futé

Syndicat national des agences de voyages (National Trade Union of Travel Agencies)