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RÉPUBLIQUE FRANÇAISE

PARALLEL REPORT OF THE DEFENDER OF RIGHTS

AS PART OF THE EXAMINATION OF THE INITIAL REPORT BY FRANCE ON THE IMPLEMENTATION OF THE UNITED NATIONS CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITES

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INTRODUCTION

The Defender of Rights is an independent administrative authority with a constitutional status (its existence is enshrined in Art. 71-1 of the Constitution of October 4, 1958). Created in 2011, its general mission is to ensure the protection of rights and freedoms and to promote equality and, as such:

- Defending rights and freedoms of users in their relations with state administrations, local authorities, public institutions and organisations with a public service mission;
- Defending and promoting the best interests and the rights of the child enshrined in the law or in an international commitment duly ratified or approved by France;
- Fighting against direct or indirect discrimination prohibited by the law, or by an international commitment duly ratified or approved by France, as well as promoting equality;
- Ensuring compliance with professional ethical standards by individuals providing security activities within the French Republic;
- Directing whistleblowers to the competent authorities and ensuring their rights and freedoms.

In view of its various missions, which place it at the heart of the issues encountered by persons with disabilities, the Defender of Rights was appointed, in 2011 by the government, as **independent mechanism** responsible for monitoring the implementation of the United Nations Convention on the Rights of Persons with Disabilities (hereinafter: “The Convention”, “CRPD”), **under article 33.2**.

Present throughout the national territory (metropolitan France and overseas) through a network of 536 delegates, including 100 disability referent delegates, it can be contacted directly and free of charge by any individual or legal entity, that considers its rights and freedoms have been infringed. In 2020, the Defender of Rights received 96,894 complaints and 69,705 calls. Defending the rights of persons with disabilities occupies an important place in the activity of the institution. In 2020, disability was, for the fourth consecutive year, first ground for referral to the Defender of Rights in case of discrimination (i.e., 1,102 complaints).

The Defender of Rights bases its action on knowledge, as close to reality as possible, of the situation of persons with disabilities. To do so, in addition to direct and daily relations with disabled persons who refer to it, it maintains close links with organizations representing disabled persons, particularly through its Disability Understanding Committee, the Handicaps Collective, the French Council of Disabled Persons for European issues (CFHE) and the National Consultative Council for Persons with Disabilities (CNCPH).

As part of its activity to protect the rights of persons with disabilities, it strives to give full effect to the CRPD, as a legal standard, in the processing of complaints and to develop the interpretation of the law, particularly by the courts, in accordance with the Convention. Since 2011, it has therefore adopted nearly 400 decisions related to disability. In terms of promotion of equality and access to rights, it has notably published several guides and reports intended to provide information and raise awareness among the various stakeholders: Report on *Access to voting for persons with disabilities (L’accès au vote des personnes handicapées)* (2015) ; Report on *Legal protection of vulnerable people (La protection juridique des personnes*

vulnérables) (2016); Report on *Employment of women with disabilities (L'emploi des femmes handicapées)* (2016); Study report on *The direct effect of the provisions of the Convention (L'effet direct des stipulations de la Convention)* (2016); Guide: *Understanding and mobilizing the Convention on the Rights of Persons with Disabilities (Comprendre et mobiliser la Convention pour défendre les droits des personnes handicapées)* (2016); Guide *Employment of persons with disabilities and reasonable accommodation (Emploi des personnes en situation de handicap et aménagements raisonnables)* (2017).

As a preliminary point, the Defender of Rights specifies that in July 2020, as part of its mission as an independent mechanism, it published **an appraisal report on *the implementation of the Convention on the Rights of Persons with Disabilities***, with the aim of answering the following questions: ten years after the entry into force of the CRPD in France, what is the situation regarding the compliance by the French State with its international commitments? What about the effectiveness of the rights enshrined in the Convention?

Through this parallel report, the Defender of Rights wishes, in view of the list of points adopted by the pre-session working group in its twelfth session (23-27 September 2019), and based on the updated findings of its 2020 report, to contribute to enlightening the Committee on the subjects which deserve special attention in the context of examining France's initial report during the 25th session (August 16-September 24, 2021).

For the Defender of Rights, the results of the CRPD's implementation by France are mixed. While much progress has undeniably been made in recent years, significant gaps remain. In this regard, while welcoming the political ambition to make disability a priority issue, the Defender of Rights finds that France has not yet fully taken into account the new rights-based approach, induced by the CRPD, in the development and implementation of public policies. Even if a paradigm shift seems to be taking place today, we must nevertheless regret its unequal appropriation by all the relevant stakeholders. As a result, in many areas, the evolution of the legal framework and the practices brought about by the Convention are not yet effective. There are still many obstacles to the autonomy and inclusion of persons with disabilities linked, on the one hand, to the lack of universal accessibility and, on the other hand, to insufficient or inappropriate responses to the specific needs of the people concerned, which prevents them from effectively participating in society on an equal basis with others.

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PURPOSE AND GENERAL OBLIGATIONS (ART. 1 TO 4)

1. The definition of disability, introduced by Act No. 2005-102 of February 11, 2005 (hereinafter: “The Act of 2005”), does not identify environmental barriers as a “causal factor” on which action should be taken, in the same way as with impairments and disabilities, to prevent or remedy situations of disability. The State itself, in its initial report on the implementation of the CRPD, recognizes this difference of approach when it emphasizes that this definition “still designates disability itself as the cause of the difficulties encountered by [the] individual in integrating into society”. This difference of approach has had implications for the policy lines taken regarding disability. In fact, if the 2005 Act aims to guarantee equal access to fundamental rights for persons with disabilities, it primarily emphasizes the responses to be provided in terms of individual compensation – without really succeeding in doing so – and in a subsidiary manner on the transformation of the environment and the implementation of the principle of universal design with the objective of an inclusive society open to all.
2. The Defender of Rights also notes inequalities in access to rights among persons with disabilities. At issue, in particular, the entanglement of the systems and the complexity of the procedures, the lack of information for disabled people and the stakeholders about existing rights and systems, the variability of the reading and the implementation of the law depending on the territories and the entities concerned, access to rights too often guided by compartmentalized financial logics, the multiplicity of stakeholders and their lack of coordination, insufficient national management of “silo” policies related to disability and autonomy. And with regard to the French overseas territories, the breaches of rights observed in Metropolitan France are over-represented.
3. In the absence of sufficient awareness-raising and training for the various stakeholders, significant deficiencies remain in the appropriation of the conventional apparatus, not to mention the effective implementation of the principles and rights recognized by the Convention. As a result, the objective set by the Prime Minister (circulars of September 4, 2012 and July 4, 2014) to provide, when drafting bills, for an assessment of the impact of the measures considered on the situation of persons with disabilities, with regard to the requirements of the Convention, has still not been met, the reference still too often remaining solely the Act of 2005. And the government's stated ambition to ensure the participation of persons with disabilities in the development of policies that affect them has yet to be realized. Admittedly, the recent reform of the National Consultative Council of Persons with Disabilities (hereinafter: "CNCPH") made it possible to give a greater place to disabled people. But the consultation of the CNCPH on all draft legislation likely to concern persons with disabilities is not systematic (e.g., bill on child protection).

Recommendations:

1. Review the definition of disability in order to bring it fully in line with the Convention;
2. Establish a global assessment system to identify, in an inclusive approach, all the measures to be implemented to meet the needs of each person with disabilities;
3. Develop inclusive policies by acting jointly on both environmental barriers and disabilities in order to provide appropriate responses to the needs of each person with disabilities;
4. Guarantee equal treatment for persons with disabilities, regardless of their place of residence, their age and the origin of their disability, by strengthening, in particular, the national management of policies related to disability and autonomy;

5. Raise awareness/train all the stakeholders concerned – and primarily decision-makers – to the new challenges related to the application of the Convention and ensure that it is taken into account in the development, implementation, and evaluation of public policies;
6. Make it compulsory to consult the National Consultative Council for persons with disabilities (CNCPH) on all draft laws, regulatory texts, and impact studies.

INDIVIDUAL RIGHTS (ART. 5 TO 30)

Equality and non-discrimination (Art. 5)

4. While the legal protection of persons with disabilities against discrimination has evolved in recent years, mainly under the influence of European law, it remains insufficient, and discrimination based on disability is still too important. In 2020, disability was, for the fourth consecutive year, the main ground of referral to the Defender of Rights' office in matters of discrimination (21%, or 1,102 complaints).
5. The duty of reasonable accommodation is recognized by national law only in the area of work and employment. But it is not expressly extended to other areas. The Defender of Rights has intervened on several occasions with the government and parliamentarians to demand that national legislation be brought into line with the requirements of the Convention, unsuccessfully. The Defender of Rights regularly notes that this notion, which is essential to guarantee the effectiveness of rights, suffers from a lack of appropriation by the actors responsible of its implementation.
6. The definition of discrimination in national legislation should also be supplemented to take into account certain forms of discrimination which particularly concern persons with disabilities and their relatives, such as discrimination by association or the intersectionality of discrimination in order to give greater recognition to the discrimination suffered by women with disabilities in particular.
7. In addition, class action on discrimination is open to NGOs working in the field of disability. However, in terms of employment, this possibility of action is limited to discrimination in access to employment. This is particularly regrettable, as employment is the primary area in which discrimination on the ground of disability takes place.

Recommendations:

- ⇨ Include, in the definition of discrimination provided by the law, the obligation of reasonable accommodation in the area of disability so as to make it effective in all areas covered by the Convention;
- ⇨ Recognize in the law the different forms of discrimination, particularly intersectionality and discrimination by association;
- ⇨ Open class actions to NGOs but also to any group of victims constituted for the purposes of the cause in all the fields covered by the law, without exception.

Women with disabilities (Art. 6)

8. Ignored by the Act of February 11, 2005, women and girls with disabilities are still under-represented in studies, public policies and plans in favour of gender equality and are invisible in many spheres of society. The State partially recognizes this shortcoming, since it indicates in its report that it wishes to have specific statistical data on their situation in order to adapt existing systems to their needs. However, this data is still not available.

9. Discrimination against women with disabilities is particularly apparent in the field of employment, where they are confronted to a double exclusion, disability and gender, which limits their choices of professional orientation and their options of accessing or returning to employment. In addition, women with disabilities are, because of their greater vulnerability and dependence, more exposed to physical and/or sexual violence than other women. Yet, until recently, they have been the "great forgotten" in public policies to combat violence against women. Despite progress, the findings on violence against women with disabilities remain alarming and the lack of knowledge and statistical data in this area is deeply concerning.

Recommendations:

- ⇨ Take into account the situation of women with disabilities in studies, public policies and plans for gender equality, and introduce a "gender" dimension in all data and statistics relating to disability;
- ⇨ Adopt effective measures in order to fight against the discriminations of which disabled women are especially the victims;
- ⇨ Ensure that the situation of women with disabilities is better taken into account in combating violence against women, through studies and regularly updated statistics, the intensification of training and awareness-raising of all stakeholders, and the achievement of concrete efforts in terms of access to care, particularly gynaecological care, and accessibility of justice as well as emergency accommodation.

Children with disabilities (Art. 7)

10. The Defender of Rights notes that children with disabilities still struggle to fully access their rights. In 2020, the Defender of Rights' office received 2,758 complaints relating to violations of children's rights, of which 16.6% concerned disability and health status. It also agrees with the concerns expressed by the Committee on the Rights of the Child regarding the situation of disabled children overseas.[1]

11. Despite the specific plans that followed from 2005 to 2017, France is lagging behind in understanding and taking into account autism as a neurodevelopmental disorder. The new national strategy for autism in neurodevelopmental disorders (ND), adopted in 2018, has set as priorities, among other things, the reduction of diagnostic delays and early interventions for children with developmental disorders. While such measures are a step in the right direction, it remains difficult to measure their effectiveness because of the significant backlog in this area.

12. In a report *Disability and child protection: rights for invisible children (Handicap et protection de l'enfance : des droits pour des enfants invisibles)*, published in 2015[2], the Defender of

[1] Concluding observations on the 5th periodic report on France (23 February 2016 - CRC/C/FRA/CO/5)
[2] https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/rae_2015_accessible.pdf

Rights underlined the particularly worrying situation of disabled children in the care of child protection services. Numbering 83,000, these children find themselves at the intersection of distinct public policies and victims of institutional compartmentalisation, constituting violations of children's rights. Therefore, the Defender of Rights welcomes the fact that the National Strategy for Prevention and Child Protection (2020-2022) affirms the ambition to create intervention mechanisms adapted to the cross-cutting issues of child protection and disability. It nevertheless insists on the need and the urgency to achieve those objectives. And therefore laments the fact that the draft law on the protection of children[3], filed in June 2021, does not contain any provision taking into account the specific situation of children and parents with disabilities.

13. With regard to both child abuse policies and the fight against bullying at school, the observation is the same: disability is not sufficiently taken into account in the programs. Yet, according to the World Health Organization (WHO), children with disabilities are almost four times more likely than other children to experience violence. In its report *Childhood and violence: the share of public institutions (Enfance et violence : la part des institutions publiques)*[4], published in 2019, the Defender of Rights describes the violence suffered by children within public institutions and notes, in particular, that these institutions struggle to adapt to the specificities of each child with a disability.

14. In its annual report on the rights of the child, devoted in 2020 to the voice of the child[5], the Defender of Rights notes that a child's disability is often used as a pretext not to involve him/her in projects that concern him/her. This is particularly the case concerning the procedures with the departmental homes for disabled persons (hereafter, "MDPH"), within the framework of the development of the compensation plan and the personalized plan for the education of the child.

Recommendations:

- ⇨ Set up statistical tools to collect reliable, disaggregated data at least by sex, age group and type of disability, and regularly updated on the number of disabled children (in metropolitan France, overseas departments and territories, or accommodated outside France) and their situation with regard to the effectiveness of their rights, particularly in relation to access to schooling, extracurricular and leisure activities, and appropriate medico-social support;
- ⇨ Implement all the measures included in the National Strategy for Autism in Neurodevelopmental Disorders (ND) 2018-2022 and guarantee the human and financial resources necessary to achieve the objectives;
- ⇨ Immediately take the measures, particularly of a legislative nature, necessary to achieve the objectives of the National Strategy for Prevention and Child Protection (2020-2022) concerning the consideration of specific issues related to disability;
- ⇨ Adopt a cross-disciplinary approach to public policies in favour of children with disabilities in order to provide responses adapted to the needs of all children, regardless of their disability;
- ⇨ Take into account the situation of children with disabilities in studies, public policies, plans and programs intended to combat violence against children;

[3] Bill on the protection of children, No. 4264, tabled on June 16, 2021
[4] https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/rae-2019-num-22.10.19-2_1.pdf
[5] https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/ddd_rae_rapport.pdf

- ⇨ Take appropriate measures to ensure that the voice of children with disabilities is taken into account in all matters that concern them.

Awareness-raising (Art. 8)

15. Persons with disabilities are still stigmatized today because of a generally negative and at the very least stereotypical representation of disability. This is the case, in particular, for persons with mental disabilities. Various initiatives have certainly been taken to make society aware of the situation of persons with disabilities, to combat prejudices, and to make their abilities better known. However, we must lament the absence of a large-scale campaign covering all disabilities and all areas of daily life.

16. The role of the media is also essential. However, according to the Superior Audiovisual Council (CSA), the representation of disability remains very marginal (0.7% in 2020), stable, little diversified in terms of age and sex, and very stereotypical. Faced with such findings, it is therefore appropriate to note as positive the signing, in 2019, of the *Charter on the representation of disabled people and disabilities in the audiovisual media (Charte relative à la représentation des personnes handicapées et du handicap dans les médias audiovisuels),* intended to improve representation and change the outlook on persons with disabilities and disability, in accordance with the CRPD.

Recommendations:

- ⇨ Organize a major national awareness campaign to combat stereotypes and prejudices against persons with disabilities and promote respect for their rights in accordance with the Convention;
- ⇨ Ensure the effective implementation of the objectives set by the *Charter on the representation of persons with disabilities and disabilities in the audiovisual media* and the evaluation of results in channel assessments.

Accessibility (Art. 9)

17. The Defender of Rights deplores the significant delay taken by France in terms of accessibility and the persistent reluctance of the public authorities to understand accessibility as an essential precondition for the effective enjoyment of fundamental rights by persons with disabilities. The objectives set by the Acts of 1975[6] and 2005 are still not achieved. Moreover, constant vigilance is required in order to preserve the gains and counter attempts to reduce accessibility requirements.

18. The 2005 Act provided that, excluding extraordinary exceptions, all existing establishments open to the public (hereinafter “ERP”) and public transports must be made accessible by 2015 at the latest. But, noting that it was impossible to meet this deadline, the government decided once again, in 2015, to grant additional time to ERP operators and transport organizing authorities (AOT), under the condition of committing to a planned accessibility agenda (Ad'AP).

19. According to the government, 80% of existing ERPs were required to be made accessible within 3 years, i.e., no later than 2018. But, after that deadline, the results once again appear very worrying: the network of accessibility ambassadors, responsible for supporting the

[6] Act No. 75-534 of June 30, 1975 directed in favour of disabled persons

accessibility of local ERPs, is not fully operational and the controls and, even more so, the penalties applicable in the event of non-compliance with obligations are not sufficiently effective. In 2019, in a referral calling into question the lack of accessibility of a primary school, the Defender of Rights observed that the municipality concerned, which had not complied with its obligations in terms of the planned accessibility agenda filing, had not been inspected, nor sanctioned by the prefecture[7]. In addition, for new public buildings, the attempts by the government in 2007, then by the legislator, in 2011, fortunately censured by the Council of State and the Constitutional Council, to introduce exemptions to the accessibility obligation, in disregard of the universal design principle. It should also be noted that several texts necessary for the effective implementation of the ACT of February 11, 2005, have still not been published (e.g., texts applicable to administrative detention centres and police custody facilities).

20. Regarding transport, the obligation for the transport chain to be organized to enable its accessibility "in its entirety" to persons with disabilities or with reduced mobility, has been called into question by the 2015 reform: now, the accessibility obligation of transport services is achieved by setting up a few stopping points considered as "priority" points, with the others not being required to be made accessible.

21. In contradiction with the principle of accessibility of the transport chain, the road accessibility requirements only apply in the case of the construction of new roads, improvements or construction work. And only municipalities with more than 1,000 inhabitants are required to draw up a plan to make the roads and public spaces accessible (PAVE). However, 54% of municipalities in metropolitan France have fewer than 500 inhabitants.

22. Regarding the accessibility of new housing, the Act of 23 November 2018, known as the "ELAN" Act, called into question the "all accessible" rule by establishing a quota of 20% of accessible housing from the design stage, with other housing simply required to meet a scalability condition. Numerous associations for the defence of persons with disabilities, supported by the Defender of Rights and the National Consultative Commission on Human Rights, have unsuccessfully denounced a breach of the principles of accessibility and universal design enacted by the Convention.

=> On the accessibility of communication services and public websites (see Article 21)

Recommendations:

- ⇨ Carry out an exhaustive and regularly updated inventory of all establishments open to the public (ERP) subject to the accessibility obligation and produce qualitative data on their status with regard to this requirement;
- ⇨ Implement the control methods provided for by the legal and regulatory texts in order to verify, for all ERP, compliance with accessibility requirements and take the appropriate sanctions against those who have not complied with their obligations;
- ⇨ Publish the regulatory texts necessary for the implementation of Act No. 2005-102 of February 11, 2005;
- ⇨ Repeal the provisions of Act No. 2018-1021 of 23 November 2018 on the evolution of housing, development and digital technology, known as the "ELAN" Act, insofar as they disregard the principles of accessibility and universal design enacted by the Convention;

[7] Defender of Rights Decision No. 2019-102 of May 22, 2019

- ⇨ Amend the Act in order to include the obligation of accessibility of all the stopping points of the transport network, by providing for a timetable of their accessibility so as to guarantee, in the long term, the accessibility of the transport chain for all;
- ⇨ Include in the Act a general obligation to make public or private roads open to public traffic accessible.

Situations of risk and humanitarian emergencies (Art. 11)

23. The health crisis associated with Covid 19 has highlighted the difficulties for the public authorities to reconcile, apparently due to a lack of anticipation, public health issues with the need for an appropriate response to the specific needs of persons with disabilities in order to preserve not only their health, but also their rights and freedoms. At the start of the health crisis, many concerns were expressed about the risk of discrimination against persons with disabilities due to insufficient consideration of the multifaceted reality of disability in the management of the pandemic. And we must also deplore a health approach to disability that has had the effect of considering persons with disabilities to be to people “at risk” and the lack of appropriate responses, such as the absence of respite solutions, personal protective equipment for caregivers, the interruption of the care and support essential to disability, and so on, resulting in the weakening of persons with disabilities and their relatives. In reality, the health crisis has only further highlighted the pre-existing deficiencies, long denounced by organizations of disabled persons, particularly in terms of access to and continuity of care, articulation between the health and medico-social sectors, accompaniment for individuals, support for caregivers. The adoption of several measures intended to take into account the specific situation of persons with disabilities has admittedly made it possible, throughout the health crisis, to offset certain difficulties as a matter of urgency. But we must nevertheless regret that the responses to these recurring issues were not sufficiently anticipated.
24. Provided for by the 2005 Act, it was only very recently, in February 2019, that the total conversation platform (audio, video, text) of the national emergency call number for persons with hearing or communication impairments, has been put in place. However, this service remains inaccessible to deafblind and aphasic persons. A new version of the app and of the web portal integrating the accessibility of the service to deafblind, deaf, visually impaired, and aphasic persons is under development but is still not operational.
25. In humanitarian emergencies, the Defender of Rights notes, on a recurring basis, serious deficiencies in the welcoming of migrants, including refugees and asylum seekers, particularly the most vulnerable, including persons with disabilities : refusal of emergency accommodation and lack of medical care for disabled children with serious pathologies[8] etc...

Recommendations:

- ⇨ Carry out an assessment of the health crisis linked to Covid 19 in order to establish a prevention and risk management plan reconciling public health issues with the need for an appropriate response to the specific needs of persons with disabilities, so as to preserve not only their health, but also their rights and freedoms;

[8] https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/20151006-rapport_calais.pdf

- ⇨ Take the necessary measures to guarantee, as soon as possible, access for all disabled persons, including deafblind and aphasic people, to the national emergency contact number;
- ⇨ Guarantee all exiled persons the unconditional right to emergency accommodation as well as appropriate care for their health and disability.

Equal recognition before the law (Art. 12)

26. The principles of necessity, proportionality, and subsidiarity of legal protection measures have, for the most part, been conveyed by Act No. 2007-308 of March 5, 2007 reforming the legal protection of adults, but in practice, their implementation is not guaranteed. In fact, the gradual increase of protection measures, with a parsimonious recourse to representation measures, is far from having materialized, with the majority of measures adopted today still being measures depriving legal capacity. The Defender of Rights in its report on *Legal protection of vulnerable adults (La protection juridique des majeurs vulnérables)*[9], published in 2016, noted that this denial of legal capacity to persons placed under a protective regime actually results in the denial or deprivation of certain fundamental rights guaranteed by the Convention.
27. In 2018, an interministerial mission was set up and formulated proposals to reform the legal protection system in accordance with the Convention[10]. Those proposals were partially included in Act No. 2019-222 of March 23, 2019 on 2018-2022 planning and justice reform. The Defender of Rights welcomes, in particular, the major progress represented by the full recognition by the law, for all protected adults, of the right to vote, to marry, to enter into a civil partnership, and to divorce without prior authorization from a judge. But regrets that these developments are not part of a more comprehensive reform allowing full and effective recognition of all the fundamental rights recognized by the Convention. And also deplores the lack of real management of this public policy, the lack of updated data on the situation of protected adults in France – the most recent data date back to 2015 – being one of the examples.
28. In addition, the CRPD recalls the right of persons with disabilities to control their finances and to have access, under the same conditions as other people, to bank loans, mortgages, and other financial credits. However, the referrals addressed to the Defender of Rights show that those rights are not always respected. For example: - the refusal by a banking establishment to issue a protected adult with a payment card allowing him to carry out his daily expenses (Defender of Rights decision No. 2018-103 of April 19, 2018); - the restrictive conditions for the operation and management of online accounts for protected adults implemented by a banking establishment (Defender of Rights decision No. 2018-115 of May 3, 2018); - the refusal of credit to disabled people because of the nature and level of their resources, in this case the receipt of the allowance for disabled adults (Defender of Rights decision No. 2018-088 of March 29, 2018).

[9] https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/rapport-majeurs_vulnerables-v5-num.pdf
[10] http://www.justice.gouv.fr/art_pix/rapport_pjm_dacs_rapp.pdf

Recommendations:

- ⇨ Carry out a complete "tidying-up" of the legislation in order to make effective, in all fields, the recognition of the legal capacity and the fundamental rights of persons with disabilities placed under protective supervision, in accordance with the Convention;
- ⇨ Take measures to implement the proposals of the interministerial mission report on the evolution of the legal protection of persons aiming in particular to institute a protection system based on the presumption of capacity of the protected adult and on the accompaniment of the person with due regards to their wishes and preferences;
- ⇨ Set up, for those responsible for supporting protected adults, including families, training courses focused on the respect for fundamental rights, wishes, and preferences of individuals;
- ⇨ Take steps to put an end to discrimination against protected adults in accessing banking services, mortgages, and other financial credits.

Access to justice (Art. 13)

29. Persons with disabilities today face many obstacles that hinder their effective access to justice. Thus, procedural adjustments were provided for by the Act of 2005 for persons with hearing or visual impairments and persons with aphasia, but they are not always respected in practice and remain, in all cases, unsuitable for other forms of disabilities, especially intellectual disabilities. The inaccessibility of buildings is also an obstacle to access to justice, both for litigants and disabled court officers. Legal hotlines and "rights access points" have been set up to meet the specific needs of persons with disabilities, but they remain insufficient. The Defender of Rights nevertheless welcomes the recent reform, modifying the resource base taken into account for access to legal aid, now allowing AAH benefit recipients to receive full legal aid[11].

30. The absence of compulsory training in disability for professionals involved in the administration of justice has led to stigmatizing behaviours or discriminatory decisions based on a stereotypical and negative representation of disability. Disability law, made up of all the legal standards applicable to persons with disabilities, although very complex, is hardly taught in the initial and continuing training of legal professionals, who indicate that they encounter real difficulties in the handling of cases.

Recommendations:

- ⇨ Make accessible, as soon as possible, the courts and other places concerned (police stations, detention centres, etc.);
- ⇨ Arrange justice procedures to make them accessible to all persons with disabilities and, to do so, supplement Article 76 of the 2005 Act in order to ensure access to information in formats accessible to all and to allow each person, at all stages of the procedure, regardless of the nature of their disability, to have access to the assistance or support of their choice;

[11] Decree No. 2020-1717 of December 28, 2020 modifying the resource base taken into account for access to legal aid

- ⇨ Develop, throughout the national territory, legal hotlines and rights access points that meet the needs of persons with disabilities;
- ⇨ Implement legal procedures guaranteeing treatment methods adapted to the specific needs of persons with disabilities, in terms of processing times, multidisciplinary expertise, etc.;
- ⇨ Introduce, in the initial and continuing training of justice professionals, compulsory training in the specifics of the reception and support of disabled litigants as well as a specific module on the rights of persons with disabilities, according to an approach in accordance with the Convention.

Liberty and security of person (Art. 14)

31. The State report recalls the changes made by Acts No. 2011-803 of July 5, 2011 and No. 2013-869 of September 27, 2013 with a view to reforming the conditions of care for people hospitalized without consent. However, several reports point to serious failures in the implementation of this system due to practices that do not respect individual freedoms and fundamental rights. Since 2011, the law requires a systematic verification by the Liberty and Custody Judge (JLD) for any measure of complete hospitalization without consent. But in practice, the judge relies mainly on the opinion of the doctors and, on average, only one in ten cases results in a lifting of the measure. In addition, this judicial review does not exist for ambulatory care without consent.

32. If, as the State report specifies, recourse to isolation and restraint measures is regulated by law, that alone does not provide sufficient guarantees. The conditions for implementing these measures, provided for in Article L. 3222-5-1 of the Public Health Code (CSP), as drafted by Act No. 2016-41 of January 26, 2016, have moreover been declared contrary to the Constitution[12], the legislator not having provided for a minimum period beyond which the maintenance of such measures must be subjected to the verification of the ordinary court. Then, once again suppressed[13], in their new wording resulting from the Social Security Financing Act for 2021, in that they allow, on an exceptional basis, to be kept in solitary confinement or under restraint beyond the maximum duration[14], on a medical decision, without providing for the systematic intervention of the ordinary court. In addition, while the law provides that seclusion and restraint must be “practices of last resort”, the Controller-General of Places of Deprivation of Liberty (hereinafter, “CGLPL”) and the UN Committee Against Torture (CAT) note the overly frequent recourse to such measures. The register required by law is often non-existent, and the patients affected by the measures are not always informed of their rights and of the remedies available.

33. On the basis of these observations, the Defender of Rights considers that despite the objective stated by the draft additional protocol to the Convention for the Protection of Human Rights

[12] Decision of the Constitutional Council, No. 2020-844 QPC, June 19, 2020

[13] Decision of the Constitutional Council, No. 2021-912/913/914 QPC of June 4, 2021

[14] In its amended version, Article L. 3222-5-1 of the Public Health Code (CSP) now provides for a maximum duration: isolation measure, maximum initial duration of 12 hours, renewable within the limit of a total duration of 48 hours; restraint measure, an initial maximum duration of 6 hours, renewable within the limit of a total duration of 24 hours.

and the dignity of persons with mental disorders in matters of placement and involuntary treatment – namely preventing recourse to abusive and arbitrary measures of involuntary placement or treatment – the measures proposed prove, in practice, to be ineffective and a source of abuse (Opinion No. 2018-29 of 5 December 2018).

Recommendations:

- ⇨ Effectively seek the consent of the person concerned before any hospitalization or drug treatment measures and guarantee them access to information on their rights and the exercise of legal remedies;
- ⇨ Make judicial oversight efficient within the framework of forced hospitalization measures and extend it to outpatient care;
- ⇨ End the still too frequent abusive use of isolation measures with or without restraint.

Freedom from torture or cruel, inhuman or degrading treatment or punishment (Art. 15)

34. The situation of persons with disabilities or loss of autonomy in prison is very worrying. This situation is not recent and has given rise to several decisions against France by the ECHR for inhuman and degrading treatment. According to the CGLPL, the conditions of detention of persons affected by a disability are not sufficiently adapted, if at all. French law provides for an accessibility obligation for new and, to a certain extent, existing correctional facilities. In addition to the fact that this obligation is far from being effective, the standards provided for do not apply to all persons with disabilities. Furthermore, the Defender of Rights notes real difficulties inherent in the relationships between the departmental homes for disabled persons (MDPH), particularly with regard to the delays in examining cases and the lack of *in situ* assessment of the detainee's needs. As the CGLPL notes, detainees encounter an insufficiency or even an absence of responses adapted to their support needs.

35. While there is a possibility of an adjustment of the sentence for health reasons, this is, in reality, a measure which is hardly applied. Indeed, the criteria for granting this measure are often assessed too restrictively by judges who require that the person have a life-threatening condition. In addition, as the CGLPL points out the search for suitable accommodation upon release from detention is complex and constitutes a major obstacle to granting an accommodation or a suspension of sentence.

36. Mental pathologies and disorders are over-represented in prisons, particularly due to: - The deinstitutionalization policy, carried out in France in recent years, which has resulted in a significant reduction of the reception capacity in psychiatric hospitals but without local services taking over; - The constant decrease in the number of people declared criminally irresponsible who, as a result, find themselves in correctional facilities. However, these structures are neither a place of care, nor adapted to deal with mental disorders. Keeping a person in prison when their place is in a care structure is tantamount to inflicting ill-treatment on them, as the ECHR noted in a decision against France in 2012.

37. Regarding the technique of "packing", practised in an institution on children and adults with autism spectrum disorders (ASD), the State recognizes in its report that it is an act of abuse. However, the use of "packing" is still not prohibited by law.

Recommendations:

- ⇨ Train and raise awareness of disability among staff involved in the administration of justice, in particular those in charge of security, and staff of correctional facilities and detention centres;
- ⇨ Guarantee recourse to the penalty adjustment system as well as to alternative measures to imprisonment when the person's health condition or disability is incompatible with the detention conditions;
- ⇨ Take appropriate measures to guarantee detention conditions for imprisoned disabled people that are adapted to their disability and respectful of their fundamental rights, and to do so:
  - Make correctional facilities accessible to persons with disabilities, regardless of their disability, including spaces open to visitors;
  - Allow the people concerned to have access to support and care justified by their disability, particular by removing the obstacles to the assessment of compensation needs by the departmental home for disabled persons (MDPH);
  - Ensure the effective implementation of reasonable accommodation, whenever necessary, to meet the needs of persons with disabilities;
  - Put an end to inadequate incarceration measures for people with mental disorders by ensuring that they have access to care adapted to their needs.
- ⇨ Take legislative measures to prohibit the use of the "packing" technique.

Freedom from exploitation, violence and abuse (Art. 16)

38. Persons with disabilities are more often victims of physical and sexual violence than the rest of the population (3% difference with comparable characteristics)[15]. Moreover, while there are many devices intended to combat mistreatment, they are not very operational in reality. The Defender of Rights has thus observed, in recent years in particular, an increase in the frequency and seriousness of referrals related to mistreatment in medico-social establishments. However, the prerogatives in terms of control of medico-social establishments and services, allotted to regional health agencies (ARS) and to departmental council services, under their respective powers, are not always efficient.

39. If the legal framework to fight against mistreatment exists, it does not appear to be effective in practice. The reporting mechanisms, provided for by law, are very complicated to mobilize, given the overly-large number of actors likely to be involved and the lack of coordination between them. Likewise, national law provides protection for whistleblowers. But these procedures are particularly poorly understood, giving rise to misconceptions and obstacles to effective protection. The fear of retaliation is often put forward by professionals in medico-social establishments and services who witness acts of mistreatment, revealing the limits, in practice, of the protection provided for by law.

40. In 2019, the government announced the establishment of a national action plan to combat mistreatment on the basis of the proposals in the guidance note *For a comprehensive action*

[15] https://drees.solidarites-sante.gouv.fr/sites/default/files/2020-10/er1156.pdf

to support well-treatment in helping people with autonomy (Pour une action globale d'appui à la bientraitance dans l'aide à l'autonomie)[16]. But these announcements have not yet been fully implemented.

Recommendations:

- ⇨ Adopt a clear definition shared by the various legislations of the concept of mistreatment;
- ⇨ Make the oversight of medico-social establishments and services by the competent authorities more efficient;
- ⇨ Simplify the procedures for reporting mistreatment and ensure real protection for those who report it;
- ⇨ Put in place a national action plan to fight against mistreatment, with deadlines, as announced at the conclusion of the work of the National Commission against Mistreatment and Promotion of the Well-Treatment of the Elderly and Disabled Persons.

Protecting the integrity of the person (Art. 17)

41. The law regulates, but does not prohibit, the use of sterilization of girls and women with disabilities in order to protect them against forced sterilization. It thus specifies that the consent of the person concerned must be systematically sought and taken into account. But, in practice, the associations of disabled persons denounce the difficulties relating to the search for the consent of the disabled person, to the place given to the opinions of the relatives and professionals, and to the insufficient means granted to the judges of the guardianship to carry out their missions, in a context where the sexuality and parenthood of persons with disabilities are still sensitive issues in France.
42. Harmonization of the legislation applicable to persons placed under a legal protection regime relating to consent to medical acts was necessary, so that the principle of the civil capacity of the person and support for the exercise of rights can be effectively recognized in all fields. Ordinance No. 2020-232 of March 11, 2020 now affirms the principle of the primacy of the consent of the protected adult, whenever the latter is able to express his/her wishes. The information necessary for decision-making must be provided to them directly and be adapted to their faculties of understanding so that they may consent personally. However, hospitalization of people suffering from psychosocial disorders, without their consent, is still permitted (see Article 14).
43. In addition, the amendment to the bioethics bill banning the mutilation of intersex people was rejected, so that such irreversible procedures are still permitted today.

Recommendation

- ⇨ Guarantee that the person concerned can consent personally in any decision affecting their integrity and, to this end, that the information necessary for decision-making is delivered directly to them and adapted to their faculties of understanding.

[16] https://solidarites-sante.gouv.fr/IMG/pdf/190124_-_rapport_-_lutte_contre_la_maltraitance.pdf

Liberty of movement and nationality (Art. 18)

44. The right of persons with disabilities to nationality and to freedom of movement, on the basis of equality with other people, are hampered by multiple cases of indirect discrimination based on disability. This is the case for the resources conditions for issuing the resident card to disabled foreigners which excludes, in fact, recipients of the allowance for disabled adults (AAH) justifying a disability rate of less than 80 % or subject to a bilateral agreement (Defender of Rights Decision No. 2020-212, 23 Oct. 2020).

45. This is also the case for the terms of conclusion of the republican citizen contract (*contrat d'intégration républicaine*) applicable to newcomer foreigners wishing to settle permanently in France and the conditions for access to naturalization. Although the regulations provide for an exemption for persons whose disability makes any linguistic assessment impossible, the Defender of Rights was informed of the situation of a disabled person with intellectual disabilities whose application for naturalization was rejected on the grounds of his insufficient knowledge of French. It is also necessary to underline the situation of foreign disabled persons accommodated in establishments in Belgium, due to a lack of places in France, who encounter difficulties in keeping their right of residence insofar as it is subject to a condition of residence on the national territory.

Recommendations:

- ⇨ Extend the conditions for exemption from resources provided for by law for the granting of the resident card to foreigners benefiting from the allowance for disabled adults (AAH) justifying a disability rate of less than 80% or falling within the scope of bilateral agreements;
- ⇨ Eliminate any form of discrimination against foreign disabled people wishing to settle in France or acquire French nationality by ensuring that the procedures are adapted in such a way that they take into account the disability situation, and to guarantee compliance of these arrangements by the authorities;
- ⇨ Take the appropriate measures without delay to remedy the difficulties encountered by foreign disabled persons accommodated in Belgium for lack of places in establishments and medico-social services on the national territory, in order to preserve their right to stay in France.

Living independently and being included in the community (Art. 19)

46. The 2005 Act established, for all disabled people, a right to compensation for the consequences of their disability, whatever the origin and nature of their disability, their age or their lifestyle. This compensation, understood in a global way in its definition[17], aims to meet the needs of each disabled person, taking into account their aspirations and life plans, at all stages and in all areas of their life. However, in its implementation, the right to compensation encounters many limits which contravene the principles of intrinsic dignity, individual autonomy, including the freedom to make one's own choices, and the independence of persons with disabilities. In addition to recurring problems related to processing times, which are the source of many breaches of rights, the Defender of Rights particularly deplores the inequalities caused by the diversity of the operating methods of the departmental homes for

[17] Art. L. 114-1-1 of the Social Action and Families Code (CASF)

disabled persons (MDPH) according to the departments and a differentiated and fragmented assessment of the needs of compensation for persons with disabilities.

47. A major illustration of the right to compensation: the creation, by the Act of 2005, of the disability compensation benefit (hereinafter, "PCH"). Its purpose is to provide an appropriate response to each disabled person, based on an individualized assessment of their compensation needs, in order to cover the specific additional costs linked to their disability. However, this service has many limitations in terms of responding to actual needs. Thus, only the "essential needs of existence" are taken care of, with the disregard of the other needs of persons with disabilities to participate actively in public, social, and cultural life. And, because of restrictive eligibility criteria, people with psychological, mental or cognitive disabilities are excluded from the right to the PCH "human aid". In addition, there is currently in France, with a comparable disability situation, a difference in treatment between people according to the age at which the disability occurs, before or after 60 years.

48. Among the difficulties regularly invoked with the Defender of Rights are also the inadequacy of the rates of the PCH benefit to cover the needs of disabled people and the related expenses for the beneficiaries. By establishing the PCH benefit, the law of 2005 had provided for capping the "remaining charge" for beneficiaries, at 10% of their resources, after intervention of the departmental compensation fund. However, despite a decision against the State under penalty by the Council of State[18], the implementing texts have never been published, so that the cap provided for by law has remained inoperative. Under the guise of remedying this situation, Act No. 2020-220 of 6 March 2020 instituted a new system based on the financial capacity of compensation funds. But, in practice, this capacity will remain disparate and limited due to the optional top-up of funds by the various contributors. Therefore, this new system appears more as a means of legally securing the practices of departmental funds than as a response to the actual compensation needs of persons with disabilities. And in any case, it remains without effect to this day, the implementing texts of the Act of March 6, 2020 necessary for its entry into force not having been published, giving rise to a new decision against the State under penalty[19].

49. The effective exercise of the right to living independently and being included in the community, enshrined in the CRPD, supposes that persons with disabilities can choose their place of residence and that they are not obliged to live in a particular living environment. This freedom of choice of the living environment presupposes developing an offering covering a broad spectrum of responses adapted to the needs of each person, whatever their disability, with the objective of autonomy, social integration, and participation in community life. However, the effectiveness of the free choice of their living place by persons with disabilities is not currently guaranteed by France.

50. The adaptation of housing and the environment is a major and growing challenge for society in order to respond to the widely-shared desire of disabled people and elderly people experiencing a loss of autonomy to live at home as much as possible. In addition to the insufficient supply of accessible housing (see Article 9), the Defender of Rights observes many obstacles to the autonomy and inclusion of persons with disabilities or experiencing a loss of autonomy related, in particular, in the private inventory, to the recurring refusals of property owners to carry out the work necessary to make residential buildings accessible. As for the

[18] Council of State, 24 February 2016, No. 383070
[19] Council of State, 21 May 2021, No. 383070

supply of social housing, which is already insufficient for the entire population, it is even more so for disabled people who, although recognized as a priority, are subject to longer allocation periods due to the insufficient supply of accessible housing. In terms of housing, disability is thus the second reason for discrimination (just behind origin) of all the complaints submitted to the Defender of Rights.

51. Specialized establishments and autonomy support services present a very wide variety of responses to needs in France. However, the insufficiency and rigidity of the supply too often leads to reception in a place far from the family or in an establishment unsuited to the person's disability. An unknown number of children and adults find themselves without any solution, despite the many plans to create places that have been deployed for several decades, others are suffering disruptions. Still others, although young adults, are kept, for lack of responses adapted to their needs, in institutions for children (Creton amendment), to the detriment of the care of young children. Thousands of adults and children are accommodated in Belgian establishments to make up for the shortcomings of the medico-social supply in France. This abnormal situation, denounced for many years, leads to the violation of many fundamental rights, in particular the free choice of place of residence and the right to family and private life. Several programs have followed one another in recent years in order to stem the forced departures to Belgium, but so far without producing the desired effects.

52. The State recently launched a strategy to transform the medico-social offering, geared towards the individualization of responses in an inclusive approach. While welcoming this inclusive approach, the Defender of Rights believes that vigilance is required so that it does not come at the expense of the most vulnerable. As the State notes, this approach requires a profound transformation of the environment relying on all stakeholders. However, if the professionals of the medico-social sector, already involved in the process, recognize the political will of inclusion, in practice they deplore an absence of involvement of the ordinary law stakeholders and a lack of support and of the means at their disposal to achieve inclusion.

53. In addition, the lack of an appropriate response to the needs of persons with disabilities often has serious consequences for caregivers, who are frequently impacted in their professional life. And their exhaustion, lack of solutions in terms of respite, can also lead to acts of involuntary mistreatment. However, the rights of caregivers are characterized by a multitude of disparate and often poorly understood mechanisms, and generally remain insufficient to meet needs.

Recommendations:

- ⇨ Make effective the right to compensation for the consequences of disability and, to this end, guarantee each disabled person, as far as necessary, access to compensation that respects their choices, covering all of their needs, in all areas and aspects of their life;
- ⇨ Reform the system of benefits granted as compensation for disability in order to provide an appropriate response to the needs of each person, whatever their disability and the age at which it arises;
- ⇨ Address inequalities in disability compensation by strengthening the national management of policies relating to disability and autonomy;
- ⇨ Guarantee the support of all the stakeholders and the means necessary for the transformation of the medico-social offering, by ensuring that the needs of all persons with disabilities, including the most vulnerable, are taken into account;

- ⇨ Define a real status of the caregiver and, with this objective, conduct an overhaul of the existing systems in a logic of harmonization of rights, in particular with regard to social rights, the right to respite, and the right to specific training.

Freedom of expression and opinion, and access to information (Art. 21)

54. The effectiveness of the freedom of expression and opinion, like that of access to information and communication, is hampered, in practice, by the lack of accessibility of IT and communication systems. The 2005 Act introduced an obligation to make the communication services of "public sector bodies" accessible online. But the results of these measures are extremely disappointing and worrying, as the vast majority of sites remain inaccessible. The Defender of Rights notes[20] that the system remains relatively unrestrictive, both in terms of obligations and of performance and penalties, and that it does not ensure that persons with disabilities have effective access to the websites of public services. Regarding the private sector, the State is only partially fulfilling its obligations, with only companies generating turnover exceeding €250 million being subject to accessibility requirements. The Defender of Rights therefore regrets that the State has chosen to only carry out a minimal transposition of the European directive of 26 October 2016 setting the minimum accessibility conditions that such services must meet. In a circular dated September 20, 2020[21], the government admits that the legislator's objectives are far from being achieved, only 13% of the 250 online administrative procedures most used by the French taking accessibility into account, and undertakes to bring the 15 most frequented government sites into compliance, as well as at least 80% of the 250 most used online administrative procedures, by 2022. Even if these objectives appear laudable, they are nonetheless partial and still distant in view of the urgency to respond to the difficulties faced by persons with disabilities in their daily efforts, as demonstrated by the health crisis.

55. With regard to telephone services, the existing legal and regulatory framework recognizes a right of access for deaf, hearing impaired, deafblind, and aphasic users and defines the procedures to set up to guarantee accessibility. But that right is not effective for everyone. This is particularly the case with deafblind and aphasic persons.

56. It is also provided by the Act of 2005 that, in their relations with the public services, the hearing impaired can benefit from simultaneous written or visual translations. But in practice only a few organizations offer a shared reception service in French Sign Language by videoconference. And most of the time, deaf or hearing impaired people have to resort to the assistance of an interpreter at their own expense.

Recommendations:

- ⇨ Make the accessibility of websites, public and private, effective, and set up a real system for verifying the compliance of those sites with accessibility rules, accompanied by dissuasive sanctions;
- ⇨ Introduce training in digital accessibility in the initial and continuing training of digital professionals;

[20] https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/rapport-demat-num-21.12.18.pdf
[21] https://www.legifrance.gouv.fr/download/pdf/circ?id=45071

- ⇨ Ensure that appropriate measures are systematically considered, in order to allow persons with disabilities to access their rights and, to this end, take the necessary measures to preserve several methods of access to public services so that no administrative steps are accessible only by electronic means;
- ⇨ Make effective, without delay, the legal obligation of accessibility of telephone services to deafblind and aphasic people;
- ⇨ Take legislative and regulatory measures to enable persons with disabilities, regardless of their disability, to benefit, in their relations with public services, from communication adapted to their needs, particularly through access to the service of a French Sign Language interpreter.

Respect for privacy (Art. 22)

57. The protection of personal data and those relating to the private life of persons with disabilities appears in certain respects to be compromised by several security measures. Thus, in 2019, a decree was issued authorizing the linking of the data from the "Hopsyweb" file set up by the regional health agencies (ARS), whose purpose is to monitor people undergoing psychiatric care without consent, and those of the File of Alerts for the Prevention and Radicalization of a Terrorist Nature (FSPRT). Challenging these provisions, the associations brought a legal action to overturn the decree before the Council of State, which rejected it, ruling the cross-referencing of files to be legal.

58. More recently, with the aim of strengthening the preventive policy against threats to internal security and State security and the fight against terrorism, three decrees of 2 December 2020[22], which amended the provisions of the Internal Security Code relating to the processing of personal data, provide that data relating to psychological or psychiatric disorders may be recorded as a "dangerousness factor". Or, as a "fragility factor", data concerning protection regimes (guardianship, curatorship), self-aggressive behaviour (suicide attempts, self-harm, etc.), and addictions.

59. Although fully aware of the need to implement effective preventive measures against the risks of attacking the fundamental interests of the Nation or of terrorist threats, the Defender of Rights can only deplore the amalgamation thus made between disability and risk for the safety of the State. In fact, this representation actively contributes to the stigmatization of persons with disabilities and, in doing so, maintains the already significant risk of discrimination against them. This is the case for the entry of such data in the "Administrative Inquiries Associated with Public Safety" (EASP) file. As this can be used in the context of inquiries prior to certain hiring within the public service, it is to be feared that they may constitute an additional major obstacle to access to employment for the persons concerned.

Recommendations:

- ⇨ Guaranteeing a strict framework for the processing of personal data relating to persons with disabilities so as to abolish all forms of discrimination based on disability;

[22] Decrees No. 2020-1510, No. 2020-1511 and No. 2020-1512 of 2 December 2020: respectively modifying three files called "Administrative Inquiries Associated with Public Safety" (EASP), "Prevention of Attacks on Public Safety" (PASP) and "Management of Information and Prevention of Attacks on Public Safety" (GIPASP).

⇨ Ensuring, in all cases, the right to object provided for by Articles 110 and 117 of the French Data Protection Act No. 78-17 of 06 January 1978, to the registration of personal data relating to disability.

Respect for home and the family (Art. 23)

60. The Defender of Rights welcomes the reform, brought about by Act No. 2019-222 of 23 March 2019, authorizing adults placed under protection regime to marry, to enter into a civil union (PACS) or to divorce, without prior authorization, but notes other impediments to the rights of persons with disabilities to found a family.

61. Thus, taking into account the resources of the spouse, for the allocation of the allowance for disabled adults (AAH), leads to intolerable situations of financial dependence for those affected. So that in order not to lose all or part of their allowance, some disabled persons are obliged to give up living with a partner. This iniquitous situation, denounced for several years by associations, seriously undermines the right to autonomy and inclusion of persons with disabilities enshrined in the Convention. This financial dependence is particularly detrimental to women with disabilities who are victims of domestic violence. Also, the Defender of Rights considers completely regrettable the opposition of the government to the adoption of the bill on "various social justice measures" aimed at individualizing the AAH benefit, despite a broad political consensus and a strong mobilization of persons with disabilities in favour of this reform[23].

62. The recent adoption of several measures to support parenting by persons with disabilities, particularly within the framework of the 2020-2022 National Strategy for Prevention and Child Protection[24], constitutes progress that deserves to be spotlighted. However, responses to the needs of disabled parents remain insufficient. After having aroused a great deal of hope, the creation, from 1 January 2021, of a new parenting benefit – the "parenting PCH" – raised many reservations because of the limits it presents in its eligibility conditions. Reserved only for beneficiaries of the "human aid PCH " benefit, it effectively excludes many disabled parents who are not currently eligible for this benefit (e.g., parents with intellectual or psychosocial disabilities). In addition, it is based on a package logic that does not take into account the reality of the parents' disability, and therefore their actual needs. The beneficiaries of the "parenting PCH" benefit can thus finance a maximum of one hour of human assistance per day until the child is three years old, then half an hour per day until the age of seven years, with the allowance no longer being paid beyond that. According to a survey carried out by APF France Handicap[25], out of 94 respondents, 97.9% do not receive the "parenting PCH" benefit, and among those who do, 67% feel that the benefit does not meet their needs.

63. As for the allowances granted to parents to offset the costs related to the education of their disabled child, they are insufficient and only partially meet the needs of families. The "right to

[23] Debated at a second reading in the National Assembly on June 17, 2021, the bill was the subject of a blocked vote by the government, thus forcing the deputies to vote on the only government amendment proposal, which provides for a lump sum allowance on the spouse's income (and not an individualized calculation of the AAH benefit).

[24] https://solidarites-sante.gouv.fr/actualites/presse/dossiers-de-presse/article/strategie-nationale-de-prevention-et-de-protection-de-l-enfance-2020-2022

[25] https://www.apf-francehandicap.org/actualite/pch-parentalite-premiers-resultats-de-notre-enquete-qui-pointent-les-insuffisances-de

an option" between the Education Allowance for the Handicapped Child (AEEH) and the Disability Compensation Benefit (PCH) is anything but effective, as the comparison between the two benefits is complex. With the aim of simplifying administrative procedures, the basic AEEH is, since a decree of December 27, 2018, granted until the child is 20 years old as long as he/she can demonstrate a disability rate at least equal at 80% and that his/her handicap is not likely to evolve favourably. But the announced overhaul of the benefits granted to parents of disabled children has not been implemented.

64. Protecting family life also means maintaining family ties. However, many persons with disabilities – including thousands of children – are placed in medico-social establishments in places very far from the family home due to the lack of suitable local responses, who are therefore deprived of real family ties (see Article 19).

Recommendations:

- ⇨ Guarantee the financial autonomy of persons with disabilities by separating the calculation of disability benefits from the income of their spouse/partner/common-law spouse;
- ⇨ Develop a real policy to support the parenthood of disabled people and, to this end, implement all the measures provided for in the framework of the 2020-2022 National Strategy for Prevention and Child Protection;
- ⇨ Reform the "parenting PCH" benefit in order to ensure that all disabled parents who can justify a need for parenting assistance to raise their child, receive compensation that takes into account their actual needs, regardless of their child's age;
- ⇨ Initiate a reform of the benefits granted to parents of disabled children in order to enable them to benefit from compensation adapted to the upbringing needs of their child.

Education (Art. 24)

65. While it is undeniable that access to schooling for children with disabilities has increased in recent years and that a real political impetus has been given to inclusive schooling, this assessment should nevertheless be qualified in view of the persistent difficulties encountered by some children with disabilities to access education, without discrimination, on equal terms with others. The effectiveness of the "inclusive shift" in education led by the government comes up against, in practice, a certain reluctance on the part of national education actors linked to the lack of resources, sufficient training, etc., to the lack of support for medical-social and national education actors, to the limited number of Mobile Schooling Support Teams (EMAS) to meet the needs in certain areas, etc. In addition, many children with disabilities - particularly persons with multiple disabilities) - whose exact number remains unknown, do not attend school, or are only so part-time.

66. The number of notifications from Accompanying Persons to Students with Disabilities (AESH) by the MDPH homes has continued to grow in order to meet steady increasing needs and to become the main response in favour of the inclusion of students with disabilities. This finding is worrying in that it demonstrates the institutional deficiencies in the objectives of inclusive education, which also require the school to adapt. At the same time, we observe recurring difficulties in recruiting qualified staff for positions still considered to be unattractive despite the change in their status in 2019 (part-time, level of remuneration, etc.). Combined with the establishment of Inclusive Localized Support Centres (PIAL), the management of the shortage of AESH support staff results in practice in inadequate responses to the needs of disabled

students: increased use of shared support, reduction in the time spent with each child, intervention of successive accompanying persons for children with an individualized and stable need, particularly autistic children, etc.

67. The Defender of Rights also observes difficulties in the implementation of school accommodations, which are mostly related to a lack of training of the stakeholders in disability education. And, moreover, frequent refusals by the authorities responsible of organizing examinations to grant accommodations and adaptations in line with the student's needs, implemented within the framework of his/her schooling (e.g. text with spell checker for a “dys” candidate). Despite recent regulatory changes[26] intended to regulate such discriminatory practices, difficulties persist.

68. Access to higher education for disabled students has steadily increased since the 2005 Act. However, these advances should not mask the persistence of difficulties. Disabled students, even more than others, come up against the full force of the rupture between the school setting and that of higher education. However, their specific needs remain insufficiently taken into account, particularly with regard to the arrangements for examinations or even human support justified by their disability.

Recommendations:

- ⇨ Implement statistical tools to collect reliable and regularly updated data on the number of children with disabilities attending school and the modalities of their schooling, ensuring that all children with disabilities are taken into account, including those who do not come under recognition or guidance by the MDPH homes;
- ⇨ Pursue the efforts made in favour of a fully inclusive school and, with this objective:
  - Better train teachers, accompanying persons, authorities in charge of organizing examinations and other education stakeholders, particularly doctors responsible for assessing the arrangements for schooling and exams;
  - Strengthen the accompaniment and support of teachers and medico-social actors and develop schooling support systems so as to ensure better territorial coverage;
  - Guarantee effective adjustments to schooling, adapted to the needs of each pupil with a disability.
- ⇨ Allow children with disabilities to have access to support tailored to their needs, by taking appropriate measures to:
  - Remove the structural obstacles linked to the multiplicity of carers, the disparity of their status and the plurality of funders, depending on the lifetime of the child considered;
  - Clarify, legally, the competence of the Committee on the Rights and Autonomy of Persons with Disabilities (CDAPH) in terms of assessing the need for support throughout the child's life;
- ⇨ Guarantee access to education and appropriate support for all children with disabilities and, in this perspective, expand the creation of Outsourced Teaching Units (UEE), particularly for students with multiple disabilities;

[26] Decree No. 2020-1523 of 4 December 2020

⇨ Provide disabled students, throughout their educational career path, with access to the accommodations and support they need to pursue their studies on an equal basis with others, in the course of their choice.

Health (Art. 25)

69. While it is true that measures have been taken to promote access for persons with disabilities to prevention and care, many difficulties remain. One of the recurring difficulties is the inaccessibility of care centres for persons with disabilities, particularly medical offices located in residential buildings. In addition, there are difficulties linked to the lack of adequate means to meet the specific needs of persons with disabilities (adapted equipment, additional reception and information time, training of professionals). Associations regularly denounce the poor quality of the reception of persons with disabilities in the emergency departments due, in particular, to a lack of awareness of disabilities and a lack of training of health professionals. This results in a lack of effective diagnosis, a lack of anticipation of management, and a worsening of the condition of the patients. On this point, let us note as positive, albeit late, the measure consisting in integrating a "Disability" module in the initial training of doctors.

70. It is also worth highlighting the indirect discrimination suffered by persons with disabilities who are beneficiaries of "Complémentaire santé solidaire" (CSS)[27], a supplemental health coverage. Rare are the intentional refusals of care directly based on the handicap or, in any case, expressed as such. More common, however, are refusals linked to the benefit of an aid for the payment of health expenditures, as demonstrated by a survey carried out by the Defender of Rights in 2016.

71. The content of the services and activities financed by the care fund in the budget of Medico-Social Establishments and Services (ESMS), known as the "care basket", is a source of major difficulties in access to care for persons with disabilities accommodated in such facilities. The Defender of Rights was thus referred several complaints from parents facing difficulties in obtaining additional care (speech therapy) for their child, as social protection organizations refused to reimburse such costs on the grounds that they fell under the ESMS budget. As highlighted in a report from July 2018[28], this unacceptable situation has a major impact on people's journey and clarification is essential.

72. The deficiencies in access to health care for disabled people detained in correctional facilities are obvious. The Comptroller General of Places of Deprivation of Liberty (CGLPL), in the course of his reports, thus points out the serious shortcomings relating to access to psychiatric care for detainees. The Committee Against Torture (CAT), in its Concluding observations concerning France's 7th periodic report (10 June 2016), was also concerned about the conditions of access to psychiatric care in prisons. In addition, France was condemned by the ECHR for having failed for several years to allow the applicant, a paraplegic person, to benefit from the daily physiotherapy sessions recommended by the doctors (ECHR, *Helhal v. France,* 19 February 2015).

[27] Since November 1st 2019, supplemental health coverage (CSS) replaced universal health coverage (CMU-C) and assistance for the acquisition of supplemental health insurance (ASC)

[28] Report: *Access to rights and care for persons with disabilities and people in precarious situations (L'accès aux droits et aux soins des personnes en situation de handicap et des personnes en situation de précarité)*, Philippe Denormandie, member of the board of directors of the CNSA, and Marianne Cornu-Pauchet, director of the CMU-C Fund, July 2018

Recommendations:

- ⇨ Ensure access to health care for all persons with disabilities on an equal basis with others and, to this end:
  - Adopt a program, with deadlines, to make health care centers accessible to persons with disabilities and to provide health facilities, devices and equipment adapted to their needs;
  - Provide, in the initial and continuing training of health professionals, a compulsory module on disability;
- ⇨ Prevent discrimination against recipients of an aid for the payment of health expenditures by establishing, in particular, oversight of sites for making online medical appointments as well as a reporting system for users in the event of a care refusal;
- ⇨ Put an end to the obstacles to access to care for persons with disabilities accommodated in medico-social establishments and services by guaranteeing the coverage of supplemental care, outside the care basket, justified by their disability;
- ⇨ Ensure access to care, especially psychiatric care, for detainees with disabilities thanks, in particular, to a sufficient supply of care and staff and with suitable material conditions.

Work and employment (Art. 27)

73. In France, the employment of persons with disabilities is a major focus of disability policies. However, their situation is particularly worrying: unemployment rate twice that of the working population as a whole, longer duration of unemployment, lower rate of return to work, etc. The low level of qualification of persons with disabilities is the main obstacle to their access and retention in employment. And when they are employed, they are most often confined to underqualified jobs. In a context of constant changes in professions and the labour market, lifelong vocational training for persons with disabilities therefore appears to be a major issue. However, the complaints submitted to the Defender of Rights show that persons with disabilities encounter, in practice, difficulties in accessing common law training.
74. Persons with disabilities, more than others, face multiple obstacles related to, among other things, prejudices about their skill level, discrimination and employers' reluctance to provide reasonable accommodations. The Defender of Rights would like to point out that, while the Obligation to Employ Disabled Workers (OETH) has, in many respects, helped promote the professional integration of disabled workers, it is not, on its own, sufficient to guarantee equal treatment of persons with disabilities in terms of access to employment, vocational training and work.
75. Employment is the first area in which discrimination based on disability is exercised, as shown by the referrals submitted to the Defender of Rights. The 13th[th] Annual barometer of the perception of discrimination in employment, produced by the Defender of Rights and the International Labour Organization (ILO), confirms this: being disabled or having a chronic illness triples the risk of being victim of discrimination at work[29].

[29] https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/ddd_13e-barometre-discriminations-emploi_2020.pdf

Recommendations:

- ⇨ Set up statistical tools to collect reliable and regularly updated data on the employment and unemployment rate of persons with disabilities by disaggregating these data, at least, by type of disability, sex, age, educational level, sector of work and employment concerned;
- ⇨ Identify best practices, respectful of the fundamental rights of persons with disabilities, and promote these practices with employers and other stakeholders of professional integration;
- ⇨ Develop information and awareness-raising actions on the reasonable accommodation obligation, aimed at those involved in the employment of persons with disabilities;
- ⇨ Set up a long-term accompanying, support, and financing system for actions carried out by employers and professional integration actors in favour of the employment of persons with disabilities, especially those who are the most distant from employment.

Adequate standard of living and social protection (Art. 28)

76. Persons with disabilities are more strongly exposed to the risk of poverty, particularly because of their difficulties in accessing and maintaining employment (see Article 27). And the more severe the disability, the greater the level of poverty[30]. In order to respond to this worrying observation, the government has decided to proceed with an exceptional increase in the Allowance for Disabled Adults (AAH)[31] and, in the aim of simplifying administrative procedures, to grant the AAH for an unlimited period to people with a disability rate of at least 80% and whose activity limitations are not likely to evolve favourably, given the current scientific data.

77. Although positive, these measures are still insufficient to enable AAH benefit recipients to rise above the poverty line. They must also be qualified with regard to other measures taken at the same time which, for their part, constitute a real step backwards. This is the case with the abolition of the Guarantee of Resources for Disabled Workers (GRTH) with the consequence of a reduction of approximately €75 per month[32] for the most severely disabled persons, who are unable to work. In addition, in order to reconcile the rules for assessing the income of AAH beneficiaries with those of other social minimums, it was decided to revise, downwards, the increase in the resources ceiling applicable to couples. This change in the resources ceiling excluded *de facto* beneficiaries as a couple from the effects of the exceptional revaluation of the AAH benefit and had the effect of strengthening their financial dependence on their spouse (see Article 23).

78. In addition, there are other recurring difficulties. The Defender of Rights notes, as a matter of fact, in the situations referred to it, a clear tendency to call into question, in the same situation, the right to the AAH benefit during the examination of renewal requests by the Committees on the Rights and Autonomy of Persons with Disabilities (CDAPH). Furthermore, people with a disability of less than 80% who enter a professional activity beyond a half-time, are no longer entitled to the AAH benefit on the grounds that they no longer meet the conditions "of

[30] https://drees.solidarites-sante.gouv.fr/sites/default/files/er1003.pdf

[31] As of 1 November 2018, the monthly amount of the full-rate AAH benefit was increased to €860 per month and as of 1 November 2019, it was increased to €900.

[32] As a transitional measure, recipients of the GRPH can keep the benefit for a maximum of 10 years if the conditions for granting them remain met.

substantial and lasting restriction of access to employment" and are therefore penalized in their approach to professional integration.

Recommendations:

- ⇨ Bring out of precariousness disabled people who, because of their disability, cannot meet their needs, by guaranteeing them an adequate basic income to enable them to participate fully and effectively in society on the basis of equality with others;
- ⇨ Take the appropriate measures in order to give full effect to the "right to life" device and put an end, without delay, to the practices of CDAPH committees consisting in calling into question, in an unchanged situation, the rights and benefits granted to disabled people, and thus putting an end to the resulting legal and financial insecurity for these people;
- ⇨ Remove the legal obstacles to the employment of disabled people linked, in particular, to the conditions for granting the AAH benefit for people with a disability rate of less than 80%.

Participation in political and public life (Art. 29)

79. In France, it is only very recently[33] that the right to vote was recognized, without restriction, for all protected adults, in accordance with the Convention. But their eligibility is still subjected to limits. And if, from now on, the right to vote is recognized for all disabled people, the challenge now is to ensure its full effectiveness. Admittedly, the normative framework related to the accessibility of polling stations and operations does exist, but there is a lack of enforceable guidelines supplementing the electoral code and of training for all stakeholders in the electoral process in the accessibility and reception of disabled persons. In addition, the effectiveness of the right to vote for persons with disabilities presupposes ensuring the accessibility of electoral campaigns. The Defender of Rights welcomes the measures taken in this direction by the Institutional Act of 29 March 2021 inviting, with a view to the election of the President of the Republic in 2022, the candidates to ensure the accessibility of their means of electoral campaigns to persons with disabilities, taking into account the different forms of disability and the diversity of communications media. But regrets, however, that such provisions are not extended to all elections.

80. The full participation of persons with disabilities in public life implies that they should be able to benefit from compensation adapted to their needs (coverage of specific travel, support and technical assistance expenses) in order to enable them to serve an electoral office on an equal footing with others. Compensation exists but is nevertheless insufficient to meet the real needs of elected officials with disabilities (capping of reimbursements granted to local elected officials, limited access to compensation via the PCH benefit).

Recommendations:

- ⇨ Introduce, in the electoral code, a reference system specifying the terms and conditions and of accessibility of voting operations for disabled people;
- ⇨ Train and sensitize all stakeholders to the electoral process, accessibility, and reception of persons with disabilities;

[33] Act No. 2019-222 of 23 March 2019

- ⇨ Adopt the provisions to guarantee the accessibility of electoral campaigns and promote, for all elections, the accessibility of election propaganda to persons with disabilities;
- ⇨ Initiate a reflection on the eligibility of persons with disabilities, according to an approach consistent with the Convention;
- ⇨ Guarantee to elected officials with disabilities, regardless of the office concerned, compensation for specific additional costs related to the exercise of their elective functions, up to their real needs.

SPECIAL OBLIGATIONS (ART. 31 to 33)

Statistics and data collection (Art. 31)

81. Statistical information and studies on disability suffer from a lack of coordination and national management, resulting in a lack of visibility and comparability of the data produced at the national level, and even more so the international level. This deficiency is contrary to the Fundamental Principles of Official Statistics, adopted by the United Nations General Assembly on January 29, 2014, and the will of the European Commission, for the past fifteen years, to establish systems allowing international comparisons[34].
82. While there are multiple sources of statistical data on disability, the difficulty arises mainly from the inconsistency of the data collected, on the basis of different frequencies, and for different purposes. This is partly due to the fact that the various data sources available do not take a harmonized approach to the concept of “disability”. Beyond the inconsistency of the data, it is necessary to underline the harmful nature of the insufficiency, or even the absence of regularly updated data in certain areas.
83. Within the framework of its powers, the National Solidarity Fund for Autonomy (CNSA) was tasked, by the Act of 2005, with collecting anonymized data concerning people who have submitted an application to the Departmental Home for Disabled Persons (MDPH). But this mission could not fully materialize because of the inconsistency of the IT systems of the MDPHs. The design of an IT system common to all MDPHs is currently in progress. While these developments are to be welcomed, it should nevertheless be noted, apart from their lateness, that they are not intended to cover all disability policies.
84. Therefore, the Defender of Rights is pleased that several projects[35] are currently being implemented in an attempt to finally respond to these challenges. In this regard, it is particularly important to underline the recent commitment of the official statistical system to improve its observation system, in line with the current medium-term objective of the National Council for Statistical Information (CNIS) “to ensure the continuity of information on persons with disabilities”.

[34] The Defender of Rights’ office adopted a framework decision (No. 2017-57 of 26 September 2017) in which it made general recommendations intended to improve statistical knowledge of the situation and needs of persons with disabilities.

[35] https://blog.insee.fr/handicap-et-autonomie-des-enjeux-dinclusion-y-compris-dans-les-statistiques/

Recommendations:

- ⇨ Improve knowledge of the situation of persons with disabilities through coordination, national management, consistency, dissemination, and comparability of data relating to disabilities in all areas. And, with this objective, in particular:
  - Harmonize the concept of disability taken into account in the various statistical sources and data collections;
  - Guarantee greater consistency in the collection of data, in particular in terms of the frequency of the various studies and statistics, so as to be able to compare the data;
  - Ensure that reliable and regularly updated data are available, disaggregated at a minimum by sex, age group and type of disability, in an intersectional approach, and covering all disability policies;
- ⇨ Make operational, as soon as possible, throughout the national territory, the IT system common to all the Departmental Homes for Disabled Persons (MDPH) and the information system for monitoring referral decisions to Medico-Social Establishments and Services (ESMS).

International cooperation (Art. 32)

85. International cooperation on disability does not appear to be a sufficiently important concern for the French State and its initial report only partially addresses it. Awareness of regional and global issues is less developed, for example, than for gender equality. And even in that case, France struggles to take into account the subject from the viewpoint of intersectionality, by taking into account the situation of women with disabilities.

Recommendation:

- ⇨ Integrate the issue of disability in the development, implementation and evaluation of the programs, projects and strategies of the French Agency for Development (AFD) and make the granting of public aid conditional on the inclusion of a disability perspective in accordance with the Convention.

National implementation and monitoring (Art. 33)

86. To ensure national coordination, “senior officials in charge of disability and inclusion” were set up in 2017 in each ministry. They form a network run and coordinated by the general secretariat of the Interministerial Committee for Disability (SG-CIH) in an interministerial approach. However, the Defender of Rights notes that the Convention is insufficiently taken into account in specifying the missions of the “senior officials”. And greater involvement of local and regional authorities in the implementation of the Convention remains to be developed to this day.

87. In 2011, the government appointed the Defender of Rights as an independent mechanism responsible for monitoring the implementation of the Convention. As such, it took the initiative in particular to set up a monitoring committee for the application of the Convention, with the aim of bringing together, in a national body, the main stakeholders involved in monitoring the Convention: the National Consultative Commission on Human Rights (CNCDH), the French Council for Persons with Disabilities for European Questions (CFHE), the National Consultative Council for Persons with Disabilities (CNCPH) and the Controller General of

Places of Deprivation of Liberty (CGLPL). The Defender of Rights performs its incumbent missions as an independent mechanism out of its own human and financial resources, as no specific additional resources having been allocated to it by the State.

Recommendations:

- ⇨ Develop a coherent national policy for the implementation of the Convention involving local authorities;
- ⇨ Strengthen the training and awareness of all decision-makers on the new issues related to the implementation of the Convention;
- ⇨ Provide the independent mechanism responsible for monitoring the application of the Convention with the technical, financial and human resources necessary to carry out its missions.

APPENDIX: SUMMARY OF THE RECOMMENDATIONS

PURPOSE AND GENERAL OBLIGATIONS (ART. 1 TO 4)

1. Review the definition of disability in order to bring it fully in line with the Convention;
2. Establish a global assessment system to identify, in an inclusive approach, all the measures to be implemented to meet the needs of each person with disabilities;
3. Develop inclusive policies by acting jointly on both environmental barriers and disabilities in order to provide appropriate responses to the needs of each person with disabilities;
4. Guarantee equal treatment for persons with disabilities, regardless of their place of residence, their age and the origin of their disability, by strengthening, in particular, the national management of policies related to disability and autonomy;
5. Raise awareness/train all the stakeholders concerned – and primarily decision-makers – to the new challenges related to the application of the Convention and ensure that it is taken into account in the development, implementation, and evaluation of public policies;
6. Make it compulsory to consult the National Consultative Council for persons with disabilities (CNCPH) on all draft laws, regulatory texts, and impact studies.

INDIVIDUAL RIGHTS (ART. 5 TO 30)

Equality and non-discrimination (Art. 5)

7. Include, in the definition of discrimination provided by the law, the obligation of reasonable accommodation in the area of disability so as to make it effective in all areas covered by the Convention;
8. Recognize in the law the different forms of discrimination, particularly intersectionality and discrimination by association;
9. Open class actions to NGOs but also to any group of victims constituted for the purposes of the cause in all the fields covered by the law, without exception.

Women with disabilities (Art. 6)

10. Take into account the situation of women with disabilities in studies, public policies and plans for gender equality, and introduce a “gender” dimension in all data and statistics relating to disability;
11. Adopt effective measures in order to fight against the discriminations of which disabled women are especially the victims;
12. Ensure that the situation of women with disabilities is better taken into account in combating violence against women, through studies and regularly updated statistics, the intensification of training and awareness-raising of all stakeholders, and the achievement of concrete efforts in terms of access to care, particularly gynaecological care, and accessibility of justice as well as emergency accommodation.

Children with disabilities (Art. 7)

13. Set up statistical tools to collect reliable, disaggregated data at least by sex, age group and type of disability, and regularly updated on the number of disabled children (in metropolitan France, overseas departments and territories, or accommodated outside France) and their situation with regard to the effectiveness of their rights, particularly in relation to access to schooling, extracurricular and leisure activities, and appropriate medico-social support;
14. Implement all the measures included in the National Strategy for Autism in Neurodevelopmental Disorders (ND) 2018-2022 and guarantee the human and financial resources necessary to achieve the objectives;
15. Immediately take the measures, particularly of a legislative nature, necessary to achieve the objectives of the National Strategy for Prevention and Child Protection (2020-2022) concerning the consideration of specific issues related to disability;
16. Adopt a cross-disciplinary approach to public policies in favour of children with disabilities in order to provide responses adapted to the needs of all children, regardless of their disability;
17. Take into account the situation of children with disabilities in studies, public policies, plans and programs intended to combat violence against children;
18. Take appropriate measures to ensure that the voice of children with disabilities is taken into account in all matters that concern them.

Awareness-raising (Art. 8)

19. Organize a major national awareness campaign to combat stereotypes and prejudices against persons with disabilities and promote respect for their rights in accordance with the Convention;
20. Ensure the effective implementation of the objectives set by the *Charter on the representation of persons with disabilities and disabilities in the audiovisual media* and the evaluation of results in channel assessments.

Accessibility (Art. 9)

21. Carry out an exhaustive and regularly updated inventory of all establishments open to the public (ERP) subject to the accessibility obligation and produce qualitative data on their status with regard to this requirement;
22. Implement the control methods provided for by the legal and regulatory texts in order to verify, for all ERP, compliance with accessibility requirements and take the appropriate sanctions against those who have not complied with their obligations;
23. Publish the regulatory texts necessary for the implementation of Act No. 2005-102 of February 11, 2005;
24. Repeal the provisions of Act No. 2018-1021 of 23 November 2018 on the evolution of housing, development and digital technology, known as the “ELAN” Act, insofar as they disregard the principles of accessibility and universal design enacted by the Convention;
25. Amend the Act in order to include the obligation of accessibility of all the stopping points of the transport network, by providing for a timetable of their accessibility so as to guarantee, in the long term, the accessibility of the transport chain for all;

26. Include in the Act a general obligation to make public or private roads open to public traffic accessible.

=> *On the accessibility of communication services and public websites (see Article 21)*

Situations of risk and humanitarian emergencies (Art. 11)

27. Carry out an assessment of the health crisis linked to Covid 19 in order to establish a prevention and risk management plan reconciling public health issues with the need for an appropriate response to the specific needs of persons with disabilities, so as to preserve not only their health, but also their rights and freedoms;

28. Take the necessary measures to guarantee, as soon as possible, access for all disabled persons, including deafblind and aphasic people, to the national emergency contact number;

29. Guarantee all exiled persons the unconditional right to emergency accommodation as well as appropriate care for their health and disability.

Equal recognition before the law (Art. 12)

30. Carry out a complete “tidying-up” of the legislation in order to make effective, in all fields, the recognition of the legal capacity and the fundamental rights of persons with disabilities placed under protective supervision, in accordance with the Convention;

31. Take measures to implement the proposals of the interministerial mission report on the evolution of the legal protection of persons aiming in particular to institute a protection system based on the presumption of capacity of the protected adult and on the accompaniment of the person with due regards to their wishes and preferences;

32. Set up, for those responsible for supporting protected adults, including families, training courses focused on the respect for fundamental rights, wishes, and preferences of individuals;

33. Take steps to put an end to discrimination against protected adults in accessing banking services, mortgages, and other financial credits.

Access to justice (Art. 13)

34. Make accessible, as soon as possible, the courts and other places concerned (police stations, detention centres, etc.);

35. Arrange justice procedures to make them accessible to all persons with disabilities and, to do so, supplement Article 76 of the 2005 Act in order to ensure access to information in formats accessible to all and to allow each person, at all stages of the procedure, regardless of the nature of their disability, to have access to the assistance or support of their choice;

36. Develop, throughout the national territory, legal hotlines and rights access points that meet the needs of persons with disabilities;

37. Implement legal procedures guaranteeing treatment methods adapted to the specific needs of persons with disabilities, in terms of processing times, multidisciplinary expertise, etc.;

38. Introduce, in the initial and continuing training of justice professionals, compulsory training in the specifics of the reception and support of disabled litigants as well as a specific

module on the rights of persons with disabilities, according to an approach in accordance with the Convention.

Liberty and security of person (Art. 14)

39. Effectively seek the consent of the person concerned before any hospitalization or drug treatment measures and guarantee them access to information on their rights and the exercise of legal remedies;
40. Make judicial oversight efficient within the framework of forced hospitalization measures and extend it to outpatient care;
41. End the still too frequent abusive use of isolation measures with or without restraint.

Freedom from torture or cruel, inhuman or degrading treatment or punishment (Art. 15)

42. Train and raise awareness of disability among staff involved in the administration of justice, in particular those in charge of security, and staff of correctional facilities and detention centres;
43. Guarantee recourse to the penalty adjustment system as well as to alternative measures to imprisonment when the person's health condition or disability is incompatible with the detention conditions;
44. Take appropriate measures to guarantee detention conditions for imprisoned disabled people that are adapted to their disability and respectful of their fundamental rights, and to do so:
    - Make correctional facilities accessible to persons with disabilities, regardless of their disability, including spaces open to visitors;
    - Allow the people concerned to have access to support and care justified by their disability, particular by removing the obstacles to the assessment of compensation needs by the departmental home for disabled persons (MDPH);
    - Ensure the effective implementation of reasonable accommodation, whenever necessary, to meet the needs of persons with disabilities;
    - Put an end to inadequate incarceration measures for people with mental disorders by ensuring that they have access to care adapted to their needs.
45. Take legislative measures to prohibit the use of the "packing" technique.

Freedom from exploitation, violence and abuse (Art. 16)

46. Adopt a clear definition shared by the various legislations of the concept of mistreatment;
47. Make the oversight of medico-social establishments and services by the competent authorities more efficient;
48. Simplify the procedures for reporting mistreatment and ensure real protection for those who report it;
49. Put in place a national action plan to fight against mistreatment, with deadlines, as announced at the conclusion of the work of the National Commission against Mistreatment and Promotion of the Well-Treatment of the Elderly and Disabled Persons.

Protecting the integrity of the person (Art. 17)

50. Guarantee that the person concerned can consent personally in any decision affecting their integrity and, to this end, that the information necessary for decision-making is delivered directly to them and adapted to their faculties of understanding.

Liberty of movement and nationality (Art. 18)

51. Extend the conditions for exemption from resources provided for by law for the granting of the resident card to foreigners benefiting from the allowance for disabled adults (AAH) justifying a disability rate of less than 80% or falling within the scope of bilateral agreements;

52. Eliminate any form of discrimination against foreign disabled people wishing to settle in France or acquire French nationality by ensuring that the procedures are adapted in such a way that they take into account the disability situation, and to guarantee compliance of these arrangements by the authorities;

53. Take the appropriate measures without delay to remedy the difficulties encountered by foreign disabled persons accommodated in Belgium for lack of places in establishments and medico-social services on the national territory, in order to preserve their right to stay in France.

Living independently and being included in the community (Art. 19)

54. Make effective the right to compensation for the consequences of disability and, to this end, guarantee each disabled person, as far as necessary, access to compensation that respects their choices, covering all of their needs, in all areas and aspects of their life;

55. Reform the system of benefits granted as compensation for disability in order to provide an appropriate response to the needs of each person, whatever their disability and the age at which it arises;

56. Address inequalities in disability compensation by strengthening the national management of policies relating to disability and autonomy;

57. Guarantee the support of all the stakeholders and the means necessary for the transformation of the medico-social offering, by ensuring that the needs of all persons with disabilities, including the most vulnerable, are taken into account;

58. Define a real status of the caregiver and, with this objective, conduct an overhaul of the existing systems in a logic of harmonization of rights, in particular with regard to social rights, the right to respite, and the right to specific training.

Freedom of expression and opinion, and access to information (Art. 21)

59. Make the accessibility of websites, public and private, effective, and set up a real system for verifying the compliance of those sites with accessibility rules, accompanied by dissuasive sanctions;

60. Introduce training in digital accessibility in the initial and continuing training of digital professionals;

61. Ensure that appropriate measures are systematically considered, in order to allow persons with disabilities to access their rights and, to this end, take the necessary measures to preserve several methods of access to public services so that no administrative steps are accessible only by electronic means;

62. Make effective, without delay, the legal obligation of accessibility of telephone services to deafblind and aphasic people;

63. Take legislative and regulatory measures to enable persons with disabilities, regardless of their disability, to benefit, in their relations with public services, from communication adapted to their needs, particularly through access to the service of a French Sign Language interpreter.

Respect for privacy (Art. 22)

64. Guaranteeing a strict framework for the processing of personal data relating to persons with disabilities so as to abolish all forms of discrimination based on disability;

65. Ensuring, in all cases, the right to object provided for by Articles 110 and 117 of the French Data Protection Act No. 78-17 of 06 January 1978, to the registration of personal data relating to disability.

Respect for home and the family (Art. 23)

66. Guarantee the financial autonomy of persons with disabilities by separating the calculation of disability benefits from the income of their spouse/partner/common-law spouse;

67. Develop a real policy to support the parenthood of disabled people and, to this end, implement all the measures provided for in the framework of the 2020-2022 National Strategy for Prevention and Child Protection;

68. Reform the “parenting PCH” benefit in order to ensure that all disabled parents who can justify a need for parenting assistance to raise their child, receive compensation that takes into account their actual needs, regardless of their child’s age;

69. Initiate a reform of the benefits granted to parents of disabled children in order to enable them to benefit from compensation adapted to the upbringing needs of their child.

Education (Art. 24)

70. Implement statistical tools to collect reliable and regularly updated data on the number of children with disabilities attending school and the modalities of their schooling, ensuring that all children with disabilities are taken into account, including those who do not come under recognition or guidance by the MDPH homes;

71. Pursue the efforts made in favour of a fully inclusive school and, with this objective:

    - Better train teachers, accompanying persons, authorities in charge of organizing examinations and other education stakeholders, particularly doctors responsible for assessing the arrangements for schooling and exams;
    - Strengthen the accompaniment and support of teachers and medico-social actors and develop schooling support systems so as to ensure better territorial coverage;
    - Guarantee effective adjustments to schooling, adapted to the needs of each pupil with a disability.

72. Allow children with disabilities to have access to support tailored to their needs, by taking appropriate measures to:

    - Remove the structural obstacles linked to the multiplicity of carers, the disparity of their status and the plurality of funders, depending on the lifetime of the child considered;

- Clarify, legally, the competence of the Committee on the Rights and Autonomy of Persons with Disabilities (CDAPH) in terms of assessing the need for support throughout the child's life;

73. Guarantee access to education and appropriate support for all children with disabilities and, in this perspective, expand the creation of Outsourced Teaching Units (UEE), particularly for students with multiple disabilities;

74. Provide disabled students, throughout their educational career path, with access to the accommodations and support they need to pursue their studies on an equal basis with others, in the course of their choice.

Health (Art. 25)

75. Ensure access to health care for all persons with disabilities on an equal basis with others and, to this end:

    - Adopt a program, with deadlines, to make health care centers accessible to persons with disabilities and to provide health facilities, devices and equipment adapted to their needs;

    - Provide, in the initial and continuing training of health professionals, a compulsory module on disability;

76. Prevent discrimination against recipients of an aid for the payment of health expenditures by establishing, in particular, oversight of sites for making online medical appointments as well as a reporting system for users in the event of a care refusal;

77. Put an end to the obstacles to access to care for persons with disabilities accommodated in medico-social establishments and services by guaranteeing the coverage of supplemental care, outside the care basket, justified by their disability;

78. Ensure access to care, especially psychiatric care, for detainees with disabilities thanks, in particular, to a sufficient supply of care and staff and with suitable material conditions.

Work and employment (Art. 27)

79. Set up statistical tools to collect reliable and regularly updated data on the employment and unemployment rate of persons with disabilities by disaggregating these data, at least, by type of disability, sex, age, educational level, sector of work and employment concerned;

80. Identify best practices, respectful of the fundamental rights of persons with disabilities, and promote these practices with employers and other stakeholders of professional integration;

81. Develop information and awareness-raising actions on the reasonable accommodation obligation, aimed at those involved in the employment of persons with disabilities;

82. Set up a long-term accompanying, support, and financing system for actions carried out by employers and professional integration actors in favour of the employment of persons with disabilities, especially those who are the most distant from employment.

Adequate standard of living and social protection (Art. 28)

83. Bring out of precariousness disabled people who, because of their disability, cannot meet their needs, by guaranteeing them an adequate basic income to enable them to participate fully and effectively in society on the basis of equality with others;

84. Take the appropriate measures in order to give full effect to the “right to life” device and put an end, without delay, to the practices of CDAPH committees consisting in calling into question, in an unchanged situation, the rights and benefits granted to disabled people, and thus putting an end to the resulting legal and financial insecurity for these people;
85. Remove the legal obstacles to the employment of disabled people linked, in particular, to the conditions for granting the AAH benefit for people with a disability rate of less than 80%.

Participation in political and public life (Art. 29)

86. Introduce, in the electoral code, a reference system specifying the terms and conditions and of accessibility of voting operations for disabled people;
87. Train and sensitize all stakeholders to the electoral process, accessibility, and reception of persons with disabilities;
88. Adopt the provisions to guarantee the accessibility of electoral campaigns and promote, for all elections, the accessibility of election propaganda to persons with disabilities;
89. Initiate a reflection on the eligibility of persons with disabilities, according to an approach consistent with the Convention;
90. Guarantee to elected officials with disabilities, regardless of the office concerned, compensation for specific additional costs related to the exercise of their elective functions, up to their real needs.

SPECIAL OBLIGATIONS (ART. 31 to 33)

Statistics and data collection (Art. 31)

91. Improve knowledge of the situation of persons with disabilities through coordination, national management, consistency, dissemination, and comparability of data relating to disabilities in all areas. And, with this objective, in particular:
    - Harmonize the concept of disability taken into account in the various statistical sources and data collections;
    - Guarantee greater consistency in the collection of data, in particular in terms of the frequency of the various studies and statistics, so as to be able to compare the data;
    - Ensure that reliable and regularly updated data are available, disaggregated at a minimum by sex, age group and type of disability, in an intersectional approach, and covering all disability policies;
92. Make operational, as soon as possible, throughout the national territory, the IT system common to all the Departmental Homes for Disabled Persons (MDPH) and the information system for monitoring referral decisions to Medico-Social Establishments and Services (ESMS).

International cooperation (Art. 32)

93. Integrate the issue of disability in the development, implementation and evaluation of the programs, projects and strategies of the French Agency for Development (AFD) and make the granting of public aid conditional on the inclusion of a disability perspective in accordance with the Convention.

National implementation and monitoring (Art. 33)

94. Develop a coherent national policy for the implementation of the Convention involving local authorities;

95. Strengthen the training and awareness of all decision-makers on the new issues related to the implementation of the Convention;

96. Provide the independent mechanism responsible for monitoring the application of the Convention with the technical, financial and human resources necessary to carry out its missions.