**Recommendations by UN human rights mechanisms concerning the rights of persons with disabilities with respect to France**

**Main issues raised by TBs:**

* Discrimination on the basis of disability
* Inclusive education: pervasive discrimination of children with disabilities
* Lack of consultation of children with disabilities in matters affecting them
* Ill treatment of **persons with disabilities** living in institutions, including children with disabilities and the practice of “packing”
* Insufficient independent monitoring of institutions
* High unemployment rate of **persons with disabilities, in particular** among **women with disabilities**
* Need for comprehensive and disaggregated data collection, including on children with disabilities and for early identification
* Awareness-raising campaigns to combat the stigmatization of and prejudice
* Lack of access to justice, especially of children with disabilities

Concluding observations of the CAT Committee, 2016

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Concluding observations of the CESCR Committee, [CRC/C/FRA/CO/5](http://daccess-ods.un.org/access.nsf/Get?Open&DS=CRC/C/FRA/CO/5&Lang=E), 2016

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.

Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39) Torture and other cruel, inhuman or degrading treatment or punishment

40. The Committee is concerned by cases of ill-treatment of **children with disabilities** in institutions and the insufficient independent monitoring of such institutions. It is particularly concerned that in some cases the personnel denouncing ill-treatment have reportedly been accused of defamation and condemned, while perpetrators were rarely brought to justice, in spite of video-recorded evidence. The Committee is further concerned that the “packing” technique (wrapping the child in cold, wet sheets), which amounts to ill-treatment, has not been legally prohibited and is reportedly still practised on some children with autistic spectrum disorders.

41. The Committee urges the State party to increase initiatives to understand, prevent and counter the root causes of ill-treatment of children in institutions, and that it:

(a) Establish oversight mechanisms that are able to undertake regular and effective independent inspections of institutions;

(b) Thoroughly and promptly investigate any allegations of ill-treatment, bring the perpetrators to justice and provide care, recovery, reintegration and compensation for child victims;

(c) Create accessible and child-friendly reporting systems and services, including confidential channels for denouncing cases of ill-treatment and protection from reprisals, particularly for children, their families and personnel;

(d) Legally prohibit the practice of “packing” children and any other practice that amounts to ill treatment.

Children deprived of a family environment

53. The Committee is concerned that existing care alternatives to tailor placement to each child are seldom practised and is also concerned about the growing number of children separated from their families by judicial order, which particularly affects children whose families live in poverty. It is further concerned at the few opportunities for children placed in childcare and in alternative care to contact and meet with their families, at the geographic distance between the family home and institutional care locations, and at the insufficient consideration of the views and the best interests of the child when decisions on alternative care are made by the child welfare service (ASE). It is further concerned by:

(a) The overrepresentation of **children with disabilities** in child welfare service institutions;

(b) The situation and status of children abandoned de facto but not de jure to such institutions;

(c) Placement decisions that are taken without a view to ensuring continuity of a child’s familiarity with his or her surroundings, foster carers and environment;

(d) The insufficient preparation and assistance provided to children from the age of 16 to prepare them for entrance into adult life.

54. The Committee recommends that the State party:

(a) Support and facilitate family-based care for children wherever possible, and establish a system of foster care for children who cannot stay with their families, especially encouraging foster care for **children with disabilities** to accelerate the deinstitutionalization process;

(b) Ensure adequate safeguards and clear criteria, based on the needs, views and best interests of the child, for determining whether a child should be placed in alternative care;

(c) Ensure that children placed in alternative care can maintain contact with their parents, to the extent possible, taking due account of geographical proximity and the child’s familiar surroundings, foster carers and environment;

(d) Clarify the legal situation and status of children abandoned to the child welfare service;

(e) Ensure that adequate human, technical and financial resources are allocated to alternative care centres and relevant child protection services, in order to facilitate the rehabilitation and social reintegration of children resident therein to the greatest extent possible, including for children approaching the age of adulthood.

Adoption

55. The Committee welcomes the adoption on 22 October 2014 of the circular setting out the legal effects of the kafalah system in the State party. However, the Committee is concerned about:

(a) The lack of information about traditional adoptions known as “child circulation” in French Polynesia and New Caledonia, which continue to take place, without an approved intermediary and without any real guarantees for the families or the children concerned;

(b) The insufficient support provided to adoptive parents and other family members in the adoption of children with specific needs owing to their age, siblings, **disability** or illness;

(c) The high number of intercountry adoptions involving countries of origin that are not party to or do not comply with the safeguards of the 1993 Hague Convention on Protection of Children and Cooperation in respect of Intercountry

Adoption.

56. The Committee recommends that the State party ensure that, with regard to adoptions, the principle of the paramountcy of the best interests of the child is strictly observed. The Committee also recommends that the State party:

(a) Collect, in a systematic and ongoing manner, disaggregated statistical data and relevant information on domestic and intercountry adoptions in order to better understand and address the phenomenon;

(b) Provide information on the practice of “child circulation” in French Polynesia and New Caledonia in its next periodic report and adopt measures to prevent new cases from occurring;

(c) Ensure that all the safeguards provided in the 1993 Hague Convention are met, even if the other country involved is not a party to that Convention, and conclude bilateral agreements upholding the standards of the Convention on the Rights of the Child and the 1993 Hague Convention with countries that have not ratified the latter;

(d) Ensure that adoptive parents and families are provided with adequate specialized adoption support.

F. **Disability**, basic health and welfare (arts. 6, 18 (3), 23, 24, 26, 27 (1)-(3) and 33)

**Children with disabilities**

57. The Committee recognizes the efforts made by the State party to strengthen the inclusion of **children with disabilities**. However, the Committee is concerned by the slow and unequal implementation of Law No. 2005-102 of 11 February 2005 and Law No. 2013-595 of 8 July 2013 regarding inclusive education for all children, and that progress in ensuring that **children with disabilities** attend mainstream schools rather than hospitals or medico-social institutions has been slow, with an exacerbated situation in the overseas departments and territories. The Committee is also concerned that the law provides for a system of special units within mainstream schools for children as young as the age of 3; that some **children with disabilities** are institutionalized; that some are still in segregated schools; and that others drop out of school as a result of a lack of accommodation and support. The Committee is further concerned about:

(a) Persistent discrimination against **children with disabilities**, especially children with multiple **disabilities**, in accessing education, regarding equality with others, including during recreational and extracurricular activities, in school facilities and during vocational training;

(b) Families facing major obstacles to obtaining and maintaining the necessary support they are entitled to receive, including enough hours of school assistance;

(c) School personnel who are insufficiently trained and supported, the insufficient number of specialized and qualified assistants, and the scarce number of accessible and adapted school curricula, teaching and evaluation materials and classrooms.

58. Recalling its general comment No. 9 (2006) on the rights of **children with disabilities**, the Committee urges the State party to effectively adopt a human-rights- based approach to **disability** without delay, to recognize the right of all children to inclusive education and to ensure that inclusive education is given priority over the placement of children in specialized institutions and in segregated classes at all levels. The Committee specifically recommends that the State party:

(a) Organize the collection of data on **children with disabilities** and develop an efficient system for early identification to facilitate the design of appropriate strategies and programmes for them;

(b) Adopt measures to facilitate and ensure access to appropriate support;

(c) Train all teachers and education professionals on providing inclusive

education and individual support, creating inclusive and accessible environments, and giving due attention to the specific situation of each child;

(d) Ensure sufficient resource allocation for all children, including **children with disabilities**, to be supported with the most appropriate plan for responding to their needs and circumstances;

(e) Undertake awareness-raising campaigns to combat the stigmatization of and prejudice against **children with disabilities**.

**Children with autism**

59. The Committee is concerned that, in spite of three successive **autism** plans, **children with autism** continue to be subjected to widespread violations of their rights. The Committee is particularly concerned that the majority of **children with autism** do not have access to education in mainstream schools, or receive limited education on a part-time basis with no specifically trained personnel to support their inclusion. The Committee is also concerned that:

(a) The implementation of the 2012 recommendations of the High Health Authority is not mandatory and that **children with autism** are still offered inefficient psychoanalytical therapies, overmedication and placement in psychiatric hospitals and institutions, including in a neighbouring country;

(b) Professionals trained in internationally recognized therapies, as well as development and education programmes, are scarce and are not covered by the health insurance system;

(c) Some parents who oppose the institutionalization of their children are intimidated and threatened and, in some cases, lose custody of their children, with the children being forcibly institutionalized or subject to administrative placement.

60. The Committee urges the State party to take immediate measures to ensure that the rights of **children with autism**, especially their right to inclusive education, are respected, that the 2012 recommendations of the High Health Authority are legally binding on professionals working with **children with autism**, and that only therapies and educational programmes that conform with the recommendations of the High Health Authority are authorized and reimbursed. The State party should also ensure that **children with autism** are not subjected to forced institutionalization or administrative placement and that parents are no longer subjected to reprisals when refusing the institutionalization of their children.

Mental health

63. While welcoming the implementation in some departments of certain recommendations contained in the assessment of the national programme of action against suicide for the period 2011-2014, such as the opening of adolescent centres, the Committee is concerned about: the insufficient number of specialized child psychiatrists, psychologists and psychiatric nurses, and their unequal distribution; budget cuts relating to and the closing down of outpatient services, which often leads to hospitalization; the care of children in adult establishments that are not adapted for their needs; and the overmedication of children in psychiatric hospitals. The Committee is further concerned that the rate of mental health and psychosocial disorders is high among children and increases with age, affecting mainly children over 15 years.

64. The Committee encourages the full and sustained implementation of the recommendations of the national programme of action against suicide for the period 2011-2014. The Committee recommends that the State party increase the human and financial resources available for specialized mental health services, with a view to reducing inequalities in access to child psychiatric care nationwide. It recommends that the State party increase the training of medical personnel on issues relating to child psychiatry, and guarantee that children receive treatment by qualified professionals and in establishments designated for children.

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.

Concluding observations of the Human Rights Committee, [CCPR/C/FRA/CO/5](http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsmtlAMSUVPZr5NwSxcDwgKKo26EvxxEe4g%2f1ZtZQqip0I2B%2f0ihUcnG8Hok4ag8yPwIFaJ3uZjEU41IMjoWALzUeCks4UhSN%2bCKwFDJh1Q%2b6), 2015

Dignity and integrity of **persons with disabilities**

20. The Committee is concerned about reports of the violation of the dignity and physical and mental integrity of **persons with disabilities** living in institutions in the State party and in a neighbouring country. The Committee is further concerned about the continued use of “packing”, the practice of wrapping autistic children and psychotic adults in extremely cold, wet sheets, for experimental purposes (arts. 7, 16 and 26).

The State party should guarantee decent living conditions and safeguard the physical and mental integrity of **persons with disabilities** living in institutions. It should also ensure that all allegations of cruel, inhuman or degrading treatment are investigated and that those responsible are convicted or punished.

Concluding Observations of the CAT Committee, [CAT/C/FRA/CO/4-6](http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsuGd5%2bKvluDUd5l6A8IGLwdEzx0NWUc6dIK2xT94ZsbEx8wrmU4MFKYFr9kO%2fa4EhZVOE%2bG%2bWqsruZ9PI1VsxVOTYvwYlmJcvJPtli3pkQeC), 2010

Secure detention

29. The Committee is deeply concerned about so-called secure detention (rétention de sûreté), established by Act No. 2008-174 of 25 February 2008 on secure detention, and the declaration of exemption from criminal responsibility for reason of mental disorder, and supplemented by Act No. 2010-242 of 10 March 2010, which seeks to reduce the risk of criminal recidivism and establishes various provisions of criminal procedure. Besides the obvious challenge to the principle of legality in criminal proceedings that this measure implies, due to the lack of objectively definable and predictable material criteria, the lack of a causal link between the offence and the possible penalty, and the fact that it can be applied retroactively, the measure, which does not appear to set a time limit on detention, is also likely to raise issues under article 16 (art. 16).

The Committee strongly recommends that the State party consider repealing this provision, which clearly violates the fundamental principle of legality in criminal law, and may potentially conflict with article 16.

Concluding observations of the CEDAW Committee, [CEDAW/C/FRA/CO/6](http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsjuNjw8cUF3pRrdCdanf79lVpStLlwSm%2fjYL1uZ9PSlCzpF1VhIDUmfuaGy85%2bAlD1EWNOz%2f1MPigOY8%2bNh4%2fICL0P7tpxtXAq%2fL3x2Ab%2f9q), 2008

26. The Committee remains concerned about the persistence of the disadvantaged situation of women in the labour market, reflected in the fact that the number of women in the higher echelons of the labour market remains low and that women are concentrated in certain low-wage sectors. The Committee is deeply concerned that the wage gap in the private sector between women and men persists, that women are predominantly found in part-time positions and that as a consequence women generally receive lower pensions. Furthermore, the Committee remains concerned at the relatively high unemployment rate among **women with disabilities** and immigrant women and at the lack of statistical data on the above matters.

27. The Committee urges the State party to intensify its efforts to ensure de facto equality for women in the labour market, so as to achieve full compliance with article 11 of the Convention. It recommends that the State party take proactive and concrete measures to eliminate occupational segregation, both horizontal and vertical, and narrow and close the pay gap between women and men. In that regard, the Committee recommends that the State party implement its plan of curbing wage gaps, including through financial sanctions as of 2010 for companies that do not have a plan to redress wage inequalities. Furthermore, the Committee urges the State party to create more opportunities for women to have access to full-time employment. The Committee recommends that the State party continue its efforts to allow women and men to reconcile family and professional responsibilities and for the promotion of equal sharing of domestic and family tasks between men and women by providing, inter alia, more and improved childcare facilities. The Committee further recommends that the State party encourage men to share responsibility for childcare, including through awareness-raising activities and by taking parental leave. In the area of pensions, the Committee recommends that the State party implement the President’s expressed desire to increase the minimum old-age pension, improve the retirement pensions for people in agriculture and crafts and provide retirement pensions for homemakers who had not worked professionally. The Committee recommends the State party to undertake special measures to assist **women with disabilities** to enter into the labour market. The Committee finally recommends that the State party collect relevant statistical data to improve policy formulation.

Concluding observations of the CESCR Committee, 2008

18. The Committee notes with concern that legislation aimed at improving access to employment for **persons with disabilities** (Act No. 102/2005 of 11 February 2005) is not effectively implemented, and that the unemployment rate of **persons with disabilities** is still three times higher than the average unemployment rate.

38. The Committee recommends, in line with its general comment No. 5 (1994) on **persons with disabilities**, that the State party adopt all appropriate measures to ensure that **persons with disabilities** have equal opportunities for productive and gainful employment, in sheltered facilities as well as in the open labour market. The Committee requests the State party to provide information in the next periodic report on progress made in the implementation of Act No. 102/2005 of 11 February 2005, which requires companies with more than 20 employees to recruit 6 per cent of their workforce among **persons with disabilities**.