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Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities

Initial report submitted by France under article 35 of the Convention, due in 2012[*], [**]

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[*] The present document is being issued without formal editing.

[**] The annexes may be consulted in the files of the Committee secretariat.

Contents

I. Introduction

1. France has ratified a number of international and regional instruments that embody the substance and nature of human rights. Since human rights are based on the inherent dignity of all human beings, everyone, including persons with disabilities, should be able to enjoy those rights without discrimination. Recognizing, however, that persons with disabilities continue to face barriers to their participation in society, despite the various instruments and undertakings guaranteeing the overall protection of human rights, France ratified the Convention on the Rights of Persons with Disabilities adopted by the General Assembly on 13 December 2006.

A. Ratification of the Convention on the Rights of Persons with Disabilities

2. France ratified the Convention and its Optional Protocol on 18 February 2010.

3. The Government did not enter any reservations upon ratifying the Convention; instead, it made a number of interpretative declarations. The first concerned the term "consent" in article 15, which France interprets in conformity with international instruments, such as the Council of Europe Convention on Human Rights and Biomedicine and its additional Protocol on Biomedical Research, and with national legislation, which is in line with those instruments. A second declaration, regarding article 29, stipulates that "the exercise of the right to vote is a component of legal capacity that may not be restricted except in the conditions and in accordance with the modalities provided for in article 12 of the Convention".

4. The Convention and its Optional Protocol entered into force in France on 20 March 2010.

B. Applicability of the Convention in the French courts

5. The status of treaties in the domestic legal order is governed by article 55 of the Constitution, under which duly ratified treaties take precedence over national law.

6. The courts under both the Council of State and the Court of Cassation monitor treaty compliance and are thereby responsible for verifying the compatibility of French law with the Convention. Persons with disabilities can thus invoke the Convention before the courts. However, only specific, unambiguous provisions that relate to an individual's rights and require no national measures for their implementation may be invoked in the domestic courts.

7. The direct effect of the provisions of the Convention has yet to be clarified by the French courts. The Defender of Rights has, however, asked two judges from the two French supreme courts to undertake a theoretical analysis, with the aim of identifying the impact and scope of the rights guaranteed by the Convention within the national legislation.

8. In April 2015, a committee responsible for monitoring the implementation of the Convention ("the monitoring committee") expressed its intention of proceeding with the legal analysis.

C. National legislative context

9. The 1975 Framework Act on Persons with Disabilities was the first major piece of disability-related legislation. It was followed, on 10 July 1987, by a law on employability and employment and another, on 2 January 2002, on the reform of social and medico-social assistance. The changing aspirations and needs of persons with disabilities have, however, necessitated a thorough reform of disability policy. The Act on equal rights and opportunities, participation and citizenship for persons with disabilities, of 11 February 2005, seeks to respect the life choices of persons with disabilities. While the 2005 law and

its implementing legislation contain a significant number of rights and specific measures to meet the needs and expectations of persons with disabilities, one of the core principles of disability policy is to ensure that persons with disabilities have access to ordinary law, so that they can live in society just like any other citizen.

D. National bodies monitoring the implementation of the Convention

1. Disability focal points and the Interministerial Committee on Disability

10. In view of the cross-cutting nature of the country's disability policy, the French authorities have designated disability and accessibility focal points in each ministry, rather than having one single authority.[1] Such disability and accessibility focal points are thus present in each ministerial private office and policy department and are responsible for monitoring the implementation of the Prime Minister's circular of 4 September 2012, which was confirmed by another dated 4 July 2014, on integrating disability into legislation.[2]

11. A mechanism to coordinate the focal points has been put in place. This coordinating role has been assigned to the Interministerial Committee on Disability established pursuant to Decree No. 2009-1367 of 6 November 2009. Its general secretary can, whenever necessary, consult and convene the disability and accessibility focal points to monitor and coordinate the implementation of the decisions of the Interministerial Committee. More generally, the general secretary is responsible for defining, coordinating and evaluating policies in support of persons with disabilities and directs the work related to the National Disability Conference.

12. In order to strengthen the close links between this coordination mechanism and the representatives of persons with disabilities, the general secretary of the Interministerial Committee also serves as the secretary of the National Consultative Council of Persons with Disabilities.

2. Independent monitoring mechanism

13. The Government has designated the Defender of Rights to act as the mechanism provided for in article 33 (2) of the Convention. Supported by a monitoring committee, the Defender of Rights, together with the National Consultative Commission on Human Rights, the French Council of Persons with Disabilities on European Issues and the National Consultative Council of Persons with Disabilities, follows up on the implementation of the Convention. The State, represented by the general secretary of the Interministerial Committee on Disability, also assists in the work of the monitoring committee.

14. Since September 2012, the monitoring committee has held one meeting a year, which is chaired by the Defender of Rights. During its meetings, the work of the United Nations Committee on the Rights of Persons with Disabilities is presented and its comments on the interpretation of certain key articles are discussed. The monitoring committee takes stock of ratifications of the Convention and also decides on the various national measures to be taken to promote the rights guaranteed by the Convention. At its most recent meeting, on 20 April 2015, the monitoring committee decided to launch information campaigns aimed at the parties with responsibility for implementing the Convention. Members also stressed the need to start developing tools to promote the Convention from a human rights-based perspective, fostering accessibility and universal design in digital goods and services and tackling the issue of the legal capacity of persons with disabilities.

15. The monitoring committee also intends to continue with a legal study, begun in 2014, on the direct effect of the provisions of the Convention and to assess the national research system, statistical information, studies and evaluations on the situation of persons with disabilities.

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[1] See list in annex.

[2] This is set out in more detail in Part One, II (2), which refers to the need to take the Convention into account in public policies.

3. Institutions comprising the monitoring mechanism

Defender of Rights

16. The Defender of Rights is a new, independent constitutional authority provided for in the revised Constitution of 23 July 2008 and established by the organic law and ordinary statute of 29 March 2011. Its remit is to defend individual rights and freedoms in dealings with administrative authorities, defend and promote the best interests and rights of the child, combat discrimination prohibited by law, promote equality and ensure that persons providing security services abide by a code of ethics. In order to achieve its goals, the Defender of Rights may receive individual complaints and has powers to investigate, seek friendly settlements and even intervene in legal proceedings on behalf of a complainant. Besides dealing with individual complaints, the Defender of Rights seeks to prevent any violation of rights by taking specific action to promote equality, in particular by helping to change practices, in both the public and the private sector, in the areas of employment, housing, education and access to goods and services. It makes proposals for legal or regulatory amendments and recommendations to both public and private authorities.

National Consultative Commission on Human Rights

17. The National Consultative Commission on Human Rights is the French national human rights institution, established in 1947. As an independent State structure, it advises and makes proposals to the Government and the parliament on matters pertaining to human rights. It is the body responsible for ensuring that France complies with its institutional and international commitments. As such, on 18 September 2015, it submitted its comments on the content of the present report to the Government, which the Government has sought to address in this final version. The status of the Commission was enhanced by the Act of 5 March 2007 and its implementing decree. It was once again accredited with A status in 2007 by the Global Alliance of National Human Rights Institutions, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

National Consultative Council of Persons with Disabilities

18. Established pursuant to article L.146-1 of the Welfare and Family Code, “the National Consultative Council of Persons with Disabilities shall ensure that persons with disabilities participate in the development and implementation of policies that affect them. It may be consulted by ministers on any project, programme or study concerning persons with disabilities and may take up any matter regarding disability-related policy. The Council shall include representatives of parliamentary assemblies, departments, associations and organizations that represent persons with disabilities, promote research in the field of disability or provide funding for their social protection, and also trade unions and employers’ organizations.”

19. The Government must consult the Council when preparing to adopt regulations under the Act of 11 February 2005. The Council may also be consulted about general provisions that could have an impact on disability policy.

20. The National Consultative Council of Persons with Disabilities is made up of various committees. A committee tasked with monitoring the Convention has been established and has met about once a month since 5 February 2013. It is chaired by the French Council of Persons with Disabilities on European Issues.

French Council of Persons with Disabilities on European Issues

21. The French Council of Persons with Disabilities on European Issues was set up in 1993 and, as of 2014, represents approximately 40 national organizations of persons with disabilities and families, covering different forms of disability. The Council, which is a member of the European Disability Forum, does extensive work to promote the rights enshrined in the Convention, which is available in an easy-to-read format on its website, and regularly reports on news from the Committee on the Rights of Persons with Disabilities.

E. Regional and bilateral cooperation

22. When it comes to the regional protection of human rights, France submits regular mandatory reports to the independent bodies and mechanisms of the Council of Europe. The country received a visit from the European Commission against Racism and Intolerance in March 2015 and from the Council of Europe Commissioner for Human Rights from 22 to 26 September 2014. During the latter visit, the Commissioner observed that the legal framework on disability was fully developed and gave priority to independence and inclusion in society, but, owing to issues of mobility and accessibility and failures of guidance and support mechanisms for persons with disabilities, independence and inclusion were not always guaranteed in practice. The Commissioner was also concerned that thousands of persons with disabilities were forced to leave France for other countries in order to seek solutions appropriate to their situation. The Government is equally aware of this and has recently signed an agreement with Belgium.

23. As regards the Franco-Belgian framework agreement, the number of French persons with disabilities receiving care in Belgium amounts to 0.07 per cent of the estimated 9.6 million persons with disabilities in France. The fact that French persons with disabilities seek care in Belgium goes back many years and may be explained by several causal factors:

- Care needs unmet locally
- Geographical and linguistic proximity
- Choice of methods and different support projects that may be preferred to the schemes developed by French institutions and offered to parents

24. The Franco-Belgian framework agreement on the care of persons with disabilities, which was signed by French and Belgian ministers on 21 December 2011 and entered into force on 1 March 2014, strengthens cooperation between the Belgian authorities in the Walloon region and the French authorities in order to meet two objectives:

- To strengthen the situation of persons already receiving care in Belgium by guaranteeing them quality support and improving the conditions relating to their care through health insurance and general advice
- To obtain data about French people and their residential facilities, so as to better assess needs in France. A store of detailed information will offer greater insight into the people receiving care in Belgium

25. To this end, work is being undertaken in conjunction with health insurers, regional health agencies and departments that part-finance the care of adult persons with disabilities. The objective, starting from the first set of processed data, is to create a mechanism for finding local solutions to deal with a lack of capacity.

26. To strengthen the effectiveness of the framework agreement, a circular dated 22 January 2016 concerning the implementation of a plan on the prevention and cessation of undesired departures of persons with disabilities to Belgium was sent to the relevant services.[3] The aim of the procedure outlined in the circular is to seek out and deploy, within the national territory, community-based solutions that meet the needs of persons with disabilities. The procedure must be set in motion if a referral to a Belgian institution is sought by an individual or anticipated by the relevant departmental centre for persons with disabilities, whether or not it has been approved. Its implementation will determine how the €15 million in seed money provided for in 2016 is used to address these disturbing forced departures.

27. However, it should be noted that individuals may, at any time, confirm their wish to seek care in Belgium in full knowledge of the facts. It is not the Government’s intention to challenge the principle of free choice for persons and their families who wish to use an establishment in Belgium.

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[3] http://circulaire.legifrance.gouv.fr/pdf/2016/01/cir_40496.pdf.

II. Part One: General provisions of the Convention

A. Understanding and implementation of the principles

1. The approach to disability advocated by the Convention

28. According to the Convention, the participation of persons with disabilities in society is limited owing to various constraints, which may include physical barriers as well as laws and policies. To be in conformity with the Convention, the definition of disability in the national legislation must not be based on a list or description of impairments or on functional limitations but should conceive of disability as the result of the interaction between a person with an impairment and the external barriers facing that person. The law must prohibit discrimination and promote equality rather than simply listing different disabilities.

29. Article L.114 of the Welfare and Family Code provides the following legal definition of a disability in France: “For the purposes of this law, a disability shall be taken to mean any limitation of activity or restriction on participation in life in society experienced by a person in his or her environment by reason of a lasting or permanent substantial impairment of one or more physical, sensory, mental, cognitive or psychological functions, multiple disabilities or a disabling health disorder.”

30. For the first time, the Act of 11 February 2005 defined disability as the combination of two factors: the consequences of an individual impairment but also the inadequacy of the natural or the built environment. The Act addresses the consequences of individual impairment by recognizing a right to compensation through national solidarity in the form of a disability allowance. Its main focus is on the disabled person’s life plan and an assessment of his or her needs, which determine the individualized responses provided in each case. The allowance includes different types of assistance, such as personal assistants, assistive devices and animals, home adaptations and customized vehicles, together with the aids required for a specific disability. The Act tackles the second factor by stipulating “universal accessibility everywhere”, the aim being to ensure the universal accessibility of general services and infrastructure by integrating the disability dimension into all public policy in every field: health, education, employment, infrastructure, planning, transport, culture, sport, etc.

31. This definition allows disability to be understood in its social context, just as the Convention does, by analysing it through the prism of the individual’s relationship to society. That said, it does still identify the disability itself as the cause of the obstacles faced by that person when it comes to integrating into society.

2. From the principle of non-discrimination to equal rights and opportunities

32. The principle of non-discrimination means that all rights are guaranteed to everyone, without any distinction, exclusion or restriction on the grounds of disability that has the purpose or effect of impairing or nullifying the recognition of the human rights of persons with disabilities or their enjoyment or exercise of those rights.

33. In France, the prohibition of discrimination on the ground of disability is contained in various texts. Accordingly, the Government transposed into law, by means of Act No. 2008-496 of 27 May 2008, a number of European Union directives to combat disability-based discrimination. Article 1 of that Act now provides a definition of both direct and indirect discrimination, which is prohibited:

> Direct discrimination shall be considered to occur where, on the basis of, among other grounds, his or her disability, one person is treated less favourably than another is, has been or would be treated in a comparable situation.
>
> Indirect discrimination shall be considered to occur where an apparently neutral provision, criterion or practice may, on the grounds set out in the previous paragraph, put a person at a disadvantage compared with other persons, unless that provision,

criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

34. As regards integration in the labour market, for example, the principle provides that public and private employers must not refuse a person access to employment because of his or her disability. Unless they have been declared medically unfit for work by a medical officer, persons with disabilities must be able to apply for any function in accordance with their skills and with reasonable accommodation.

3. Changing the environment: the concept of reasonable accommodation not imposing a disproportionate or undue burden

35. To guarantee the principle of equal treatment for persons with disabilities, and thereby ensure their social and professional integration, adaptation measures are envisaged to neutralize the negative impact that an unsuitable environment has on the participation of persons with disabilities.

36. Reasonable accommodation is the response to an individual problem, thus distinguishing it from accessibility, which is universal. The concept of accommodation is understood to mean the adaptation of a rule or situation to take into account the specific needs of a person with a disability. Such accommodation must be reasonable in the sense that it must be integrated into a normal organizational framework, respond to a need for frequent and long-term use, constitute a factor in improving a person’s social or professional life, have a limited impact on the environment and other people and not require an excessive financial outlay. It must also strengthen the security and independence of the person with disabilities.

37. The question of whether accommodation is reasonable must be assessed in relation to its financial and organizational impact and the frequency of its intended use.

38. As regards the training and employment of persons with disabilities, article L.5213-6 of the Labour Code requires employers to take “appropriate measures”, so long as they do not constitute a “disproportionate” burden, a concept that has no precise definition but is assessed against a set of indices, such as direct financial cost, employer size and resources and public or private funding opportunities. If an employer is unable to demonstrate that the recommended work accommodation gives rise to a disproportionate burden, its refusal to comply would constitute a form of disability-based discrimination.

4. Full and effective participation and inclusion in society, individual autonomy and independence of persons

39. Full and effective inclusion in society, individual autonomy and independence of persons are principles that include ensuring freedom of choice for persons with disabilities, personalized assistance to prevent isolation and deinstitutionalization but also the availability of general public services for all.

40. To that end, the most recent National Disability Conference, held on 11 December 2014 and chaired by the President of the Republic, set the following three main goals for disability policy.

To promote a more inclusive society

41. The aim of this goal is to improve access to school for children with disabilities. All school plans must now include a section on the care of students with special educational needs and strategies for supporting them. A more inclusive society must also enable all persons with disabilities to live and work on an equal basis with others.

To ensure appropriate lifelong care and support

42. Work is under way to provide a supportive response for all persons with disabilities, including those in a particularly complex situation. The issue requires fundamental changes in the professional practices of all 41 stakeholders — departmental centres for persons with disabilities, regional health agencies, education boards, general councils, facility managers — to strengthen coordination, improve information-sharing, monitor policy decisions more

closely, with regular re-evaluations, and, in more complex situations, bring diverse solutions into play.

To improve the daily lives of the most vulnerable persons

43. Specific measures are being implemented to facilitate access to rights by avoiding repetitive procedures and speeding up the authorities’ response times. Consideration is also being given to the length of time that adults with disabilities are entitled to allowances and the possibility of allowing departments to make direct payments for the purchase of assistive aids and devices. Action will be taken to make certain decisions concerning persons with disabilities more comprehensible, including the opinions and decisions of the departmental centres for disabled persons and family allowance funds, which will be made available in easy-to-read and easy-to-understand formats.

5. Accessibility and development of universally designed goods and services

44. Being fully included in society means that persons with disabilities are recognized and valued as equal participants. For full inclusion, the physical and social environment must be accessible. While physical disabilities require adaptation of the physical environment, sensory or intellectual disabilities are more time-consuming and difficult to take into account.

45. The approach whereby tools are developed in accordance with the type of user has its limits, owing to the diversity of disabilities. The universal-design approach takes the opposite tack, incorporating one or more disabilities in the design of an object for everyone, rather than for specific individuals. Instead of adapting existing designs for use by persons with disabilities, the universal-design concept takes a whole new approach to design by integrating the disability within the initial design specifications.

46. As part of its commitment to inclusion, the parliament set a 10-year deadline, to 31 December 2014, for all existing public buildings to be made accessible and laid down the requirement that all new buildings open to the public must be accessible. In view of the number of stakeholders and the amounts of money involved, however, the desired objective was not achieved. To remedy this unsatisfactory situation, an ordinance of 26 September 2014, ratified by Act No. 2015-988 of 5 August 2015, established the Planned Accessibility Agenda, a new system under which facilities that were not accessible by 1 January 2015 were legally required to become so within a limited time frame on the basis of a practical and financial commitment. Admittedly, it enables any establishment following the Agenda to avoid being subject to the criminal liabilities provided for in the Act of 11 February 2005; however, when compared to the results achieved under the Act, the new Agenda represents a positive step forward. Over the course of a decade, 50,000 public buildings were made accessible, whereas 338,568 undertakings in that regard have been received in the space of just 10 months. The initial results, then, are extremely encouraging, even if they still fall short.

6. Respect for inherent dignity

47. As stated in article 1 of the Universal Declaration of Human Rights of 1948, dignity is an essential human quality, since “all human beings are born free and equal in dignity and rights”. The French Constitutional Council accorded constitutional status to the principle of safeguarding human dignity in a decision of 27 July 1994. It is a non-derogable, framework principle from which other rights are derived, including respect for the human body, the prohibition of torture and cruel, inhuman or degrading treatment or punishment and, indeed, the prohibition of slavery.

48. Respect for inherent dignity involves, for example, the monitoring of psychiatric and other institutions to ensure that no one has been detained because of a disability without his or her free and informed consent. Moreover, respect for human dignity carries an obligation to take measures tailored to detained persons with physical or psychological disabilities. The European Court of Human Rights recently found against France in the *Helhal v. France* case of 19 February 2015, which concerned the extent to which the state of health of a prisoner with disabilities was compatible with his continued detention and the

arrangements for his care in prison. In response to the Court's decision, the Government promptly adopted the necessary individual measures. The institution in which the detainee concerned is now housed is better equipped to meet his care needs. Specifically, he has been placed in a prison suitable for persons with reduced mobility and in a cell with anti-slip flooring and an accessible shower. He also receives physiotherapy once a week. The judgment was forwarded to the Ministry of Social Affairs and Health and the Ministry of Justice, which subsequently ensured that it was widely distributed to the services under their authority and to prisons.

7. Respect for the development of the capacities of children with disabilities

49. Under this principle, children must be guaranteed, to the extent possible, conditions that make it possible for them to develop; they must be able to maintain their close family relationships, education and socialization so as to facilitate their integration. When children are capable of forming their own views, those views must be given due weight. As children acquire capacities, they are entitled to an increasing level of responsibility for the regulation of matters affecting them.

50. It is widely acknowledged that access to education is essential to the development of a child's potential. In accordance with article L.112-1 of the Education Code, "the State shall provide the necessary financial and human resources for mainstreaming the education of children, adolescents and adults with disabilities". To further improve access to education for students with disabilities, the Act of 8 July 2013 on policy and planning for reform of the French State school system emphasizes the principle of inclusive education for all students, without any distinction.[4] Significant human resources have been allocated to the implementation of this ambitious policy. Fully qualified professional support for students has been in place since the start of the 2014 school year.[5]

B. Implementation of the general obligations set out in the Convention

1. Training of professionals in rights recognized in the Convention

51. The National Consultative Council of Persons with Disabilities has established a "United Nations committee", which carries out activities to promote the Convention. Students at the Public Health College, which trains future senior managers in the national and international health and social sectors, are now able to take a course on the Convention.

52. The monitoring committee also aims to carry out awareness-raising activities among the parties responsible for implementing the Convention, such as legal professionals, administrative authorities and local governments. In December 2013, a presentation on the Convention was delivered at a theme day organized by the Defender of Rights and the National Solidarity Fund for Independence, which was attended by employees of those entities and representatives of departmental centres for persons with disabilities.

2. Inclusion of the Convention in public policies

Impact assessment prior to the adoption of any bill

53. The Prime Minister's circular of 4 September 2012 requires that, when legislation is drafted, ministers undertake an assessment of the impact of the legislation on the situation of persons with disabilities, with a view to including appropriate measures on matters concerning them. Such an assessment should be based both on the Act of 11 February 2005 and on the Convention. This is the first time that the Convention was reflected in a government directive.

54. In early July 2013, the Defender of Rights prepared an assessment that showed that the circular had not been properly implemented. Indeed, it has to be admitted that the impact assessments carried out in respect of bills drafted since the beginning of the

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[4] Act No. 2013-595 of 8 July 2013 on policy and planning for reform of the French State school system.

[5] Cf. developments in the right to education.

Government’s five-year term did not constitute a reasoned and comprehensive analysis of how the new legislation would affect the situation of persons with disabilities.

55. On the other hand, the government action plan set out in the Government’s report to the parliament on national policy concerning persons with disabilities provides for the mandatory referral of all legislation and regulations directly concerning persons with disabilities to the National Consultative Council of Persons with Disabilities. The Council will be vigilant in monitoring compliance with that provision, which has long been requested and whose implementation is essential for the realization of the needs of persons with disabilities. Moreover, closer cooperation between the Council and the disability and accessibility focal points will make for progress in implementing the circular.

Work of the United Nations committee attached to the National Consultative Council of Persons with Disabilities

56. The initial purpose of the Council’s United Nations committee was to promote awareness of the Convention among all members of the Council by disseminating information in plenary meetings and in the meetings of its various committees; a slideshow presentation was developed for that purpose by the Public Health College and the French Council of Persons with Disabilities for European Affairs. Since then, the committee’s main objective has been to check that all legislation submitted to the Council is in keeping with the Convention. It was decided that some of the committee’s focal points should, depending on the subject matter, prepare commentaries, observations or opinions on bills submitted. Another of the committee’s goals has been to organize discussions about various articles of the Convention in order to better understand their potential impact on legislation and the existing system.[6]

National Disability Conference

57. In accordance with the Convention, which calls for the implementation of a national plan of action, in France the law provides for a national disability conference to be held every three years, attended by representative associations of persons with disabilities, representatives of the management bodies of medico-social institutions or services for persons with disabilities, representatives of social security departments and agencies, representative trade union and employers’ organizations and qualified bodies, in order to discuss policy lines and policy support for persons with disabilities.

58. The first National Disability Conference was held in June 2008, the second in June 2011 and the third in December 2014, chaired by the Head of State. The Convention is used to guide the preparatory work for the Conference, so that the event is structured around the articles that deal with youth, employment, accessibility and health, and presentations are given on those topics.

The interministerial dimension of disability policy

59. The general secretary of the Interministerial Committee on Disability reports to the Prime Minister and is responsible for preparatory work and consultations undertaken on his or her behalf and also for coordination and follow-up in respect of decisions taken. The appointment of disability and accessibility focal points in each ministerial department ensures the mainstreaming of disability issues in the implementation of public policies.

3. Participation of persons with disabilities in the formulation and implementation of laws, policies and decisions affecting them

60. The Convention requires that States parties “closely consult with and actively involve” persons with disabilities in decision-making processes concerning issues relating to them and in the development of legislation and public policies.

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[6] Discussions were held on article 12 (Equal recognition before the law), article 23 (Respect for home and the family), article 28 (Adequate standard of living and social protection) and article 29 (Participation in political and public life).

61. This involvement is organized at different levels. Persons with disabilities are included in individual decisions affecting them, but they are also involved, via their representative federations, in the decisions and the various legal instruments — laws, decrees, orders — that form the basis of disability policy in general. The federations serve ex officio on the executive committees — the steering bodies — and on the committees on the rights and independence of persons with disabilities of the departmental centres for persons with disabilities. They also participate in departmental advisory committees on safety and accessibility and in district, municipal and intermunicipal accessibility committees, where they advise on accessibility in building and planning permission procedures.

62. At the national level, the National Consultative Council of Persons with Disabilities undertakes institutional consultations with the representative associations of persons with disabilities. Article L.146-1 of the Social Action and Family Code stipulates that the Council’s official mandate is to ensure the participation of persons with disabilities in the development and implementation of policies affecting them. The Council forms a link between the public authorities and civil society. Since it was formed, it has reviewed almost 150 pieces of implementing legislation.

4. Budgetary measures

63. Public expenditure on persons with disabilities stood at almost €38 billion in 2013 and continues to show strong annual growth: between 2007 and 2013, it grew at least 4.7 per cent per year, well above the average annual growth of overall social protection expenditure, which amounted to €652 billion in 2012, with average annual growth of 3.6 per cent between 2007 and 2012.[7] The social security system, in particular its health insurance component, is the leading source of this funding, slightly ahead of the State. However, funding from the 101 metropolitan and overseas departments showed the fastest rate of growth, followed by State funding.

64. Overall expenditure is broken down as follows:

- Social security: €15.824 billion
- State: €14.194 billion
- Departments: €6.280 billion, or 17 per cent
- National Solidarity Fund for Independence: €0.989 billion
- Fund Management Association for the Integration of Persons with Disabilities: €0.442 billion

65. The adult disability allowance has risen, while compensatory disability benefit is now better adapted to people’s needs:

- The adult disability allowance rose by 25 per cent over a four-year period, reaching more than €776 per month by 1 September 2012. The current amount has remained at €800.45 since October 2014, with further increases prevented by ongoing financial constraints. In recent years, the number of beneficiaries has burgeoned, reaching 1,022,262 on 31 December 2013, according to the National Family Allowance Fund and the Agricultural Social Insurance Mutual Benefit Fund, 2014. The double cost/volume effect led to a sharp increase in State expenditure, which amounted to €8.4 billion in 2014, according to the draft budget act, 2014
- The compensatory disability benefit, a significant gain that was introduced with the Act of 11 February 2005, is an individual benefit designed to fund the compensatory needs of persons with disabilities for human or technical assistance, for example, with the focus on their life plans. This benefit has also seen rapid growth in the number of beneficiaries. On 1 January 2011, about 112,000 persons with disabilities

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[7] Cf. Directorate for Research, Studies, Evaluation and Statistics, *Etudes et résultats*, No. 888, “Les comptes de la protection sociale en France et en Europe en 2012”, July 2014, table 2, which describes how social protection benefits have evolved.

received this benefit, almost four times as many as in 2008, with a total expenditure of €1.08 billion funded mostly by the departments. That rapid growth trend continued, so that by 31 December 2014 there were 172,000 beneficiaries in France, including the metropolitan and overseas departments

5. Statistical data on the situation of persons with disabilities

66. Another of the objectives of the monitoring committee is to review the national framework for research, statistics, studies and evaluations on the situation of persons with disabilities.

67. Since situations of disability are linked to the interaction between the individual and the specific features of his or her environment, it is difficult to estimate the population affected by disability. However, two approaches may aid understanding in this regard:

- A sociological approach based on statistical surveys, such as the disability and health survey conducted in 2008. That survey identified seven categories of people aged 16 years and older and living in ordinary housing who experienced either a functional limitation, a health-related limitation for a period exceeding six months or a restriction in their daily activities. Some 11,500,000 people, accounting for 23 per cent of people in that age group, fell into one of those categories. The figure included some 6 million people aged 60 years and older, or nearly 45 per cent of that age group
- An administrative approach linked to the recognition of the right to a financial consideration in the form of benefits, such as compensatory disability benefit, adult disability allowance and the allowance for the upbringing of children with a disability. According to the quality and efficiency programme on disability annexed to the social security financing bill for 2015, the number of such beneficiaries stood at 2,491,900 in 2013, having increased by more than 20 per cent since 2007. However, there are limitations to this method: since benefits may be cumulative, there is a risk of overestimating the number of persons concerned. It should also be noted that benefits are means-tested

6. Respect for rights throughout the territory of the State

68. The territorial communities, which enjoy the benefits of the principle of self-government under article 72 of the Constitution, hold many powers in the area of disability. This is particularly true of the 101 metropolitan and overseas departments, which have ordinary jurisdiction as regards statutory social welfare. The departments operate on a sufficiently broad scale to allow for the delivery of services essential for the management of social assistance benefits, while remaining close to users and beneficiaries. In this context, departments play an important role in taking disability into account in their activities. Specifically, they are responsible for compensatory disability benefit and the administrative and financial supervision of departmental centres for persons with disabilities. Municipalities retain jurisdiction over local social welfare; for example, applications for social assistance are processed by local social welfare centres.

69. Departmental centres for persons with disabilities have the status of public interest groups, and representative associations of persons with disabilities participate as stakeholders in the centres’ decision-making bodies. As well as caring for persons with disabilities, they provide them with information and evaluate their needs. They are also responsible for the operations of committees on the rights and independence of persons with disabilities, which take decisions relating to all human rights on the basis of proposals made by the centres’ technical teams. However, the increasing number of requests made to the centres makes it difficult for them to carry out their work and sometimes prevents them from delivering a quality of service that meets the expectations of persons with disabilities. Plans are under way to develop new procedures and to modernize and simplify existing ones within the centres.

70. The establishment in 2009 of the regional health agencies introduced a regional governance structure requiring coordination with the departments. The aim of this regional governance is to improve coordination between health care and medico-social support

services for older persons and persons with disabilities. Achieving this coordination remains a difficult task, especially in relation to persons with complex disabilities.

71. Detailed data on public policies in the overseas communities are contained in an annex to this report.

III. Part Two: Implementation of the rights guaranteed by articles 5 to 30 of the Convention, with the exception of articles 6 and 7

Article 5
Equality and non-discrimination

72. French legislation on discrimination has evolved by extending the prohibited grounds of discrimination and by imposing stricter criminal penalties for acts of discrimination, including those against persons with disabilities. Under article 225-1 of the Criminal Code, “discrimination is defined as any form of distinction made between natural persons by reason of their origin, sex, family status, physical appearance, family name, health status, disability, genetic characteristics, morals, sexual orientation, age, political opinions, union activities or their membership or non-membership, actual or supposed, of a particular ethnic group, nation, race or religion”.

73. Article 225-2 stipulates that the following discriminatory conduct is punished:

- Refusing to provide goods or services
- Obstructing the normal exercise of any given economic activity
- Refusing to hire, to sanction or to dismiss a person
- Subjecting the provision of goods or services to a condition based on one of the factors referred to under article 225-1
- Subjecting an offer of employment, an application for a course or a training period to a condition based on one of the factors referred to under article 225-1
- Refusing to accept a person on to one of the courses referred to under article L.412-8 (2) of the Social Security Code

74. Criminal liability may be incurred equally by professionals, individuals, public officials or legal entities and may result in penalties of up to 3 years’ imprisonment and a fine of €45,000. Penalties are increased to 5 years’ imprisonment and a fine of €75,000 when the discriminatory conduct is committed in a public place or in order to bar access thereto, or when it is committed by a person holding a position of public authority or discharging a public service mandate (art. 432-7 of the Criminal Code).[8]

75. Court proceedings may be instituted either directly by the victim or by duly constituted associations formed with the object of combating discrimination, provided that they have been in existence for at least five years.

76. Associations seeking to exercise this remedy must prove that they have obtained the victim’s consent. The legal framework has been strengthened, since the adoption of the Act of 27 January 2014,[9] by the harmonization of the statutes of limitation for offences relating to incitement to discrimination set forth in the Act of 29 July 1881 on freedom of the press. The statute of limitations for defamation and insult on grounds of disability, and for incitement to discrimination on grounds of disability, has been extended to one year.

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[8] Convictions handed down between 2010 and 2014 for offences of discrimination on the grounds of disability are listed in annex 5 of this report.

[9] Act No. 2014-56 of 27 January 2014 to harmonize the statute of limitations for offences set forth in the Act of 29 July 1881 on freedom of the press that are committed on the grounds of sex, sexual orientation or identity, or disability.

77. A bill submitted on 31 July 2015 and currently under review by the parliament aims to create a class action mechanism in the sphere of discrimination. This will allow an association formed with the object of combating discrimination and which has been duly registered for at least five years to institute legal proceedings on behalf of a number of persons that have been discriminated against on the same ground, thus enhancing the effectiveness of the fight against discrimination. Consequently, class actions will be possible if a number of individuals are discriminated against because of their disability.

78. To ensure the effectiveness of criminal provisions, circulars and reports are regularly sent to senior prosecutors to draw their attention to the need for firm and timely responses to discriminatory acts. Conscious of the specific challenges of the fight against discrimination, the Government has appointed anti-discrimination units or focal points within all courts of major jurisdiction. The purpose of this is to ensure that all offences involving discrimination are heard by a specialized magistrate and to promote interaction between public prosecutors' offices and associations in order to provide appropriate responses to such offences. Some 170 magistrates carry out this function, with a presence in all public prosecutors' offices in France.

79. The Government also engages in awareness-raising and dissemination activities with the general public, judicial police officers and anti-discrimination associations, as part of its effort to encourage reporting. A website (www.stop-discrimination.gouv.fr) was launched on 9 September 2015 to inform the public about all of the forms that discrimination may take, the penalties that may be imposed and the various assistance and support mechanisms that are in place. The website is accompanied by the preventive campaign "Let's Fight Prejudice to Beat Discrimination", which aims to sensitize the public to the prejudices that contribute to discriminatory behaviour.

80. The Government has established partnerships, in the form of agreements and protocols such as those signed with anti-discrimination associations and the Defender of Rights, with a view to ensuring the consistency of national anti-discrimination policy and dialogue between the parties engaged in combating discrimination.

81. Persons with disabilities can apply directly to the Defender of Rights for the protection of their rights and to challenge different forms of discrimination. The ground of disability accounted for 20.8 per cent of complaints of discrimination submitted to this body in 2014. Disability was the second most commonly cited ground of discrimination after origin (23.7 per cent of complaints) and came ahead of health status (13.3 per cent). Complaints referred most frequently to access to public-sector employment (4.2 per cent), followed by public services (3.9 per cent), goods and services (3.6 per cent), private-sector employment (3.5 per cent) and education (3.3 per cent).

82. The prohibition of all direct or indirect discrimination based on disability must be distinguished from affirmative action. The Constitutional Council allows affirmative action measures only when they promote equal opportunities by addressing the specific difficulties that some groups must overcome in order to achieve social integration. One good example relates to quotas for the employment of persons with disabilities. The Act of 10 July 1987 requires private-sector employers with more than 20 employees to recruit 6 per cent of their workforce among persons with disabilities.

Article 8
Awareness-raising

83. To mark the occasion of the International Day of Persons with Disabilities held on 3 December each year, the Ministry of National Education, in partnership with associations, organizes disability awareness activities aimed at young people. Moreover, Disability Employment Week, held for the eighteenth time in November 2014, provides a yearly opportunity for all those involved to raise awareness about labour market integration among employers and persons with disabilities.

84. A number of annual trade shows, such as Autonomic in Paris and Handica in Lyon, are geared to the general public and to professionals alike, chiefly focusing on issues such

as independence, accessibility and social and professional integration. Ministries attend those events to interact with persons with disabilities and their relatives and to explain the Government’s disability policy.

Article 9
Accessibility

85. The Act of 11 February 2005 made the principle of accessibility, in the broadest sense, an ambitious and essential objective of disability policy. Accordingly, the Government aims to achieve accessibility in all aspects of daily life for all types of disability. That involves access to culture, to sport, to tourism, to new technologies, to all types of building (housing, business premises and public buildings) and to an unrestricted chain of movement, including the road network, public transport and public spaces.

86. The Government has drawn up a list of qualifications and certifications, such as those awarded to architects, that require training in the accessibility of the built environment for persons with disabilities. This requirement has been extended to professionals involved in developing the built environment, such as product and industrial designers. Continuous training is arranged for professionals so that they can enhance their understanding of the challenges of ensuring accessibility.

Accessibility of public buildings

87. Lawmakers have sought to enable everybody in France to have access to all public places, irrespective of their disability. To achieve this, targets were set in terms of both outcomes and the means of achieving them, as expressed in accessibility audits and technical standards, with a deadline of 1 January 2015.

88. As of 1 July 2012:

- A total of 63 per cent of intermunicipal public buildings and 56 per cent of municipal public buildings in the first to fourth categories[10] had undergone an accessibility audit, as against 27 per cent and 35 per cent, respectively, in 2010
- A total of 77 per cent of audits of public buildings of public corporations for inter-municipal cooperation and 74 per cent of audits of municipal public buildings had been initiated or completed, as against 56 per cent and 60 per cent, respectively, in 2010

89. As of 31 December 2014, out of 1 million public buildings:

- A total of 250,000 conformed to the 2015 standards on new buildings
- A total of 50,000 existing public buildings fully conformed to the standards

90. Recognizing that the 10 years granted by law was insufficient for the target to be met, the authorities have extended the deadline so that work can continue on public buildings that are totally or partially inaccessible. The Ordinance of 26 September 2014, ratified by Act No. 2015-988 of 5 August 2015, amended the obligations arising from the Act of 2005. A new mechanism, known as the Programmed Accessibility Agenda, required buildings that were non-compliant on 1 January 2015 to meet the accessibility requirements by a binding deadline.

91. Once the owners or managers of public buildings submit a Programmed Accessibility Agenda, they are required to ensure accessibility within three years. The mechanism also provides for administrative penalties, in addition to the criminal penalties envisaged under the Act of 2005. The fines that are collected will be paid into a dedicated

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[10] Public buildings are classified according to the number of people with access to them. Thus, category 1 applies to 1,500 persons and above; category 2 between 701 and 1,500 persons; category 3 between 301 and 700 persons; and category 4 fewer than 300 persons (art. R.123-19 of the Building and Housing Code).

accessibility fund, which will finance research and development and also provide funding for works by contracting authorities facing serious financial difficulty.

92. At the same time, new accessibility committees have been set up in local communities with more than 5,000 inhabitants. These committees will provide a forum for consultation between elected officials, associations of persons with disabilities, older persons and community stakeholders. Their task is to draw up reports on the accessibility of existing buildings, roads, public spaces and transport services, and to identify accessible housing and public buildings. They may make any suggestions that may be useful for improving accessibility.

Transport and road accessibility

93. Efforts to make roads and transport services accessible draw upon new planning and programming tools:

- Transport authorities must implement accessibility master plans in respect of their services. As of July 2012, 86 per cent of such plans had been adopted or were under development, while 14 per cent were still awaiting a commitment by the relevant authority
- All municipalities must draft plans for road accessibility and the development of public spaces integrated into their urban transport plans, if any, and make provisions to render both pedestrian walkways and vehicular areas accessible for persons with disabilities and reduced mobility. As of 1 July 2012, almost 64 per cent of these plans, covering 85 per cent of the population, were either being drafted or were complete, while 13 per cent, covering 30 per cent of the population, had been adopted.

94. Urban transport systems have made faster progress on accessibility than inter-urban services. Some 90 per cent of buses are equipped with low floors and there are about 25,000 accessible stopping points. Track-guided transport lines are accessible, with occasional exceptions. About 240 of approximately 1,500 railway stations are accessible and a further 900 are scheduled to undergo work pursuant to the accessibility master plans. Rolling stock is gradually becoming more accessible as new stock is purchased and trains already in service are refurbished.

Digital accessibility

95. The Decree of 14 May 2009,[11] adopted pursuant to article 47 of the Act of 11 February 2005,[12] created a general accessibility framework for public administrations for use by the State, the territorial communities and public institutions. Developed in conformity with international accessibility standards, the framework covers different types of disability and the different technologies used by online public communications departments. It also works with the internal information technology applications (intranet and business applications) used by public officials.

96. Today, the public authorities are dragging their feet somewhat in the implementation of digital accessibility and many websites do not abide by the general accessibility framework, despite the fact that the Decree of 2009 set a 2011 deadline for ensuring accessibility. Having updated the framework in early 2015 to take account of technological developments, the Government has drawn up an action plan to bring the websites of different ministries into line, to train staff and to develop a distinctive label for mobilizing public services throughout their internal hierarchy and raising awareness of websites that are committed to an accessibility approach.

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[11] Decree No. 2009-546 of 14 May 2009 adopted pursuant to article 47 of Act No. 2005-102 of 11 February 2005 on equal rights and opportunities, participation and citizenship for persons with disabilities and creating an accessibility framework for online public communication services.

[12] Act No. 2005-102 of 11 February 2005 on equal rights and opportunities, participation and citizenship for persons with disabilities.

97. The Government has also decided to initiate activities to raise awareness of digital accessibility in the private sector. Measures include the signing of voluntary declarations of commitment, as in the distance-selling sector, and a digital school initiative to take accessibility into account in the training of web professionals.

Media accessibility

98. The provisions of the Act of 11 February 2005 aimed to make television programmes accessible for deaf and hard-of-hearing persons, while those of the Act of 5 March 2009 aimed to make them accessible for blind and partially sighted persons. These provisions are closely monitored by the Broadcasting Authority (Conseil supérieur de l’audiovisuel) in its dealings with television channels. All major terrestrial channels with an average annual audience share of more than 2.5 per cent are obliged to provide subtitles and audio description for their programming, although not for advertisements. The Broadcasting Authority also encourages the other channels to commit themselves to providing accessible output.

99. In addition, a charter relating to the quality of subtitles for deaf and hard-of-hearing persons was signed on 12 December 2011 between the Broadcasting Authority, the Ministry of Solidarity and Social Cohesion, the Ministry of Culture and Communication, television channels, subtitling companies and the representatives of associations of deaf and hard-of-hearing persons. Compliance with the charter is monitored by the Broadcasting Authority.

100. Since 2005, the public television service has offered regular programmes with signing in French Sign Language and the number of such broadcasts has risen by 46 per cent in five years. Although this approach initially centred on news and politics programmes, with three accessible news programmes per day on the three rolling news channels, the focus has subsequently shifted to children’s programmes, so that deaf children who have not yet learned to read can have access to play-based and animated programmes in French Sign Language. A quality charter relating to the use of French Sign Language in television programmes was signed on 15 January 2015 between the Broadcasting Authority, the ministry responsible for persons with disabilities, television stations and representatives of professionals and deaf and hard-of-hearing persons’ associations.

101. While notable progress has been achieved, the Government remains vigilant to ensure that commitments are fulfilled, including for the roll-out of an on-demand solution that will display French Sign Language translation on a second screen. It also aims to ensure access to audio description and subtitling in all forms of film distribution, whether cinema, video on demand, digital versatile disc (DVD) or smart television.

Accessibility of communications

102. The Government has made a commitment to promote telephone accessibility for deaf and hard-of-hearing persons. In the sphere of mobile telephony, ahead of the creation of a statutory requirement for all telephone operators,[13] three operators (Bouygues Telecom, Société française du radiotéléphone (SFR) and Orange France) entered into an agreement in 2005 with the French Telecoms Federation and the French Association of Mobile Phone Operators to produce a range of mobile devices and services adapted to different types of disability, drawing on the expertise of associations of persons with disabilities. Three annual reviews were prepared, enabling joint progress to be made on ensuring the accessibility of communications.

103. Meanwhile, the first national emergency call relay centre[14] for deaf and hard-of-hearing persons opened on 14 September 2011.[15] This centre, administered by the university hospital in Grenoble, allows hard-of-hearing persons to make emergency calls to

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[13] Decree No. 2006-268 of 7 March 2006 relating to conditions for the establishment and operation of networks and to the provision of mobile radio-communication services.

[14] Practical user guide of the centre: www.solidarite.gouv.fr/IMG/pdf/ guidederversion-2.pdf.

[15] Decree No. 2008-346 of 14 April 2008 on the receipt and handling of emergency calls from hard-of-hearing persons.

the emergency health services, police and gendarmerie via a single hotline number, 114. In the first phase, the emergency services can be contacted by fax or short message service (SMS). In the second phase, planned for 2015–2016, it should be possible to contact the centre in “total conversation” mode (audio, video or text).

104. Similarly, and pursuant to the same decree, it is envisaged that a call relay centre will be established so that deaf and hard-of-hearing users can consult general practitioners, using three communication modes (French Sign Language, cued speech or writing). The centre commenced testing in 2014 with a view to evaluating users’ needs and behaviours and its own functioning and activity. The goal is to review the arrangements whereby deaf, hard-of-hearing, deaf-blind, deaf and partially sighted and aphasic persons can access telephone services. After a one-year pilot phase, the evaluation of the centre will feed into proposals of alternative scenarios for the widespread implementation of telephone accessibility, with the Government then incorporating the agreed solution into a digital bill.

Article 10
Right to life

105. Technical developments in recent decades have benefited all fields of medicine. In particular, such advances have allowed improvements in prenatal care and preventive treatment for couples that wish to receive it. In France, questions about the scope and limitation of people’s rights in respect of the biomedical applications that have become available as a result of advances in scientific knowledge have given rise to a body of law on bioethics, which was established in 1994 and which is periodically amended.[16]

106. In this framework, lawmakers have taken into account people’s dignity and liberty as human beings but also their identity and diversity as members of the human race. The domestic laws on bioethics have laid down general principles for the protection of the person, such as a prohibition of the selection of human beings, irrespective of the selection criteria applied, including disability. Thus, eugenics is explicitly prohibited under article 16-2 (4) of the Civil Code, which is a mandatory public policy provision. Under article 214-1 of the Criminal Code, eugenic practices aimed at the selection of human beings are punishable with 30 years’ imprisonment and a €7,500,000 fine. Since 1994, these laws have also set out rules governing certain areas of medical activity, including prenatal diagnosis and pre-implantation genetic diagnosis. Although the current law allows couples to opt for the termination of a pregnancy for medical reasons, it also establishes a strict framework for the procedure: the condition affecting the fetus must be “particularly serious” and “known to be incurable at the time of diagnosis”. These two descriptions do not refer to disability, which is not cited in the legislation.

107. In any event, nothing is imposed upon a pregnant woman — especially not termination for medical reasons — at either the screening or the diagnostic stage. Pregnant women and their partners are free to make the final decision.

Article 11
Situations of risk and humanitarian emergencies

108. The authorities are mindful of the need to develop responses that are adapted to the needs of vulnerable people, particularly persons with disabilities, in situations of risk and humanitarian emergencies.

109. Act No. 2004-626 of 30 June 2004 on solidarity with the independence of older persons and persons with disabilities provided for the introduction in each department of early warning and contingency plans for older persons and persons with disabilities in the event of exceptional risks and also of municipal registers, maintained by town halls, to identify vulnerable persons.

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[16] Act No. 2004-800 of 6 August 2004 on bioethics and Act No. 2011-814 of 7 July 2011 on bioethics.

110. Furthermore, a ministerial circular of 14 June 2007 gave institutions housing or caring for persons with disabilities the responsibility of implementing the measures recommended in government plans detailing the organizational arrangements to be implemented in the event of a health or climate crisis.

111. These arrangements are activated during extreme weather events such as heatwaves and severe cold snaps in accordance with the conditions set forth, respectively, in the annual interministerial directive on the national heatwave plan and the annual interministerial directive on the national guide on the prevention and management of the health and social impacts of cold spells.

Article 12
Equal recognition before the law

112. It is worth, first of all, clarifying the distinction made in French law between legal capacity and legal personality, a distinction clearly drawn in two separate paragraphs of article 12 of the Convention. Legal personality is defined as the capacity to be a rights holder; thus, all persons have rights regardless of disability, age or whether or not they are subject to protection measures. Legal capacity is defined as the ability to exercise the rights that one holds. Persons with disabilities can enjoy a measure of legal protection, which may involve a greater or lesser restriction of their legal capacity, without this affecting their legal personality.

113. Under French law, the legal protection of adults must comply with the principles of necessity, subsidiarity and proportionality (article 428 of the Civil Code).

114. Legal protection measures are therefore taken only where necessary. They are admissible only when an impairment is evidenced by a detailed medical certificate, and even then they must be used only as a second option; in other words, a judge may impose them only when no legal arrangements can be made that are less restrictive. Such measures must also be proportionate, in the sense that they should be tailored to each specific case.

115. Furthermore, protection measures can be implemented only once a judge has heard the person concerned, unless this is impossible in view of the person’s condition. Such a person may be assisted by a lawyer. During the hearing, the consent of the person concerned is routinely sought and the measures taken are subject to a mandatory review, ideally every five years. These measures fall within the competence of a guardianship judge who receives an application from the person to be protected, from a member of that person’s family or a close friend, or from the public prosecutor.

116. The extent of changes to the legal capacity of the persons concerned may vary. A number of possibilities exist, including judicial supervision, wardship and guardianship. The latter, which is the most serious, may be imposed only if the person needs to be represented in civil acts on a continuous basis. As at 31 December 2013, out of a total of 647,746 protection measures, 359,237 were guardianship measures.[17] Even in these cases, the law excludes certain acts that are considered strictly personal, for which decisions cannot be made on behalf of protected adults.[18] Other important civil acts, such as marriage, may be subject not only to the consent of the person concerned but also to approval “regarding the personal and property obligations arising therefrom”.[19] In its opinion of 16

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[17] Since a disability does not in itself constitute a condition for a judge to grant protection, there are no statistical data on the number of persons with disabilities who are also subject to a protection measure.

[18] Article 458 of the Civil Code states: “Subject to specific provisions of the law, acts that by their nature require strictly personal consent may never be performed with assistance or by a representative of the protected person. The declaration and certification of a child’s birth, acts of parental authority concerning a child, the declaration of a choice or change of name of a child, and consent to the person’s own adoption or that of the person’s child are considered strictly personal.”

[19] Question prioritaire de constitutionnalité (QPC) Decision No. 2012-260 of the Constitutional Council, rendered in particular in connection with the Declaration of the Rights of Man and of the Citizen, ruling that the provisions of the Civil Code regarding the marriage of a person under guardianship or wardship are in compliance with the French Constitution.

April 2015 on the consent of vulnerable persons, the National Consultative Commission on Human Rights stated that “the idea of a scale of consent has helped to promote the idea that the independence of protected or vulnerable persons should be taken into account”.

117. France has undertaken reforms in order to better inform those affected of their rights and to provide them with enhanced support in exercising their legal capacity.

118. Act No. 2015-1776 of 28 December 2015 on the adaptation of society to an ageing population introduced amendments aimed at harmonizing the legal framework for the protection of vulnerable persons. Since then, all administrators for the protection of adults — staff appointed by the guardianship judge to oversee the day-to-day implementation of the protection measure — personally give the protected person an individual document on adult protection and an information sheet to which is attached a charter of their rights. This document, which is written with input from the person concerned, sets out the objectives and nature of the service or support provided, in keeping with ethical principles, recommendations on good professional practice and a care plan drawn up by the institution or facility where the protected person is to be accommodated. This allows the persons concerned to have a say in formalizing their care, giving them greater involvement and more personalized protection measures. If, because of their condition, protected persons are unable to understand the measure, the administrators give these documents to a member of the family council, if there is one, or, failing that, to a relative, friend, somebody in the family circle of whose existence the person concerned is aware or a trusted person, as appropriate.

119. For any decision relating to medical treatment, Act No. 2016-41 of 26 January 2016 on modernizing the French health system empowers the Government to adopt measures by decree, within a period of 18 months, with a view to bringing the provisions of the Civil Code and the Public Health Code that relate to the conditions under which the will of persons subject to judicial protection measures can be expressed into line with the Civil Code provisions on judicial protection measures for adults.

120. In addition to judicial protection measures, lawmakers have put in place several support measures to help the most vulnerable persons to exercise their rights.

121. The Act of 4 March 2002 on patients’ rights introduced the term “trusted person”, which refers to a person chosen to provide help, advice and assistance. Article L.1111-6 of the Public Health Code states that: “adult persons may appoint a trusted person, who may be a parent, a close relative or the attending physician, and who shall be consulted when such persons are unable to express their will or to receive the necessary information to that end”. Originally reserved solely for users of the health-care system, this provision was extended to patients in the social and medico-social sectors pursuant to Act No. 2015-1776 of 28 December 2015 on the adaptation of society to an ageing population. Adults accommodated in social or medico-social institutions or facilities are thus given the option of appointing a trusted person, if they have not already done so, under article L.1111-6 (1) of the Public Health Code (article L.311-5-1 of the Welfare and Family Code).

122. Trusted persons are consulted if the persons concerned have difficulties understanding their rights. If the persons concerned so wish, trusted persons may lend support and assistance with making decisions during medical consultations.

123. Other assistance measures are related to the management of social benefits. Such measures are designed to help adults whose faculties are not impaired but who face major social difficulties and who receive social benefits. They may therefore cover persons with disabilities. If adopted pre-emptively, these measures can also help prevent a situation from deteriorating into one requiring wardship or guardianship. There are two types of measure: the personalized social support measure and the judicial support measure.

124. The personalized social support measure (articles L.271-1 et seq. of the Welfare and Family Code), introduced by the Act of 5 March 2007, is an administrative measure whose aim is to allow adults to resume the independent management of their social benefits and to prevent risks to their health and physical safety. To this end, they receive assistance in managing their benefits and personalized social support from the department’s social services. Unlike the judicial support measure (see below), this social measure takes the

form of a personalized social support contract, subject to amendment, which contains reciprocal commitments between the department and the person concerned. This is a budget management and social support provision, lying somewhere between social support and more onerous judicial measures, and does not diminish a person's legal capacity. The Access to Justice for Persons with Intellectual Disabilities project, funded by the European Union, has been identified as a positive practice with respect to legal capacity.

125. The judicial support measure (articles 495 et seq. of the Civil Code) also seeks to re-establish people's independence in managing their resources where the personalized social provision mentioned above has not enabled them to manage their benefits properly, thereby compromising their health or safety. It should be noted that there is no need to apply this measure to married persons, since the social benefits can be adequately managed by their spouses under the rules concerning matrimonial property regimes and the rights and responsibilities of couples. Unlike the social provision, this measure is binding when it is ordered by a judge, though it does not entail the withdrawal of any legal capacity. The person concerned may engage in any civil act.

126. In addition, the Act of 31 January 2007 on access to credit by persons with an increased health risk established the Insuring and Borrowing with an Increased Health Risk Agreement, which allows persons who have or have had a serious health problem or disability to obtain a housing loan or consumer credit more easily and without having to complete a medical questionnaire (article L.1141-2 of the Public Health Code). This agreement constitutes a positive exception to the principle of equal treatment and provides the persons concerned with easier access to finance.

127. The aim of these support provisions is to afford those in significant social and economic difficulty more independence. Together with conventional legal protection schemes, they offer a useful grading system that can be adapted on a case-by-case basis, fostering support rather than substitution in every instance.

Article 13
Access to justice

128. Various measures have been introduced to ensure that persons with disabilities have effective access to justice at all stages of the legal process.

129. France established a proactive policy of access to law and justice through Act No. 91-647 of 10 July 1991 on legal aid. It governs access to law and justice by providing personalized aid in terms of both funding, depending on the resources available within the legal aid framework, and guidance, in the form of the legal advice offered in specialist centres nationwide. France has sought to adapt this policy to meet the needs of different groups, paying particular attention to the needs of persons with disabilities.

130. French law provides special support in administrative, civil and criminal justice proceedings. This support ensures that justice is fully accessible, in accordance with article 76 of the Act of 11 February 2005 on equal rights and opportunities, participation and citizenship for persons with disabilities, which states:

- "All deaf persons shall be entitled to use the adapted communication device of their choice. The costs incurred shall be borne by the State"
- "Where the circumstances so require, a technical aid shall be supplied to persons with visual impairments to allow them access to case files, as specified by regulations"
- And lastly, "persons with aphasia may be accompanied in court by a person of their choice or by a professional, in view of their communication difficulties resulting from a total or partial loss of language"

131. The situation of persons with disabilities also means that they should receive special treatment, attention and support in terms of access to the law. In that regard, France has established special legal advice services in the departmental centres for persons with disabilities. In Paris, for example, a legal advice service has been available in sign language

since 2002 to help deaf persons navigate the judicial system and to inform them, upon request, of their rights as persons with disabilities. The northern departmental council for legal access,[20] in collaboration with the Paris Bar Association, has provided “rights desks” since 2011 for persons with psychosocial disabilities who have been hospitalized without their consent. Under this initiative, which also benefits persons with intellectual disabilities, they are provided with a free monthly lawyer service within their hospital. The European Access to Justice for Persons with Intellectual Disabilities[21] project, which adopted the initiative as a positive practice in the area of access to justice, considers it to be particularly effective and all lawyers participating in the scheme have been given special training.

132. As regards prisons, the Act of 9 September 2002 organizing and planning the justice system provides for the adaptation of one cell to accommodate a person with disabilities for every 150 cells built. It contains similar provisions for prison renovation projects. A number of regulations set the rules on the accessibility of prisons under construction as well as existing prisons. In line with the need for universal accessibility, and to cover all disabilities, the regulations also take due account of sensory, motor and mental disabilities.

Article 14
Liberty and security of the person

133. The Act of 5 July 2011 on the rights, protection and care of persons undergoing psychiatric treatment, as amended by Act No. 2013-869 of 27 September 2013, introduced a change to the conditions for the treatment of persons who had been hospitalized without consent, whether at the request of a third party or pursuant to a prefectural decision handed down ex officio in the event of a threat to “public order or personal safety”. The concept of “hospitalization without consent” has been removed and replaced by “care without consent”, thereby opening the possibility of adapting the type of care to each patient’s state of health and any future developments. This means that patients can be hospitalized full-time or treated as part of a care programme, which can include part-time hospitalization, care at home, outpatient treatment or a combination of these. The choice between these various options is made on the basis of a medical opinion following an inpatient observation period of up to 72 hours.

134. The Act also sets the conditions for monitoring patients receiving care according to a treatment programme. Pursuant to a decision by the Constitutional Council of 26 November 2010, the law requires systematic monitoring by the liberties and detention judge for any full inpatient treatment, 12 days after admission at the latest. A new judicial review is also required at least every six months. In both cases, the person concerned may be assisted by a lawyer. Lastly, the Act specifies the obligations of health-care facilities to inform patients of their rights and the reasons for their being taken into care and gives them more extensive opportunities to express an opinion on the measures that concern them.

135. Article 22 of the Prisons Act of 24 November 2009[22] established a principle whereby “the prison service shall guarantee respect for the dignity and rights of all detainees. Detainees may not be subject to restrictions other than those naturally arising out of the constraints of detention, the maintenance of prison security and order, the prevention of reoffending and the protection of victims’ interests. These restrictions shall take into account the age, health, disability and personality of the detainee.”

136. Persons with impaired mental faculties must routinely be offered appropriate medical treatment and monitoring.

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[20] The departmental councils for legal access are responsible for establishing and implementing legal access policies at the departmental level. Chaired by the president of the *tribunal de grande instance* (court of major jurisdiction), these councils bring together legal professionals, local authorities responsible for social policies, specialist associations and the departmental prefect.

[21] Launched in 2014, the project seeks to inform both potential helpers and judicial officials of the rights of persons with intellectual disabilities and how to provide them with adequate support. The project is co-financed by the European Commission and comprises 10 partners from six European countries, including France.

[22] Prisons Act No. 2009-1436 of 24 November 2009.

137. The psychiatric care of detained persons is organized pursuant to Decree No. 86-602 of 14 March 1986 on preventing mental illnesses and the organization of psychiatric sectors, which transferred responsibility for psychiatric care in prisons to the public hospital service, and Act No. 94-43 of 18 January 1994, which transferred responsibility for organizing and providing health care for detainees to the public hospital service. A practical guide for providing health care for persons in custody within the justice system, co-authored by the Ministry of Justice and the Ministry of Social Affairs and Health, is distributed to the relevant parties.

138. Aside from the issue of access to care, sentences can be adjusted for detainees with disabilities.

139. Act No. 2002-303 of 4 March 2002 on patients' rights offers detainees the possibility of applying for release if their "continued imprisonment is unsustainable owing to their physical or mental health" (article 720-1-1 of the Code of Criminal Procedure), "whatever the nature of the sentence or the time remaining to be served". Since the adoption of Act No. 2014-896 of 15 August 2014, this adjustment measure requires the prior opinion of a single expert, rather than two experts as before.

140. It should be noted that the care and procedures for admission into care of persons with disabilities receive particular attention from the Office of the Inspector General of Places of Deprivation of Liberty when visiting institutions that fall within its remit, whether they are prisons or health-care facilities that take in involuntarily hospitalized persons. The Office frequently receives requests from detainees to adjudicate on issues relating to care for persons with disabilities, on the basis of article 6 of the amended Act of 30 October 2007.[23] A number of investigations have been carried out on the basis of those requests, in order to understand the care given to detained persons with disabilities within the designated institutions. These investigations have provided an opportunity to make specific recommendations to the heads of the institutions concerned.

141. Numerous measures have been taken pursuant to those recommendations. Recently, Act No. 2016-41 of 26 January 2016 on modernizing the French health system stipulated that all psychiatric institutions must keep a record of the use of isolation rooms and restraints, stating the name of the psychiatrist who made the decision and the professionals who oversaw it. This record can be consulted by the Departmental Commission for Psychiatric Care, the Inspector General of Places of Deprivation of Liberty and members of the parliament. Reports on such practices will be published annually.

142. Judicial authorities that oversee psychiatric institutions must ensure that all of these rights are respected. A circular drawing on the Inspector General's reports is currently being drafted, with particular emphasis on the role of the State prosecutor when visiting places of deprivation of liberty.

143. Lastly, it should be noted that the Defender of Rights plays a role alongside the Inspector General in ensuring respect for the rights of persons with disabilities held in prison or in police custody. To that end, the Defender has repeatedly underlined the need to tailor measures to the disability or, where this is not possible, to put in place alternatives to detention. Furthermore, the Defender can receive applications from detainees directly and adjudicate on their particular case, as it did in 2013 when it adopted a decision on the conditions of detention of a profoundly deaf person.

Article 15
Freedom from torture or cruel, inhuman or degrading treatment or punishment

144. No citizen of the Republic, regardless of any disability, may be "subjected to torture or cruel, inhuman or degrading treatment or punishment", in accordance with national and international law.

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[23] Act No. 2007-1545 of 30 October 2007, establishing the post of Inspector General of Places of Deprivation of Liberty.

145. Biomedical research, defined here as medical or scientific experiments, cannot be classified as inhuman or degrading treatment when it is carried out under the conditions provided for by law and when the right to respect for the human person is guaranteed. The aim is to enable persons with disabilities to benefit from the advances made by research. Persons with disabilities must therefore be able to participate in order to contribute to advances in therapy and care. Such participation must, however, be subject to strict conditions that guarantee the protection of persons and their rights. The Public Health Code states that a person must give his or her free and informed consent to participate in biomedical research and may at any time object to the completion or continuation of the research.[24] The Code also establishes the means by which persons who would be unable to give their consent may authorize such research and also allows them to object to its completion.

146. Packing therapy applied to adults and children with autism is considered an act of mistreatment. This position was stated very clearly by the Minister for Persons with Disabilities, Ms. Ségolène Neuville, before the National Autism Committee on 21 April 2016. Contracts specifying objectives and resources with medico-social institutions can now be signed only on condition that commitments for the prevention of mistreatment, which includes the practice of packing, are respected.

Article 16
Freedom from exploitation, violence and abuse

147. The protection of persons with disabilities from all forms of exploitation, violence or abuse is a priority for the Government. Persons with disabilities are susceptible to abuse, in that they display various vulnerability factors, whether physical, intellectual or psychological. This vulnerability is recognized in the Criminal Code.[25]

148. At the national level, the Ministry of Social Affairs and Health set out a plan in March 2007 to prevent the abuse of older persons and persons with disabilities, and established a national committee for rights and decent treatment. The committee, which serves as a forum for the representatives of older persons and persons with disabilities, professionals in the sector, the administration and ministers, is currently campaigning to promote best practices and the rights of such persons.

149. Moreover, in order to adopt a meaningful policy for the prevention of abuse and to promote good treatment, the National Agency for the Assessment of the Quality of Social and Medico-social Institutions and Services has drawn up a number of recommendations in this regard relating to good treatment and the role of management in preventing and dealing with abuse in the home and in institutions. In addition, the 39 77 hotline, a national number set up in 2008 for the use of older persons and persons with disabilities who suffer abuse, centralizes all calls, provides support and guidance and follows up on reported cases of abuse. Case files are sent to the relevant administrative and judicial authorities where necessary. The 119 hotline for children at risk also assists young persons with disabilities.

150. Two information systems have been developed to raise awareness and prevent cases of violence or abuse, one relating to risk prevention, inspection and reporting of abuse in social and medico-social institutions, known by the acronym PRISME, and the other being complaint monitoring software. The data collected — relating to the nature and origin of reports made, the identification of risk factors, the monitoring of abuse cases, inspections, follow-up and so forth — are used to improve the management of regional and national action to prevent and combat abuse.

151. At the regional level, the prevention of abuse and the promotion of good treatment are among the tasks of the regional health agencies, which are required to draw attention to, transmit and monitor cases of abuse reported by institutions. They inform the Ministry's central services of any such occurrences. In other action, they forward cases, where

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[24] Article L.1122-1 et seq. of the Public Health Code.

[25] Under articles 222-13 and 14 of the Criminal Code, violence against persons who are particularly vulnerable owing to their age or physical or psychological condition are punished more severely.

necessary, to the competent judicial authorities and the victims' families, and ensure that the victims receive support and assistance. When cases of abuse in institutions are brought to light, assessments and on-site inspections are conducted where necessary. Responsibility for overseeing social and medico-social institutions lies with the departmental prefect or the regional health agencies, which may order the closure of institutions where the health or safety of the people living there is compromised. Depending on the seriousness of the matter, it is up to the competent administrative authority to refer the case to the State prosecutor. In addition, the regional medico-social plans include sections dedicated to preventing abuse and dealing with violence both in institutions and in the home.

152. A circular from the Ministry of Social Affairs and Health of 20 February 2014, addressed to the general directors of the regional health agencies and to the departmental prefects, set out the priorities for preventing and combating the abuse of persons with disabilities and older persons in institutions and in medico-social facilities, by improving reporting and oversight and bringing quality-control tools into play. Moreover, the national multi-year programme for the identification of risks of abuse requires the inspection of 12 per cent of institutions caring for persons with disabilities to be included in every regional programme covering the period 2013–2017.

153. Furthermore, to reinforce the instructions contained in the Ministry circular, article 25 of the draft law on the adaptation of society to an ageing population includes provisions that require institutions, facilities and places providing accommodation and care to immediately inform the administrative authorities responsible for issuing permits for such organizations of any occurrence that may threaten the health, safety or physical or mental well-being of the persons under their care. The provisions will enter into force in 2016.

Article 17
Protecting the integrity of the person

154. Article L.1111-4 of the Public Health Code requires the free and informed consent of the person concerned to treatment and medical procedures. This provision applies to everyone, including persons with disabilities, who take decisions concerning their health on the basis of the information and recommendations provided by health professionals. These professionals are bound to respect the wishes of such persons and may not perform any procedure or treatment without their consent.

155. Where patients are unable to express their wishes, no medical intervention or procedure may be carried out unless the trusted person or, failing this, the patient's family, has been consulted. The consent of persons under guardianship must always be sought if they are capable of expressing their will and participating in a decision. When such persons are able to express their will, the guardian essentially has the role of confirming it.

156. Provisions governing abortion[26] apply to all women, including women with disabilities. Women and girls with disabilities are protected against forced sterilization. Article L.2123-2 of the Public Health Code provides that female contraceptive sterilization may be performed only on persons whose mental impairment constitutes a disability and justifies their placement under guardianship or wardship, when there is an absolute medical contraindication to the use of contraception or it has been proved that such methods would not be effective. Intervention is therefore at the discretion of the guardianship judge, who makes a decision after having heard the persons concerned — on the basis of information appropriate to their degree of understanding and bearing in mind that their refusal cannot be gainsaid — their family or their legal representative, as well as the opinion of a committee of experts comprising representatives of associations for persons with disabilities and qualified medical professionals.

157. The Defender of Rights, as an independent authority, ensures that the right to integrity of the person is respected through its health and health-care safety division.

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[26] Article L.2212-1 of the Public Health Code.

Article 18
Liberty of movement and nationality

158. Persons with disabilities benefit from the provisions of ordinary law in the same way as the rest of the population. They have a right to a nationality and the right to move freely, without any restrictions.

Article 19
Living independently and being included in the community

159. In order to ensure the independent living of persons with disabilities, France has established an ambitious policy of personal disability benefits and support for independent living.

Personal disability benefits

160. Based on the needs and life plans of persons with disabilities, the personal disability benefit can be divided into five parts: human assistance, technical assistance, adaptation of housing or vehicles and transport costs, specific or exceptional assistance and assistive animals.[27] As at the third quarter of 2014, the average monthly payments amount to €750 per beneficiary. Total expenditure on this benefit reached €1.5 billion in 2013, according to provisional data from the National Solidarity Fund for Independence.

161. The distribution of the benefit allocated reveals a high proportion of human assistance (41.9 per cent) and technical assistance (23.4 per cent), although the share of human assistance has declined in recent years. The share of adaptation of housing or vehicles and additional transport costs (16.6 per cent) had been in steady decline since 2007 but rose in 2013. The share of assistive animals remains very low but constant at 0.2 per cent, according to final data from the National Solidarity Fund for Independence, 2013 report.

162. However, despite these positive developments, associations representing persons with disabilities point out that there are a number of limitations to personal disability benefits, such as the failure to take into account household assistance, parenting support and charges or caps on benefits that are often too low to cover the total cost of human and technical assistance or expensive adaptations and may leave the persons concerned with a potentially heavy financial burden. In order to address these concerns, the President of the Republic announced, during the National Disability Conference in 2014, that departmental councils would be permitted to establish a third-party payment system for technical assistance and equipment for persons with disabilities, thereby avoiding the need for these costs to be paid in advance.

Support for independent living

163. Alongside personal benefits, there are a number of social and medico-social institutions and facilities that offer support for independent living to young and adult persons with disabilities, taking into account their life plans.

164. In 2013, there were 17,915 medico-social institutions and facilities providing care or assistance for dependent older persons or persons with disabilities. Of these, 89 per cent were funded at least in part by health insurance from the non-profit private sector, 10 per cent by the public sector and less than 1 per cent by the commercial private sector.

- Institutions and facilities for persons under 20 years of age include centres for early medico-social action, child guidance centres, the special education service and home-care service, medical and educational institutes, therapeutic, education and learning institutes, motor-skills development institutes, institutes dealing with sensory disabilities and establishments for multiple disabilities. Overall, there are

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[27] Article 245-3 of the Social Welfare and Family Code.

105,900 places in these institutions and a further 286,300 places in outpatient services or care

- Institutions and services for persons aged between 20 and 59 include employment rehabilitation establishments and facilities, which have 117,000 places; vocational retraining centres and career guidance centres, with 11,100 places between them; social support services; a medico-social support service for adults with disabilities; home nursing services, which have 50,300 places; medical care homes, with 23,100 places; special care homes, with 26,000 places; shelters, with 40,700 places; and residential homes, with 49,700 places. (Source: National Solidarity Fund for Independence, 2013 report.)

165. Over the period 2004–2013, the number of places in medico-social institutions and facilities has increased on average by 7.7 per cent for adults and 1.3 per cent for children every year.[28] This difference in percentage rates is due both to a dynamic development policy for the supply of medico-social care for adults with disabilities, given that the number of places for adults has lagged behind that for children, and to the constant flow of young people who have reached adulthood and have remained in children's institutions, awaiting an appropriate placement.

"Nobody Without Care", personalized support for all

166. In 2015, France introduced a policy aimed at providing support for persons with disabilities who find themselves in a particularly critical situation owing to the lack of a response tailored to their care needs. To prevent such situations, France has taken pre-emptive action to tackle the root cause of the problem, namely disruption to care. Ms. Marie-Sophie Desaulle[29] has thus been given the task of implementing the recommendations put forward in the report by Mr. Denis Piveteau,[30] entitled "*Zéro sans solution : le devoir collectif de permettre un parcours de vie sans rupture, pour les personnes en situation de handicap et pour leurs proches*" (Nobody without care: the collective duty to provide constant care to persons with disabilities and their families), with the objective of developing practices by the various parties — departmental homes for persons with disabilities, regional health agencies, regional education authorities, regional councils and institution managers — to achieve closer coordination, improved information-sharing, better monitoring and a regular reassessment of policy decisions in order to deal with complex cases more effectively.

167. There are considerable challenges:

- To move away from an approach based on assigning the persons concerned to places or services and replace it with tailored lifelong support agreed with the persons concerned
- To encourage departmental homes for persons with disabilities to ensure that entitlements are less compartmentalized and more inclusive by applying a comprehensive support plan
- To develop less fragmented regional care. The various specialized services are not an end in themselves but rather a means of providing support at the appropriate stage of a person's life
- To support the movement towards more comprehensive pricing and resource allocation, as seen in the work currently being done by a group led by Ms. Annick Deveau for the reform of the services provided for persons with disabilities, known by the French acronym Serafin-PH
- "Nothing For Us Without Us!": there has been a groundswell of active participation by the persons concerned. It is a slow but irreversible movement

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[28] Sources: National Register of Health and Social Institutions, Directorate for Research, Studies, Evaluation and Statistics and National Solidarity Fund for Independence.

[29] Former chair of an association representing persons with disabilities and former director of a regional health agency.

[30] State Counsellor, first director of the National Solidarity Fund for Independence.

- To recognize expertise acquired through first-hand experience, which complements rather than replaces professional competence. Peer counselling, peer assistance, “peer-formance” and peer mediation are some of a number of possibilities for recognizing, describing and providing training for roles within an economic framework to be developed

168. Specifically, four courses of action were developed:

- The establishment of a lifelong guidance system (led by the National Solidarity Fund for Independence)
- The implementation of a regional approach for all (led by the general secretariat of the Ministry of Social Affairs and Health)
- The introduction of a peer-support approach (led by the general secretariat of the Interministerial Committee on Disability)
- The provision of support for change (led by the Directorate General for Social Cohesion)

Recognition, support and assistance for caregivers

169. A caregiver is a non-professional friend or family member who provides complete or partial assistance in the daily activities of a person with disabilities. Such a person is a mainstay of the policy to promote independence and life at home. This is why a policy to support and assist caregivers has been in place for several years. A raft of measures have been adopted to reconcile the working life of such people with their role of caregiver, whereby they are granted family leave and are provided with recognition and financial compensation for their role, in the form of the education allowance for children with disabilities and the personal disability benefit. They are also offered support and assistance by specialist services, and respite care, in the form of temporary in-facility care for the person with disabilities whom they look after. Caregivers of persons with disabilities also receive training.[31] Furthermore, the Act of 20 January 2014[32] contains two measures under which the retirement pension of caregivers who support persons with serious disabilities may be increased, by approving periods when they may stop work or go part-time in order to care for the person with disabilities and by extending the term of their insurance.

170. In addition, a number of measures to assist caregivers were introduced within the framework of the bill on the adaptation of society to an ageing population, such as contributions for training and informing caregivers via the National Solidarity Fund for Independence, which has competence to co-finance training programmes.

Paid care of persons with disabilities in private homes

171. The Government has arranged for persons with disabilities to be placed with families as an alternative form of accommodation, halfway between care at home and in institutions. This arrangement allows persons with disabilities to be accommodated in approved private homes, with people outside their family, in exchange for payment for the services rendered, maintenance costs and rent for the occupied portion of the home.

172. Some provisions of the Act on the adaptation of society to an ageing population, which was promulgated on 29 December 2015,[33] are aimed at enhancing the equality and safety of care by improving the rights of caregivers and residents and by developing the system further. The scheme can thus provide persons accommodated in this way with the individual rights and freedoms currently guaranteed for persons in social and medico-social institutions, and enable them to approach a qualified person or the trusted person to help them exercise their rights.

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[31] Decree of 15 July 2011.

[32] Act No. 2014-40 of 20 January 2014 guaranteeing the future and fairness of the pension system.

[33] Act No. 2015-1776 of 28 December 2015 on the adaptation of society to an ageing population.

Access to appropriate housing or accommodation

173. All persons with disabilities must have housing or accommodation appropriate to their needs and their capacity for independence, according to their life choice. There are a number of options:

- Family boarding houses for isolated or socially excluded persons, where a paid host is in daily attendance with a view to re-establishing the missing social link and maintaining or helping to restore a more independent life for such persons
- Guest homes, which are a combination of boarding houses with a support service to adapt family residences to the specific needs of persons with psychological disabilities who are sufficiently stable to live in independent accommodation but, in view of their fragility, require someone to be occasionally present. By the end of 2011, more than 1,800 places of this kind had been established
- Access to independent accommodation for persons with disabilities, especially older persons, as provided for in the bill on the adaptation of society to an ageing population, thus establishing a social form of housing with services

174. Furthermore, the government action plan adopted following the National Disability Conference in December 2014 included a focus on developing adaptable housing that would deliver both independence and cost control.

Article 20
Personal mobility

175. The general principle of accessibility, as set forth in the Act of 11 February 2005, is consistent with the pursuit of design for all, which, from the very start of the design process of products to be sold to the wider public, takes into account the diversity of the functional abilities of all users, including those of persons with disabilities. The purpose is to improve people’s abilities or to compensate for their disabilities, to increase their independence and to allow them to participate more actively in society.

176. In order to promote this “design for all” culture, a chair dedicated to the subject was established by the Government at the National Conservatory of Arts and Crafts with a view to training and supporting the professionals concerned, conducting research into ergonomics and related disciplines in conjunction with designers and manufacturers and fostering the principle of design for all. The concept is still largely unknown in France but widely applied internationally.

177. Furthermore, disability features in the national research strategy for 2015–2020, specifically in challenge 4, “Health and well-being” but also in challenge 8, “Universal human and related sciences”.

178. The National Centre for Scientific Research and the National Institute of Health and Medical Research have formed a research group known as Information and Communication Sciences-Health,[34] which works in the field of technological and methodological developments in medicine, with one area of interest being disability. The two institutions jointly oversee the Federal Institute of Disability Research, which connects a network of around 30 research teams from different institutions and disciplines within the field of disability.

179. Support funds for the digital economy include a “digital-based technology” budget item and a specific “e-health” item, comprising a call for research and development projects on health and independence in the home using digital technology, such as sensors for rehabilitation, security, the monitoring of physiological parameters and home automation solutions.

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[34] http://stic-sante.org/.

Article 21
Freedom of expression and opinion, and access to information

180. Persons with disabilities have the same right to freedom of expression and opinion, and access to information as all other French citizens.

181. The Act of 11 February 2005 contains various provisions recognizing the modes of communication of deaf and visually impaired persons:

- It recognizes French Sign Language as a language in its own right
- It entitles deaf and visually impaired persons to adopt the mode of communication of their choice when using public services

182. The legal arrangements for implementing such access are currently being determined as part of a more general effort to draft an action plan aimed at ensuring that sufficient competent and skilled human resources are in place to respond to the need for communication that will be accessible to deaf and visually impaired persons.

183. Furthermore, the Government intends to develop a mode of communication that is suitable for persons with intellectual disabilities, namely French that is easy to read and understand. Action will be taken to raise awareness among those responsible for ministerial communication services.

Article 22
Respect for privacy

184. In France, everyone has the right to respect for privacy under article 9 of the Civil Code, which applies equally to persons with disabilities.

185. Moreover, the obligation of professional confidentiality entitles all persons under the care of a professional, a facility, a health network, or any other body whose work involves prevention and treatment, to respect for privacy and to the confidentiality of all information related to them (Public Health Code, art. 1110-4). The disclosure of confidential information by a person entrusted with it is punishable by law.[35]

Article 23
Respect for home and the family

186. The Government is aware of the financial, technical and other difficulties that persons with disabilities may face in trying to found a family and take care of children, particularly young children. In addition, there is a debate over the best way of providing as much parenting support as possible for persons with disabilities. For example, the National Consultative Council of Persons with Disabilities recommends that parenting should be taken into account in the benefits system. In 2011, the Government took firm action to support parents with disabilities. The Social Security Funding Act for 2012 raised the childcare supplement under the infant care benefit scheme by 30 per cent for couples or for single parents who received the adult disability allowance and had a child under 6 years of age.[36]

187. To support the families of children with disabilities, measures have been taken to expand access to child-minding facilities for infants. Training activities have been organized for early-childhood professionals to enable them to provide better care for children with disabilities. At the same time, departmental family service plans and local consultations to coordinate the efforts of the various partners, particularly with regard to the care of children with disabilities under 3 years of age, are gradually being developed.

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[35] Criminal Code, art. 226-13.

[36] Decree of 4 May 2012.

188. Support for families with one or more children with disabilities is based on a family benefits policy designed to cover the additional cost of educating a child with disabilities and on the provision of income-replacement benefits to parents who are forced to stop working. These benefits include an education allowance for children with disabilities and a daily parental attendance allowance.

189. The education allowance for children with disabilities is a family benefit allocated by a committee on the rights and independence of persons with disabilities to all children until school-leaving age (16 years) and until 20 years of age at most. It is paid, without means-testing, to the person who provides for the effective and permanent support of the child. Six supplements to the allowance are available to cover the additional costs and financial losses incurred by the family as a result of a child's disability. Since 1 April 2008, the parents of a child with disabilities have, subject to certain conditions, been able to choose between a supplement to the allowance — to which might be added benefits for arrangements in the home, the adaptation of vehicles and possible additional transport costs — and the compensatory disability benefit in full. The number of recipients of the allowance increased markedly, by an annual average of 6.6 per cent, between 2005 and 2013. On 31 December 2013, it stood at 229,213, according to the National Family Allowance Fund and the Agricultural Social Insurance Mutual Benefit Fund, 2014. Monitoring changes in the number of recipients of the allowance makes it possible to gauge trends in the prevalence of disabilities among children and the level of response provided by local government to the families concerned.

190. People who have to stop working to care for a child with disabilities are entitled to the daily parental attendance allowance. Moreover, various provisions enable parents to deal with their child's disability by facilitating the discontinuation of their employment contract; employees who resign, thereby terminating their employment contract, are entitled to compensation if they have to change their place of residence to be near their child following the child's admission to a facility located far away.

Article 24
Education

191. Guaranteeing the right to education of children and other persons with disabilities is a precondition for ensuring their self-sufficiency, social integration and participation in community life.

Care for children with disabilities in early childhood facilities

192. Care for young children with disabilities in early childhood facilities remains inadequate to meet the aim of ensuring that they have access to education from the earliest possible age. The Government therefore plans to improve such care, in particular by drawing on the National Family Allowance Fund to support projects in regular institutions and thereby meet the specific needs of the families concerned. To improve the quality of care, a disability component is integrated into departmental family service plans. Furthermore, as one of the steps to be taken following the National Disability Conference, the drafting of a plan to encourage people to specialize in infant care will provide an opportunity to organize training for specialists in caring for children with disabilities.

Access to education for children and adolescents with disabilities

193. Over the past 10 years, the schooling of pupils with disabilities has steadily improved in France, in accordance with the right to education for all: "Every child and adolescent with a disability or incapacitating health problem shall be enrolled in the school, or in one of the establishments mentioned in article L.351-1 of the Education Code, that is closest to his or her home, which shall constitute his or her principal establishment."

194. In each department, departmental homes for persons with disabilities are required to meet the special educational needs of pupils by ensuring continuity in their education. To that end, they have a multidisciplinary team tasked with preparing a personal education plan for each pupil. This plan is one of the components of the personal compensation plan,

which takes into account the life plan of each child or adolescent. The personal education plan sets out schooling arrangements and provides for support measures determined by the committee on the rights and independence of persons with disabilities.

195. Mainstream schooling may take place on an individual basis, as part of a group or, when a child or adolescent’s situation so requires, in a medico-social establishment. The “School in Hospital” programme supports children during prolonged hospitalization.

196. To inform parents about matters pertaining to the schooling of their child, a dedicated telephone line and a guide to the schooling of children with disabilities have been made available to families.

Statistics

197. In 2012, there were 225,563 pupils with disabilities, compared with 117,834 in 2006, which equates to an annual increase of around 12 per cent. Since 2012, the number has grown by 15.24 per cent. In 2014, pupils with disabilities accounted for 2.1 per cent of all children enrolled in school, as opposed to 1.8 per cent in 2012. The most marked increase has been in secondary education, with the proportion of pupils with disabilities rising from 1.6 per cent in 2012 to 2 per cent in 2014.

198. The strong growth in the number of children with disabilities in mainstream education contrasts with a much slower increase in the number of children with disabilities enrolled in special schools, a number that rose from 62,000 in 2004 to 83,300 in 2013/14.

199. The Government’s efforts have also led to a substantial increase in the number of children with autism in mainstream education: there were around 12,000 in 2008/09, compared with 26,347 in 2014/15.

200. According to a 2006 report by Senator Paul Blanc, around 5 per cent of children with disabilities were not attending school in that year. The number of out-of-school children was estimated at between 5,000 and 20,000, although the situation was not fully understood, owing to a lack of harmonization of the information systems used by the departmental homes for persons with disabilities. In order to leave no child behind, the government action plan that emerged from the 2014 National Disability Conference provides for a set of measures designed to support each individual, including a referral mechanism operated on a permanent basis by the departmental homes and the adaptation of information systems.

Support for children with disabilities and specific arrangements

Live assistance for school enrolment

201. Following the National Disability Conference of 8 June 2011, the Government extended a scheme to provide live assistance for children with disabilities. Previously, the only support available had been provided on an individual basis, subject to hourly quotas defined by the committee on the rights and independence of persons with disabilities. To this was added a supplementary form of live assistance, known as “mutualized support”, which is more flexible and makes it possible to take ad hoc action in support of a number of pupils. The aim of the support is to respond to the needs of pupils with less severe disabilities whose enrolment in mainstream schools does not require the provision of constant assistance. The introduction of such mutualized support, which can be obtained upon notification of the departmental committee on access to their rights by persons with disabilities, means that the committee on the rights and independence of persons with disabilities is in a position to offer pupils graduated support that is tailored to their needs and thereby give priority in the provision of individualized live assistance to the pupils who will benefit most from it, including children with autism.

202. In addition, work has been done to put an end to job insecurity in this sector, making it possible to ensure continuity of service throughout the school careers of the children concerned and to promote teacher training. Pursuant to Decree No. 2014-724 of 27 June 2014, classroom assistants who have served for at least six years must be offered a permanent contract as education assistants.

203. The process of converting the contracts of classroom assistants into permanent contracts has been coupled with the establishment of new posts, for 350 individual classroom assistants and 8,000 additional State-aided contracts at the start of the 2013/14 school year.

204. Article 124 of the Initial Finance Act for 2014 inserted in the Education Code a provision establishing the new role of special needs teaching assistant, which will be conferred on 28,000 education assistants. At the same time, a vocational pathway is being opened up on the basis of a new single diploma for education assistants that meets the needs of professionals as regards skills and professional mobility. To complement the special needs teaching assistants, there were plans to offer 42,000 State-aided contracts for the 2014/15 school year, at the beginning of which 109,212 pupils were receiving live assistance, or 34 per cent more than in 2012.

Appropriate educational materials

205. The academic success of a child with disabilities may depend on the use of appropriate educational materials. The need for a pupil to have access to such materials is assessed by a school’s multidisciplinary team and recorded by the committee on the rights and independence of persons with disabilities in the pupil’s personal education plan. The materials, which are for individual use and are lent to the pupil by the school, include appropriate computer equipment, with Braille keyboards, adapted peripheral devices, specific software and other devices.

Examination accommodations

206. Specific provisions are in place to allow children with disabilities to participate in examinations and competitions organized by the national education authorities. Special arrangements made include the introduction of physical facilities in the examination room; permission to use a technical or computer device or equipment, a scribe or other assistant; alternative examination formats; and extended time. Candidates are permitted to use notes, stagger examinations over several sessions and, depending on the relevant regulations, request that examinations be adapted.

The various schooling mechanisms tailored to the child

Classes for educational integration and disability-friendly school environments

207. In primary schools, classes for educational integration cater to children with disabilities who may benefit from attending a regular school. Pupils receive appropriate education and take part in certain activities with their non-disabled peers. Most pupils in such classes spend time in a regular class. In 2014, 47,504 children were attending 4,567 classes for educational integration, at an average of around 10 pupils per class. Of the children with disabilities in primary education, 31.4 per cent were attending such classes.

208. In secondary schools, when the demands of individual mainstreaming are not compatible with their condition, students with disabilities may be educated in a disability-friendly school environment. Under the supervision of a special needs teacher, they receive appropriate education designed to accomplish the objectives set out in their personal education plan. The siting of disability-friendly school environments is organized in such a way as to ensure that no location is inaccessible to students, bearing in mind reasonable transport constraints. This approach is adopted in vocational schools, in particular. The creation of a network of disability-friendly school environments is encouraged, especially with a view to meeting the vocational training needs of students with disabilities. In 2014, 32,588 students, or 30 per cent of all secondary-school students with disabilities, were being educated in 3,097 disability-friendly school environments, which comes to 10.5 students per school.

Enrolment of children and adolescents with autism in State schools

209. France was visited by the Council of Europe Commissioner for Human Rights from 22 to 26 September 2014. In his findings, the Commissioner stressed the need to improve

the integration of children with autism in regular schools and recalled the decisions of the European Committee of Social Rights in that regard.

210. Article L.111-1 of the Education Code was amended by the Educational Reform Act of 8 July 2013, which, in its very first article, lays down the principle of universal access to education and sets as an objective the creation of inclusive schools. Meanwhile, the conclusions of the Interministerial Committee on Disability of 25 September 2013 and the priority given to inclusion in regular schools by the President of the Republic at the National Disability Conference on 11 December 2014 guide the Government's policy towards adapting schooling to children's needs, especially in regular schools. Under the plan in place for children with autism, a new modality of education has been introduced to supplement the existing one through intensive early intervention and to foster cooperation between the medico-social sector and the national education authorities. In September 2014, 30 preschool teaching units were established, with a budget of €280,000 per unit, an innovation that was welcomed by the voluntary sector. These units, which were designed specifically for young children with non-verbal autism, have a teacher, their own medico-social team and funding, on top of the resources possessed by the host facility or medico-social service. By the end of the plan, 100 preschool units will have been created, each with capacity for seven children. An evaluation of their performance, carried out over the next three years, will provide results to guide future policies for persons with autism, in particular with regard to their schooling and training.

Schooling of deaf children: the choice of a pathway that respects their mode of communication

211. The educational assistance centres for deaf children established in 2010 provide schooling for pupils who have opted for French Sign Language, written French or cued speech as their medium of instruction. Pursuant to one of the measures adopted at the 2014 National Disability Conference, these pupils now have a personal education plan. In addition, the departmental homes for persons with disabilities conduct disability benefit assessments for pupils attending educational assistance centres for deaf children who have made a language choice — to be bilingual in French Sign Language and written French or cued speech — and for hearing-impaired pupils with or without related disorders in classes for educational integration or disability-friendly school environments who have not made a specific language choice.

Medico-social facilities

212. The medico-social care provided for children with disabilities is determined by the intertwining of therapeutic, educational and pedagogical measures set out in both the Social Action and Family Code and the Education Code. During their academic career, students with disabilities may be referred to a medico-social facility on a full- or part-time basis, in which case they will attend a teaching unit.[37] Various schooling arrangements may be offered either within the facility's teaching unit or at a school. The latter approach is set to be followed more often, in part thanks to the commitment made by the Government at the 2014 National Disability Conference to create teaching units in regular schools by transferring the units currently located in medico-social facilities. In 2014, around 200 teaching units were relocated in schools, with plans to relocate a further 100 units from September 2015. These 100 units will be monitored closely by the Ministry of Social Affairs and Health and the Ministry of Education, in collaboration with the relevant parties, with a view to expanding the practice in the future.

Training of professionals

Initial and ongoing training

213. For the first time, initial training, which includes a core unit on the education of students with disabilities, is provided by teacher training institutions. With regard to ongoing training, various tools are made available to teachers, including online resources,

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[37] Education Code, arts. D-351-17 and 18.

on the Eduscol website, to inform them of the main features of childhood disorders and of the possible adjustments to teaching strategies, and M@gistère, a distance-training platform that includes modules on disability. Departmental ongoing training plans and an annual training plan also provide for ongoing training activities.

214. A specific training module on autism has been developed with support from representatives of associations and professionals in the field of the education and care of children with developmental disorders. It has been accessible on the Eduscol website since August 2012.

Specialized training

215. The current system will be developed by means of a reform that will focus on the links between disability and educational difficulties in order to better respond to students' needs. Furthermore, improving the training of teachers in educational assistance centres for deaf children is one of the prerequisites for high-quality education for deaf children. That is why it was acknowledged at the 2014 National Disability Conference that there was a need to strengthen the competence of teachers of French Sign Language and cued speech.

Joint training

216. In the context of enhanced collaboration between the national education authorities and medico-social facilities, joint training courses have been organized for the staff of those authorities, facilities and services and the departmental homes for persons with disabilities, which has made it possible to provide better assistance for students with disabilities. Since June 2015, training has been given to staff involved in the education of children with disabilities, with the aim of developing a common culture among the national education authorities, the medico-social facilities and services and the departmental homes for persons with disabilities and thereby guaranteeing continuity in young people's academic careers.

Higher education

Statistics

217. The access of students with disabilities to higher education has grown steadily since the promulgation of the 2005 Act, by almost 140 per cent compared with the 2004/05 period, when there were 7,557 students. At the beginning of the 2013/14 academic year, there were 18,200 students with disabilities in higher education establishments, namely universities (nearly 16,600 students with disabilities), preparatory classes for the *grandes écoles* (top-ranking higher education establishments) and the *grandes écoles* themselves. However, the real figure is certainly higher, as not all students with disabilities wish to make themselves known to the services responsible for their care and support, on the grounds that they do not require any adjustments to their degree course or training programme. Across all higher education establishments, the women-to-men ratio among students with disabilities is the same as among the general student population.

University disability charter

218. This progress has been made thanks to the various institutional measures in place to provide support for students with disabilities under the best possible conditions, which include the university disability charter[38] adopted in 2007[39] and renewed in May 2012 and the charter adopted by the *grandes écoles*[40] in 2008.[41]

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[38] Available at http://media.education.gouv.fr/file/66/8/20668.pdf.

[39] Adopted by the Conference of University Presidents and the Ministers for Higher Education and Research, Social Relations and Solidarity, Labour, Employment and Social Affairs and Health.

[40] Available at www.cge.asso.fr/document/309/charte-cge-handicap.pdf.

[41] Adopted by the Ministry of Higher Education and the Conference of Grandes Écoles. http://cache.media.handi-u.fr/file/Mediatheque/25/0/CharteUniversiteHandicap4mai2012_235250.pdf. www.handi-u.fr/.

219. The university disability charter signed in 2012 encourages educational institutions to make disability a cross-cutting theme that is integrated into their strategies, with a strong link forged among the following aims:

- The consolidation of care arrangements and the development of processes to help students with disabilities achieve success and enter the world of work
- The development of human resources policies for persons with disabilities, improving the consistency and readability of training and research materials in the disability sector
- The enhancement of the accessibility of the services offered by institutions

220. Since the adoption of the Higher Education and Research Act of 22 July 2013, these principles have been enshrined in article L.712-3 of the Education Code, which requires university boards to adopt a disability policy and to submit an annual implementation report. Each institution may develop its disability policy by leveraging its strengths, culture, specificities and local context.

One-stop shop to inform and support students with disabilities

221. Today, all universities have a disability centre, a “one-stop shop” to inform and support students with disabilities. Since 2007, €7.5 million has been allocated under the Finance Act each year to developing mechanisms to support students with disabilities during their academic career. Over 70 per cent of students with disabilities benefit from a student support plan, which may provide for human and technical assistance or adjustments to their degree course, and more than 75 per cent benefit from examination accommodations. For deaf students, in particular, the plan provides, inter alia, for the modes of communication needed to gain access to knowledge, with the use of interpreters or transliterators.

222. In all cases, the content of the student support plan is determined by experts enlisted by the institution’s disability service together with the student concerned and in accordance with the student’s specific circumstances, the profile of the institution and the characteristics of the course of study, while ensuring that the student’s career plans are taken into account and helping the student to be as independent as possible.

Training of professionals

223. Since 2010, training has been offered nationwide to all care providers, doctors, education officials and teaching staff in higher education institutions, who are required to deal with students with disabilities on a regular basis. This training, complemented by an annual seminar for the persons in charge of care and support facilities for students with disabilities, helps to harmonize practices across the country. Moreover, institutions have independently developed training courses to strengthen the competence of the relevant professionals and raise awareness within the university community as a whole.

224. To ensure the widest possible dissemination of information on the care and support services in place in higher education institutions, the Handi-U website was completely redesigned to support institutions in such areas as evaluating students’ needs and making digital resources accessible.

National Centre for Scientific Research: a quota of doctoral and post-doctoral contracts for persons with disabilities

225. To improve the qualifications of persons with disabilities and meet the need for a pool of young graduates eligible for positions as research engineers and researchers, the National Centre for Scientific Research has set a quota of doctoral and post-doctoral contracts for persons with disabilities. Out of 468 persons with disabilities who were recruited between 2007 and 2014, a quarter were young scientists offered places on doctoral or post-doctoral training programmes, or appointed as researchers. In addition, the Ministry of Education renewed and extended a national campaign launched in 2011 to award doctoral contracts to students benefiting from the obligation to employ workers with disabilities. In 2014, 25 contracts were awarded (9 in 2011, 25 in 2012 and 24 in 2013).

Training provided in the disability sector

226. To respond to the national need for more professionals to support persons with disabilities and make society accessible to them, higher education institutions offer a range of courses as part of their remit to conduct training alongside research. For example, training for French Sign Language interpreters is included in four master’s programmes and for cued speech transliterators in two bachelor’s degree courses. A French Sign Language distance-learning platform is also being developed at the University of Clermont-Ferrand.

227. The preparation of a disability master plan pursuant to the Act of 22 July 2013 and, in particular, the need to improve the consistency and readability of training and research materials in the field of disability will, in a few years’ time, provide a clearer picture of the national situation with regard to the training on offer.

Making university facilities and activities accessible

228. The Ministry of Education, aware of the need to provide financial support for institutions to make university buildings accessible to persons with all types of disability, mobilized almost €82 million in budgetary resources between 2008 and 2013. These efforts were supplemented by investments financed by the Ministry through State-regions planning contracts in the period 2007–2013, during which an estimated €120 million was allocated to enhancing accessibility.

229. The accessibility of buildings remains an issue, particularly on sprawling campuses, as does the cost of specialized equipment. However, this is a challenge that goes beyond the university sphere: accommodation, transport, culture, sport and leisure are also affected. A concerted effort by all parties is needed to offer persons with disabilities a social life comparable with that of other students. The preparation of institutional disability master plans pursuant to the Act of 22 July 2013, on higher education, should help to achieve that goal by ensuring that disability is taken into account in all areas.

230. In 2014, 10 per cent of universities adopted such a plan and 75 per cent began to develop one. The objective established at the National Disability Conference was for all universities to have adopted a plan by 2017. Efforts will also be made to develop training courses and tools to better identify specific needs in order to enhance the accessibility of teaching and strengthen the professional expertise of persons who support students with disabilities.

231. Lastly, government ministries and engineering schools will enter into an agreement to improve the accessibility of training courses.

Article 25
Health

232. Free and equal access to health care for all is a right recognized in the preamble to the Constitution and in the Public Health Code.[42] The organization of the health-care system and “its capacity to prevent and treat illnesses and disabilities” is one of the 10 topics to be covered by the national health-care policy.[43]

233. The Act of 21 July 2009[44] on hospital reform, with reference to patient care, health coverage and the regions, entrusts regional health agencies with the task of ensuring that health-related activities are undertaken at the regional level. The agencies are responsible, in particular, for taking measures to prevent disability and guaranteeing that the territorial distribution of health-care services is such as to meet the health-care needs of the

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[42] Public Health Code, art. L.1110-1.

[43] Public Health Code, art. L.1411-1.

[44] Act No. 2009-879 of 21 July 2009 on hospital reform, with reference to patient care, health coverage and the regions.

population.[45] Lastly, the aim of the national health strategy adopted in September 2013 is to reduce social and geographical inequalities in health care.

Screening and early intervention

234. Prenatal care, which is afforded to all pregnant women in the shape of seven fully funded medical examinations, limits the risk of adverse pregnancy outcomes and the likelihood of perinatal disabilities. Five rare diseases that require specific secondary prevention treatment are the subject of universal biological screening at birth. Texts have been published in an attempt to ensure that newborn hearing screenings, which are being extended throughout the country, are conducted on a systematic basis.[46]

235. The maternal and child welfare measures introduced in 1945[47] are complemented by 20 medical examinations for children between birth and 6 years of age and the health passport issued to each child at birth. Doctors are given advice on performing screenings at key ages. The maternal and child welfare services organize individual and collective prevention activities for all pregnant women and children up to the age of 6 years, particularly those belonging to vulnerable families.

236. Early medico-social action centres provide care for children with disabilities or at risk of disability, between birth and 6 years of age, by means of a comprehensive, multidisciplinary and coordinated approach.

237. For children aged 6 years and over, school health teams are responsible for helping to prevent, screen for and ensure the early treatment of disabilities by conducting health check-ups, including in Year 6,[48] with particular attention paid to academic difficulties and signs of mental distress.

238. Work is in progress to improve the manner in which the treatment of language and learning disorders is structured, render it clearer and more accessible and disseminate recommendations on the pathways for diagnosis and care.[49]

239. Pursuant to the autism plan for 2013–2017, a directive of 17 July 2014 establishes a reference framework for the detection and diagnosis of autism and for support for children with autism or other pervasive developmental disorders. The work carried out could serve as a model for the implementation of measures to combat other illnesses that may result in disability.

Accessibility of public health campaigns

240. The access of persons with disabilities to preventive measures is a cross-cutting theme in new public health plans, such as the 2014–2019 cancer plan, which mainstreams disability-related needs into the prevention of, and screening for, cancer.

241. Health-care recommendations are made available to medico-social facilities and services.[50] To improve access by persons with disabilities to care and prevention in these facilities, prevention goals will be incorporated into multi-year contracts specifying objectives and resources. The facilities will, inter alia, launch targeted national campaigns to promote screening for breast cancer, oral disease prevention and the assessment and treatment of pain.

242. With regard to prevention messages, the National Institute for Prevention and Health Education will develop an approach aimed at making its documents available in French that

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[45] Public Health Code, art. L.1431-2.

[46] Decree of 23 April 2012 on the organization of newborn screenings for permanent hearing loss.

[47] Part two, book I of the Public Health Code: Protection and promotion of maternal and child health.

[48] Article L.541-1 of the Education Code stipulates a duty to conduct a medical examination during Year 6 that includes a screening for specific language and learning disorders, which reportedly affect 30,000 to 35,000 children in France, of whom 5,000 to 6,000 have them in a severe form.

[49] *Care pathway for children and adolescents with language and learning disorders*. National Commission on Childbirth and Children’s Health, 2013.

[50] *Health care for persons with disabilities. Recommended good professional practices.* National Agency for the Evaluation and Quality of Social and Medico-Social Facilities and Services, 2013.

is easy to read and understand. The Institute produces communication materials and practical guides to health care that are appropriate for persons with visual and hearing impairments, such as brochures in large print, illustrated or in Braille on the use of male and female condoms.

Consent of persons with disabilities

243. The health-related rights of persons with disabilities stem from ordinary law,[51] which lays down the principle of free, prior and informed consent to all medical procedures. Thus, persons with disabilities make decisions regarding their health in conjunction with a health professional, on the basis of the information provided and recommendations made by that professional, who is required to respect their choices and not to perform any procedure or provide any treatment without their consent. The consent of a minor must routinely be sought if he or she is capable of expressing his or her wishes and participating in the decision-making process, even if the procedure in question requires the permission of a legal representative. Unless otherwise ordered by a judge, persons who benefit from legal protection make decisions concerning personal procedures for themselves, which means that the consent of persons under guardianship must always be sought if they are capable of expressing their wishes and participating in the decision-making process.

244. If a person is incapable of expressing his or her wishes — in a state of unconsciousness or coma, for example — no procedure or investigation may be carried out unless his or her designated trusted person or family or, failing that, a relative, has been consulted, save in an emergency or when consultation is impossible.

Access to health care for persons with disabilities

245. Several reports[52] submitted to the ministers responsible for health and disability have highlighted the difficulties faced by persons with disabilities in obtaining access to routine care. A study undertaken by the Institute for Research and Documentation on Health Economics on the basis of a survey on disability, health and households conducted in 2008–2009 indicated that persons with disabilities had less access to dental and gynaecological care. The difficulties experienced relate to the physical accessibility of health-care facilities, unsuitable care, a lack of specialist training and high medical bills. Changes are scheduled in the government action plan.

246. Medical, dental and paramedical practices are among the buildings open to the public for which accessibility standards are being enforced pursuant to the Programmed Accessibility Agenda. A guide for the professionals who work in these practices was produced by a ministerial delegation on accessibility and then distributed among regional health agencies in accordance with a directive of 20 September 2013.

247. Particular problems are encountered by some patients, including persons with complex disabilities or difficulties in communicating or interacting. Accordingly, specific measures — such as special equipment, the possibility of accommodating an assistant, additional time set aside for care and communication, and training for professionals — have to be put in place in some facilities to ensure that routine care is provided. Since local consultation initiatives focusing on this have proved effective, a census is being taken of existing facilities and their activities. Funding is provided to promote the establishment of consultation services in towns and health facilities nationwide. Terms of reference are being drafted for these services, which should be introduced gradually between 2015 and 2017.

248. To improve hospital care — both emergency and planned care — and coordination further up the chain with social and medico-social facilities that provide support for persons with disabilities, the National Authority for Health commissioned the drafting of a specific guide in 2015 for publication during the course of 2016.

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[51] Public Health Code, art. L.1111-4.

[52] Report by Pascal Jacob on access by persons with disabilities to health care (www.sante.gouv.fr/rapport-de-pascal-jacob-sur-l-acces-aux-soins-et-a-la-sante-des-personnes-handicapees.html); report by Denis Piveteau (www.social-sante.gouv.fr/IMG/pdf/Rapport_Zero_sans_solution_.pdf).

249. In order for health professionals to gain a proper understanding of the realities of having a disability and to be more sensitive to the needs of persons with disabilities, their training has to be improved. Specific training modules, including modules on caring for autism and providing support for older persons with disabilities in medico-social facilities, were thus included in the guidelines on continuing professional development training in 2015.

250. Lastly, the growing recourse to hospital-at-home services and telemedicine in social and medico-social facilities will give persons with disabilities easier access to health care, as it favours continuity in care and life pathways, obviates the need for hospitalization or unsettling journeys and promotes care that is less traumatic for patients themselves and their relatives. Laws and regulations have opened the door to hospital-at-home services and telemedicine trials in medico-social facilities.[53]

Affordability of health care

251. Recipients of the adult disability allowance are entitled to health insurance and maternity coverage under the general scheme, with their health-care costs reimbursed, if they do not qualify on other grounds. Moreover, recipients of a disability pension are entitled to insurance and a near-total exemption from medical fees.

252. Recipients of the adult disability allowance are currently entitled, on a means-tested basis, to universal supplementary health-care coverage, although this applies only in a very limited number of cases, or, more often, to assistance in taking out supplementary health insurance. Since 1 July 2015, additional benefits have been granted to recipients of such assistance in order to improve their access to health care, in the form of widespread use of the direct payment system, exemption from liability and a fixed contribution, among other arrangements.

Article 26
Habilitation and rehabilitation

Support for young persons with disabilities

253. To enable adolescents with disabilities to choose their preferred vocation, a decree implementing the Act of 11 February 2005 provides for various possibilities, such as enrolling in part-time training courses so that they can continue to receive care and rehabilitation or obtaining examination accommodations. The aim is to allow adolescents with disabilities to explore a number of career fields while continuing, in a vocational school or care facility, to consolidate key elements of learning, either when they leave school or when they choose a branch of study.

254. In addition, evaluations of students’ fitness to work in a sheltered workshop are carried out by the labour inspectorate on the advice of the doctor tasked with supervising the students and of the teacher in charge of the workshop in question. This enables students to pursue viable vocational options that are compatible with their disabilities or severe chronic illnesses and to work on the adjustments that will need to be made in their workplaces. For students with disabilities educated in combined classes, establishing contacts between disability-friendly school environments and workplaces, through visits, meetings, work placements or other arrangements, makes it possible to anticipate well in advance the moment when a student leaves school and to promote work in regular workplaces to the fullest extent possible.

255. To support the entry of students with disabilities into the labour market, the Ministry of Higher Education ensures that disability concerns are mainstreamed in all the new and

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[53] Act No. 2009-879 of 21 July 2009 on hospital reform, with reference to patient care, health coverage and the regions; Decree No. 2012-1030 of 6 September 2012 on hospital-at-home services in residential social and medico-social facilities; Decree No. 2012-1031 of 6 September 2012 on the technical operating conditions for hospital-at-home services in residential social and medico-social facilities; art. 36 of Act No. 2013-1203 of 23 December 2013 on social security funding for 2014.

renewed agreements signed with the occupational sectors. The aim of integrating a disability component is to allow students with disabilities to benefit from all the actions planned in these agreements to promote students' labour inclusion, while taking into account their specific needs.

256. Universities also conclude cooperation agreements on the labour inclusion of students with disabilities with local socioeconomic players who commit themselves to participating in efforts to support these students, including by facilitating access to the work placements required for training courses and by making job offers.

257. Nevertheless, too few young adults with disabilities gain a diploma or other qualification, which is fundamental to securing a job. In view of this, the Government is taking action, through conferences bringing together social partners and the action plan that emerged from the 2014 National Disability Conference, to make the employment of persons with disabilities, or anything that might help improve their access to work, such as vocational training or collective bargaining, a priority for all parties.

Continuance of employment for persons with disabilities

258. The Plan for a Healthier Work Environment sets out the priorities of government action and seeks to coordinate the efforts of all prevention bodies and persons involved in occupational health and safety. The third Plan, which covers the period 2015–2019, will be implemented at the regional level, in conjunction with the regional plans for the integration of workers with disabilities. One of the priorities under the Plan is to prevent occupational exclusion, in particular by providing coordinated services for workers and companies facing restrictions on the basis of ability, for whatever reason, whether disability, ageing, chronic progressive disease or work-related stress. This will involve improving conditions for persons working in careers services by developing partnerships formed pursuant to a multi-stakeholder agreement or in the context of activities promoted by the National Employees' Health Insurance Fund to prevent occupational exclusion.

259. One of the bodies involved in ensuring continuing employment is the Fund Management Association for the Integration of Persons with Disabilities. The Association provides support and services to compensate for the employment of persons with disabilities, including financial assistance for employers and funding for a scheme to support the continued employment of persons with disabilities. The scheme deploys a range of services to help companies and their disabled employees to secure the continuance of employment.

260. Since the onset of an incapacitating illness or a workplace accident can lead to the loss of an employment contract, the social partners have a shared responsibility with regard to the continuance of employment. The Act of 11 February 2005 sets out an obligation to negotiate the employment of persons with disabilities every year at company level and every three years within the various occupational sectors. The social partners and employers are thus required to negotiate the employment of persons with disabilities on an annual basis. In this context, the Government has made it an objective to treble, within three years, the number of agreements signed with a view to achieving the 6 per cent quota for the employment of persons with disabilities.

Article 27
Work and employment

261. Work remains an essential means of participating in social life. It helps a person to achieve fulfilment, a positive self-image and a feeling of social usefulness. All adults with disabilities with the potential to do so should have the opportunity to engage in an occupational activity in a regular work setting and follow a career path in line with their abilities and aspirations.

Employment figures for persons with disabilities compared with the general workforce (source: Statistical and Research Department of the Ministry of Labour)

262. Labour force participation rate in 2011: 44 per cent (71 per cent for the general workforce). Employment rate in 2011: 35 per cent (64 per cent). Unemployment rate in 2011: 21 per cent (9 per cent). Proportion of persons out of work for a period of two years or more: 41 per cent (17 per cent).

263. Proportion of workplaces covered by an agreement on the employment of persons with disabilities in 2012: 11 per cent. Proportion of private-sector workers with disabilities in 2012: 3.1 per cent. Proportion of public-sector workers with disabilities in 2013: 4.9 per cent.

Affirmative action to promote the employment of persons with disabilities in the regular labour market

264. To guarantee full equality of treatment for persons with disabilities, French law provides for specific measures to foster their inclusion in the labour market. It requires employers with 20 or more employees to ensure that persons with disabilities account for at least 6 per cent of their workforce. The Act of 11 February 2005 strengthened this requirement in the public service through the establishment, on 1 January 2006, of the Fund for the Integration of Persons with Disabilities in the Civil Service. The Act increases the financial penalties imposed on employers that, over the previous four years, have not taken any affirmative action to promote the employment of persons with disabilities.

265. Although the participation of persons with disabilities[54] has increased, in a difficult economic situation, thanks to the tools introduced by the Act of 11 February 2005, their unemployment rate remains twice the average.[55] Consequently, to achieve the aim set at the National Disability Conference of “living and working like others, with others”, the civil service must lead by example, including by broadening the scope of the obligation to employ workers with disabilities and negotiating with trade unions. In the private sector, several aspects of employment policy will be emphasized with a view to significantly improving the employment situation of persons with disabilities. These include providing vocational training, so as to enhance their qualifications; mobilizing the social partners, so as to come closer to achieving the 6 per cent employment quota; applying a dynamic support policy to prevent a situation where people are incapable of work; and, for those who need it, ensuring that the relationship with the protected worker sector is better organized.

266. As for the parties involved, a three-year multi-stakeholder agreement[56] was concluded on 27 November 2013. Its aim is “to mobilize ordinary-law policies and plans in conjunction with specific plans for persons with disabilities and to enhance synergies among the parties” in order to improve the degree of integration in the labour market, vocational training, collective bargaining, measures to promote the continuance of employment, the exchange of information and the regional focus of the policy. An annual report will be submitted to the National Consultative Council of Persons with Disabilities. The agreement will be implemented at the regional level, through regional plans for the integration of workers with disabilities, by means of which the State can implement its policies, inasmuch as the plans make it possible to identify, unite and supplement action by the various parties in the regions to enhance the collective response to the expectations of

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[54] A study carried out in October 2013 by the Statistical and Research Department of the Ministry of Labour showed that, in 2011, 2 million people of working age stated that they were officially registered disabled, compared with 1.8 million in 2007.

[55] A study carried out in October 2013 by the Statistical and Research Department of the Ministry of Labour showed that, in 2011, the unemployment rate of persons with disabilities stood at 21 per cent, as opposed to 9 per cent for the total working age population.

[56] The parties to the agreement were the State, the Fund Management Association for the Integration of Persons with Disabilities, the Fund for the Integration of Persons with Disabilities in the Civil Service, the governmental employment centre “Pôle emploi”, the National Solidarity Fund for Independence, the Association of French Regions, the National Employees’ Health Insurance Fund and the Agricultural Social Insurance Agency.

persons with disabilities and public and private employers as regards vocational training, access to employment, continuance of employment and raising awareness among employers.

Training for workers with disabilities

267. The low level of qualifications achieved by jobseekers with disabilities represents the main obstacle to their access to employment and to their retaining their employment. Some 80 per cent of them have a qualification level inferior or equal to the *brevet d'études professionnelles* (vocational studies certificate). Facilitating their access to vocational training and qualifications is thus an important way of effectively combating the unemployment rate of this vulnerable group, which stands at 22 per cent.

268. In this connection, the new regional programme on access to training for persons with disabilities, introduced by the Act of 5 March 2014 on vocational training, employment and social democracy,[57] harmonizes well with the policy set out in, and carried out through, the regional plans for the integration of workers with disabilities. The objective of the Act is to improve access by persons with disabilities to training and qualifications by taking the following action:

- Providing a personal training account, to enable them to acquire training rights, thereby ensuring more secure career progression, and access to skills training. The Fund Management Association for the Integration of Persons with Disabilities is currently working to set up a system to match employers' insurance contributions specifically for persons with disabilities
- Arranging a meeting at work to discuss the individual's professional prospects and qualifications in order to ensure that he or she is not incapable of work and to facilitate his or her mobility, when that is necessary for health reasons
- Providing career development advice, which constitutes a more focused form of consultation and support that may lead to the approval of a training programme
- Establishing work placements in posts tailored to persons with disabilities to check that a given job is suited to their abilities

269. Between 2005 and 2013, there was an overall increase in the training provided for jobseekers with disabilities. The number of recipients of training rose by around 70 per cent, from 53,000 in 2005 to almost 90,000 in 2013. The total training budget was about €400 million in 2013.

270. The improvements to the training offered to persons with disabilities have had a positive impact. Thus, six months after the completion of training, their employment rate stood at:

- 37 per cent among interns with disabilities enrolled in courses organized by the National Association for Adult Vocational Training leading to certificates or other qualifications who graduated in 2012, as opposed to 54 per cent among interns as a whole
- 26 per cent, on average, among persons enrolled in training courses financed by the Fund Management Association for the Integration of Persons with Disabilities who graduated in 2010

271. The number of work-study contracts offered by employers to workers with disabilities remains low: 3,275 professional training contracts, covering only 1.9 per cent of the beneficiaries of the obligation to employ workers with disabilities, and 2,217 apprenticeship contracts (0.8 per cent), according to the figures for 2011 provided by the Statistical and Research Department of the Ministry of Labour. These figures are an underestimate, however, as it is a complex task to identify individuals who have been officially registered disabled.

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[57] Act No. 2014-288 of 5 March 2014 on vocational training, employment and social democracy.

Civil service employment

272. The establishment of the Fund for the Integration of Persons with Disabilities in the Civil Service has made it possible to strengthen the disability policy followed by public-sector employers by allowing them to use the Fund's resources to launch a comprehensive multi-year plan. Since the Fund's inception, the employment rate of persons with disabilities has improved, rising from 3.74 per cent on 1 January 2005 to 4.9 per cent on 1 January 2013, which amounts to 209,500 persons with disabilities employed in the three branches of the civil service.

273. This change in the employment rate has been accelerated by the wider use of a recruitment process that exempts persons with disabilities from having to sit a competitive examination for civil service posts and by the introduction of costed multi-year plans for the recruitment of persons with disabilities in government ministries over the period 2007–2013.

274. These efforts will be pursued in the coming years, but new measures have already been approved at the National Disability Conference to encourage access by persons with disabilities to senior civil service positions without the need for a competitive examination; to extend the obligation to employ workers with disabilities to administrative bodies that had previously fallen outside its scope, such as administrative and financial courts, independent administrative authorities or public interest groups; and, lastly, to initiate a dialogue with civil service trade unions, devoting part of that dialogue to the issue of disability in the civil service.

Employment in an adapted or sheltered environment

275. Persons with disabilities who are unable to engage in their profession in a company, permanently or temporarily, may be directed towards disability-friendly companies or employment rehabilitation establishments and services.

276. Disability-friendly companies are fully functioning businesses in the ordinary labour market. At least 80 per cent of their employees are persons with disabilities, directed towards the labour market by the committee on the rights and independence of persons with disabilities, and have employee status and a permanent or fixed-term contract. Pursuant to the Labour Code, they are entitled to "a salary that reflects the position that they occupy and their qualifications, in accordance with the legal provisions or contractual stipulations applicable to their line of business". This salary may not be lower than the statutory minimum wage. Subject to certain conditions, disability-friendly companies receive a flat-rate payment for every position held by a worker with disabilities, along with a special subsidy.

277. An agreement on the employment of persons with disabilities in disability-friendly companies for the period 2012–2014 was concluded on 22 December 2011 by the State, the National Union of Disability-Friendly Companies and a number of disability associations and federations with a view to introducing a new dynamic in the protected worker sector. The agreement had three objectives: to create 3,000 subsidized posts over the three-year period, to encourage the professional development of employees with disabilities through vocational training and to modernize the sector.

278. Employment rehabilitation establishments and services are not companies; they are medico-social facilities whose remit is twofold:

- To offer occupational and social reintegration measures tailored to persons with disabilities who have a reduced work capacity. The proposed professional activity is performed either in a workshop set up in the premises of the establishment or service itself or in an ordinary work setting that has been adapted accordingly. This work entitles the worker to a guaranteed salary and thus to social security coverage. These measures have been taken mainly in the outsourcing and service sectors, but are increasingly being applied in home production environments
- To provide persons with disabilities with the necessary support in becoming as self-sufficient as possible in their personal, social and vocational lives. This support is

diverse, covering vocational training, psychosocial care and activities to foster social inclusion

279. Sheltered employment is particularly well developed in France, which is home to more than 1,300 employment rehabilitation establishments and services that employ almost 120,000 individuals on a full- or part-time basis. Pursuant to the Initial Finance Act for 2014, the State allocates in excess of €2.7 billion to this policy in order both to finance the functioning of employment rehabilitation establishments and services and to contribute to the salaries of the persons with disabilities whom they employ.

280. Both employment rehabilitation establishments and services and disability-friendly companies are required to encourage the promotion of workers with disabilities, place a proper valuation on their capacities and, if possible, encourage their employment in an ordinary work setting. At the National Disability Conference, the President of the Republic announced the objective of bridging the gap between employment in an adapted or sheltered environment and employment in an ordinary work environment. Consequently, the Ministry of Social Affairs and Health and the Ministry of Women's Rights is working to bring about the necessary changes in employment rehabilitation establishments and services.

Article 28
Adequate standard of living and social protection

281. Special provisions on resources, taxes, retirement and housing are in place, with a view to ensuring an adequate standard of living for persons with disabilities.

Adult disability allowance

282. Subject to certain conditions, adults with disabilities are entitled to receive the adult disability allowance. They must have a level of permanent disability of between 50 per cent and 79 per cent or at least equal to 80 per cent and a substantial long-term restriction on access to employment because of their disability.

283. As of 1 October 2014, the value of the adult disability allowance is €800.45. The conditions for combining the allowance with earnings have been made more advantageous and comprehensible, with a view to encouraging more people to return to work. The allowance is now paid quarterly to persons working in mainstream employment, which means that greater flexibility is possible when it comes to adjusting the amount of the allowance in accordance with the beneficiary's financial situation. Under this new incentive mechanism, beneficiaries can, from the time of their return to work, combine the adult disability allowance and their professional earnings, without any upper limit, for six months.

284. Persons with disabilities who are in receipt of the allowance can also receive, on a non-cumulative basis, either the income supplement (a fixed monthly amount of €179.31) for persons living in independent housing who have almost no capacity for work[58] or the additional independent living subsidy for persons living in independent housing who receive housing support but do not have any professional earnings.[59]

285. Certain groups in situations of poverty who also have health problems may find themselves straddling the two main statutory minimum income benefits available for persons of working age, namely the adult disability allowance and the income supplement allowance. Depending on their personal circumstances, the income supplement may be a solution for persons who are not eligible for the adult disability allowance. Persons whose application for the adult disability allowance is denied are given this information as a matter of routine by the departmental centres for persons with disabilities.

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[58] Article L.821-1-1 of the Social Security Code.

[59] Article L.821-1-2 of the Social Security Code.

Tax benefits

286. Persons with disabilities are also entitled to a range of tax benefits in addition to general policy measures. These include:

- A special supplementary income tax allowance
- A special capital transfer tax allowance
- Means-tested exemption from housing tax and land tax
- No income tax on the majority of allowances, benefits and pensions for persons with disabilities, namely the compensatory disability benefit, the adult disability allowance and the constant attendance allowance
- Increase in the number of units allowed for the dependants' allowance for the calculation of income tax (an additional half-unit is granted if the taxpayer, his or her spouse or a dependant has a disability)
- Exemption from paying the television licence fee
- Special income tax reductions and tax credits
- Reduced rates of value added tax, of 5.5 per cent and 7 per cent, particularly for expenses of direct concern for persons with disabilities, such as assistive devices or home improvements
- A tax credit to support housing upgrades to adapt to disability

Retirement pensions

287. Since the introduction of the Act of 9 November 2010[60] on pension reform, insured persons who have worked with a severe disability — at least 80 per cent permanent disability — or who have been formally registered as workers with disabilities are entitled to receive a retirement pension before the statutory retirement age.[61] In order to claim this right, they must be able to prove a period of insurance and periods of contributions that vary according to their age on the date that their pension becomes payable and, as of 1 January 2009, depending on their year of birth.[62] Pensions awarded under this provision are paid at full rates. The beneficiary has the right to draw the pension without any reduction in the supplementary pension.

288. The Act of 20 January 2014[63] changed the eligibility conditions for early retirement of persons with disabilities, reducing the rate of permanent disability required to 50 per cent. For persons who do not meet this criterion over a sufficiently long portion of their career, the Act also reduces the age at which the full rate can be received (62 years rather than 65 years) by insured persons who have this level of permanent incapacity to work at the time of drawing their pension. It also allows them to receive the solidarity allowance for older persons.

Housing

289. France makes every effort to ensure that accessible and affordable housing is available to persons with disabilities. Such persons are thus among the priority recipients of social housing.[64] The law also provides that "housing built or fitted out for occupation by persons with disabilities shall be allocated to this group or to households in which a member has a disability".[65] Personalized housing support is provided for persons on low incomes in order to ensure that they remain solvent.

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[60] Act No. 2010-1330 of 9 November 2010 on pension reform.

[61] Article L.351-1-3 of the Social Security Code.

[62] Decree of 30 December 2010 on the age of entitlement to a retirement pension.

[63] Act No. 2014-40 of 20 January 2014 guaranteeing the future and fairness of the pension system.

[64] Article L.441-1 of the Building and Housing Code.

[65] Article R.441-4 of the Building and Housing Code.

290. In order to make the private housing stock accessible to persons with disabilities, improvement works are funded by the National Housing Agency. Between 2007 and 2010, the Agency provided funding for adaptation or accessibility works for more than 100,000 housing units. It is also possible to apply for financial assistance to adapt private or public housing. The cost of such housing adaptation is tax deductible and the applicable conditions will be updated to take more account of developments such as home automation.

291. The adaptation of both social and private sector housing is one of the objectives of the government action plan. Providers of social housing will be required to make a commitment to serve tenants with disabilities through better knowledge of the adapted housing in their stock, and such data will be monitored statistically. Furthermore, under a legislative provision currently being adopted in the bill on the adaptation of society to an ageing population, private-sector tenants will be entitled to undertake a range of minor works if a landlord persists in ignoring their requests for improvements, as such silence will constitute agreement.

Article 29
Participation in political and public life

292. Article 29 of the Convention stipulates that States must “ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others”. An inclusive society is inconceivable without persons with disabilities and that involves their participation in political life and their presence in all institutions that concern and represent them.

293. France has made an interpretative declaration in relation to article 29 of the Convention. “The exercise of the right to vote is a component of legal capacity that may not be restricted except in the conditions and in accordance with the modalities provided for in article 12 of the Convention.” Until 2007, the law provided that persons under guardianship did not have the right to vote, unless a court ruled otherwise. Under article 12 of the Act of 2007 on the reform of legal protection for adults, this principle has been reversed, to the effect that persons under guardianship have the right to vote, unless a court explicitly rules otherwise.

294. The interpretative declaration is intended to prevent the risk of incompatibility with French law. It makes provision for cases where the court has expressly withdrawn the right to vote from an adult who is under a guardianship regime. Given that, as it is understood in France, the right to vote is a strictly personal right, a person who is responsible for representing a protected person cannot, under current legislation, exercise that right on the latter’s behalf. Article 12 (4) of the Convention refers expressly to the need for States parties to ensure the compliance of measures taken in relation to the exercise of legal capacity with “international human rights law”, thus also allowing an interpretation of these provisions in the light of the International Covenant on Civil and Political Rights, article 25 of which permits reasonable restrictions on the right to vote. In this case, the restriction is all the more reasonable in that it is never imposed automatically but rather is decided by a judge on a case-by-case basis, depending on the capacity of the individual concerned.

295. While efforts have been made to improve access to polling stations, much remains to be done as regards making all political information accessible, regardless of a person’s disability.

296. In January 2014, the Prime Minister set up a parliamentary task force on the accessibility of elections. According to the task force’s report, the regulatory framework is satisfactory: article L.57-1 of the Electoral Code requires that voting machines allow “voters with disabilities to vote independently, whatever their disability”. Article L.62-2 stipulates that “polling stations and voting methods must be accessible to persons with disabilities, regardless of the type of disability, whether physical, sensory, mental or psychological, and that the conditions shall be established by decree”. Lastly, articles D.56-2 and D.56-3 of the Electoral Code provide, respectively, that every polling station must be equipped with at least one polling booth that is accessible to persons using wheelchairs and that the ballot box must also be accessible to such persons. The accessibility provisions

related to the built environment, parking and information in public places are also applicable. However, according to the report, the level of electoral accessibility varies in practice, depending on the municipality concerned and the nature of the disability. Physical disabilities seem to be largely taken into account when it comes to the accessibility of polling stations. However, intellectual disabilities are not addressed and visual impairment is rarely taken into consideration, despite the recommendations made in 2012 by a working group set up by the Defender of Rights. The assistance of a third party is essential in most cases, to the detriment of the voter's independence and the confidentiality of his or her vote.

297. The recommendations and proposals contained in the report served as the basis for the Government's inclusion in the action plan that emerged from the National Disability Conference of provisions to improve the electoral process for all political elections, such as the drafting of a proper frame of reference to supplement the Electoral Code. In early 2014, the general secretariat of the Interministerial Committee on Disability updated the handbook on measures to ensure the accessibility of elections. Such handbooks are promoted by the Ministry of the Interior as part of the documentation published for candidates. In order to maximize their impact, the intention is for these handbooks to become a real frame of reference to supplement the Electoral Code.

Article 30
Participation in cultural life, recreation, leisure and sport

298. The National Culture and Disability Commission plays a key role in achieving the objective of ensuring the full participation of persons with disabilities in cultural life, recreation, leisure and sport. The Commission facilitates dialogue between the ministries responsible for culture, the main civil society organizations, persons with disabilities themselves and the cultural and artistic world. It proposes measures in all of the fields concerned, including access to equipment, art and training in culture-related professions.

Action to ensure accessibility

299. The Ministry of Culture is striving to ensure the accessibility of national higher education institutions in the field of culture (in 2015, 75 per cent of architecture schools were accessible), national heritage institutions, national institutions for the dissemination of artistic creation and regional institutions. The Meeting of Cultural Institutions for Accessibility brings together around 20 public institutions working to improve access by persons with disabilities to cultural institutions.

300. As of early 2014, there were 587 fully accessible cinemas with 2,485 screens — accounting for 73 per cent of admissions — and the commitment to ensuring accessible cinema will be maintained. Measures contained in the government action plan include incentives to support the availability of subtitling and audio description as soon as films are released, regulations on the adaptation of establishments providing audiovisual services and live performances, and selective support for the creation and modernization of cinemas.

Access to artistic creation

301. Equal rights and opportunities call for equal access to cultural practices and amateur activities and to artistic training and practice for persons with disabilities. To this end, almost €7.5 million was allocated by the regional directorates for cultural affairs to finance 26 projects for children and young people with disabilities in 2013 and 44 in 2014. These projects are implemented in partnership with all regional stakeholders, such as local government or cultural structures and artistic teams. New funding of €10 million was allocated for the artistic and cultural education policy in 2015.

Access to written works

302. The Act of 1 August 2006[66] on copyright and associated rights in the information society contains an exception to the right of reproduction and representation of authors and

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[66] Act No. 2006-961 of 1 August 2006 on copyright and associated rights in the information society.

holders of associated rights in order to facilitate the access of persons with disabilities to written works. Under this Act, it is permissible for legal entities and public institutions, such as libraries, documentation centres and specialized medical centres, to reproduce and display protected works in adapted formats, on a non-profit basis, for persons with disabilities without prior authorization or remuneration of the rights holders. This provision allows for access to both physical and digital material.[67]

Access to sport

303. In 2003, the Ministry of Sports, Youth, Popular Education and Community Life developed a network of focal points in its decentralized offices and sports institutions and federations and a national resource centre for sport and disability to provide resources, training, networking and evaluation. The network has focused its work on developing the services on offer locally by providing funding for associations, training where appropriate and support for projects and events that showcase activities for athletes with disabilities. This support is provided through a national focal point for the development of sporting activities. The network has identified the associations that provide adaptive sporting activities and listed them on a dedicated website.

304. The amount of funding allocated to the promotion of adaptive sports has grown considerably in the past 10 years, from €3.7 million in 2003 to €19.6 million in 2013. In addition, the Government has a number of national public establishments, such as the National Institute of Sport, Expertise and Performance and the Resource, Expertise and Sporting Performance Centre, and various national schools devoted to the sporting performance, expertise, training and accommodation of persons involved in sport. Of 21 establishments, 6 are considered largely accessible to persons with all kinds of disability. Accessibility works have begun on the five remaining establishments. Eighty per cent of these establishments already host camps and training courses run by the French Federation of Sports for Persons with Disabilities and the French Federation of Adapted Sport.

Accessibility of tourist and leisure services

305. Efforts to provide for accessibility in the tourism sector are centred primarily on the “Tourism and Disability” label, which aims to provide objective, standardized information on the accessibility of tourist sites and facilities, such as museums, hotels, restaurants, tourist offices, fishing piers and walking trails.

306. According to the latest figures, almost 5,000 establishments and sites have been awarded the Tourism and Disability label, 72 per cent of which are accessible to persons with motor disabilities and 25 per cent to the four categories of disability. The “Quality Tourism” label, which identifies 6,000 tourist establishments, provides for the mandatory training of staff on how to cater for persons with disabilities.

Accessibility of extracurricular activities

307. The Convention on the Rights of the Child and articles 7 and 30 of the Convention on the Rights of Persons with Disabilities also recognize the importance of the right to play for a child’s development.

308. The Defender of Rights notes that, judging by the situations that are reported to him, children with disabilities face difficulties that undermine their right to participate effectively, on an equal footing with other children, in extracurricular and after-school activities. However, the new school timetable introduced at the beginning of the school year

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[67] The National Library of France acts as focal point through its secure platform for the deposit and transfer of digital files used to print works, launched in March 2010. Private persons with disabilities do not have direct access to this platform, however. They access documents in adapted formats through the intermediary of accredited transcription agencies, which can reproduce works, have them read aloud or make a relief map, among other tasks, without having to obtain the authorization of the rights holders or ask publishers for the digital files of works whose date of legal deposit is less than 10 years ago and after 4 August 2006, with a view to creating and communicating adapted versions for audiences with disabilities.

in 2013 and rolled out nationwide in 2014 aims to help all children to learn better at school, while the municipalities are responsible for ensuring that they have quality time outside school. Given the difficulties that children with disabilities face in obtaining access to these activities, the Government decided at the National Disability Conference to provide financial and methodological support, jointly with the National Family Allowances Fund, the municipalities and intermunicipal units, as part of a regional educational project.

IV. Part Three: The specific situation of women and children with disabilities (articles 6 and 7 of the Convention)

309. The French legal system is based, inter alia, on the principle of the equality of citizens before the law. With regard to articles 6 and 7 of the Convention, distinctions between certain categories of persons, such as women and children with disabilities, although not between boys and girls, appear in certain provisions and measures specifically applying to them. The different categories have thus been addressed in the preceding articles under the heading of each of the specific themes.

310. That said, when it comes to women with disabilities, the Government is keen to have specific statistical data on their situation so that it can tailor existing mechanisms to their needs. The action plan that emerged from the National Disability Conference therefore provides that the women’s rights unit will produce a gendered summary of the different data and will encourage the use of this approach by the statistics service in relation to persons with disabilities.

311. Furthermore, the Violence and Gender Relations survey, to which the Ministry of Women’s Rights contributes a total of €1.27 million, will provide reliable statistical data disaggregated by sex on gender-based violence against women and men. Given the sample of between 20,000 and 30,000 respondents, it should capture the situation of both men and women with disabilities who are victims of violence.

312. In the field of prevention and action against violence, the situation of women with disabilities who are the victims of violence is now taken into account in the policy for the prevention of disability, in application of article 44 of Act No. 2014-873 of 4 August 2014 on effective equality between women and men. To this end, the interministerial task force on the protection of women victims of violence and action against trafficking in persons is working on modules to raise awareness among professionals.

313. As for children with disabilities, under French law all individuals have the same fundamental rights and safeguards, regardless of their personal situation. Accordingly, the law and jurisprudence have recognized the same rights for all children, regardless of their situation or whether or not they have a disability, but have also striven to take into consideration, to the extent possible, their particular interests in all proceedings or procedures that concern them by applying the principle of the best interests of the child. A child’s interests are thus taken into account on a case-by-case basis, which means that decisions can be adapted to the child’s specific situation, disability, well-being, health, safety and needs.

314. On the same basis, minors have the right to express their opinion on issues that concern them and to be involved in decisions taken about them, depending on their age and maturity. The Act of 8 January 1993, supplemented by the Act of 5 March 2007, reproduces the most important provisions of the Convention on the Rights of the Child, stipulating in the new article 388-1 of the Civil Code that: “in all proceedings that concern him or her, a minor capable of forming his or her own views may, without prejudice to the provisions governing his or her intervention or consent, be heard by a judge or, where his or her interests require it, the person designated by the judge for this purpose. A minor shall be entitled to such a hearing if he or she requests it. If the minor refuses to be heard, the judge shall assess whether this refusal is well founded. He or she may be heard alone or with a lawyer or a person of his or her choosing.” These provisions afford special protection to children, in that they enable a judge to adapt the way that the hearing is conducted in accordance with the minor’s situation, particularly if he or she has a disability, and to take into consideration his or her fundamental physical and intellectual needs.

315. The Government also pays particular attention to the situation of children with disabilities as part of its policy to support families dealing with disability, which brings together a range of stakeholders in the regions. Thus, the departmental family services schemes developed under the authority of the departmental prefects are in a position to address various concerns, in particular:

- Identifying needs and improving links between needs and supply. The departments that have piloted the departmental family services schemes have often faced real difficulties in identifying needs as regards the care of young children with disabilities; for example, the number of children concerned in the age bracket between birth and 3 years is not known and families face different difficulties depending on the nature of the child’s disability. Work on the schemes must make it possible for the stakeholders to define a methodology for measuring needs in this area
- Informing parents of the services on offer. Parents still have little knowledge of group and individual care options that are suited to their child’s disability
- Raising awareness and training professionals in how to work with children with disabilities. Professionals must be trained to respond to the specific needs of the children that they will be caring for, in compliance with the education pathway defined by the relevant departmental centre for persons with disabilities. Where necessary, the various types of early childhood care may be provided by the medico-social institutions responsible for identification, screening and early support in the child’s home

V. Part Four: Implementation of the specific obligations set out in articles 31 to 33 of the Convention

Article 31
Statistics and data collection

316. As regards the tools available for monitoring disability, there is a large number of administrative data on disability and surveys have been carried out by various ministries and other bodies.

Statistical and Research Department of the Ministry of Labour

317. This Department analyses data on the employment of workers with disabilities, drawing on the figures produced by the mandatory annual declaration of employment for workers with disabilities, which has been managed by the Fund Management Association for the Integration of Persons with Disabilities since 2013. In 2011, the Department published a study on the employment of workers with disabilities in private-sector establishments with at least 20 employees. In the same year, it published a study of the labour market situation in 2008 of persons with a registered disability and a study of the career paths of persons with registered disabilities.

Department for Research, Studies, Evaluation and Statistics of the Ministry of Social Affairs and Health

318. This Department conducts, publishes and participates in numerous studies and surveys on disability. For example, it has for many years published the Disability Statistical Study, a survey conducted on the basis of the national register of health-care and social facilities, focusing on the persons treated in medico-social establishments or services. The most recent such survey deals with the situation as at 31 December 2010. The Department also conducts quarterly surveys at the departmental level on the compensatory disability benefit and the third-party compensatory allowance.

Evaluation, Forecasting and Performance Department of the Ministry of National Education

319. This Department conducts an exhaustive survey every two years to identify students with disabilities in mainstream primary and secondary level schools, split into nine categories of conditions. Another survey covers education in specialized facilities, such as hospitals and medico-social establishments. These surveys, which are filled in by a teacher serving as the focal point and by the director of the establishment, are annual surveys that contain individual data (year of birth, sex, type of disability) but also data on the child’s schooling and the support he or she receives: educational level, school to which the student has been assigned, form of schooling, school time and whether he or she receives support from a teaching assistant.

Department of Administration and the Civil Service of the Ministry of State Reform, Decentralization and the Civil Service

320. This Department publishes an annual report on the state of the civil service, which contains statistical data on the beneficiaries of the obligation to employ workers with disabilities in the three sectors of the civil service: the State, the regions and hospitals.

National Solidarity Fund for Independence

321. In accordance with its legal mandate, the Fund carries out and finances extensive work on disability. Each year it publishes a document entitled “Key figures on support for independent living”, which collates and makes available to medico-social workers and decision makers the available data on disability and the policies being implemented. Furthermore, in the context of implementing the Act of 2005, the Fund has created a tool to guide decision-making on policies to support independent living for persons with disabilities. This takes the form of a shared information system for the independence of persons with disabilities, for which data are supplied by the departmental centres for persons with disabilities (each centre has a designated focal point for the system), supplemented by data from other bodies involved in disability policy. The system is currently being tested by a small number of departmental centres for persons with disabilities.

Other more targeted surveys

322. In institutions of higher education, surveys on students with disabilities are conducted under the authority of the president of the university or the director of the school, in partnership with the staff caring for students with disabilities and the doctors designated by the committee on the rights and independence of persons with disabilities who deal regularly with students with disabilities. While maintaining anonymity, the surveys collect information on the students with disabilities or incapacitating illnesses in each establishment. In addition to identifying the nature of the disability or condition and the course of study, the surveys also indicate the reasonable accommodations made to enable the students to continue their studies.

Surveys among the general public

Pioneer surveys: Disability-Impairment-Dependence 1998–2001

323. These studies, conducted by the National Institute for Statistics and Economic Studies, related both to people living in their own homes and to those in institutions. The information collected included descriptions of the impairments and disabilities concerned and their origins, the social, family and architectural environment and the different spheres of social participation in which the persons engaged. On the basis of these studies, it was estimated that 40 per cent of the population has an impairment, at least 21 per cent have at least one form of disability, 11.7 per cent are limited in what they can do, 9.5 per cent consider themselves to be disabled, 6.2 per cent state that they use some form of assistance and 5.2 per cent are officially registered disabled. Many other projects have been carried out on the basis of these data.

Disability-Health surveys 2008–2009

324. The purpose of these surveys was to identify the number of persons with disabilities, to evaluate the disadvantages that they experience, to understand the nature, extent and source of their existing assistance, to take note of their unmet needs and also to learn more about caregivers. The surveys — on daily life and health, on households, on carers and on institutions — address health, disability (impairment, functional limitations, restricted activity, assistive devices and assistance from family and friends or professionals), participation in social life, discrimination, accessibility of housing, income and allowances, education, employment and family environment.

325. It is a moot point whether a major national survey on disability can continue to be conducted, as it requires the wide-ranging agreement of the parties involved, the bodies likely to conduct it and those likely to analyse the data.

Article 32
International cooperation

326. As regards the inclusion of persons with disabilities in programmes, the French Development Agency has set up an environmental and social evaluation division, which is tasked with determining whether groups that are vulnerable or discriminated against are adversely affected by the projects that it finances. Persons with disabilities are among the groups that are considered vulnerable.

327. Persons working on the Agency’s health projects are informed of the United Nations resolution on the need to take account of persons with disabilities at all stages of development projects. Awareness-raising training on disability inclusiveness was offered to the heads of the Agency’s projects in 2011 and again in 2013. Some French non-governmental organizations (NGOs) part-funded by the Agency are developing “inclusive development” projects on new issues, such as inclusive cities (in Senegal, for example, a project that received a lot of coverage during the 2012 Africities Summit) or the inclusion of children with disabilities in education and vocational training programmes.

328. In respect of the Agency’s co-financing of French NGOs, eight programmes specifically targeting persons with disabilities received grants totalling €8.6 million between 2009 and 2012.

329. As regards the participation of persons with disabilities, when projects financed by the Agency give rise to resettlement or expropriation, the affected groups are included in a participatory process to develop and evaluate compensation and support measures.

330. As for capacity-building measures, French NGOs co-financed by the Agency working on this issue are deeply involved with European and international forums, at which they share the lessons learned from their valuations and the fundraising in which they have engaged. It is still a challenge to attract the interest of the wider public and to make disability a more cross-cutting issue. One of the co-financed NGOs recently called on the Agency to introduce capitalization and valuation tools so as to ensure that disability is not confined to just a few divisions but becomes a shared concern that is incorporated into projects.

Article 33
National implementation and monitoring

331. As indicated in the introduction in relation to the focal points and the coordination mechanism, the French Government has designated “disability and accessibility focal points” in each minister’s office and in each ministry. When there is a need to coordinate these focal points, the general secretary of the Interministerial Committee on Disability can convene them for the implementation of the government plan of action and the Convention. Furthermore, the designation of an independent constitutional authority, the Defender of Rights, as the mechanism to promote, protect and monitor implementation of the Convention will guarantee that it is implemented in compliance with its provisions. The

participation of persons with disabilities and their representative organizations in the development and implementation of disability policy is ensured by the National Consultative Council of Persons with Disabilities.