

## Soumission par le Haut-Commissariat des Nations Unies pour les réfugiés

### Pour la compilation établie par le Haut-Commissariat aux droits de l'homme

#### Examen périodique universel : 3ème Cycle, 29ème Session

## FRANCE

### I. CONTEXTE GENERAL

La France a ratifié la *Convention du 28 juillet 1951 relative au statut des réfugiés* en 1954 et a adhéré à son *Protocole du 31 janvier 1967* en 1971 (ci-après dénommés conjointement la *Convention de 1951*). Si la France est également partie à la *Convention relative au statut des apatrides du 28 septembre 1954* (ratifiée en 1960), elle n'a cependant pas, malgré les discussions engagées avec le HCR, ratifié la *Convention sur la réduction des cas d'apatridie du 30 août 1961*, signée le 31 mai 1962.

La France a mis en place, dès les années 50, une procédure d'asile en créant par la loi du 25 juillet 1952,<sup>1</sup> l'Office français de protection des réfugiés et apatrides (OFPRA), établissement public administratif, actuellement placé sous la tutelle administrative et financière du Ministère de l'Intérieur, et en charge de l'éligibilité à la protection internationale. Cette même loi de 1952 créait la Commission des recours des réfugiés, devenue depuis 2007 la Cour nationale du droit d'asile (CNDA), juridiction administrative spécialisée, première dans l'ordre administratif par le volume d'affaires jugées. Cette juridiction est soumise au contrôle du Conseil d'Etat, juge de cassation et plus haute juridiction administrative française. Un juge assesseur désigné par le HCR est présent dans les formations de jugement collégiales de la CNDA, qui représentaient en 2016, 67,8 pourcent de l'ensemble des décisions.<sup>2</sup> Le juge unique de la CNDA est quant à lui saisi des demandes d'asile placées en procédure accélérée, à savoir celles introduites par des demandeurs de pays d'origine sûrs, des réexamens, des demandes considérées comme tardives,<sup>3</sup> des cas de dissimulation d'identité, de nationalité ou de parcours, ou encore des demandes sans pertinence, manifestement infondées ou introduites pour faire obstacle à une mesure d'éloignement.

La Représentation du HCR, présente en France depuis octobre 1952, exerce en vertu de la *Convention de 1951*, son rôle de supervision de l'application de la *Convention de 1951* dans le cadre de relations constructives et d'un dialogue constant avec l'ensemble des autorités françaises impliquées dans la protection des réfugiés et des apatrides depuis l'arrivée de ces personnes sur le territoire français jusqu'à l'obtention en leur faveur d'une solution durable.

Au 31 décembre 2016, 228 427 personnes (hors mineurs) étaient placées sous la protection de l'OFPRA : 86,1 pourcent sous le statut de réfugié (196 664 personnes), 13,3 pourcent au titre de la protection subsidiaire (30 393 personnes), et 0.6 pourcent en qualité d'apatrides (1,370 personnes). En 2016, la demande de protection internationale en France était en légère hausse par rapport à 2015 (une augmentation de 7,1 pourcent) avec 85 726<sup>4</sup> demandes enregistrées. Le nombre de demandes introduites par des enfants non accompagnés et isolés

<sup>1</sup> Loi n°52-893 du 25 juillet 1952 PORTANT CREATION D'UN OFFICE FRANCAIS DE PROTECTION DES REFUGIES APATRIDES

<sup>2</sup> Cour nationale du droit d'asile, Rapport d'activité 2016, page 7, disponible sur : <http://www.cnda.fr/La-CNDA/Actualites/Rapport-d-activite-2016>

<sup>3</sup> Une demande est considérée comme tardive lorsqu'elle n'a pas été présentée, sans motif légitime, dans le délai de 120 jours à compter de l'entrée en France (art. L723-2 – III 3° du Code de l'entrée et du séjour des étrangers et du droit d'asile).

<sup>4</sup> OFPRA, Rapport d'activité 2016, A l'écoute du monde, [https://ofpra.gouv.fr/sites/default/files/atoms/files/rapport\\_dactivite\\_ofpra\\_2016\\_1.pdf](https://ofpra.gouv.fr/sites/default/files/atoms/files/rapport_dactivite_ofpra_2016_1.pdf) Ce nombre n'inclut pas les personnes sous procédure Dublin (environ 22 000 personnes). Premiers chiffres provisoires de l'asile en France, 31 janvier 2017, disponible sur : <https://www.ofpra.gouv.fr/fr/l-ofpra/actualites/premiers-chiffres-de-l-asile-en-0>

demeure quant à lui modeste avec 474 premières demandes enregistrées en 2016. Le nombre de demandes d'asile placées en procédure accélérée a atteint 38,8 pourcent des demandes enregistrées en 2016, le plus fort taux depuis 15 ans. Quant au taux d'admission à la protection internationale, en augmentation, il s'établissait à 38,1 pourcent (dont 28,8 pourcent à l'OFPRA) et s'expliquait à la fois par les nationalités concernées (Soudan, Syrie, Afghanistan notamment) et les réformes structurelles engagées depuis 2013 (voir section II ci-dessous). L'OFPRA dispose pour 2017 d'un budget conséquent de 65 millions d'euros (par comparaison au 37 millions d'euros en 2012) et de 800 agents (contre 475 en 2012).

Par ailleurs, la France qui s'est engagée au titre des années 2016 et 2017 à accueillir 10,375 réfugiés syriens dans le cadre des programmes de réinstallation et d'admissions sur le territoire français, a également soutenu des initiatives privées<sup>5</sup> et a délivré davantage de visas. Ces engagements ne peuvent qu'être encouragés afin de favoriser les voies légales d'accès au territoire français.

Consécutivement aux actes de terrorisme ayant affecté la France en 2015, l'état d'urgence a été promulgué le 14 novembre 2015 et prolongé à plusieurs reprises avec un rétablissement temporaire du contrôle aux frontières intérieures de l'espace Schengen. Sur la question de l'asile, le HCR tout en rappelant l'intérêt légitime de la France de lutter contre le terrorisme international relève aussi l'importance de veiller à préserver un juste équilibre entre questions sécuritaires (ordre public et terrorisme) et principes de protection des réfugiés dans le strict respect de la *Convention de 1951*.

## II. REALISATIONS ET DEVELOPPEMENT POSITIFS

### **Développements positifs en lien avec les recommandations de l'EPU du 2<sup>ème</sup> cycle**

**En lien avec la recommandation de l'UPR no 120.163 : «Veiller à ce qu'aucune décision d'expulsion d'un demandeur d'asile, y compris selon la procédure prioritaire, ne soit exécutée avant qu'un juge compétent ne se soit prononcé sur la question (Mexique).»<sup>6</sup>**

Les autorités françaises et la société civile se sont accordées sur la nécessité de réformer le dispositif français d'asile<sup>7</sup> décrit par les uns et les autres comme "à bout de souffle". À l'automne 2013, une concertation nationale sur la réforme de l'asile initiée par les autorités françaises, a réuni administrations, autorités de détermination, associations et HCR. Cette réforme du droit d'asile engagée dans le cadre de la transposition obligatoire de textes régionaux européens avait notamment pour objectif louable de réduire les délais de procédure.

Elle a donné lieu à l'adoption de la *loi n° 2015-925 du 29 juillet 2015 relative à la réforme du droit d'asile* introduisant entre autres le caractère suspensif du recours devant la Cour nationale du droit d'asile (à l'exception des demandes irrecevables et des demandes d'asile en rétention), ce qui constitue un développement particulièrement positif. D'autres avancées de la loi sont à saluer : le renforcement des garanties procédurales lors de l'entretien à l'OFPRA ; celui des modalités de contrôle de la liste des pays d'origine sûrs ; l'introduction de la notion de vulnérabilité ; la codification de l'apatridie ; ainsi que la clarification de la procédure de réunification familiale même si en pratique des difficultés demeurent en matière d'accès aux postes consulaires, d'information des personnes sur l'ensemble de la procédure, de preuve du lien de famille, des délais ou encore la difficulté de détenir un titre de voyage.

<sup>5</sup> «*Mise en place des "couloirs humanitaires" en France: un projet œcuménique et citoyen innovant pour l'Europe pour un accueil des réfugiés les plus vulnérables*», 14 mars 2017, disponible sur: <https://www.cath.ch/newsf/la-france-met-en-place-des-couloirs-humanitaires-pour-accueillir-des-refugies-vulnerables/>.

<sup>6</sup> Toutes recommandations faites à la France pendant le 2<sup>ème</sup> cycle de l'EPU peuvent être trouvés dans : «Rapport du Groupe de travail sur l'Examen périodique universel de la France » (21 Mars 2013), A/HRC/23/3, disponible sur: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FRIndex.aspx>.

<sup>7</sup> Rapport de la Coordination française pour le droit d'asile, «*Droit d'asile en France: conditions d'accueil, état des lieux* », 2012, disponible sur: [http://cfda.rezo.net/Accueil/EDL%202013/EDL\\_CFDARapportwebversionfinale.pdf](http://cfda.rezo.net/Accueil/EDL%202013/EDL_CFDARapportwebversionfinale.pdf).

### III. QUESTIONS CLEFS DE PROTECTION, DEFIS ET RECOMMANDATIONS

#### Défis marquants en lien avec les recommandations de l'EPU du 2<sup>ème</sup> cycle

##### Point 1: Protection des enfants

**En lien avec la recommandation de l'UPR no. 120.165.** «Accorder une attention particulière aux enfants migrants non accompagnés et prendre des mesures spécifiques pour leur assurer une protection adéquate (Maroc).»

La France a complété le dispositif existant de prise en charge des enfants privés temporairement ou définitivement de la protection de leur famille en adoptant le 14 mars 2016, la *loi n°2016-297 relative à la protection de l'enfant*. Cette loi organise une meilleure répartition des enfants non accompagnés sur le territoire national ; clarifie le rôle de l'État et des départements en charge d'accueillir les enfants (l'Aide sociale à l'enfance) ainsi répartis ; et encadre davantage l'évaluation de l'âge, notamment le recours aux examens radiologiques osseux (dont la valeur reste très critiquée).<sup>8</sup> Pour l'année 2016, le nombre d'enfants non accompagnés et isolés pris en charge par le dispositif de l'Aide sociale à l'enfance, c'est-à-dire identifiés, évalués mineurs et isolés et effectivement pris en charge dans des centres dédiés, était de 8.054.<sup>9</sup>

Au cours de la période 2015-2016, la question de la prise en charge effective des enfants non accompagnés présents à Calais et Grande-Synthe dans la région des Hauts de France, espérant rejoindre le Royaume Uni, a émergé de manière saillante. Un certain nombre d'entre eux souhaitait rejoindre des membres de leur famille (père, mère, oncle, tante, frère, cousin) résidant au Royaume Uni et ont pu demeurer dans le camp de la Lande à Calais entre trois à dix-huit mois, parfois davantage. Cependant, ils demeuraient sans réelle prise en charge et évaluation de leur situation aux fins notamment de réunification familiale. Ils étaient particulièrement exposés à des risques de violences, y compris d'exploitation sexuelle ou par le travail. En pratique, la procédure de réunification familiale se heurtait à plusieurs difficultés : l'absence d'une information complète et impartiale dans la situation complexe de Calais ; une procédure longue ; l'insuffisance d'administrateurs *ad hoc* chargés de représenter les enfants ; ou encore le manque de précédents et d'expérience des différents acteurs tant institutionnels qu'associatifs (Associations de bénévoles, ONG anglaises, Sous-préfecture, etc.). Le nombre d'enfants non accompagnés présents à Calais a pu être estimé à environ 2,000. Le Conseil d'Etat est aussi venu rappeler aux autorités françaises, par une décision de novembre 2015, l'impérieuse nécessité de les recenser et de les placer.<sup>10</sup>

Dans le cadre des opérations de démantèlement du camp informel de Calais réalisées entre fin octobre et début novembre 2016, que le HCR appelait de ses vœux, 1,952 enfants non accompagnés ou séparés ont été orientés dans l'urgence vers des centres d'accueil et d'orientation pour mineurs isolés (CAOMI). Au total, 872 enfants ont finalement pu être transférés au Royaume Uni dans le contexte du démantèlement du camp.

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<sup>8</sup> Commission Nationale Consultative des Droits de l'Homme, *Avis sur la situation des mineurs isolés étrangers présents sur le territoire national - Etat des lieux un an après la circulaire du 31 mai 2013 relative aux modalités de prise en charge des jeunes isolés étrangers (dispositif national de mise à l'abri, d'évaluation et d'orientation)*, Assemblée plénière – 26 juin 2014, disponible sur: [http://www.cncdh.fr/sites/default/files/14.06.26\\_avis\\_situation\\_des\\_mie\\_0.pdf](http://www.cncdh.fr/sites/default/files/14.06.26_avis_situation_des_mie_0.pdf).

<sup>9</sup> Ministère de la Justice, Rapport Annuel D'activité 2016 Mission Mineurs Non Accompagnés Mars 2017, disponible sur : [http://www.justice.gouv.fr/art\\_pix/RAA\\_MMNA\\_2016.pdf](http://www.justice.gouv.fr/art_pix/RAA_MMNA_2016.pdf).

<sup>10</sup> Conseil d'Etat, *Ordonnance 23 novembre 2015, ministre de l'intérieur commune de Calais, Nos 394540, 394568* : «qu'il y avait seulement lieu d'enjoindre au préfet du Pas-de-Calais de procéder, dans un délai de quarante-huit heures, au recensement des mineurs isolés en situation de détresse et de se rapprocher du département du Pas-de-Calais en vue de leur placement», disponible sur : <http://www.conseil-etat.fr/Decisions-Avis-Publications/Decisions/Selection-des-decisions-faisant-l-objet-d-une-communication-particuliere/Ordonnance-23-novembre-2015-ministre-de-l-interieur-commune-de-Calais>.

Si cette opération tardive a permis de mettre à l'abri des enfants et jeunes dans des centres offrant dans l'ensemble de bonnes conditions d'accueil, elle a aussi mis en évidence le besoin d'anticiper les arrivées ; de bien mieux identifier les enfants en détresse sur le territoire ; d'aller à leur rencontre pour connaître leurs profils et projets migratoires ; de prendre en compte leur intérêt supérieur ; de faciliter la réunification familiale ; et de disposer en nombre suffisant de capacités d'accueil mobilisables rapidement<sup>11</sup>.

Avant d'arriver à Calais, ces enfants ont pu accéder au territoire français, via notamment la frontière franco-italienne, malgré des contrôles frontaliers étroits. S'il est parfaitement légitime que la France exerce de tels contrôles, plusieurs cas de renvoi d'enfants non accompagnés ont cependant été rapportés par la société civile<sup>12</sup> et la question des garanties dont ils devraient bénéficier lors des contrôles aux frontières et renvois en raison de leur particulière vulnérabilité se pose.

### **Recommandations:**

Le HCR recommande au Gouvernement de la France de :

- a) Mettre en place des mécanismes d'alerte pour mieux identifier les enfants non accompagnés et séparés présents sur le territoire national avec des dispositifs « qui vont vers » et intègrent des médiateurs interculturels pouvant en urgence les repérer et les mettre immédiatement à l'abri ;
- b) De prévoir dès l'arrivée en France la désignation d'un représentant légal pour veiller à la bonne mise en œuvre de toutes les mesures concernant les enfants tout au long de leur parcours en France ;
- c) Renforcer les capacités du système de protection de l'enfance pour couvrir les besoins d'accueil et anticiper de nouvelles arrivées en prêtant une attention particulière à l'intérêt supérieur des enfants et à la spécificité des profils de ces enfants ayant connu des parcours traumatiques ; et
- d) Veiller à s'assurer lors des contrôles frontaliers que la situation de particulière vulnérabilité des enfants non accompagnés est dûment prise en compte et que des garanties existent en matière d'information, de prise en compte de leur intérêt supérieur et éventuel accès à la protection internationale.

### **Autres défis de protection**

#### **Point 2: Les conditions de réception des demandeurs d'asile**

La réforme de l'asile de 2015 s'est accompagnée d'efforts budgétaires conséquents, engagés depuis 2012 pour augmenter et adapter aux nouveaux profils des demandeurs (davantage de personnes isolées – seules -) les capacités du dispositif national d'accueil en créant de nouvelles places d'hébergement. Même s'il est difficile de disposer de données actualisées sur le nombre exact de places dédiées à l'hébergement des demandeurs d'asile, le parc actuel comprenait fin 2016 environ 61,000 places en France métropolitaine réparties dans divers types d'hébergements. À cela s'ajoutent les places créées à compter d'octobre 2015 pour répondre à la situation de Calais et aux campements de fortune à Paris. Si la mise en œuvre de centres d'accueil a pu parfois rencontrer des réticences au niveau local nécessitant alors un travail d'explication auprès des populations, elle a, dans son immense majorité, suscité de nombreuses formes de solidarité des citoyens et associations (cours de français, dons d'équipements et de vêtements, médecins bénévoles) avec une implication toute particulière des différents services de l'État.<sup>13</sup>

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<sup>11</sup> Voir également Observations finales concernant le cinquième rapport périodique de la France, Comité des droits de l'enfant CRC/C/FRA/CO/5, 23 février 2016, §74.

<sup>12</sup> Des contrôles aux confins du droit, violations des droits humains à la frontière avec l'Italie, synthèse de mission d'observation, Amnesty international, février 2017, disponible sur : [https://amnestyfr.cdn.prismic.io/amnestyfr%2F97f9ee3c-f7f6-4549-bf7d-d04483c7ec01\\_aif\\_synthese\\_mission+a+la+frontiere+franco-italienne\\_2017\\_fr+.pdf](https://amnestyfr.cdn.prismic.io/amnestyfr%2F97f9ee3c-f7f6-4549-bf7d-d04483c7ec01_aif_synthese_mission+a+la+frontiere+franco-italienne_2017_fr+.pdf)

<sup>13</sup> Un village du Puy de Dôme ouvre ses portes pour les réfugiés, 20 avril 2017, disponible sur : <http://www.unhcr.org/fr/news/stories/2017/4/58fa0c48a/village-puy-dome-ouvre-portes-refugies.html>

À Paris et dans sa couronne, deux centres humanitaires de premier accueil d'une capacité chacun de 400 places ont également ouvert en novembre 2016 et janvier 2017 hébergeant à titre temporaire pour l'un, uniquement des hommes isolés pour une période de 10 jours et pour l'autre, des femmes et familles pour trois mois. Cette initiative mérite aussi d'être soulignée.

Toutefois tous les besoins d'hébergement des demandeurs d'asile ne sont pas couverts en raison du temps mis pour créer de nouvelles places ou les adapter, du nombre de demandes d'asile, du délai de la procédure d'asile (malgré son raccourcissement) et parfois le faible turnover dans les centres d'hébergement. La multiplicité des dispositifs d'hébergement a aussi contribué à un manque de clarté du dispositif d'ensemble et à des difficultés de pilotage. Tous les centres n'offrent pas par ailleurs les mêmes services en termes d'information des personnes et d'accompagnement.<sup>14</sup> Enfin, dans les territoires d'Outre-mer où l'accès aux droits sociaux (aide matérielle, hébergement, santé) est limité<sup>15</sup>, les besoins d'assistance aux demandeurs d'asile et réfugiés y sont pourtant cruciaux.

### **Recommandations:**

Le HCR recommande au Gouvernement de la France de:

- a) Créer des centres de 1<sup>er</sup> accueil humanitaire sur les routes migratoires au sein du territoire français, par exemple dans le sud-est et dans les Hauts de France, aux fins de mise à l'abri immédiate et d'orientation des nouveaux arrivants selon leur besoin de protection ;
- b) Prévoir un mécanisme de transfert rapide des nouvelles personnes arrivées, notamment à partir de Calais;
- c) Augmenter ses capacités d'hébergement et de disposer de lieux flexibles afin de répondre aux besoins réels d'hébergement des demandeurs d'asile, tout particulièrement en Outre-mer;
- d) Veiller à offrir un accompagnement de qualité aux demandeurs d'asile durant leur procédure en incluant dans les dispositifs d'accueil des interprètes ou médiateurs interculturels et en s'assurant que l'accès aux soins, notamment en santé mentale, soit effectif; et
- e) Mieux prendre en compte les situations de vulnérabilité pour adapter les conditions d'accueil aux demandeurs d'asile à besoins spécifiques, y compris les situations de violences liées au genre.

**UNHCR**  
**Juin 2017**

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<sup>14</sup> Voir également Comité des droits économiques, sociaux et culturels, Observations finales concernant le quatrième rapport périodique de la France E/C.12/FRA/CO/4, 13 juillet 2016, §19 ; Comité pour l'élimination de la discrimination à l'égard des femmes, Observations finales CEDAW/C/FRA/CO/7-8, 25 juillet 2016, §11b).

<sup>15</sup> Les demandeurs d'asile rencontrent des difficultés extrêmement importantes pour accéder à un hébergement le temps de l'examen de leur demande de protection internationale et bénéficier d'une assistance juridique, médicale ou psychosociale et à la scolarité. A Mayotte les demandeurs d'asile ne bénéficient d'aucune allocation financière et le nombre des d'hébergements d'urgence reste insuffisant (15 lits). En Guyane, l'hébergement mis à disposition est régulièrement saturé.



## ANNEX

### Excerpts of relevant Recommendations from the 2nd cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedures mandate holders

#### FRANCE

We would like to bring your attention to the following excerpts from the 2nd cycle UPR recommendations, UN Treaty Monitoring Bodies' Concluding Observations, and recommendations from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regards to France.

#### I. Universal Periodic Review (Second Cycle – 2012)

Recommendation <sup>16</sup>	Recommending State/s	Position <sup>17</sup>
<b>Refugees and asylum-seekers</b>		
120.160. Consider, especially, the access of the most disadvantaged groups to health centers and services, particularly in the case of asylum seekers and migrants.	Chile	Supported <sup>18</sup>
120.163. Guarantee that decisions to expel asylum seekers, including those subject to the priority procedure, are not executed until a competent judge has ruled on the matter.	Mexico	Supported <sup>19</sup>
120.164. Limit the use of detention of migrants and asylum seekers, especially when families with young children are concerned.	Norway	Supported <sup>20</sup>
<b>Trafficking in persons</b>		
120.119. Implement CRC recommendations by setting a national plan to fight trafficking in women and children.	Libya	Supported <sup>21</sup>

<sup>16</sup> All recommendations made to France during its 2nd cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review of France" (21 March 2013), A/HRC/23/3, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FRSession15.aspx>.

<sup>17</sup> France's views and replies can be found in: *Addendum* (28 May 2013), A/HRC/23/3/Add.1, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/FRSession15.aspx>.

<sup>18</sup> **Annex:** "La France dispose de mesures juridiques et financières permettant aux personnes appartenant à des groupes défavorisés et marginalisés d'avoir accès aux établissements, aux biens et aux services en matière de santé.

Les demandeurs d'asile bénéficient d'un accès immédiat au dispositif de droit commun (la Couverture maladie universelle et la Couverture maladie universelle complémentaire) dès lors qu'ils sont en procédure normale de demande. A défaut, ils relèvent de l'aide médicale de l'Etat (AME).

La situation des travailleurs migrants sans papiers et leurs membres de famille relève également des dispositions de l'AME."

<sup>19</sup> **Annex:** "La prise en considération des risques encourus par un étranger en cas de retour dans son pays d'origine peut s'effectuer dans le cadre de l'examen d'une demande d'asile mais aussi à l'occasion de la procédure d'éloignement. La procédure d'asile garantit un examen exhaustif des risques."

<sup>20</sup> **Annex:** "Le gouvernement français a adopté une circulaire le 6 juillet 2012 imposant aux préfets de ne plus placer d'enfants en rétention."

<sup>21</sup> **Annex:** "A draft plan of action was drawn up between December 2008 and July 2010 by a working group on the protection and care of victims of trafficking in human beings, initiated jointly by the Ministers of the Interior and Justice ... This project should be revised by the inter-ministerial coordination structure on the fight against trafficking in human beings set up in March 2012."

120.120. Consider adopting a national plan to combat trafficking in persons in the context of the measures taken to promote and protect the rights of women and children.	Peru	Supported
120.121. Establish a national plan to combat trafficking in persons and trafficking in women and children.	Spain	Supported
120.122. Design and implement a national plan against trafficking in persons that would include a national coordinating body.	Switzerland	Supported
120.123. Develop a national strategy to combat trafficking of women and children, and prohibit and criminalize child exploitation and prostitution.	Bahrain	Supported <sup>22</sup>
120.124. Adopt a national plan to fight against trafficking in persons.	Belgium	Supported <sup>23</sup>
120.125. Provide an update at the mid-term review on which specific measures it has put in place to combat trafficking of children and child prostitution	Hungry	Supported <sup>24</sup>
<b>Groups with specific needs</b>		
120.95. Take the necessary steps to ensure that allegations of ill-treatment by security forces in detention centers are promptly investigated, through a transparent and independent procedure, especially when they relate to particularly vulnerable groups such as minors.	Spain	Supported <sup>25</sup>
120.154. End the practice of forced evictions against the Roma population, by amending existing laws and enacting new ones aimed at the protection of this vulnerable group from forced evictions.	Ecuador	Noted <sup>26</sup>
120.156. Take immediate and effective steps to address discrimination perpetrated against the Roma people.	India	Supported
<b>Sexual and gender-based violence</b>		
120.37. Establish the National Observatory of violence against women	Republic of Moldova	Supported <sup>27</sup>

<sup>22</sup> **Annex:** "La France a élaboré un plan d'action concernant la traite des êtres humains, notamment celles des femmes et des enfants (voir réponse à la recommandation 120.119)."

<sup>23</sup> **Annex:** "Voir réponse à la recommandation 120.119. »

<sup>24</sup> **Annex:** "At the mid-term review of the Universal Periodic Review, France will submit a report outlining the measures taken in all human rights matters, including the fight against Trafficking in children and child prostitution."

<sup>25</sup> **Annex:** "Le strict respect des principes déontologiques constitue pour la police nationale comme pour la gendarmerie nationale une exigence absolue et ce souci éthique s'appuie sur une politique disciplinaire particulièrement rigoureuse. Ont été mis en place plusieurs mécanismes visant à assurer que les enquêtes sur des faits de mauvais traitements attribués aux forces de l'ordre, notamment dans les centres de détention, soient menées de manière transparente et indépendante..."

Lorsque de telles allégations concernent des mineurs, ces enquêtes font l'objet de la plus grande attention."

<sup>26</sup> **Annex:** "La France a déjà procédé à une modification de sa législation concernant la question des évacuations des campements où vivent notamment des populations Roms. Le gouvernement a décidé de lancer une politique interministérielle pour accompagner les évacuations des campements illicites et pour favoriser l'intégration de leurs habitants. Celle-ci est définie dans la circulaire du 26 août 2012 (Voir réponse à la recommandation 120.146)."

<sup>27</sup> **Annex:** "La lutte contre les violences commises à l'encontre des femmes est une priorité des pouvoirs publics. La Ministre des Droits des Femmes a pris la décision, en juillet 2012, de créer un Observatoire national des

120.65. Take measures to produce data adequate for combating discrimination and violence against minorities more efficiently.	Norway	Noted <sup>28</sup>
120.114. Continue the implementation of the national plan on "Women, Peace and Security", in the context of the implementation of Security Council Resolution 1325 pertaining to the protection of women against violence in conflict and post-conflict situations as well as the simplification of the procedures for naturalization and their integration into society.	Angola	Supported in part <sup>29</sup>
120.115. Combat domestic violence against women and children.	Russian Federation	Supported <sup>30</sup>
120.130 Adopt additional measures for the protection of the family institution and stop propaganda on relations between same-sex couples at the state level. Bring up the issue of adoption of children by same-sex couples to the public consideration.	Belarus	Supported <sup>31</sup>
<b>Birth registration</b>		
120.131. Ensure the birth registration of all children in French Guyana.	Brazil	Supported <sup>32</sup>

violences faites aux femmes qui a non seulement pour mission de mieux connaître et analyser ces violences, mais aussi d'organiser leur prévention, la protection et l'accompagnement des victimes."

<sup>28</sup> **Annex:** "La France combat activement les actes de violence et de discrimination envers tous ses citoyens, quelles que soient leurs origines ou situation.

Elle n'envisage pas de procéder à la réalisation de statistiques ethniques puisque le droit français ne reconnaît pas la notion de minorité

Toutefois, différents mécanismes ont été mis en place afin de lutter efficacement contre les discriminations à l'égard des personnes appartenant à des groupes minoritaires (voir la réponse à la recommandation 120.38)."

<sup>29</sup> **Annex:** "Dans le contexte de la mise en œuvre de la résolution 1325 du Conseil de sécurité sur la protection des femmes contre les violences et le respect de leurs droits fondamentaux dans les situations de conflit et postconflit, la France a élaboré un plan national d'action complet..."

En revanche, la France n'envisage pas de procéder à la simplification des procédures de naturalisation, les mécanismes actuels étant fondés sur des critères objectifs tels que la régularité du séjour en France, l'intégration dans la communauté française, et l'absence de condamnations pénales."

<sup>30</sup> **Annex:** "Une loi relative aux violences faites spécifiquement aux femmes, au sein des couples et aux incidences de ces dernières sur les enfants a été adoptée le 9 juillet 2010..."

Le 10 janvier 2013 a été installée une nouvelle mission interministérielle pour la protection des femmes victimes de violences et la lutte contre la traite des êtres humains (MIPROF)..

Pour que des partenariats se nouent entre les associations, les collectivités territoriales et l'Etat au plus près du terrain, en partant des besoins des victimes...

Enfin, la Convention CAHVIO est en cours de transposition dans un projet de loi portant diverses dispositions d'adaptation dans le domaine de la justice, déposé à l'Assemblée Nationale le 20 février 2013."

<sup>31</sup> **Annex:** "Depuis une loi en date du 23 avril 2013, le droit français autorise au nom du principe d'égalité le mariage entre deux personnes de même sexe et l'adoption d'enfants par des personnes de même sexe."

<sup>32</sup> **Annex:** "La Guyane abrite des populations amérindiennes ou « noirs marrons » à l'intérieur des terres isolées par la forêt amazonienne et qui vivent selon un mode de vie traditionnel. Pour tenter de résoudre les problèmes spécifiques de ces populations et de répondre à leurs aspirations, la loi du 21 février 2007 a créé un poste de sous-préfet chargé d'être leur interlocuteur attitré.

Les enfants appartenant à ces populations rencontrent des difficultés en termes d'accès aux services publics en général, notamment en matière d'état civil. Afin de rompre l'isolement de ces populations et de faciliter l'accès aux services de l'Etat, des missions itinérantes qui vont à la rencontre de ces populations isolées sont organisées régulièrement. Ces missions sont composées des fonctionnaires susceptibles d'apporter les informations pertinentes, d'accomplir les démarches, de fournir les actes nécessaires et d'informer et d'expliquer aux personnes leurs droits. Elles ont pour objectif de recenser les démarches administratives qui ne sont pas adaptées au caractère atypique de certaines situations afin d'y remédier."



<b>Stateless persons</b>		
120.22. Ratify the 1961 Convention on the Reduction of Statelessness.	Slovakia	Noted <sup>33</sup>
<b>Migrants</b>		
120.46. Support the legislative framework and institutional mechanisms to combat discrimination in the area of employment, and provide access to basic social services for minorities and migrants.	Libya	Supported <sup>34</sup>
120.55. Organize visits of the Special Rapporteurs on contemporary forms of racism, rights of migrants and torture to the country.	Belarus	Supported <sup>35</sup>
120.66. Further enhance the integration of indigenous peoples and communities of migrants by granting them more rights and by combating discrimination and racism.	Oman	Supported <sup>36</sup>
120.76. Continue the measures to combat discrimination and intolerance experienced by racial and ethnic minorities, especially those measures to eradicate the dissemination of stereotypes which may encourage discrimination and xenophobic manifestations towards migrants.	Argentina	Supported <sup>37</sup>
120.94. Investigate cases of disproportionate use of force by police during arrests, custody and interrogations of suspects in particular migrants.	Russian Federation	Supported <sup>38</sup>

<sup>33</sup> Annex: "La France n'envisage pas à l'heure actuelle la ratification de cette convention qui supposerait une modification de notre législation relative à la nationalité (article 27-2 et 21-4 du code civil). Toutefois la France est ouverte au dialogue sur cette question. En particulier, une discussion est en cours avec le Haut Commissariat des Nations Unies pour les réfugiés."

<sup>34</sup> **Annex:** "La France s'engage activement à combattre la discrimination dans l'accès à l'emploi (voir réponse à la recommandation 120.40).

Par ailleurs, les migrants, sans considération de leur statut, peuvent avoir accès en France à l'hébergement d'urgence et bénéficier de l'aide médicale d'Etat qui leur donne accès aux soins de santé."

<sup>35</sup> **Annex:** "La France a adressé une invitation permanente aux Rapporteurs Spéciaux des Nations Unies. Elle recevra donc les visites des Rapporteurs Spéciaux sur les formes contemporaines de racisme, les droits des migrants et la torture."

<sup>36</sup> **Annex:** "Selon notre conception de l'indivisibilité de la République française, le droit français ne reconnaît pas le concept de peuple autochtone, ni de minorité. La France estime que c'est dans le cadre de cette conception fondée sur l'égalité devant la loi que les droits de chacun sont les mieux garantis (voir réponse à la recommandation 120.3).

La France prend en compte l'intérêt des migrants dans sa législation, et notamment des travailleurs migrants (voir réponse à la recommandation 120.56).

Enfin, elle lutte activement contre les discriminations et le racisme par différents mécanismes mis en place récemment (voir réponse à la recommandation 120.62)."

<sup>37</sup> **Annex:** "Les actions d'éducation, de sensibilisation et de formation prévues dans le programme d'action complémentaire au plan national contre le racisme et l'antisémitisme 2012-2014 adopté par le Gouvernement le 26 février 2013 sont en particulier axées sur la lutte contre la formation des stéréotypes et des préjugés."

<sup>38</sup> **Annex:** "Le droit français sanctionne tout cas d'usage excessif de la force par la police et impose que soient menées des enquêtes approfondies sur de tels faits, que ce soit au cours d'une arrestation, d'une garde à vue ou d'un interrogatoire. La police est soumise à différentes autorités de contrôle (voir réponse à la recommandation 120.93). Ces dernières veillent au respect des droits des suspects, détenus et gardés à vue, y compris lorsqu'il s'agit de personnes migrantes."

120.157. Continue enhancing and developing policies for the social integration of migrants.	Kuwait	Supported <sup>39</sup>
120.160. Consider, especially, the access of the most disadvantaged groups to health centers and services, particularly in the case of asylum seekers and migrants.	Chile	Supported <sup>40</sup>
120.162. Ratify the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, improve the situation of detention of migrants and shorten the time they spent in detention facilities, punish all acts of violence against a migrant committed by any citizen, law enforcement officer, judicial or Government authority so that there is no room for impunity.	Ecuador	Supported in part. <sup>41</sup>
120.164. Limit the use of detention of migrants and asylum seekers, especially when families with young children are concerned.	Norway	Supported <sup>42</sup>
<b>Discrimination, racism and related intolerance</b>		
120.72 Intensify its efforts to fight against discrimination and intolerance, particularly against Muslims, immigrants and people of African descent, and encourage senior Government officials and politicians to take a clear position against racist or xenophobic political discourse.	Tunisia	Supported <sup>43</sup>

<sup>39</sup> **Annex:** "La France est très active dans la protection des droits de tous les migrants. Elle a mis en place une politique d'intégration des étrangers, susceptible de concerner les personnes migrantes."

<sup>40</sup> **Annex:** "la France dispose de mesures juridiques et financières permettant aux personnes appartenant à des groupes défavorisés et marginalisés d'avoir accès aux établissements, aux biens et aux services en matière de santé."

<sup>41</sup> **Annex:** "La France n'envisage pas de ratifier la Convention sur la protection des droits de tous les travailleurs migrants et des membres de leur famille..."

Par ailleurs, la France s'engage à poursuivre l'amélioration des conditions de maintien en zone d'attente ou de rétention des étrangers devant être reconduits dans leurs pays. Ces mesures ont un caractère limité dans le temps, sont strictement contrôlées par le juge judiciaire ainsi que par des autorités indépendantes (contrôleur général des lieux de privation de liberté, comité pour la prévention de la torture du Conseil de l'Europe (CPT)...) et les étrangers y bénéficient de droits garantis par la loi ainsi que d'une assistance juridique et humanitaire. Les conditions matérielles d'hébergement, qui doivent obéir à un référentiel précis et tiennent compte des recommandations du CPT, font l'objet d'une attention permanente. Une réflexion est en cours sur l'amélioration des conditions de la rétention et du maintien en zone d'attente et une circulaire a déjà été prise prescrivant de ne pas recourir en règle générale à la rétention de familles accompagnées d'enfants.

Enfin, la France condamne toute personne, y compris tout membre des forces de l'ordre, de l'appareil judiciaire ou d'une institution gouvernementale ayant commis un acte de violence contre un migrant."

<sup>42</sup> **Annex:** "Le gouvernement français a adopté une circulaire le 6 juillet 2012 imposant aux préfets de ne plus placer d'enfants en rétention. En alternative au placement des familles en rétention administrative, la circulaire préconise la mise en œuvre de l'assignation à résidence. En se fondant sur la Convention internationale relative aux droits de l'enfant, le texte dispose qu'en toutes circonstances, la protection de l'intérêt supérieur de l'enfant doit être privilégiée."

<sup>43</sup> **Annex:** "La France a mis en place une série de mécanismes anti-discrimination (voir réponse aux recommandations 120.38 et 120.62) afin de permettre à tous les membres de la société de jouir de ses droits dans les mêmes conditions. Toutefois ces mesures ne visent pas spécifiquement les musulmans ou les immigrés descendants d'africains, puisque la politique anti-discrimination s'attache à protéger tous les individus contre toute forme d'intolérance.

Qu'il s'agisse de hauts fonctionnaires, de représentants du Gouvernement français ou des médias, aucun ne dispose d'immunité en ce qui concerne d'éventuels discours à caractère raciste ou xénophobe. Ainsi, des poursuites peuvent parfaitement être menées à leur encontre, en application des règles de droit commun."

## II. Treaty Bodies

### Committee on Enforced Disappearances

Concluding Observations, (8 May 2013), [CED/C/FRA/CO/1](#)

#### **Measures to prevent enforced disappearance (arts. 16–23)**

26. The Committee notes that the State party's legislation prohibits refoulement, but no express reference is made to enforced disappearance among the factors that could put an alien who is returned in serious danger. The Committee also expresses its concern about the administrative procedures for admission and the very brief period of appeal granted to asylum seekers located in holding areas. The Committee remains concerned that the priority procedures do not provide for a suspensive appeal against an initial rejection by the French Office for the Protection of Refugees and Stateless Persons. Applicants may therefore be returned to countries where they are at risk of enforced disappearance before the National Court on the Right of Asylum is able to consider their applications for protection.

**27. The Committee recommends that the State party should make express provision under its domestic legislation for the prohibition of refoulement where there is a risk of a person being subjected to enforced disappearance. The Committee recommends that the State should guarantee an effective remedy to asylum seekers, within a suitable period, under asylum procedures at the border. The Committee recommends that the State party should introduce an appeal with suspensive effect for asylum applications submitted under the priority procedures on which the French Office for the Protection of Refugees and Stateless Persons has issued a negative decision.**

28. The Committee notes that the State party is involved in military operations abroad and highlights the need to fully implement the principles of the Convention, including the principle of non-refoulement. The Committee takes note of the information from the State party concerning the possible reasons for delays in communication to the chain of command regarding the capture or detention of persons during the intervention of French armed forces in situations of war or overseas operations and notes that the security reasons mentioned by the State should be limited solely to the detained persons' own security.

**29. The Committee recommends that, in the event of an intervention of the armed forces in crisis situations, delays in communication to the chain of command regarding the capture or detention of persons should be limited exclusively to cases in which the detained persons' own security is at stake and, in any case, should be in keeping with the Convention. The Committee recommends that the State party should establish a protocol for the transfer of detainees between States that is consistent with international law. The Committee recommends that the State party should ensure that the protection standards enshrined in the Convention are also fully respected when the State is involved in military operations abroad.**

30. The Committee takes note of the State party's assurance that there is no secret detention in France, owing to the prohibition against arbitrary detention combined with the precise conditions in which a person may be deprived of liberty. The Committee expresses its concern about the frequent use of police custody, its monitoring by the prosecution instead of a judicial authority and the fact that it may be extended several times in cases involving crimes of terrorism. The Committee is also concerned that aliens in administrative detention waiting to leave the country may have access to a judge only after five days. Lastly, the Committee remains concerned that the prohibition against communicating with the outside world under article 145-4 of the Code of Criminal Procedure may be extended to 20 days. The Committee takes note of the powers of the Human Rights Defender and the Controller General of Places of Deprivation of Liberty concerning the holding centres and areas and administrative detention centres. The Committee is concerned about the legal provision, to date never applied, to

establish ad hoc holding areas under article L221-2 of the Code on the Entry and Residence of Aliens and the Right of Asylum in the version introduced by the law of 16 June 2011. The Committee considers that if such a regime were applied in practice it would be difficult to provide legal guarantees applicable to the detainees or for the national mechanism for the prevention of torture to monitor ad hoc holding areas effectively.

**31. The Committee recommends that the State party should establish the right of appeal before a sitting judge to ensure that coercive measures are lawful and to enable detainees to be present in court. The Committee also recommends that a sitting judge should rule on the extension of police custody beyond 24 hours and should limit that possibility. The Committee recommends that any person in pretrial or administrative detention should have the right to communicate with the outside world and that this right should not be restricted beyond 48 hours. The Committee recommends that the State party should repeal article L221-2 of the Code on the Entry and Residence of Aliens and the Right of Asylum in the version introduced by the law of 16 June 2011 as far as detention procedures in ad hoc holding areas are concerned.**

#### **D. Dissemination and follow-up**

39. The Committee emphasizes the brutal impact of enforced disappearances on women and children. Women victims of disappearance are particularly vulnerable to sexual and other forms of violence, and women belonging to the family of a disappeared person are subjected to violence, persecution and reprisals. As for child victims of enforced disappearance, they are particularly vulnerable to identity substitution. The Committee therefore stresses the need for the State party to guarantee that women and child victims of enforced disappearance receive specific protection and assistance.

### **Human Rights Committee**

#### **Concluding Observations. (17 August 2015). [CCPR/C/FRA/CO/5](#)**

##### **Discrimination against Roma migrants**

13. The Committee is concerned at the fact that Roma migrants face rejection, exclusion and violence. It is particularly concerned at discrimination in access to health care, social benefits, education and housing which is compounded by forced evictions from settlements and a frequent lack of resettlement solutions and adequate follow-up (arts. 12, 17 and 26).

**The State party should strengthen the measures taken to ensure that Roma migrants are not discriminated against in terms of access to health care, social benefits, education and housing. It should also put an end to forced evictions from Roma settlements until alternatives and decent and long-term resettlement options can be guaranteed, in keeping with the circular of 26 August 2012. Furthermore, it should take steps to stem the rise of racist and discriminatory behaviour and discourse against the Roma.**

##### **Sexual abuse in the Central African Republic**

16. The Committee is concerned about the allegations of sexual abuse reportedly committed against children by several French soldiers during Operation Sangaris in 2013 and 2014. It finds it regrettable that there is so little information available on steps taken by the State party since becoming aware of the allegations (arts. 2, 7 and 24).

**The State party should ensure that the allegations of sexual abuse committed against children in the Central African Republic by French soldiers are effectively investigated as soon as possible and that the perpetrators are brought to justice.**

### **Immigrants and asylum seekers**

18. The Committee is concerned that some asylum applications, particularly those filed by persons from so-called safe countries of origin, automatically go through priority processing. It is concerned that this procedure deprives the applicant of the right to a suspensive appeal in the event of an initial denial by the French Office for the Protection of Refugees and Stateless Persons (OFPRA) and provides for fewer procedural guarantees, thereby exposing the applicant to a risk of refoulement. While it welcomes the fact that, under the bill to reform the asylum system, the suspensive appeal will be extended to all asylum seekers, the Committee is concerned that exceptions will remain, for example, in respect of asylum seekers in the overseas territories (arts. 2, 6 and 7).

**The State party should ensure that selection for fast-track processing is based on individual assessments of each situation. It should take the necessary steps to guarantee in practice that all asylum seekers and immigrants have an equal right to a fully effective suspensive appeal, specifically by ensuring access to professional interpretation services and legal aid in administrative custody centres and holding areas in metropolitan France and the overseas territories.**

19. The Committee is concerned about: (a) the particularly worrying situation of foreigners and asylum seekers in Mayotte, many of whom are unaccompanied minors; (b) the introduction in the department of Mayotte of excessively restrictive rules and procedures regarding asylum and residency through a system of derogations to the Code of Entry and Residence of Aliens and the Right to Asylum; (c) reports that unaccompanied minors in Mayotte are sometimes linked to adults who they do not know in order to expel them; (d) the fact that unaccompanied minors are still held in holding areas for up to 20 days; (e) the fact that accompanied minors are still regularly placed with their parents in administrative custody centres and facilities; (f) the length of time before the liberties and detention judge takes action, which deprives most detained foreigners of any review of the lawfulness of their custody or stay in holding areas or of their conditions of detention (arts. 7, 9, 10 and 13).

**The State party should: (a) review the system of derogations applied in the department of Mayotte, to ensure that foreigners and asylum seekers enjoy the same guarantees as in metropolitan France; (b) prohibit the deprivation of liberty of minors in transit areas and all administrative custody centres in metropolitan France and overseas territories; (c) ensure that foreign unaccompanied minors receive legal protection and the support of children's welfare services; (d) ensure that the ordinary courts review cases before any expulsion or return measure is implemented.**

### **Freedom of conscience and religion**

22. The Committee is concerned that the wearing of religious symbols considered "conspicuous" in public schools is regulated (Act No. 2004-228) and that face coverings are banned in public places (Act No. 2010-1192). The Committee is of the view that these laws infringe the freedom to express one's religion or belief and that they have a disproportionate impact on members of specific religions and on girls. The Committee is further concerned that the effect of these laws on certain groups' feeling of exclusion and marginalization could run counter to the intended goals (arts. 18 and 26).

**The State party should review Act No. 2004-228 of 15 March 2004 and Act No. 2010-1192 of 11 October 2010 in the light of its obligations under the Covenant, in particular article 18 on freedom of conscience and religion and the principle of equality set out in article 26.**

### **Racism, anti-Semitism and Islamophobia**

23. The Committee is concerned about the resurgence of racist and xenophobic discourse in both the public and political spheres, and fears that this may lead to the rise

of intolerance and a feeling of rejection in some communities. The Committee is also concerned about the upsurge in violent incidents of a racist, anti-Semitic or anti-Muslim nature (arts. 2, 18, 20 and 26).

**The State party should recall regularly and publicly that any advocacy of hatred that constitutes incitement to discrimination, hostility or violence is prohibited by law and should act promptly to bring perpetrators to justice. The State party should step up its efforts against racist, anti-Semitic and anti-Muslim violence, in particular by conducting investigations and by punishing the perpetrators of such acts.**

### **Committee on the Rights of the Child**

Concluding Observations, (23 February 2016), [CRC/C/FRA/CO/5](#)

#### **Allocation of resources**

13. Despite the large public investment in children, the Committee is concerned by the inequity in the allocation of some resources in the State party, particularly for children in situations of marginalization and for the overseas departments and territories, especially in Mayotte. It remains concerned by the absence of progress in carrying out consistent budgetary analysis.

**14. The Committee recommends that the State party:**

- (a) Establish a budgeting process which adequately takes into account the needs of children, with clear allocations for children in the relevant sectors and agencies, specific indicators and a tracking system;**
- (b) Increase the budget allocated to the social sectors, and to children in disadvantaged situations, such as Roma children; migrant children, including asylum-seeking and refugee children; and children in Mayotte and other overseas departments and territories;**
- (c) Ensure effective monitoring and evaluation of the efficacy, adequacy and equity of the distribution of resources allocated to the implementation of the Convention.**

#### **Non-discrimination**

23. The Committee welcomes the efforts made by the State party to combat discrimination. The Committee is concerned, however, about the persistence of discrimination on the grounds of sex, gender identity, disability, national origin, social and economic origin or other grounds. It further expresses its concern at the persistence of racial discrimination against and stigmatization of Roma children. The Committee is also concerned that the action plan for equality that replaced the "ABCD of Equality" programme was developed without the involvement of children, is not targeted specifically at children and lacks measurable objectives and a time frame.

**24. The Committee reiterates its previous recommendation and urges the State party to strengthen its efforts to foster a culture of equality, tolerance and mutual respect, to prevent and combat persistent discrimination and to ensure that all cases of discrimination against children in all sectors of society are effectively addressed (see CRC/C/FRA/CO/4 and Corr.1, para. 31). The Committee also recommends that the State party strengthen its efforts to challenge gender stereotypes, including within the framework of the action plan for equality, with measurable objectives and a time frame, aimed specifically at children in all levels of education, and to make relevant training for educators compulsory.**



### **Respect for the views of the child**

29. While welcoming the ongoing efforts by the State party to ensure respect for the views of the child, the Committee remains concerned about the little progress made to systematically ensure and implement respect for the views of the child in all relevant contexts of life. The Committee is concerned that the hearing of a child in legal proceedings is subject to a written request, and that judges have dismissed such requests on the grounds that they are poorly written. The Committee is further concerned that children in vulnerable or marginalized situations, such as children in administrative placement and children with disabilities, are often not consulted in matters concerning them.

**30. In the light of its general comment No. 12 (2009) on the right of the child to be heard, the Committee recommends that the State party ensure that all children, including those in vulnerable or marginalized situations, fully enjoy the right of the child to be heard, particularly in judicial and administrative proceedings and decisions. It recommends that the State party establish systems and/or procedures for the participation of children, the training of social workers and administrative or court authorities, and the provision of support by a professional (lawyer, ad hoc administrator or social worker). It also recommends that the State party:**

- (a) Develop effective avenues for children's views to be heard and adequately inform children of such channels;**
- (b) Conduct programmes and awareness-raising activities to promote the participation of all children within the family, community and schools, paying particular attention to children in vulnerable and marginalized situations.**

### **Birth registration/nationality**

31. The Committee welcomes the decision by the Court of Cassation of 3 July 2015 on the legal recognition and registration of children born to surrogate mothers, and the decision of 12 December 2015 by the Council of State to grant nationality to such children. The Committee is concerned, however, about inconsistencies among registry offices in the issuance of nationality certificates. The Committee is also concerned about the insufficient registration of children belonging to Amerindian and *Bushinenge* populations in the overseas departments and territories, which impedes them from exercising their rights.

**32. The Committee recommends that the State party address discrepancies among registry offices, and that it ratify the 1997 European Convention on Nationality and the 2009 Council of Europe Convention on the avoidance of statelessness in relation to State succession. The Committee reiterates its previous recommendation and urges the State party to strengthen its efforts to ensure birth registration for all children in the overseas departments and territories, particularly in French Guyana, including through considering a longer extension of the period of time for the registration of newborns (see CRC/C/FRA/CO/4 and Corr.1, para. 42).**

### **Sexual abuse in the Central African Republic**

45. The Committee is seriously concerned about allegations of sexual abuse committed against children by French soldiers in the Central African Republic and notes that the preliminary investigations are still ongoing. The Committee regrets the State party's reply that measures to protect child victims and witnesses of those crimes were not considered necessary (see CRC/C/FRA/Q/5/Add.1, para. 173).

**46. The Committee recommends that the State party ensure that the allegations of sexual abuse and exploitation of children in the Central African Republic by French soldiers are expeditiously and effectively investigated and that perpetrators are prosecuted. The Committee urges the State party to engage in measures relating to the care and support of child victims, including psychosocial support, monetary compensation or other reparations. The Committee recommends that the State party**

**strengthen preventive measures to ensure that the rights of children are respected and protected.**

### **Harmful practices**

47. While noting with appreciation the progress made by the State party in eradicating female genital mutilation, the Committee is nevertheless concerned by the many young girls still at risk and the possible resurgence of the phenomenon. The Committee is also concerned that medically unnecessary and irreversible surgery and other treatment are routinely performed on intersex children.

48. **Recalling the joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices, the Committee recommends that the State party gather data with a view to understanding the extent of these harmful practices so that children at risk can be more easily identified and their abuse prevented. It recommends that the State party:**

- (a) **Increase awareness of female genital mutilation in the State party among girls at risk, medical professionals, social workers, police officers, gendarmes, and magistrates;**
- (b) **Develop and implement a rights-based health-care protocol for intersex children, ensuring that children and their parents are appropriately informed of all options; that children are involved, to the greatest extent possible, in decision-making about their treatment and care; and that no child is subjected to unnecessary surgery or treatment.**

### **Family reunification**

51. The Committee is concerned by the three judgements of the European Court of Human Rights against the State party on 10 July 2014 for its failure to comply with the right to respect for family life, finding that the decision-making process for the issuance of visas had not demonstrated the required guarantees of flexibility, speed and efficacy.

52. **The Committee recommends that the State party take the legal and other measures necessary to establish a practice in the area of family reunification in accordance with the principles and provisions of the Convention and in fulfilment of the above-mentioned guarantees.**

### **Health and health services**

61. Despite noting with appreciation that the health of children is one of the priorities of the national health-care strategy defined in 2013, the Committee is concerned by the inadequacy of resources, the lack of specialized child health personnel and the general deterioration of services and structures, including at school and in maternal and child welfare protection centres, especially in the overseas departments and territories, in shantytowns and in refugee camps. The Committee is concerned about:

- (a) The fact that children are not automatically allowed to be accompanied by parents when hospitalized overnight;
- (b) The low rate of exclusive breastfeeding and the incomplete implementation of the International Code of Marketing of Breast-milk Substitutes;
- (c) The persistent excessively high level of infant mortality and early pregnancy in the overseas departments and territories, particularly in Mayotte;
- (d) The high rates of preventable infectious diseases in the overseas departments, particularly in French Guyana and Mayotte, including HIV/AIDS and tuberculosis;

- (e) The fact that migrant children without a valid residence permit continue to experience difficulties in exercising their right to health services.

**62. The Committee draws the State party's attention to its general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health, and recommends that the State party urgently address deficiencies in resources and medical staff, services and structures, particularly at school and in maternal and child welfare protection centres, and consider the specific needs of children, especially children living in the overseas departments and territories, in shantytowns and in refugee camps. The Committee also recommends that the State party:**

- (a) Review the conditions governing hospitalization from a child-rights perspective, and allow children to be accompanied and cared for by parents during hospitalization;**
- (b) Fully implement the International Code of Marketing of Breast-milk Substitutes and further promote exclusive breastfeeding practices (see CRC/C/FRA/CO/4 and Corr.1, para. 75);**
- (c) Increase efforts to reduce existing disparities in access to health-care services for children and mothers in the overseas departments and territories, particularly in Mayotte;**
- (d) Undertake targeted programmes for addressing preventable diseases, including HIV/AIDS and tuberculosis, particularly in French Guyana and Mayotte;**
- (e) Increase the necessary resources to ensure that all children, including unaccompanied children and migrant children without a valid residence permit, have access to basic health care.**

#### **Standard of living**

69. The Committee welcomes the adoption of the multi-year poverty reduction and social inclusion plan but is concerned about the situation of the 20 per cent of children who live in poverty and the large numbers of homeless children. It is particularly concerned about the worsening situation of children and families affected by the economic crisis living in poverty, particularly children in families headed by single parents and children living in shantytowns or in "sensitive urban areas", as well as children living in "emergency lodging" for periods extending to years. While welcoming the recent efforts by the State party to address disparities in the overseas departments and territories, the Committee nevertheless notes with particular concern the persistence and widening of social inequality across the territory of the State party, the slow progress in reducing the gap in the enjoyment of rights by children in the overseas departments and territories, particularly in French Guyana and Mayotte, and the situation of migrant children, particularly unaccompanied migrant children. It is also concerned by cases of forced eviction of Roma children and their families, without alternative relocation and without notice.

**70. The Committee recommends that the State party make the eradication of child poverty a national priority and that it allocate the necessary human, technical and financial resources to programmes to support those children and families in most need of support, particularly children and families affected by the economic crisis who are living in poverty, children in families headed by single parents or living in shantytowns or "sensitive urban areas", children in the overseas departments and territories and unaccompanied migrant children. The Committee also urges the State party to respect its international obligations with regard to forced evictions and encourages it in its endeavours towards the inclusion of Roma children and their families.**

### **Education, including vocational training and guidance**

71. The Committee welcomes the State party's decision to fill, on a priority basis, 60,000 vacant teacher positions by 2017. However, the Committee is concerned about the grave impact on children of the elimination in recent years of 80,000 teaching posts, the recruitment of untrained replacement personnel and the very high student-teacher ratio in certain schools. The Committee is also concerned about the large deterministic role that the socio-economic origin of children plays in school achievement in the State party and the disparities in the allocation of resources to schools, which varies by local municipality. Furthermore, it is concerned that:

- (a) Certain categories of children face difficulties in entering, continuing or re-entering education, school-related activities and facilities, especially children with disabilities, children living in shantytowns, unaccompanied migrant children (particularly in Mayotte) and children in conflict with the law;
- (b) Some children, including Roma children, unaccompanied migrant children and children living in precarious housing, face numerous difficulties with regard to enrolling in ordinary schools or gaining access to school canteens, and in some cases have not been allowed to do so by municipalities;
- (c) Progress has been slow with regard to reducing the large numbers of children dropping out of school early and without qualifications;
- (d) Training provided to education professionals is insufficient and inadequate;
- (e) Specialized assistance networks in schools are progressively disappearing, which particularly affects children with learning difficulties;
- (f) Violence and widespread bullying among students are common and education professionals lack the capacity to prevent and address them.

**72. The Committee recommends that the State party strengthen its educational reform with a view to reducing the effects of the social background of children on their achievement in school, and that it take additional measures to guarantee the availability of a sufficient number of qualified teachers to ensure the right to education to all children. It also recommends that the State party:**

- (a) Continue to strengthen measures to decrease dropout and repetition rates and expand vocational education and training for children who have left school without certificates, enabling them to re-enter education and acquire competencies and life skills;**
- (b) Ensure the right to education without discrimination to all children;**
- (c) Take measures to increase teachers' qualifications, including through continuing training programmes;**
- (d) Redeploy and appropriately fund specialized assistance networks in schools;**
- (e) Intensify its efforts to tackle bullying and violence in schools, including through the adoption of policies and tools in schools for the prevention and handling of cases of bullying and the appropriate training of school personnel on detecting, preventing and countering violence and bullying.**

### **Asylum-seeking, unaccompanied migrant children and refugee children**

73. The Committee is concerned about the situation of unaccompanied migrant children in the State party who cannot access special protection and assistance measures. It is concerned that the State party does not sufficiently consider the best interests of the child as a guiding

principle in all initial assessment processes and subsequent arrangements. The Committee notes with concern the difficulties faced with regard to accessing child protection structures and legal representation, psychological support, social assistance and education, especially for 17-year-olds. The Committee is also concerned that the procedure set out in the circular of 31 May 2013, on the equitable distribution of services provided to unaccompanied migrant children, has been partially annulled by the Council of State (*Conseil d'Etat*) decision of January 2015, resulting in insufficient quality of care and protection of children and refusals by certain municipalities to provide such protection. It notes with concern the number of children subjected to administrative detention in 2014, most of them in Mayotte, in degrading conditions and without access to a judge. The Committee is also concerned about:

- (a) The situation of unaccompanied migrant children automatically placed in waiting zones of airports or hotels, and other administrative detention facilities (*locaux de rétention administrative*), sometimes detained with adults, and reports of their removal, even before they speak to an ad hoc administrator;
- (b) The overreliance on bone tests to determine the age of children, and cases in which the child's consent was, in practice, not sought.

**74. The Committee recommends that the State party guarantee sufficient human, technical and financial resources throughout its jurisdiction to specialist and child-specific support, protection, legal representation, social assistance, and educational and vocational training of unaccompanied migrant children and build the capacities of law enforcement officials in this regard. It also recommends that the State party:**

- (a) Adopt the necessary measures, including those of a legal nature, to avoid the detention of children in waiting zones through increased efforts to find suitable alternatives to deprivation of liberty and place children in appropriate accommodation, and to fully respect non-refoulement obligations;**
- (b) Put an end to the use of bone tests as the main method to determine the age of children, using instead other methods that are proven to be more accurate.**

75. The Committee welcomes the State party's commitment to receive a large number of Syrian refugees, including children, over the next two years. However, the Committee is concerned at the precarious situation of children and their families in refugee camps in the northern part of the State party, such as in Calais and in Grande-Synthe, the refusal by authorities to register children and the lack of sufficient resources for venues and services to provide them with appropriate and adapted protection.

**76. The Committee reminds the State party of its primary responsibility for the protection of children in accordance with its international obligations and urges the State party to ensure the rights of all children, including children living in refugee camps, to registration, humane living standards and adequate health care services.**

#### **Children in armed conflict**

77. The Committee welcomes the efforts by the State party to prevent the recruitment of children by non-State armed groups and radical religious and ideological movements, including the national plan to combat violent radicalization and jihadist networks. The Committee is concerned, however that children and young persons in the State party continue to be brainwashed into joining such movements and networks, particularly through the Internet.

**78. The Committee recommends that the State party strengthen measures to prevent the recruitment of children by non-State armed groups and radical religious and ideological movements and, in particular, to understand the phenomenon and its root causes among children and youth in the State party. It also recommends that the State**

**party increase its resource allocation to invest in outreach and empowerment programmes, ensuring the engagement of children and youth, as well as the wider community.**

#### **Sale, trafficking and abduction**

79. While welcoming the adoption of the national action plan to combat human trafficking for the period 2014-2016, the Committee is concerned that the plan does not have time-bound, measurable benchmarks and is not yet operational. Particularly, the Committee is concerned by the fragmentation and inequality across jurisdictions for children seeking to obtain assistance, and by:

- (a) The very small number of cases resulting in convictions;
- (b) The insufficiency of measures to correctly identify child victims of trafficking based on the best interests of the child, and the fact that the presumption of minority is not always respected, including in cases of children forced into delinquency;
- (c) The non-implementation of the obligation to provide access to interpreters or to ad hoc administrators throughout procedures;
- (d) The inadequacy of care for children who have been victims of sale and trafficking.

**80. The Committee recommends that the State party:**

- (a) **Provide the necessary resources for an effective implementation of the national action plan to combat human trafficking;**
- (b) **Ensure that child protection standards for child victims of trafficking meet international standards, in conformity with the Council of Europe Convention on Action against Trafficking in Human Beings;**
- (c) **Ensure that cases of trafficking are given high priority by the legal authorities and that cases are expeditiously investigated;**
- (d) **Ensure that child victims of sale and trafficking, including children forced into delinquency, are provided with appropriate assistance and protection.**

#### **Committee against Torture**

Concluding Observations, (10 June 2016), [CAT/C/FRA/CO/7](#)

#### **Protection of marginalized individuals and population groups from violence motivated by hatred**

14. The Committee is concerned about reports of an increase in violence and criminal acts motivated by hatred against certain vulnerable individuals and population groups in the State party, including Roma, Muslims, Jews and migrants, particularly since the recent terrorist attacks which prompted the adoption of the state of emergency (arts. 2 and 16).

**15. The Committee recalls that the protection of vulnerable individuals or groups who are at risk of ill-treatment is one of the protective measures that the State party should adopt in light of the Committee's General comment No. 2 on implementation of article 2 by States parties. It recommends that the State party intensify its efforts to prevent violence and criminal acts motivated by hatred and intolerance and prosecute those responsible for such acts.**



### **Alleged excessive use of force by the police and the gendarmerie**

16. The Committee is concerned by the allegations of excessive use of force by the police and the gendarmerie, which has in some instances led to serious injuries or death. It is likewise concerned by: (a) reports of problems faced by victims in filing complaints; (b) the lack of statistical data on complaints filed that would allow for comparisons with inquiries launched and cases prosecuted; (c) the lack of detailed information on related convictions of police and gendarmerie officers and the sentences handed down; and (d) reports of high numbers of cases being dismissed or discontinued, light administrative sanctions being imposed that are not proportionate to the seriousness of the actions, and a very small number of court-ordered penalties being imposed upon police and gendarmerie officers. The Committee is also concerned about the allegations of violence being used against asylum seekers and migrants, and about their situation in Calais and the surrounding area (arts. 2, 12 and 13).

**17. The Committee recommends that the State party enhance its efforts to prevent any excessive use of force by the police and the gendarmerie and to ensure that:**

- (a) The necessary steps are taken to guarantee that, in practice, victims of police violence are able to file complaints, that the complaints are registered and that, if appropriate, the complainants are afforded protection against any risk of retaliation;**
- (b) Any case brought to its attention is promptly investigated in an impartial, independent and transparent manner within a reasonable time frame;**
- (c) Cases are prosecuted and, in the event of conviction, punishment proportionate to the seriousness of the actions is ordered;**
- (d) Complete, disaggregated statistics are kept on complaints filed and reports received of acts of violence or excessive use of force, and on administrative or judicial inquiries opened into police or gendarmerie actions, prosecution proceedings launched, convictions and penalties handed down, and on cases proceedings dismissed or discontinued.**

**18. The Committee requests the State party to provide information on the follow-up given to (a) complaints filed with the Ombudsman and (b) allegations of police violence towards asylum seekers and migrants, and information on the situation of such persons in Calais and the surrounding area.**

### **Non-refoulement**

19. While taking note of the explanations provided by the State party, the Committee is concerned that use of the numerous criteria established in article L 723-2 of the Code on the Entry and Residence of Aliens and the Right of Asylum, such as provenance from a “safe” country of origin, could lead to a significantly higher number of asylum requests being considered under the fast-track procedure (which represents 25 to 30 per cent of the overall demand, according to the State party), potentially without proper advance assessment. The Committee is of the view that the short time allowed for the review of asylum requests by the French Office for the Protection of Refugees and Stateless Persons, coupled with the number of requests being considered under the fast-track procedure, could lead to cursory or incomplete assessments of risks, including the risk of torture or ill-treatment, to which the asylum seeker might be exposed if deported. The Committee is also concerned that the time allowed for asylum seekers, including unaccompanied minors, to prepare their request — 48 hours for asylum seekers being held in a waiting area and 5 days for those at administrative holding centres — is too short for them to be able to avail themselves of adequate legal or interpretation assistance to defend their request, thus potentially exposing them to the full gamut of risks in case of deportation (art. 3).

**20. The Committee recommends that the State party take all necessary steps to ensure that the criteria used for deciding whether a request will be considered by the fast-track**

procedure, in particular provenance from a “safe” country of origin, do not lead to automatic or systematic assignment to the fast-track procedure. It also recommends that the State party ensure that the risks faced by each asylum seeker are assessed thoroughly in cases where this procedure is used. Lastly, the Committee recommends that the State party take all necessary measures to ensure that, in all instances, asylum seekers enjoy effective access to legal, interpretation and other assistance that will allow them to properly prepare and defend their case. It requests the State party to revisit the time frames in which asylum seekers in waiting areas and administrative holding centres may present their case to the National Court on the Right of Asylum.

#### **Conditions of detention**

22. The Committee recommends that the State party, as a matter of urgency, continue its efforts to improve conditions of detention by implementing the recommendations of the Inspector General of Places of Deprivation of Liberty, including, in particular, to: (a) effectively reduce prison overcrowding by making greater use of alternatives to imprisonment in line with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules); (b) improve physical conditions of detention; (c) ensure that all acts of violence at prison facilities are brought to the attention of the appropriate authorities and that thorough and impartial inquiries are conducted into them; (d) strengthen its National Action Plan against Violence in Prisons; and (e) ensure that prisoners are, in practice, able to file complaints with the Inspector General of Places of Deprivation of Liberty without fear of retaliation.

#### **Sexual abuse committed in the Central African Republic**

32. The Committee is concerned about the numerous allegations of sexual abuse of children committed by French soldiers during Operation Sangaris in the Central African Republic — an operation authorized by Security Council Resolution 2127 (2013) — and by recent similar cases that have occurred in the same context. The Committee notes the information that investigations were carried out by the French authorities in 2014 and 2015 but remains concerned that, to date, there have been no trials, no convictions and no sentences (arts. 2, 12 and 16).

33. The Committee recommends that the State party continue to ensure that all allegations of sexual abuse of children committed by French soldiers in the Central African Republic are investigated promptly and with due diligence and that the perpetrators are brought to justice as soon as possible and given penalties commensurate with the seriousness of the offence. The Committee also recommends that the State party ensure that social and psychological assistance and redress are provided to the victims, and that they receive up-to-date information on the progress of investigations into their cases. The Committee further recommends that the State party strengthen measures to prevent such incidents in the future.

#### **Redress and rehabilitation**

38. The Committee takes note of the information provided by the State party about the mechanisms established to provide redress and rehabilitation for victims, and specifically the Victim Assistance Offices, which for the most part cater for victims of trafficking rather than victims of torture and ill-treatment, and the measures taken to identify and address the particular vulnerability of asylum seekers as part of the asylum procedure provided for in article L-723-3 of the Code on the Entry and Residence of Aliens and the Right of Asylum. However, the Committee is concerned about: (a) information received indicating that the State party lacks a policy for the rehabilitation of victims of torture and that there are problems with access to existing facilities; (b) the failure to systematically assess vulnerability as early on in the asylum process as possible; (c) the shortage of resources available to associations and other entities offering treatment and care tailored to victims of torture, including asylum seekers; (d) the shortage of professionals sufficiently trained in the identification and care of such persons; and

(e) the lack of statistical data on the redress and rehabilitation measures ordered by the courts for victims of torture and on the number of asylum seekers who have benefited from such measures (arts. 2 and 13).

**39. Taking into account general comment No. 3 (2012) on the implementation of article 14 by States parties, the Committee recommends that the State party: (a) implement a policy for the rehabilitation of victims of torture and facilitate access to rehabilitation facilities; (b) put in place stronger measures and arrangements for the earliest possible detection and care of asylum seekers who have been subjected to torture or cruel, inhuman or degrading treatment; and (c) provide adequate training and a sufficient number of professionals, increase the availability of care tailored to this population group, and ensure the allocation of the necessary resources to associations and other entities dealing with victims of torture so that they can meet the needs in this area.**

### **Committee on Economic, Social and Cultural Rights**

Concluding Observations, (13 July 2016), [E/C.12/FRA/CO/4](#)

#### **Recognition of minorities**

14. While noting that the State party is of the view that the recognition of minority groups or collective rights is incompatible with its Constitution, the Committee reaffirms that the principle that all persons are equal before the law and the prohibition of discrimination are not always sufficient to ensure that members of minority groups are able to exercise their economic, social and cultural rights. Moreover, the Committee considers that the proper recognition of ethnic and cultural minorities does not undermine cohesiveness or national unity but, on the contrary, reinforces them (art. 2 (2)).

**15. The Committee recommends that the State party consider revisiting its position regarding minority groups and officially recognize the need to protect the cultural rights of all minority groups. The Committee therefore reiterates the recommendation which it made in that connection in its preceding concluding observations (E/C.12/FRA/CO/3).**

#### **Asylum seekers**

18. The Committee is deeply concerned about the substandard conditions existing in the reception and accommodation facilities for asylum seekers and the administrative obstacles which impede access to social and economic rights, thereby reducing the effectiveness of the safeguards put in place as part of the reform of the asylum system (art. 2 (2)).

**19. The Committee calls upon the State party to remove administrative and other obstacles that hinder asylum seekers from exercising their economic and social rights by, in particular:**

- (a) Fully informing asylum seekers of their rights in an independent, thorough and impartial manner and in a language which they understand;**
- (b) Streamlining and expediting the administrative procedures for gaining access to social and economic rights;**
- (c) Expanding the capacity of reception centres or equivalent permanent facilities in order to meet the actual demand and making provision for temporary emergency lodging arrangements on an exceptional basis in order to cover the demand for accommodations in its entirety;**
- (d) Ensuring satisfactory living standards and improved access to the general health-care system, as well as to specialized facilities, including those that provide**

**treatment for such conditions as psychological disorders and trauma linked to persons' experiences when fleeing or when in exile.**

### **Social vulnerability and the right to social security**

29. While noting that the elimination of stigmatization is one of the principles underpinning the multi-year plan for poverty reduction and social inclusion, the Committee finds it regrettable that the plan does not provide for specific measures for removing the stigma attached to recipients of social assistance benefits, who are among the most disadvantaged and marginalized segments of the population. It also finds it regrettable that the line of action focusing on access to rights and minimum social benefits does not provide for any procedural measures for reducing the high rate of non-utilization of benefits in the State party. In addition, the Committee is concerned that the residential address requirement prevents many people living in situations of hardship from receiving benefits (art. 9).

**30. The Committee urges the State party to take the following actions as part of its implementation of the multi-year plan for poverty reduction and social inclusion:**

**(a) Adopt measures designed to change public opinion that tends towards stigmatizing poverty and recipients of social assistance benefits through awareness-raising campaigns aimed at conveying a rights-based approach to poverty;**

**(b) Reassess social security eligibility requirements, procedures and application processing times with a view to ensuring that they are suitable, reasonable, proportionate and transparent;**

**(c) Determine the non-procedural causes of the high rate of non-utilization of social benefits and identify corrective actions in consultation with persons living in situations of hardship and with civil society;**

**(d) Guarantee effective access to the various types of social security benefits, including health-care benefits, in overseas departments and regions and overseas communities;**

**(e) Expedite the adoption of the bill on the elimination of discrimination against people living in situations of hardship.**

### **Poverty**

31. The Committee is concerned at the incidence of poverty among certain disadvantaged and marginalized groups.

**32. The Committee urges the State party to assess the impact of the multi-year plan for poverty reduction and social inclusion, not only in terms of the plan's objectives but also of the effects on disadvantaged groups, such as single-parent families, the long-term unemployed, asylum seekers and households living in priority urban zones.**

### **The right to education**

49. The Committee notes with concern the low school enrolment rate for Roma children and instances in which some mayors have refused to allow certain children to enrol in school (art. 13).

**50. Recalling that the principle of non-discrimination in access to education applies to all school-age persons in the State party, regardless of their administrative situation, the Committee calls upon the State party to ensure that mayors fulfil their duty to keep a record of the school-age children in their district, including those who live in informal settlements, and to make certain that they are enrolled in school.**

## **Committee on the Elimination of Discrimination against Women**

### **Refugee and asylum-seeking women**

10. The Committee welcomes the improvements in the legal framework on asylum made in 2015, the housing allocations for asylum seekers, the specific actions to bring certain vulnerable refugees directly to France and the medical support provided to foreigners in need of it. The Committee is, however, concerned that the State party may have difficulty dealing with an influx of refugees and providing them with decent housing, as demonstrated by the precarious sanitary and housing conditions, lack of guaranteed access to food, clean water, sanitation, medical care, psychological support and legal counselling, and high levels of exposure to violence and exploitation, especially for women and girls, in Calais. The Committee is also concerned that asylum applications, especially from women from so-called safe countries and/or women in waiting areas, are considered under the accelerated procedure, with fewer safeguards, even though such applications can be moved back into the normal procedure, and that safe country lists may vary within the European Union.

**11. In line with its general recommendations No. 32 (2014) on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women and No. 30 (2013) on women in conflict prevention, conflict and post-conflict situations, the Committee calls upon the State party:**

- (a) To implement its obligations under international law with regard to asylum seekers and refugees, such as the principle of non-refoulement;**
- (b) To take a gender-sensitive approach in receiving the current refugee inflows and in considering asylum claims, thereby ensuring that the needs of asylum-seeking and refugee women and girls arriving in the State party are addressed as a priority concern;**
- (c) To ensure that women's asylum applications are examined in full, that cases considered under the accelerated procedure are systematically moved back into the normal procedure when they meet clear criteria, to be established, and that the broad margin of appreciation is narrowed down in accelerated procedures;**
- (d) To review the use of safe country lists, in view of their uncertainty.**

### **Stereotypes and harmful practices**

18. The Committee welcomes the State party's efforts to combat discriminatory gender stereotypes, including by promoting the sharing of household duties and parenting responsibilities, and to address the stereotyped portrayal of women in the media, including by regulating broadcasting licences and strengthening the role of the Higher Council for the Audiovisual Sector. The Committee also welcomes the legislative and other measures taken to combat harmful practices, including child and forced marriage, female genital mutilation and crimes in the name of so-called honour. The Committee is, however, concerned:

- (a) That discriminatory stereotypes in respect of the roles and responsibilities of women and men in the family and in society persist in the State party;
- (b) That Muslim women and girls are exposed to a heightened risk of discrimination and Islamophobic and/or anti-Muslim acts, based on the intersecting factors of their sex and religion, as well as origin, and that the risk of discrimination is compounded by the current social and political context;
- (c) That the media and the advertising sector continue to convey stereotyped and sexualized images of women;
- (d) That the prevalence of pornography and the so-called sexualization of the public sphere in the State party may exacerbate sexual harassment and gender-based violence against women and girls;
- (e) That information on harmful practices and the ways to combat them in the State party is not readily accessible to many women;
- (f) That medically unnecessary and irreversible surgery and other treatment are routinely performed on intersex children, as noted by the Committee on the Rights of the Child and the Committee against Torture.

### **19. The Committee recommends that the State party:**

- (a) **Adopt a comprehensive strategy to modify or eliminate patriarchal attitudes and stereotypes that discriminate against women, with particular focus on women belonging to minority groups, who are often the target of hate speech and racially motivated violence. The strategy should include monitoring to assess the impact of the measures taken and facilitate the design of remedial action to ensure their social integration;**
- (b) **Combat all forms of discrimination against women and girls belonging to racial, ethnic, national and religious minorities, including those living in sensitive urban areas, to ensure their equal access to health care and education, employment, housing and the public and political arenas and to reinforce the willingness and capacity to live together in harmony (*le vivre-ensemble*);**
- (c) **Engage with relevant actors and use innovative measures, including by imposing stricter regulations when possible, to enhance a positive and non-stereotypical portrayal of women in the media and in advertisements;**
- (d) **Conduct a study on the possible impact of oversexualized representations of girls and women in the media and the prevalence of pornography on the increase in gender-based violence against women in the State party;**



- (e) **Systematically collect disaggregated data on harmful practices in the State party and make information on ways to combat such practices widely available;**
- (f) **Develop and implement a rights-based health-care protocol for intersex children, ensuring that children and their parents are appropriately informed of all options; that children are involved, to the greatest extent possible, in decision-making about medical interventions and that their choices are respected; and that no child is subjected to unnecessary surgery or treatment, as recommended recently by the Committee against Torture (see CAT/C/FRA/CO/7, para. 35) and the Committee on the Rights of the Child (see CRC/C/FRA/CO/5, para. 48).**

#### **Gender-based violence against women**

20. The Committee commends the State party on its efforts to tackle gender-based violence against women. It notes that the State party is preparing the fifth interministerial plan for preventing and combating violence against women (2016-2018). The Committee is concerned, however, that notwithstanding the measures taken, specific results are insufficient and the prevalence of gender-based violence against women remains high in the State party. It is also concerned at:

- (a) The low reporting of cases of gender-based violence against women, including rape, and the low prosecution and conviction rates, resulting in impunity for perpetrators;
- (b) The impact in terms of gender-based violence against women and girls of the intersection of racist, xenophobic, anti-Muslim and sexist acts;
- (c) The regional and local disparities in the availability and quality of assistance and protection services, including shelters, for women who are victims of violence, as well as discrimination against women who are victims of violence belonging to minority groups;
- (d) The non-reporting of domestic violence by many migrant women owing to their dependence on their partners for residence permits;
- (e) The insufficient human, technical and financial resources allocated to the Interministerial Mission for the Protection of Women Victims of Violence and for Combating Human Trafficking to fulfil its mandate.

**21. In line with its general recommendation No. 19 (1992) on violence against women, the Committee recommends that the State party:**

- (a) **Further study the root causes of the low reporting and conviction rates in cases of gender-based violence against women and strengthen its efforts to eliminate all barriers preventing women from reporting violence to the police;**
- (b) **Ensure that racist, xenophobic, anti-Muslim and sexist acts are thoroughly investigated and prosecuted and that sentences imposed on perpetrators are commensurate with the gravity of their acts;**
- (c) **Strengthen monitoring mechanisms to regularly evaluate the impact of the measures taken to combat gender-based violence against women and take remedial action;**
- (d) **Evaluate the response of the police and judiciary to complaints of sexual crimes and introduce mandatory capacity-building for judges, prosecutors,**

**police officers and other law enforcement officers on the strict application of criminal law provisions on gender-based violence against women and on gender-sensitive procedures for interviewing women who are victims of violence;**

- (e) Reinforce the assistance and protection provided to women who are victims of violence, including by strengthening the capacity of shelters and crisis centres and ensuring that they meet the accommodation needs of all victims without discrimination and by allocating adequate human, technical and financial resources;**
- (f) Revise, from a gender perspective, the conditions for granting temporary residence permits to migrant women who are dependent on their abusive partners;**
- (g) Allocate sufficient human, technical and financial resources to the Interministerial Mission for the Protection of Women Victims of Violence and for Combating Human Trafficking to allow it to fulfil its mandate.**

#### **Trafficking and exploitation of prostitution**

26. The Committee welcomes the adoption of a first national action plan to combat human trafficking (2014-2017) and the designation of the National Consultative Commission for Human Rights as the independent national rapporteur. It is, however, concerned about:

- (a) The low rates of prosecution and conviction in cases of trafficking;
- (b) The lack of adequate mechanisms to identify and refer victims of trafficking in need of protection, in particular minors, who are often considered offenders and irregular migrants, not victims, and the lack of sufficient data on victims of trafficking;
- (c) The lack of attention to exploitation that includes forced labour, servitude, slavery and analogous practices, priority being accorded to trafficking and the exploitation of prostitution;
- (d) The insufficient coordination and the lack of human and financial resources allocated to the national action plan, which has resulted in significant delays in its implementation, and the lack of sufficient resources for the National Consultative Commission for Human Rights to fully exercise its role of rapporteur;
- (e) The lack of systematically organized rehabilitation and reintegration measures, including access to counselling, medical treatment, psychological support and redress, including compensation, for victims of trafficking, in particular for migrant women, who are not entitled to obtain a temporary residence permit unless they cooperate with the police and judicial authorities;
- (f) The risk that the criminalization of clients may backfire and expose persons in prostitution to increased risks to their security and health without addressing the root causes of prostitution or diminishing its prevalence;
- (g) The insufficient budgeted amount and the uncertainty regarding the additional resources expected from the confiscation of property of convicted traffickers to support the process for women wishing to leave prostitution.

**27. The Committee recommends that the State party:**

- (a) Investigate, prosecute and punish all cases of trafficking in persons, especially women and girls, and ensure that the sentences imposed on perpetrators are commensurate with the gravity of the crime;
- (b) Strengthen measures to identify and provide support to women at risk of trafficking, in particular minors;
- (c) Improve access to data on victims of trafficking, disaggregated by sex and age;
- (d) Prevent and combat other forms of exploitative practices related to trafficking, in particular forced labour, servitude and slavery;
- (e) Increase the human, technical and financial resources of the Interministerial Mission for the Protection of Women Victims of Violence and for Combating Human Trafficking and the National Consultative Commission for Human Rights to ensure the effective coordination, monitoring and assessment of government action against trafficking in persons and exploitation;
- (f) Provide victims of trafficking with adequate access to health care and counselling and strengthen such services by providing enhanced human, technical and financial resources to social work centres and targeted training for social workers;
- (g) Ensure that all victims of trafficking, irrespective of their ethnic, national or social background, obtain effective protection and redress, including rehabilitation and compensation;
- (h) Plan the evaluation, within three years, of the impact of Act No. 2016-444, including on the type and extent of prostitution and trafficking, social perceptions of prostitution, the purchase of sexual services and women who engage in prostitution;
- (i) Increase the budget and strengthen the assistance provided to women and girls who wish to leave prostitution, including by providing alternative income-generating opportunities.

#### **Birth registration**

30. The Committee notes the very short deadline provided under article 55 of the Civil Code for the declaration of births, failing which a judicial procedure must be conducted before a court, which may take up to 18 months, leaving children with no legal proof of existence and limiting their enjoyment of human rights. The Committee is concerned that a large portion of the indigenous and tribal population of French Guyana and half the population of Mayotte lack birth certificates and identity papers, depriving them of access to basic services, including education and health care.

31. The Committee recommends that the State party ensure that every birth is registered and every person under its jurisdiction is provided with birth certificates and identity papers, irrespective of where they live. It recommends that the State party amend article 55 of the Civil Code, as envisaged in draft law No. 3204 of 2015, consider extending the five-day deadline envisaged, especially for remote areas, and simplify the procedure envisaged in the case of late declarations.

## Education

32. The Committee welcomes the measures taken to ensure that gender equality permeates all levels of education and to overcome gender-stereotyped educational and vocational choices. However, the Committee notes with concern:

- (a) That no recent, comprehensive evaluation of Act No. 2004-228 banning the wearing of religious symbols in schools has been conducted and that, as a result, its possible limitation or denial of the right to education of girls (see CEDAW/C/FRA/CO/6, para. 20) and its impact on their inclusion in all facets of French society as full members of the community are unknown and, if negative, cannot be remedied;
- (b) That women are still concentrated in traditionally female-dominated fields of study and career paths and are underrepresented in vocational training and in certain fields of higher education, such as mathematics, information technology and science;
- (c) The continued horizontal segregation with respect to participation by women in natural science and technology-related research;
- (d) The insufficient access to sexual education in schools, which does not appear to meet the needs of girls and boys or contribute to the fulfilment of the State party's responsibilities in that regard;
- (e) The high number of girls who suffer from discrimination and sexual harassment in schools and the disproportionate number of migrant, Roma, indigenous and autistic girls, as well as girls belonging to minority groups and girls with disabilities, who continue to face difficulties in gaining access to high-quality education.

33. **The Committee recommends that the State party:**

- (a) **Mandate a comprehensive study to determine the impact of Act No. 2004-228 banning the wearing of religious symbols in schools on the right to education of girls (see CEDAW/C/FRA/CO/6, para. 20) and their inclusion in all facets of French society as full members of the community, and indicate remedies, if needed;**
- (b) **Strengthen its strategies to address discriminatory stereotypes and structural barriers that may deter girls from enrolling in traditionally male-dominated fields of study, such as mathematics, information technology and science;**
- (c) **Ensure that a zero-tolerance policy on violence and harassment that includes counselling services, awareness-raising efforts and effective reporting mechanisms is effectively implemented in all schools;**
- (d) **Ensure that the three yearly hours of age-appropriate and gender-sensitive education on sexuality and the human rights of women planned in the school curricula are actually respected by all schools and provided by trained personnel, addressing not only the biology of reproduction, contraception and prevention of HIV/AIDS, but also gender equality, respect and combating sexist and sexual violence;**
- (e) **Continue to combat discrimination against disadvantaged groups of women and girls in gaining access to high-quality education, including by adopting temporary special measures, and ensure the effective monitoring and evaluation of the impact of such efforts, to inform remedial action.**

## Employment

34. The Committee welcomes the generally high rate of participation by women in the labour force in the State party and the numerous steps taken to promote gender equality in the labour market, including measures to facilitate the reconciliation of family and work life, strengthen the social entitlements of part-time workers and reduce the share of women in this category, and improve the pensions of older women and overcome the glass ceiling. It also welcomes the extension of the regulation on sexual harassment and

sexist behaviour to the public sector, as provided for in the recently adopted law on new freedoms and new protections for enterprises and employed persons (El Khomri Law). The Committee is, however, concerned about:

- (a) The continuing horizontal and vertical occupational segregation and the concentration of women in part-time and low-paid jobs, measures taken in the public service regarding managerial positions obviously not having achieved their aim;
- (b) The lack of implementation of the principle of equal pay for work of equal value and the persistent gender wage gap, in both the public and private sectors, which adversely affects women's career development and pension benefits;
- (c) The fact that, notwithstanding the reforms, the amount of parental leave taken by men remains very low;
- (d) The limited access by migrant, refugee, asylum-seeking and Roma women, as well as women belonging to other minority groups and women with disabilities, to the labour market;
- (e) The possibility for employers, according to the El Khomri Law, to introduce the principle of neutrality in the internal regulation of an enterprise by a unilateral decision, which may affect Muslim women disproportionately and further increase their vulnerability with regard to employment;
- (f) The lack of willingness expressed in the written information provided to ratify the Domestic Workers Convention, 2011 (No. 189), of the International Labour Organization.

**35. The Committee recommends that the State party:**

- (a) **Adopt effective measures, including skills training, incentives for and encouragement of women to work in non-traditional fields and temporary special measures, to achieve de facto equal opportunities for women and men in the labour market and eliminate occupational segregation, both horizontal and vertical, in the public and private sectors, and ensure that the quotas for female managerial positions are not undermined by inefficient sanctions;**
- (b) **Adopt measures to effectively implement the principle of equal pay for work of equal value and to narrow and close the gender wage gap, including by applying gender-neutral analytical job classification, evaluation methods and regular pay surveys, notably in the civil service, and by ensuring that businesses comply with their legal obligations to develop measures aimed at fostering collective bargaining;**
- (c) **Create more opportunities for women to gain access to full-time employment, including by promoting the equal sharing of domestic and family tasks between men and women, providing more and improved childcare facilities and increasing the incentives for men to exercise their right to parental leave;**
- (d) **Take into account the needs of disadvantaged groups of women, especially migrant, refugee, asylum-seeking and Roma women, as well as women belonging to other minority groups and women with disabilities, and consider the use of targeted measures, including temporary special measures, to create further employment opportunities for such groups;**

- (e) **Conduct a comprehensive review of the gendered impact of the new El Khomri Law, with a view to amending all provisions that may discriminate indirectly against women, in particular the provision relating to the principle of neutrality, in order to protect their rights and maintain coherence with previous gender equality legislation;**
- (f) **Ratify the Domestic Workers Convention, 2011 (No. 189), of the International Labour Organization.**

**Disadvantaged groups of women**

42. The Committee welcomes the efforts made by the State party to integrate migrant women and girls and women of immigrant origin into all aspects of French society. It is, however, concerned at the remaining obstacles that such women face in various fields.

43. **The Committee recommends that the State party pursue its efforts and take into account the specific situation of migrant women and women of immigrant origin in all public policies, such as the urban policy, and more broadly, in combating all forms of discrimination.**