Study on children's involvement in judicial proceedings – contextual overview for the criminal justice phase – France

June 2013

This National Report has been prepared by Nathy Rass-Masson in collaboration with Adrien Lantieri for Milieu Ltd in partnership with ICF GHK under Contract No JUST/2011/CHIL/PR/0147/A4 with the European Commission, DG Justice.

The information and views set out in this publication are those of the author(s) and do not necessarily reflect the official opinion of the European Union. Neither the European Union institutions and bodies nor any person acting on their behalf may be held responsible for the use which may be made of the information contained therein.

© European Union, 2013

Reproduction is authorised provided the source is acknowledged. The reproduction of the third-party textual or artistic material included is prohibited

Contents

Executive summary

Overview of the general elements of child-friendly justice in criminal proceedings

The main principles of juvenile justice are established in a 1945 law on criminal law relating to children. Reintegration and re-education are prioritised over sanctions. A specialised jurisdiction, the Juvenile Court, ensures this objective is attained through the individualisation of judgments. Moreover, although a child is not recognised as having legal capacity before turning 18 years old, s/he must be involved in any decisions concerning him/her at all levels of the proceedings. The child's parents are responsible for making use of the child's rights in his/her best interests, and they must therefore be involved in the proceedings on a permanent basis. However, when the parents are suspects themselves, an administrator is nominated to represent the child throughout the criminal proceedings.

Juvenile justice professionals are specialised at nearly all levels of the proceedings, and the same jurisdiction is competent for children in danger and child suspects. France is also making efforts to specialise lawyers in juvenile justice. This is especially important for child suspects where a lawyer needs to be involved throughout the proceedings.

In order to ensure that justice is both child-friendly and solemn when required by the gravity of the offence, different types of hearings may take place before the Juvenile Court. Moreover, other non-legal actors are involved throughout the proceedings thus providing a multidisciplinary approach.

Overview of children's involvement before, during and after judicial proceedings

French law provides a clear and general protection to children by imposing the duty on every person to report a child in danger. Moreover, many procedural safeguards exist to ensure that when a child is involved in the proceedings, they minimise additional suffering to the child. Despite the apparent lack of specific provisions for children as witnesses, children involved as witnesses will also be protected from secondary harm and the hardship of judicial proceedings.

With regard to children as suspects, the constant involvement of parents and lawyers are essential principles. Moreover, the priority given to re-education and individualised judgments ensures that the personality of the child is analysed and his/her best interests taken into consideration during sentencing. Finally, the wide range of different measures and sanctions, both educational and punitive, provide a complete and child-adapted criminal justice toolbox.

Promotion and monitoring of a child-friendly approach to criminal justice, with an overview of strengths and potential gaps

France has established a robust and child-friendly criminal system relying on the specialisation of different legal and non-legal actors. This specialisation at the judicial level allows for both reactivity and proactivity toward children as victims and suspects.

However, over the past 15 years the regime applicable to children as suspects was drawn closer to the regime applicable to adults, whether in terms of procedure or sentencing. Note that this situation may change in light of reforms announced by the current government to make the criminal juvenile justice system more child-friendly, e.g., the possible repeal of the laws establishing the Juvenile Criminal Tribunal (*tribunaux correctionnels pour mineurs)*.

Abbreviations

1945 Ordinance	Ordinance n° 45-174 of 2 February 1945 on juvenile delinquency (*Ordonnance n° 45-174 du 2 Février 1945 relative à l'enfance délinquante*)
CA	Competent Authority
CIVI	Indemnisation Commission for Victims of Offences (*Commission d'indemnisation des victimes d'infractions*)
CoE	Council of Europe
Confrontation	The procedure by which suspects, victims and witnesses may be brought together as part of the investigation. Suspects, assisted witnesses and victims have the right to request such a procedure.
EC	European Commission
EU	European Union
FGAO	Victims Guarantee Fund (*Fonds de garanties*)
FIJAIS	Judicial automated file for authors of sexual or violent offences (*Fichier judicaire automatisé des auteurs d'infractions sexuelles ou violentes*)
Retention	A form of custody, relating in this study, to child suspects between 10 and 13 years of age.
SARVI	*Service d'aide au recouvrement des victimes d'infractions*
Youth brigades	National Police Minors Brigades (*Brigades des mineurs)* or National Gendarmerie Juvenile Delinquency Prevention Brigades (*brigades de prévention de la délinquance juvenile*)

1 Overview of Member State's approach to children in criminal proceedings and specialised services dealing with such children

The three main objectives of juvenile justice in France

The legal text on juvenile criminal proceedings in France dates from 1945 and instituted a new philosophy based on three main pillars:

- Education should be favoured over punishment ;

Reintegration measures are prioritised over criminal sanctions whether the child is a victim or a suspect. Education and protective measures are therefore adopted first in juvenile justice. A number of safeguards are established by law such as keeping a child in his/her family as long as possible (see notably section 2.1.3).

- Jurisdiction should be specialised ;

As described below, this specialisation is actually wider than simply jurisdiction and includes special police brigades and nearly all of the justice actors (Public Prosecutor, different judges, lawyers, etc.).

- Judgments should be individualised ;

During the proceedings, mandatory investigations will take place in order to evaluate the personality of a child as a suspect. First of all, the Public Prosecutor or judge must establish whether the child is mature enough to understand what is happening (*discernement*). Without this capacity, a child cannot be held criminally liable[1]. Indeed, there is no threshold in France exempting a child as a suspect from criminal liability based on his/her age: if a child is considered mature enough, s/he may be found guilty of offences. However, criminal sanctions may only be applied against children above the age of 13 years. Secondly, an evaluation of the situation is usually necessary before reporting a child as a victim (see section 2.1.1) and an evaluation of the personality of a child as a suspect and his/her surroundings is necessary during any investigation (see section 2.3.7 on the personality inquiry folder (*dossier unique d'enquête de personnalité*)). Moreover, even when dealing with, for instance, several child offenders, the procedure may be split to allow a better individualisation of the judgment. Finally, different measures and sanctions may be taken which can be further modified and repealed by the different jurisdictions involved in the proceedings.

The child as a right bearer and his/her different representatives in criminal proceedings

In France, a child is not recognised as legally capable before s/he reaches 18 years old. Therefore, if a child is a right holder (*droit de jouissance*), s/he may not make use of these rights and his/her legal representatives (*représentants légaux de l'autorité parentale*) are responsible for making use of the child's rights in his/her best interests[2].

The child's legal representatives are his/her parents or those who legally hold the child in their care (legal guardians). For the purpose of this report, both are simply referred to as 'parents' hereafter. However, in case of judicial proceedings, the law has foreseen that the child may be in conflict with his/her parents. This might be the case when the parents are suspects or are involved with the suspect. In this case, the Public Prosecutor or investigatory judge[3] will nominate an independent individual as administrator (*administrateur ad hoc*)[4].

[1] Criminal Code, Article 122-8.

[2] Civil Code, Article 371-1.

[3] Criminal Procedure Code, Article 706-50.

[4] Administrators receive training on a voluntary basis, are paid under the judicial aid scheme, and whilst the law provides for their nomination on the list and appointment to a child victim, the mechanisms for doing so are not regulated.

This person is either one of the child's relatives or a person chosen from the local court's administrator's list[5]. The administrator will have the duty to represent the child throughout the criminal proceedings and exercise his/her rights in his/her best interests. The nomination of an administrator is compulsory in cases of suspected incest[6]. Finally, it should be noted that the child can be legally represented in front of the judge by his/her lawyer (see sections 2.1.7, 2.2.7 and 2.3.10).

In any case, independently of his/her legal representation in judicial proceedings, a child must be involved in all decisions that concern and affect him/her. The degree of his/her involvement will of course be adjusted to the child's age and degree of maturity (*discernement*).

With regard to the child as a suspect, the judge will be extremely vigilant to ensure:

- The direct involvement of the child at all levels and acts of the proceedings;
- That the child's parents are always involved.

The specialisation of juvenile justice professionals

Police

Specific brigades among the national police (*brigades de protection des mineurs*) and national gendarmerie (*brigades de prévention de la délinquance juvénile)* forces have been set up and deal exclusively with juvenile justice matters. These brigades are exclusively responsible for conducting the investigation and interviews of child victims and would often deal with child witnesses depending on the circumstances, location, etc. Moreover, some Youth Brigades are, exceptionally, exclusively competent with regard to child suspects (e.g. Bobigny). They are specially trained and selected. They operate in child-friendly environments.

The child's lawyer

France has made concrete efforts in recent years for children's lawyers to become specialised. Whilst there is no clear obligation in French legislation to train lawyers or group them in collectives that deal with child issues, lawyers that work under the judicial aid scheme must have received training in the field for which they seek to work. Such training is therefore compulsory and provided for free to lawyers wishing to work in juvenile justice under the scheme. A lawyer will notably be paid under this scheme when the parents do not have the financial means or when this lawyer has been appointed by the local Bar Association (*désigné d'office*). Moreover, the Bar Associations' National Council (*Conseil National des Barreaux*) has launched a series of initiatives for the creation of a children's lawyers grouping (*groupement d'avocats d'enfants*) in each local Bar Association, and provides regular training to these lawyers[7]. Approximately 70% of France's Bar Associations have set up such groupings and therefore hold a list of specially trained lawyers.

With regard to the child as a suspect, the judge will be extremely vigilant to ensure that the child is always assisted by his/her lawyer to defend him/her whenever it is necessary.

Public Prosecutor

Liaising between the youth brigades and the judge is the Public Prosecutor (*Procureur de la République* or *avocat général* for assize courts). Public Prosecutors have a general mission of defending the best interests of society and ensuring public order. There are specially trained Public Prosecutors in France that deal with juvenile cases[8]. When a child is found to

[5] Criminal Procedure Code, Article R.53.

[6] Criminal Procedure Code, Article 706-50.

[7] In order to reach this decision, the Bars National Council considered France's international obligations, the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, and the Law of 5 March 2007 reforming child's protection (*Loi du 5 Mars 2007 réformant la protection de l'enfance*) that advocates for training of all professionals' involved in child's justice.

[8] Judiciary Organisation Code, Article R.312-15.

be in danger or when the police seek to retain, detain, or prosecute a child as a suspect, the Public Prosecutor will be directly contacted and must take a decision. The Public Prosecutor then may choose among several options:

- The Public Prosecutor may decide not to proceed any further (*classement sans suite*) if it appears that the elements and proof are not sufficient. S/he may make this decision conditional (*classement sans suite sous conditions*) (see section 2.3.6) ;
- The Public Prosecutor may decide to refer the child to a judge either because the child is in danger and requires protective measures (see section 2.1.3) or because the child is brought to justice as a suspect (see section 2.3 and see below on 'the different jurisdictions concerned with children as suspects);

Specialised judges involved

France created a specialised jurisdiction in 1945, the Juvenile Court (*juge pour enfants*)[9]. This jurisdiction is nearly exclusively competent in cases of children as suspects and, since 1958, it is also exclusively competent to deal with situations of children in danger at the judicial stage. This court will therefore be involved whenever there are strong grounds for believing that a child is a victim or suspect. The Juvenile Court can take any actions whether of a criminal (when the child is a suspect) or civil nature (when the child is in danger). Moreover, a child as a suspect may also be found to be a child in danger, allowing the judge to directly take any educative or protective measures in the child's best interests. Juvenile Courts are attached to High Courts (*Tribunaux de Grande Instance*) and are present throughout the French territory.

In order to maintain the impartiality of the judge, 2011 reforms introduced a separation between the investigatory and trial roles of a judge. As a result, the judge responsible for an investigation cannot judge the case when it proceeds to trial.

There are different types of hearings that may take place in front of the Juvenile Court:

- Hearing in the judge's chamber (*audience de cabinet*);

The Juvenile Court is here composed only of one judge and takes place in the judge's office. This hearing takes place in the presence of all parties (child as a suspect, lawyers, parents, (child) victim). The judge is generally not gowned and s/he is assisted by a clerk. The Public Prosecutor's presence is particularly rare but not forbidden. It is the most typical form of hearing.

Several such hearings may take place in order for the judge to follow the child, his/her evolution and eventually modify some of the measures. In this case, the presence of the victim is not required during hearings after the actual judgment.

- Juvenile Tribunal (*tribunal pour enfants*);

This is a more formal composition of the Juvenile Court. This hearing takes place in open court, the judge is gowned, and assisted by two civil assessors (*assesseurs*)[10] and a clerk. The Public Prosecutor is present as well as the child as a suspect, his/her lawyers, representatives, and the (child) victim if s/he wishes to be. Finally, a police officer ensures the security of the hearing.

Juvenile Criminal Tribunal (tribunal correctionnel pour mineurs)

This jurisdiction created in January 2012 judges misdemeanours punishable by at least 3 years' imprisonment and committed by second time offenders over 16 years old. The tribunal is chaired by a Juvenile Court Judge, who is assisted by two other High Court judges. It should be noted however that the current government has announced the possible repeal of the laws establishing the Juvenile Criminal Tribunal.

[9] 1945 Ordinance, Article 1.

[10] Assessors are private individuals that have been appointed for a period of four years by the Minister of Justice in application of Article 522-3 of the Judiciary Organisation Code.

- Juvenile Courts of Assize (*cours d'assise des mineurs*);

This jurisdiction is competent for felonies committed by children above 16 years old[11]. Out of nine 'judges', the court is chaired by the president of the regular Assize Court. S/he is assisted by two assessors (*assesseurs*) who are two Juvenile Court judges. The other six 'judges' are citizens appointed to act as a jury in combination with the President and the two assessors (12 in appeal)[12].

Other involved non-legal actors

A host of other non-legal actors also come into play with regard to child delinquency and children in danger and are largely involved at different steps of the proceedings. For instance, the Youth Judicial Protection Service (*protection judiciaire de la jeunesse*) or authorised associations of the child's neighbourhood may undertake any investigative measures required by the investigatory judge, and notably draft the personality inquiry folder (*dossier unique d'enquête de personnalité*) necessary to evaluate the child's personality, situation and social context. Those services may be questioned by the judge and are represented at the court during the hearing. They may also suggest certain measures or sanctions as well as oppose measures suggested by other parties.

Other non-legal actors may include professionals of the health sector, social workers, professionals of the national education system etc. that are in regular contact with children. Such professionals are largely involved during the reporting of a child in danger and are heard during the investigation, whether the child is a victim or a suspect.

The involvement of these different professionals ensures a multidisciplinary approach to juvenile justice.

The different jurisdictions concerned with children as suspects

Depending on the offence committed and the child's best interests, the child as a suspect may be referred to several jurisdictions by the Public Prosecutor:

- If the child appears to be in danger, the Public Prosecutor may decide to refer the matter to the Juvenile Court for educative assistance and protective measures (see section 2.1.3) ;
- Importantly, the Public Prosecutor may then also take any of the other measures described below.
- if the offence is a contravention of the first four classes, i.e. the less serious of criminal offences that range from defamation to mild violence, then the Public Prosecutor will assign the child to the Police Tribunal (*tribunal de police*) ;

The judges at the Police Tribunal are not specially trained to deal with children as suspects or victims, however given the offences concerned, the case is more likely to be resolved through one of the many alternatives left at the Public Prosecutor's choice (see section 2.3.6).

- if the offence is a misdemeanour or a contravention of the fifth class, i.e. voluntary violence causing an invalidity for less than eight days / cruel killing of a pet, then the case will be referred to the Juvenile Court ;

If the circumstances around a misdemeanour requires it, the Juvenile Court may then decide to act as an investigatory judge as described below (this usually concerns very serious misdemeanours).

- if the offence is a felony, the case will be referred to an investigatory judge (*juge d'instruction*)

[11] 1945 Ordinance, Article 20.

[12] Criminal Procedure Code, Article 255.

In order to do so, the Public Prosecutor will first have to launch a police investigation (*enquête policière*) that will be conducted by the police, pursue the suspects (indictment: *mis en cause / mise en examen*) and therefore open a judicial investigation (*information judiciaire*). A judicial investigation basically puts an investigating judge (*juge d'instruction*) in charge of the case during the investigation. Depending on the age of the offender and the gravity of the offence, the role of the investigatory judge will either be undertaken by a specialised investigatory judge[13] (when the offender is an adult, or when the suspected child is involved in a particularly serious or complex crime) or by the Juvenile Court[14] (when the offender is a child).

- Finally, and independently of the measures above, the investigatory judge may believe that the child as a suspect should be held in pre-trial detention (see section 2.3.4). In this case, the child will have to be referred to the liberties and detention judge (*juge des libertés et de la detention*)[15].

Whilst specifically competent with regard to pre-trial detention measures, this judge does not deal exclusively with children's cases and therefore is not specialised in juvenile delinquency. Such a specialisation would be in any case impractical, as there are very few children requiring such judicial intervention every year, particularly given the priority put on re-education. Pre-trial detention is used as a last resort. This judge takes a decision after an adversarial hearing in the judge's chambers (*audience de cabinet*). This hearing will be in the presence of the child's lawyer and the Public Prosecutor. Moreover, the many non-legal actors referred to above can voice their opinions on the decision to hold a child in pre-trial detention.

The right of the victim to be a party to the criminal trial

Under French law, criminal prosecutions are engaged in the name of society by the Public Prosecutor. In such circumstances, any victim may still be considered as a party during this criminal trial. The victim is then described as a party (*partie civile*), effectively allowing the trial to also cover civil matters, such as the award of compensatory damages[16]. Asking to be considered as a party to the criminal trial (*constitution de partie civile*) is a right of the victim, and can be requested at any time from the investigating judge or the Juvenile Court. In the case of child victims, parents or the administrator may choose to exercise this right or not.

Priority preliminary ruling on constitutionality (question prioritaire de constitutionnalité)

Finally, as a result of a 2012 reform, appellants/defendants may challenge the constitutionality of a law which could be applied against them. This reform, also applicable to the juvenile justice system, offers more possibilities to the defendants other than the court of appeal or the cassation court.

[13] Criminal Procedure Code, Article D.15-4-8.

[14] Ordinance n° 45-174 of 2 February 1945 on juvenile deliquency (*Ordonnance n° 45-174 du 2 Février 1945 relative à l'enfance délinquante*) (thereafter '1945 Ordinance'), Article 1.

[15] Criminal Procedure Code, Article 137-1.

[16] Criminal Procedure Code, Article 85.

2 Child-friendly justice before and during criminal judicial proceedings

2.1 The child as a victim

2.1.1 Reporting a crime

There are no specific provisions on a child's ability to report a crime. In practice, however, a child can report a crime by: calling the police national emergency number (17) or the children in danger national emergency line (119) – the professional on the line may then report the facts themself (see obligation to report a child in danger below); by going to the police station in person; or by writing directly to the Public Prosecutor or the Juvenile Court. Parents may also report the crime on the child's behalf.

Obligation to report a child in danger

In practice, reporting is done by an adult who has directly (e.g. the child tells him/her) or indirectly (e.g. another child tells him/her) become aware that a child is in danger. A child is considered to be in danger or likely to be in danger when s/he has suffered bodily harm (physical trauma, lesions, cuts, etc.), exhibits abnormal behaviour (anxiety, suicidal tendencies, running away, etc.), or signs that demonstrate lack of parental care (lack of corporal hygiene, malnutrition, lack of sleep, school absenteeism, etc.)[17].

When an adult becomes aware, or suspects, that a child is in danger, the adult is under the obligation to report this. It is a crime not to help a person in danger[18] or not to disclose information about a crime that one knows is being or will be committed[19]. Moreover, any person who knows that a child under the age of 15, or a person who is not able to protect him/herself because of age, illness or infirmity is subject to deprivation, maltreatment or sexual abuse, must report this situation[20]. These general obligations are clearly part of the duties of certain categories of professionals that are or may be directly in contact with children, including health and education professionals[21].

Evaluation

As reporting a child in danger is an important act, an evaluation involving a number of persons and professionals (multidisciplinary evaluation) will usually be undertaken prior to reporting. For instance, a medical doctor who discovers a maltreated or deprived child will interview his/her parents or relatives, and possibly any social worker involved with the family. This is also true of the social services that suspect maltreatment or the police from whom the

[17] Civil Code, Article 375.

[18] Criminal Code, Article 223-6.

[19] Criminal Code, Article 434-1.

[20] Criminal Code, Article 434-3.

[21] Those professionals are:

- Public officials, civil servants and other staff of the national education system who must contact the Public Prosecutor when they become aware through their functions of any crimes or misdemeanours (Penal Procedure Code, Article 40);
- Services of maternal and child protection, and of children welfare who must report to the medical doctor of the service (Public Health Code, Article L.2112-6);
- Medical doctors have a deontological duty to be the defender of the child when s/he considers that the interests of her/his health is misunderstood or neglected by the child's entourage (Medical Ethics Code, Articles 43 and 44);
- Nurses who come about through their profession a child victim of maltreatment or deprivation must protect her/him, including by alerting medical or administrative authorities (Article 7 of Decree n° 93-221 of 16 February 1993 on the rules of professional nurses)
- Public services and other public and private bodies likely to become aware of children in danger (Social Action and Families Code, Article L.226-3).

child sought assistance. This evaluation phase may however be omitted under emergency situations requiring immediate protective measures (see 2.1.3 on protection from harm).

The act of reporting

There is no single way to report a child in danger (*signalement d'un enfant en danger*), and the act of reporting largely depends on who the adult is. A child can therefore be found in danger and reported in different circumstances such as after hospitalisation, a visit to a doctor whether at school[22] or outside, the child disclosing their situation to a relative or professional, a formal complaint to the police services, a letter addressed to the children's section of the National Ombudsman (*défenseur des droits*),[23] etc. A parent might go to the police station and make an official complaint (*procès verbal de plainte*) while a health professional may simply report a child in danger directly through a medical certificate.

Whereas providing information to the authorities on a child's situation can be done orally, the act of reporting a child in danger must be done in writing[24]. A report must include certain information such as the child's identity, age, address, etc. as well as an explanation of the situation (any facts observed or reported, the behaviour of the family or relatives, previous actions taken, results of the evaluation, etc.). It is also recommended that the familial context be described as it usually helps any later stage investigation.

What happens to a report?

Whilst reporting may be done in a number of ways, the report follows a single process. The report is in principle first considered an administrative matter (*signalisation à l'autorité administrative*) and reaches the competent regional authorities (s*ervice de l'Aide Social à l'Enfance (ASE) du Conseil Général*). The judicial authority may then be alerted (*signalisation à l'autorité judiciaire*) by the regional authorities when the child is evidently victim of mistreatment or presumed to be, when it is impossible to evaluate the situation, or when the child's family refuses administrative help[25].

Because of their direct contact with children, only professionals of the national education system (*Education nationale*), health professionals, or public services and other public and private bodies likely to become aware of children in danger may report a child in danger directly to the judicial authority. The police may not therefore directly contact the Public Prosecutor because it suspects a child to be in danger. However, through the evaluation phase, the police may order a suspect into custody (whether it is a child or an adult, see section 2.3.4). In this situation the Public Prosecutor will be directly alerted. Finally, any individual, including the child him/herself, may write directly to the Public Prosecutor or the Juvenile Court, in which case the reporting will reach the judicial stage directly.

The Public Prosecutor covering the area of the child's usual place of residence is the prime receiver of judicial reports of children in danger. The Public Prosecutor may then take a number of actions as described in section 1. The Public Prosecutor must then notify the service that reported the child in danger of this decision[26]. However, when a child has been the victim of sexual abuse, the Public prosecutor must immediately inform the Juvenile Court and ask for educative assistance[27]; the Public Prosecutor may still take any other additional measures. The Public Prosecutor is therefore at the heart of the criminal judicial reporting of

[22] A number of medical visits are mandatory and carried throughout the course of education: Public Health Code, Article L.2112-2 (2°), Education Code, Article L.541-1 (2nd indent). The general Education in France is mandatory until sixteen years old.

[23] Note that the independent institution of French Child Ombudsman (défenseur des enfants) no longer exists as a result of a 2008 reform. Instead, there is someone responsible for children within the office of the Ombudsman (défenseur des droits).

[24] Law n° 89-487 of 10 July 1989 : 'un écrit objectif comprenant une évaluation de la situation d'un mineur presumé en risque de danger ou en danger nécessitant une mesure de protection administrative ou judiciaire'.

[25] Social Action and Family Code, Article L.226-3.

[26] The duty of *retour d'information* of the Criminal Procedure Code, Article 40-2.

[27] Criminal Procedure Code, Article 706-49.

a child in danger, filtering and orienting the reports. However, the Juvenile Court is also able to operate an auto-referral in cases of children in danger. This can happen for instance when the judge is already involved with the family, for instance through a child's brother/sister.

Elements that facilitate reporting

Three elements come into play to facilitate reporting an offence committed against a child:

- Duties of professional secrecy do not apply in cases of children's mistreatment and deprivation (i.e. no sanctions, disciplinary or otherwise, may be pronounced). This is particularly important to health professionals.
- Whilst false accusations are considered a misdemeanour under French law, only accusations made in bad faith can lead to criminal sanctions[28]. An adult who is convinced that a child is in danger should therefore not be worried about legal implications against them if it is found that the child is in fact not in danger.
- Several crimes against children have longer prescription periods and those start running only after the child has come of age[29].

2.1.2 Provision of information

A child is subject to general provisions on information

There are no specific provisions on providing information to a child victim as a child is not recognised as legally capable before s/he reaches 18 years old. However, the child must be involved in decisions that affect him/her, according to his/her age and degree of maturity. Moreover, when an offence has been committed against a child and is revealed by a third party, the child's legal representatives must be informed in writing.

However, when the parents are involved with the suspect(s) or are the suspect(s) themselves this obligation does not apply as it can lead to endangering the child or obstructing the course of justice. In such instances, an appointed administrator (*administrateur ad hoc*) will have the duty to represent the child during the criminal proceedings and make use of the child's rights in his/her best interests. The appointment of an administrator is compulsory in case of incest[30]. The administrator is responsible for providing information to the child, and explaining who the different actors of the proceedings are and what their roles may be (including his/her role).

As there are no specific provisions on providing information to a child, the normal rules for information to adults apply. Police officers have a duty to inform victims (or in this case their representatives) of their rights. This includes notably the possibility to request to be considered as a party (*partie civile*) during the criminal proceedings[31], to be helped by victims' associations, and to be assisted by a lawyer. Moreover, when a judicial investigation is ordered by the Public Prosecutor, the investigatory judge is in charge of providing victims with information on the progress of the investigation. Both the investigatory judge and the Juvenile Court acting as an investigatory judge are trained to deal with children (see section 1.) and would therefore in practice provide information not only to the child's legal representatives but also to the child victim.

The role of professionals

In practice, any youth brigade officer who interviews a child is trained to explain to them what is happening, who is carrying out the interview and what importance this interview bears (see section 2.1.5 on questioning).

[28] Part of the evaluation stage allows determining whether the accusation is acted in good faith. This situation can often be particularly difficult in cases of alleged sexual abuses during parents' separations.

[29] Criminal Procedure Code, Article 7 and Article 8 (2).

[30] Criminal Procedure Code, Article 706-50.

[31] 1945 Ordinance, Article 6.

Providing information is also largely considered to be the role of the lawyer (see section 1.and 2.1.7.).

Finally, the Paris Bar Association (*barreau de Paris*) has established a children's office (*antenne des mineurs*). This office provides children with free and confidential legal advice daily either over the phone (nationwide) or in person and without appointment (in its office in Paris). Other local Bar Associations have done the same, and there also exist youth houses (*Maison des jeunes*) in many French localities that will provide legal information to children.

2.1.3 Protection from harm and protection of private and family life

Protective measures (civil)

The Juvenile Court is responsible for taking protective measures for children. The Juvenile Court must endeavour to obtain the support of the family for any measure taken. Furthermore, the Juvenile Court's first consideration is the best interests of the child. Finally, measures taken by the Juvenile Court are in principle temporary, and can be modified at any moment depending on the facts and the evolution of the child's situation[32]. In this respect, the law provides that when a child that is already under a protective measure is victim of an offence, the Public Prosecutor must inform the Juvenile Court immediately[33].

Protective measures are civil in nature, but two are particularly relevant in criminal situations:

- Ordering Educational Assistance in Open Environment (*Assistance Educative en Milieu Ouvert AEMO*). The child will be kept in his/her family but the family will be followed by a social worker, normally an educator (*éducateur*) for a period of six months to two years. The educator must report to the judge within a deadline stipulated by the judge, or at least once a year[34]. This measure can be imposed on the family. The child or his/her family can appeal the decision.
- Ordering the child to be put in temporary care (*placement provisoire*), effectively taking the child out of the care of his/her parents.

As a general rule, a child must be kept in his/her environment as far as possible[35] and should not be separated from his/her brothers and sisters[36]. Moreover, a child has the right to maintain a relationship with his/her parents and other 'ascendants'[37]. However, when his/her best interests require, the judge can order the child to be put in temporary care, effectively placing the child with a member of his/her family or with a trusted third party. Depending on the situation and best interests of the child, s/he may also be placed in a specialised public or associative service authorised by the youth judicial protection service (*protection judiciaire de la jeunesse*), or the child social assistance departmental service. During temporary care, whilst the parents maintain parental authority of the child, visit and accommodation modalities are defined by the judge[38]. Visiting rights (*droit de visite)* may be a number of visiting hours per week, during which the child and his/her parents are reunited, often under the supervision of professionals in a child-friendly environment. Accommodation rights (*droit d'hébergement*) allow the child to stay at his/her parents' house (for instance over the weekend).

Emergency situations

The evaluation phase of the reporting (see section 2.1.1) may be omitted in cases of emergency, allowing for protective measures to be taken immediately. In such situations, the Public Prosecutor is competent to take protective measures for children, rather than the

[32] Civil Code, Article 375-6.

[33] Criminal Procedure Code, Article 706-49.

[34] Civil Procedure Code, Article 1199-I.

[35] Civil Code, Article 375-2.

[36] Civil Code, Article 371-5.

[37] Civil Code, Article 371-4.

[38] Civil Code, Article 375-7.

Juvenile Court. The Public Prosecutor is then able to take the same measures as the Juvenile Court described above[39], but must contact the Juvenile Court within eight days. The Juvenile Court must then confirm or quash the Public Prosecutor's decisions within 15 days.

Also, it might be the case that the Juvenile Court orders temporary care in an emergency and without having heard the different persons involved. In this situation, the judge must hear these persons within 15 days or the child will return to their prior environment[40]. A child will also return to the prior environment if a final decision is not taken within six months of ordering provisional measures[41]. These legal measures ensure that the child and parents will be regularly recalled to the Juvenile Court and the situation frequently reassessed in the child's best interests.

Privacy rights

The child's privacy rights are protected during criminal proceedings: it is forbidden to disclose the identity, address, or other elements that allow the identification of a child victim in any way[42]. Even diffusion of the real first name of the child, his/her school or a picture of his/her parents is sufficient to constitute an offence[43]. However, a missing notice (*avis de recherche*) may still be issued. Moreover, the Public Prosecutor may in their own right launch a formal law suit provided they know the privacy rights of a child victim have been infringed upon.

Finally, the hearing may be ordered in closed session (*huis clos*) when required, notably by the child victim. Closed sessions are the rule in cases of sexual aggression, torture and barbarous acts, as long as one of the victims is not opposed to it[44].

2.1.4 Protection from secondary victimisation and ensuring a child-friendly environment

No specific provisions ensuring that relevant decisions and the commencement of proceedings take place without undue delay have been identified. Some proceedings, described in the part on children as a suspect/defendant, may however allow for trials to take place in shorter timespans (see section 2.3.7). These proceedings are also applicable to adult suspects/defendants but may nonetheless be relevant to the child as a victim.

Vulnerable children

Some categories of vulnerable children may be assisted during certain medical or judicial procedures by a trained professional (whether an educator, a psychologist or medical doctor, the administrator etc.). The Public Prosecutor takes the vulnerability of a child into consideration and decides accordingly.

Medical examination

A child may undergo medical examination whether physical, psychological or both. Since a child can experience such a medical examination as an aggression, to ensure such examinations are not frequent, they may only be requested by the Public Prosecutor or police officer (*réquisition*), or at the request of one of the parents. Nevertheless, parents may refuse permission for a medical examination. It might also be the case that the child was brought to the hospital by third parties: in this case, the Public Prosecutor must make use of the emergency procedure of temporary care (see section 2.1.3) before any medical examination can take place.

Specialised care units may take the form of forensic units (*unités médico-judiciaires*) (see section 2.1.5).

[39] These administrative temporary measures are not subject to appeal.

[40] Civil Procedure Code, Article 1184.

[41] Civil Procedure Code, Article 1185.

[42] Article 39 bis and quinques of the Law of 29 July 1881 on press liberty (*loi du 29 juillet 1881 relative à la liberté de la presse*) modified by the Law n°2000-516 of 15 June 2000 *(loi n°2000-516 du 15 juin 2000).*

[43] See the judgment in Cour de Cassation, Chambre Criminelle 4 Juin 1998.

[44] Criminal Procedure Code, Article 306.

Finally, physical examination is not required in all cases. It may be resorted to depending on the circumstances of the case and the child's endangerment – it is notably used in cases of alleged assault, sexual assault and mistreatment. Psychological examination is never compulsory and can only be ordered in the case of certain serious offences or in certain circumstances (see section 2.1.5). For further information on prevention of secondary victimisation, see section 2.1.5 below.

2.1.5 Protecting the child during interviews and when giving testimony

The questioning of a child victim during the investigation is made upon decision of the Public Prosecutor, the investigatory judge or the Juvenile Court[45]. It may also proceed at the request of the child. The Public Prosecutor or investigating judge should systematically request that youth brigades question a child[46].

Police specialisation

Police officers may follow training at the national police's Study and Training National Centre (*centre national d'études et de formation de la police nationale*). During this training, the police officer learns how to establish a trusting relationship with the child, prepare him/her psychologically for the interview, explain the purpose of the interview and the role of each person, let him/her discover his/her surrounding environment, or to explain the functioning and role of the video equipment. Moreover, the police officer is taught the usual modes of communication with and by the child (language, drawing, game ...) and to use only short and open questions so as to allow 'free' speech of the child.

Furthermore, the police officer must also be able to help the child who is suffering or having difficulties to recall their experiences, to ensure proper understanding of their words, to assess the child's ability to verbalise and to take into account his/her logical thinking. Finally, the police officer learns to recreate with precision and with objectivity the child's statements (including his/her gestures). On the other hand, the officers of the *gendarmerie nationale* are provided with special training on the psychology and development of children and adolescents and interviewing techniques.

Interview environment (forensic units)

The questioning of a child victim can be done by specially trained professionals in a police station or in police or gendarmerie youth brigades. However, questioning can also happen in forensic units (*unités médico-judiciaires*), places where the medical practitioner collaborates with the judicial authority and where medical procedures are performed at the request of the police or judge. Forensic units provide appropriate care of the child given age and victim status through offering a child-friendly environment (walls and furniture are in clear/bright colours, there are children's drawings, toys, etc.). Sometimes hearings are held in these settings. For instance in Paris, the police youth brigades are competent for all child sexual abuse and often question children in the forensic unit of the Trousseau hospital with which it has an agreement.

2.1.5.1 Video recording of the interview

The questioning of the child must be recorded on video when the alleged crime is of a sexual nature[47]. Recording the interview aims at minimising the number of interviews. In practice however, the child will be interviewed at least three times: once by the police as the formal interview described in this section, once by his/her lawyer, and once by the judge who will ask the child to reiterate or approve previous statements. Recording the questioning of a child victim also allows for ensuring the mode of questioning of the child and analysing

[45] Criminal Procedure Code, Article 706-53.

[46] Circular of the Ministry of Justice of 2 May 2005 on the improvement of the judicial treatment of procedures on sexual offences (*circulaire du Ministère de la Justice du 2 may 2005 relative à l'amélioration du traitement judiciaire des procédures relatives aux infractions de nature sexuelle*).

[47] Criminal Procedure Code, Article 706-52.

further the child's non-verbal communication[48]. Upon written decision of the Public Prosecutor or investigatory judge, this recording can be exclusively a sound recording when the best interests of the child require (for instance when the child has been the victim of crimes of a pornographic nature). In the absence of conclusive evidence (for instance from medical examination), the interview and its recording will become key elements of the trial.

A new interview can only take place with prior agreement of the Public Prosecutor or investigatory judge. When the suspect(s) requests a 'confrontation'[49] with the victim, the judge might require that the suspect first hear/see the recording. This might discourage the suspect from going ahead with a confrontation. If a confrontation is nonetheless required, it is possible for this confrontation to take place in different rooms and it will in any case take place in a child-friendly environment and in the presence of both sides' lawyers, as well as police officers.

Psychological examination

A psychological examination can be ordered by the investigatory judge. It is notably used in circumstances of alleged sexual offences denied by the suspect and in the absence of conclusive evidence (such as through medical physical examination), that is to say in situations where the child's words constitute the main proof of the offence.[50] This procedure[51], previously referred to as credibility expertise (*expertise de crédibilité*), provides for evaluation of the child's intelligence quotient, psychological balance and analyses the context within which the child has revealed the alleged offences.

2.1.6 Right to be heard and to participate in criminal proceedings

As explained above (see section 2.1.2 on information), a child cannot use his/her rights, only the parents as his/her legal representatives (*représentants légaux de l'autorité parentale*) are responsible for making use of the child's rights in his/her best interests[52]. However, the child must be involved in decisions that affect him/her, according to age and degree of maturity (*discernement*). Moreover, as stated above when a judicial investigation is ordered by the Public Prosecutor, the investigatory judge is in charge of providing victims with information on the progress of the investigation. At the end of the investigation, the victim will be informed of the judge's intentions and may react to them.

A child has a right to be heard during any criminal proceedings[53], and the child might therefore ask to be present and heard. The Judge may also require a child to be questioned during the hearing, though prior to ordering the questioning of a child victim during the trial, to the judge must watch any recording made during the investigation.

Moreover, the judge will usually enquire whether the child victim wishes to exit the room before any images and videos or other shocking material areshown at the hearing.

2.1.7 Right to legal counsel, legal assistance and representation

A child has the right to consult a lawyer without needing to prove that s/he has authorisation from his/her parents to do so. When the child consults a lawyer spontaneously, legal advice is provided free of charge on principle.

---

[48] Criminal Circular 99-4 F1 of 20 April 1999 (*circulaire criminelle 99-4 F1 du 20 avril 1999*).

[49] A suspect has the right (Article 82-1 of the Criminal Procedure Code) to request "*une confrontation*" which is a situation where they meet their accuser/ the victim in the presence of the police and their lawyers, and eventually the Public Prosecutor and investigatory judge, for the purposes of the investigation.

[50] Criminal Procedure Code, Article 706-48 (that refers to the crimes of Article 706-47).

[51] Circular of the Ministry of Justice of 2 May 2005 on the improvement of the judicial treatment of procedures on sexual offences (*circulaire du Ministère de la Justice du 2 may 2005 relative à l'amélioration du traitement judiciaire des procédures relatives aux infractions de nature sexuelle*).

[52] Civil Code, Article 371-1.

[53] Law n° 98-468 of 17 June 1998 on the prevention and repressing of sexual offences, and the protection of children (*loi n° 98-468 du 17 juin 1998 relative à la prévention et à la répression des infractions sexuelles ainsi qu'à la protection des mineurs*).

Once involved in judicial proceedings, a child will be asked to choose a lawyer if mature enough (*discernement*). Maturity is not defined at a fixed age and will depend on the faculties of the child. This age is normally between eight and twelve years old.

Lawyers of child victims usually only become involved in criminal proceedings once the matter has been referred to a judge. Moreover, the judge has a duty to ask the child to choose a lawyer during their first interview[54].The only situation where a lawyer would intervene in the preliminary investigation is in case of 'confrontation' with the suspect(s). In this case, the lawyer would be able to provide information to the child and his/her parents early in the proceedings. The lawyer would also assist the child during the 'confrontation' itself.

If the child, parents or the administrator do not know a lawyer or do not choose one within eight days, the judge will request that a lawyer be provided (***désigné d'office***) by the local Bar Association[55]. When the parents do not defend or defend poorly the best interests of the child, or cannot pay the lawyer, the lawyer will be remunerated under the French legal aid scheme (*aide juridictionnelle*).

The lawyer must be present throughout the proceedings (for instance when the child is heard by the investigatory judge[56]) and take on a general role. The lawyer is considered to be the prime information provider and has an accompanying role. The lawyer should explain to the child the legal implications of the choices made and ensure that the judges and other actors respect the rights of the child.

The lawyer also takes on a protective role with regard to the child. In this respect, the lawyer can request:

- a *huis clos* (judgment in closed session);
- that the child be positioned in such a way that s/he does not have to look at the suspect(s);
- that the child's hesitations be noted in the official statement (*procès verbal*);
- that any additional medical examination be replaced by a review of the case;
- that certain investigatory acts (confrontation, additional interview, etc.) do not take place.

Finally, the lawyer is responsible for assisting the child during the trial, representing him/her if s/he chooses not to attend the trial, and requesting compensation (*dommages et interêts*) for the damage incurred by the child who has requested to be a party (*partie civile*) to the trial.

2.1.8 Remedies or compensation exist for violation of rights and failure to act

Penalties for refraining to help a child in danger, and for offences relating to privacy rights

A person refraining from helping a person in danger, whether through action or inaction, may be punished by up to five years of imprisonment and a fine of EUR 75,000[57]. A person who does not disclose information about an offence that they know is being or will be committed, may be punished by up to three years of imprisonment and a fine of EUR 45,000[58]. Lastly, a person may be punished by up to three years of imprisonment and a fine of EUR 45,000[59] for not reporting an under 15 year old (or a person unable to protect themself because of

[54] Civil Procedure Code, Article 1186.

[55] Criminal Procedure Code, Article 706-50.

[56] Criminal Procedure Code, Article 706-51-1.

[57] Criminal Code, Article 223-6.

[58] Criminal Code, Article 434-1.

[59] Criminal Code, Article 434-3.

age, illness or infirmity) whom they know to be the subject of deprivation, maltreatment or sexual abuse.

Disclosing a child's identity, address, etc. (see section 2.1.3) in infringement of the child's privacy rights is punishable by a fine of EUR 15,000[60].

Compensation

If the child victim is considered as a party (*partie civile*) during the proceedings[61], they may request compensation (*dommages et interêts*) for the damage incurred. Once the judgment is pronounced, the services of a bailiff will be necessary to deliver a formal demand for payment (*commandement à payer*) to the convicted offender.

If the convicted offender is insolvent, the victim may receive compensation from a Victims Guarantee Fund (*fonds de garantie des victimes*). France has set up a number of such funds to cover different circumstances such as offences against property or persons (*commission d'indemnisation des victimes d'infractions CIVI*) or car accidents where the offender is not insured (*Fonds de garanties des assurances obligatoires de dommages FGAO*)[62]. Moreover, for any other offences where the victims do not benefit from compensation, the SARVI (*Service d'aide au recouvrement des victimes d'infractions*) may also compensate the victim.

CIVI commissions exist in every High Court (i.e. where Juvenile Courts also sit)[63] and may be contacted by the child's parents or lawyer within three years of the offence or one year after a final judgment has been ordered[64]. However, the CIVI commissions may decide to accept a request even after these deadlines.

When delivering a judgment, the judge will inform the victims of their rights to use the CIVI commissions. The child's lawyer will normally also do so. CIVI commissions obey normal courts' rules. Victims may benefit from CIVI commissions provided they are the victims of:

1. an attack against the person (homicide or violence) which resulted in death or total incapacity greater than or equal to one month, or
2. a sexual offence (assault or sexual assault, rape, humans trafficking), or
3. an offence against property (theft, fraud, destruction, etc.) or an offence against the person causing an incapacity for less than a month[65].

Once contacted, the CIVI may put its proceedings on hold at the request of the victim or until a final decision has been delivered by the jurisdiction deciding on the actual case. The CIVI will request a guarantee fund[66] to present a compensation offer within two months[67]. If this offer is approved, the CIVI will formalise it. The child and the parents may oppose the offer. Once an offer has been formalised, the fund may seek compensation from the offender for the offence committed against the child victim.

SARVI services allow victims to whom damages were granted in final criminal proceedings and cannot recover them (i.e. the offender is insolvent, victims cannot benefit from insurances, guarantee funds or the CIVI commissions services), to be compensated. The SARVI services must be contacted within two months to a year of the final decision. A form

[60] Article 39 bis and quinques of the Law of 29 July 1881 on press liberty (*loi du 29 juillet 1881 relative à la liberté de la presse*) modified by the Law n°2000-516 of 15 June 2000 *(loi n°2000-516 du 15 juin 2000).*

[61] 1945 Ordinance, Article 6.

[62] Other important funds include : hunting accidents, terrorism acts (*Fonds de garantie des victimes d'actes de terrorisme et d'autres infractions)*, medical accident, asbestos exposure or HIV contamination.

[63] Criminal Procedure Code, Article 706-4.

[64] Criminal Procedure Code, Article 706-5.

[65] Criminal Procedure Code, Article 706-3.

[66] This role is played by the terrorism acts fund (*Fonds de garantie des victims d'actes de terrorisme et d'autres infractions)*.

[67] Criminal Procedure Code, Article 706-5-1.

is available online[68] to request compensation. Like the fund operating under the CIVI commissions, the SARVI services may seek compensation from the offender in place of the victim.

Finally, the child and his/her parents are protected against the dishonesty or incompetency of their lawyer (the lawyer has failed to respect certain deadlines, has been negligent, etc.) (see section 2.3.11).

2.2 The child as a witness

There are no specific provisions for the child as a witness, except for a few situations where a child is interviewed as a victim or a suspect.

A child witness will therefore largely fall under the scope of provisions for adult witnesses. Moreover, there is no clear distinction between the 'regular' witnesses and more vulnerable ones. It is therefore the role of the judiciary to detect particularly vulnerable witnesses and assess on a case by case basis whether they require safeguards or not. Police officers, Public Prosecutors and the different judges involved with child witnesses are all specialised in children's cases and the vulnerability of a child witness should be taken into account.

A child may also be granted the status of assisted witness (*témoin assisté*) if there is plausible evidence that the child may have participated in an offence[69]. The responsibility of an assisted witness might also be eventually examined, depending on the outcome of the proceedings, without the need to start the procedure all over. The person therefore remains highly involved throughout the proceedings, and, as such, is granted some of the rights of a suspect (see sections 2.3, 3 and further below in this section). One of the rights of the assisted witness is to request to be indicted, allowing him/her to have all of the rights of a suspect. Granting the status of assisted witness may be done at any moment during the proceedings before trial, and therefore the child assisted witness may have previously benefitted from the rights of a suspect before being considered an assisted witness. Finally, children as assisted witnesses cannot be subject to restrictive measures, but might be the subject of educative measures (see section 2.1.3).

2.2.1 Reporting a crime

A child cannot be accused of false testimony.[70]

The child as a witness

As mentioned above, there are no specific provisions on a child witness' ability to report a crime. In practice however, a child could report a crime by calling the national emergency number, by going to the police station in person, or by writing directly to the Public Prosecutor or Juvenile Court. If a child warns any adult of a situation where a third person is in danger, this adult will be under a positive obligation to report him/her to the competent authorities.

When a professional of the national education system becomes aware that a child may be in danger, in the event that the suspect is an adult or a student of the school, the information must be delivered to the Public Prosecutor immediately, and the reporting procedure must be carried out the same day (see section 2.1.1). The school inspector should also be informed as soon as possible. Students are then made aware of the practicalities of reporting any facts they could have knowledge of (for instance who to talk to, where, when, why it is important to speak out if they know anything, etc.). In any case, all persons in whom the student confided will be required to explain exactly what they were made aware of and the terms used by the victim.

[68] See the following website (last accessed January 2013): www.sarvi.org.

[69] Criminal Procedure Code, Article 113-2.

[70] Criminal Code, Article 434-13.

The child as an assisted witness

Prior to becoming an assisted witness, a child may be considered as a suspect. In this situation, they will receive information as explained in section 2.3.1.

2.2.2 Provision of information

The child as a witness

A child witness will be provided with information when heard by professionals, whether teachers, police or justice officials. Moreover, the Public Prosecutor will keep the child and parents informed of the procedure and its evolution.

The child as an assisted witness

Prior to becoming an assisted witness, a child may be considered as a suspect. In this situation, the child should receive information as described under section 2.3.2. Moreover, an assisted witness may ask the estimated duration of the proceedings and be informed of the end of the investigation. S/he must, moreover, be kept informed of any measures taken by the investigatory judge and the conclusions reached (*ordonnance d'instruction ou de règlement*).

2.2.3 Protection from harm and protection of private and family life

Witness protection is provided during investigation by police assistance as well as helpline and listening services, psychologists and counsellors[71]. No detention or retention may be ordered against a witness.

In order to prevent pressures, risks and threats of retaliation, the protection of witnesses is a principle in France[72]. Pressures, threats and other conducts to make a witness provide a false statement or to discourage them from testifying are forbidden, and violence against witnesses to influence the testimony are systematically punished[73].

Finally, a number of provisions ensure that witnesses are protected from the outset. For instance, witnesses may request that their home address not be included in the official statement and be replaced by the police or gendarmerie's address[74]. The Public Prosecutor or the investigating judge must however agree to this. A witness may also request to testify anonymously[75] if the offence committed is punishable by at least three years of imprisonment. In addition, it is necessary to establish that revealing the identity of the witness would be likely to seriously endanger the life or physical integrity of the members of his/her family or relatives.

These measures should however not be detrimental to the suspect, who may challenge them and request a 'confrontation' with the witness[76]. Finally, no sentence can be imposed based on an anonymous testimony.

If necessary, an assisted witness may be subject to a personality inquiry (see section 2.3.7) and a psychiatric expertise. These measures help to cast light on the child's situation and therefore his/her possible involvement in the commission of the offence.

2.2.4 Minimising the burden of proceedings and ensuring a child-friendly environment

If an investigation has been opened, the witness is heard at the judge's initiative, at the request of one party, or if the witness spontaneously presents him/herself. The witness

[71] Law of Orientation and Programming for Security (29 August 2002).
[72] Criminal Procedure Code, Article 706-57 to 706-63.
[73] Criminal Procedure Code, Article 434-15.
[74] Criminal Procedure Code, Article 706-57.
[75] Criminal Procedure Code, 706-58 to 706-63.
[76] Criminal Procedure Code, Article 760-60.

appears voluntarily or is summoned. A witness is under a duty to present him/herself when summoned whether by the police or the judge.

When heard by the police, a witness cannot be subject to detention or 'retention' (see section 2.3.4) though such custody may have occurred where a child was first considered a suspect but was then deemed to be an assisted witness.

When heard by the judge, the witness may be heard alone, or may participate in a 'confrontation' with other witnesses or other parties.

Child witnesses should be provided with the same environments as child victims (see section 2.1.5).

2.2.5 Protecting the child during interviews and when giving testimony

Questioning of a witness is not audio-visually recorded but an official statement (*procès verbal*) is drawn up that the witness must sign[77].

See section 2.1.5 on the questioning of child victims.

2.2.6 Right to be heard and to participate in criminal proceedings

Witnesses may participate in a hearing[78]. Children below the age of 16 years, whether as a witness or assisted witness do not need to swear an oath[79]. An assisted witness may further request to confront the person accusing them, although the investigatory judge can refuse this request[80].

During trial in the Juvenile Tribunal or Juvenile Criminal Tribunal, the judge may require that witnesses leave the court room after their testimony[81].

In the Assize Court, the President may, before, during or after hearing a witness, request the removal of one or more defendants or witnesses and examine their testimonies separately on particular elements. In addition, when the needs of the investigation require it, the testimony or examination of witnesses may be made through remote telecommunication ensuring the confidentiality of the transmission and the protection of the witness.

2.2.7 Right to legal counsel, legal assistance and representation

Witnesses may consult a lawyer. An assisted witness has the right to be assisted by a lawyer when interviewed[82]. Moreover, a child assisted witness that was first considered as a suspect would have received a lawyer in previous proceedings (see section 2.3.10).

2.2.8 Remedies or compensation for violation of rights and failure to act

An assisted witness may appeal the investigatory judge's refusal to participate in a 'confrontation' with other parties, including those accusing him/her.

Finally, revealing the identity or address of a witness that benefitted from provisions granting him/her anonymity is punishable by five years of imprisonment and a fine of EUR 75,000[83].

[77] Criminal Procedure Code, Article 706-52.

[78] 1945 Ordinance, Article 14.

[79] Derogation to the general rule to take an oath under Criminal Procedure Code, Article 103; Criminal Procedure Code, Article 113-7.

[80] Criminal Procedure Code, Article 113-3.

[81] 1945 Ordinance, Article 14.

[82] Criminal Procedure Code, Article 113-4.

[83] Criminal Procedure Code, Article 706-59.

2.3 The child as a suspect/ defendant

2.3.1 Age of criminal responsibility

Children between 13 and 18 years old

In principle, the age of criminal responsibility starts at eighteen. However, children may be found criminally responsible when deemed to have sufficient maturity (*discernement*) (see section 2) to understand the nature of the suspected act (*principe de l'irresponsabilité pénale relative*)[84]. It is for the judge to reflect upon and take this decision (*appréciation souveraine*). Moreover, the Public Prosecutor and the relevant jurisdiction will examine the circumstances of the case and the child's personality to determine whether to apply sanctions such as deprivation of liberty rather than educative measures. However, such criminal sanctions may only be applied against children above the age of 13[85] (see section 3.1.3 on deprivation of liberty for further information). As a result, it is often loosely said that the age of criminal responsibility in France is 13.

Children between 10 and 13 years old

Only protective, assisting, surveillance, and educative measures (*mesures de protection, d'assistance, de surveillance et d'éducation*) can be ordered for children found criminally responsible for offences committed under 13 years old. Children between the ages of 10 and 13 may furthermore be subject to educative sanctions when the circumstances of the case and the child's personality require it (see section 2.1.3).

2.3.2 Provision of information

A child may be kept in preliminary custody either under detention (*garde à vue*) or 'retention' (*retenue*) (see section 2.3.4). Any police officer is competent to deal with children as suspects. In certain areas, the Youth Brigades may be exclusively competent (e.g. Bobigny). When in custody, a child will be immediately informed by a police officer of the nature of the offence s/he is suspected to have committed or tried to commit, of the conditions and duration of his/her detention, and of his/her rights[86]. These rights (applicable to all children) include making a phone call, being examined by a doctor (compulsory for children below 16 years old), and being assisted by a lawyer. The child's parents must be immediately informed by the police that their child is being held in custody.

Any measure taken thereafter by the Public Prosecutor must be notified to the parents and to any service to which the child may be or has been entrusted (see section 3.1.2)[87]. Several situations can then arise.

First, the Public Prosecutor can request that a police officer notify the child of his/her summons (*convocation*) either to the Juvenile Court or to the investigatory judge. The child must sign an official statement (*procès verbal*) to acknowledge s/he has received the summons and been informed of its meaning. Moreover, this summons shall state the alleged facts and the law forbidding these acts, it also includes the name of the judge, and the date and place of the hearing. Lastly, the summons mentions that the child may be assisted by a lawyer and that if s/he does not choose one, a lawyer will be assigned to him/her by the local Bar Association (*désigné d'office*).

Secondly, the Public Prosecutor may defer the child immediately to either the Juvenile Court or the investigatory judge. This usually happens after pre-trial custody (see section 2.3.4 on detention and retention), when the Public Prosecutor has sufficient evidence to seek an immediate appearance (*comparution immédiate*) (see section 2.3.7) or when the Public

[84] Criminal Code, Article 122-8.

[85] Criminal Code, Article 122-8, and 1945 Ordinance, Article 2.

[86] Criminal Procedure Code, Article 63-1.

[87] 1945 Ordinance, Article 10.

Prosecutor seeks educative or further detention / surveillance measures to be ordered[88] (see section 3.1.2 and 3.1.3). In this case, both the Public Prosecutor and the judge will advise the child in the presence of the parents and lawyer of the state of the procedure, its implications, and the stages to follow.

2.3.3 Immediate actions following first contact with police or other relevant authority

After a crime has been reported to or observed by the police, any child suspected of having committed an offence may be arrested if caught in the act or summoned. The parents will be directly involved in all acts of this investigation. Offences committed by children in practice never require long and complex preliminary investigations, as most often children are caught in the act (*flagrant délit*). The police will usually interview the child (see section 2.1.8).

If the police wish to retain or detain the child, they must inform the Public Prosecutor immediately. The child is informed of his/her rights (see section 2.3.2) including the right to choose a lawyer.

The Public Prosecutor is the only authority that may indict the child if there are sufficient elements or proof gathered during the preliminary investigation[89].

Depending on the circumstances of the case, the Public Prosecutor may propose alternatives to judicial proceedings (see section 2.3.6) or immediate appearance in front of the court (see section 2.3.7). The Public Prosecutor may also take any temporary education measures deemed necessary (see section 3.1.2 on sentencing) including the civil measures described for children in danger (see section 2.1.3).

2.3.4 Conditions for pre-trial detention/ custody

Custody (detention / retention)

The conditions for a child's custody (whether detention or being retained) in the pre-trial phase are based on his/her age on the day of custody. A child will always be detained or retained under the supervision of specially trained professionals in places reserved to children and therefore separated from adults.

Children that are below 16 years old and detained must be examined by a doctor during the first three hours of their detention.

Children below 10 years old

Children below 10 years old cannot be kept in detention or 'retention'.

Children between 10 and 13 years old

From 10 to 13 years old, a child may be 'retained' in the police station (*retenue*) if there are serious or corroborating evidence that they committed or tried to commit a felony or misdemeanour that bears a sanction of at least five years of imprisonment[90]. This measure requires the prior agreement of a Public Prosecutor, investigatory judge or Juvenile Court (whichever is in charge of the case at that stage). This authority determines the duration of the 'retention', taking into account the time strictly necessary for interviewing the child and the time needed to either present the child to the Public Prosecutor (see section 2.3.2 on information) or placing him/her with a trusted third party (see section 3.1.2 on measures). In any case, a child cannot be 'retained' for more than 12 hours, unless this authority authorises an exceptional prolongation of another 12 hours upon written decision. The local Bar Association is informed of the 'retention' so that it may appoint a lawyer to represent the child immediately.

[88] 1945 Ordinance, Article 6-1.

[89] 1945 Ordinance, Article 7.

[90] 1945 Ordinance, Article 4-1.

Children between 13 and 16 years old

A child between 13 and 16 years old may be detained at the police station (*garde à vue*) if suspected of a felony or misdemeanour punishable by at least five years of imprisonment[91]. The police alone decide whether it is useful to detain the child or not, but must inform the Public Prosecutor immediately. The detention may last for a period of 24 hours, renewable once upon written decision of the Public Prosecutor after s/he has interviewed the child.

Children between 16 and 18 years old

A child above the age of 16 may be detained if suspected of any felony or misdemeanour punishable by imprisonment. The police alone decide whether it is useful to detain the child or not, and inform the Public Prosecutor immediately. Children above the age of 16 will be subject to the same rules as adults (*régime de droit commun*), in particular, the detention may last for a period of 24 hours, renewable once upon written decision of the Public Prosecutor who may request to question the child.

As mentioned above, whichever their age, child custody is always separate to adult custody.

Children above 16 years old may choose to be examined by a doctor. Their parents are informed of this right and may choose to use it.

Offences related to drug, terrorism and serious crimes (*grande criminalité*) may lead to longer detention periods[92].

Pre-trial detention

A child below the age of 13 cannot be held in provisional or pre-trial detention (*détention provisoire*). A child above the age of 13 years old may be held if s/he is subject to an indictment (*mise en examen*) pending trial. The investigatory judge or Juvenile Court may take this measure only when it is indispensable; that no other measure may be taken, and that alternative measures such as judicial control or house arrest under electronic surveillance prove insufficient (see section 3.1.2).

The child subject to a provisional detention will be detained either in special quarters for a short-term house arrest (*maison d'arrêt*) designated for children or in one of the six children's jails (*établissement pénitentiaire specialisé pour mineur*). Children between 13 and 16 years old can only be detained in places where they will be in complete isolation from adult detainees and special educators will be present[93].

Children's jails are managed by a combination of educators of youth under judicial protection (*éducateurs de la protection judiciaire de la jeunesse*) and guards of the national penitentiary system. A child in provisional detention is kept in an individual cell, but medical or personality reasons may require him/her to share the cell with a detainee of his/her age. Whilst males and females may have common activities during the day, they are kept in separate units (*unités de vie*) and supervised by personnel of the same gender. As education is only compulsory until 16 years old in France, education measures are only mandatory for children under 16 years of age kept in pre-trial detention. Children above 16 are however strongly encouraged to continue their curriculum. Sports and cultural activities are also regularly organised.

Children above 13 years old and below 16 years old

Children aged above 13 years old and below 16 years old (*plus de treize ans et moins de seize ans*) can only be detained for a maximum of six months in case of felonies. However, the detention can be prolonged once, after a debate has taken place in front of the judge in the presence of the child's lawyer and parents for a period that cannot exceed six months.

[91] 1945 Ordinance, Article 4-V.

[92] Criminal Procedure Code, Article 706-88.

[93] 1945 Ordinance, Article 11.

Children between 14 and 16 years old

Children between 14 and 16 years old (*treize ans révolus et de moins de seize ans*) may be subject to a measure of provisional detention when they could incur a felony conviction, or when they willingly did not comply with their obligations under alternative measures such as judicial control or house arrest under electronic surveillance.

Children above 16 years old

Children aged above 16 years old (*au moins seize ans*) can only be detained for a month when they could incur a misdemeanour conviction subject to a maximum of seven years of imprisonment. However, the detention can be prolonged once, after a debate has taken place in front of the judge and in the presence of the child's lawyer and parents. For misdemeanours punishable by imprisonment of more than seven years and for felonies, this detention may be longer than a month but cannot exceed a year in the first instance and cannot be prolonged above two years.

Children between 17 and 18 years old

Children above 17 years old (*seize ans révolus*) may furthermore only be subject to a measure of provisional detention when they could incur a felony conviction, a misdemeanour conviction with at least three years of imprisonment, or when they willingly did not comply with their obligations under alternative measures such as judicial control or house arrest under electronic surveillance.

The right to visit in pre-trial detention

No specific provisions applicable to children deal with the right to visits in pre-trial detention. As a result, the rules for adults apply.

Visits by a child's lawyer: Visits by the defendant's lawyer are based on the right to defend oneself and can only be restricted if they endanger the discipline and security of the place of detention. In fact, any lawyer, even if s/he did not personally represent the prisoner during his/her trial, must be able to communicate with his/her client freely and confidentially, outside the presence of a supervisor. Upon presentation of a visit permit (*permis de visite*) and his/her lawyer identification, the lawyer can meet the child in a special visiting room (*parloir d'avocat*) in which the conversation cannot be heard or monitored[94].

Visits by family members and other persons: Any detainee, whether in provisional detention or after conviction, is entitled to receive visits. Moreover, being visited by family members is a right that a detainee can only be provisionally deprived of (see below). However, no visit can take place without prior administrative authorisation, which could entail a potential refusal by the competent authorities. In addition, any of the authorities issuing the visiting permit can order an inquiry (personality survey conducted by the police or gendarmerie) into the person applying[95].

Visiting permits for provisional detainees can be issued only by the magistrate in charge of the investigation, who may also require that these visits take place in a visiting room containing a physical separating device. Persons wishing to visit a detainee must therefore make a written request, in which they may put forward evidence to convince the judge of the merits of the request, e.g., a family relationship or friendship of particular importance for the detainee, personal support, lack of connection with the offence, etc[96]. Visiting permits are permanently valid and may be used for visits in any place of detention where the detainee is held.

The magistrate in charge of the investigation may refuse to grant a visiting permit to persons not belonging to the family of the detainee without justification. However, s/he can only refuse to grant permits to family members without justification for one month after the visiting

[94] Criminal Procedure Code, Articles D.56, D.67, D.68, and D.411. Also, Circular of 9 May 2003 JUSE0340055C.

[95] Criminal Procedure Code, Articles D.403 to D.404.

[96] Criminal Procedure Code, Articles 145-4, D.64, D.403 and D.507.

permit was requested. Only family members may challenge a refusal ordered by an investigatory judge[97]. After one month, the investigatory judge must specifically explain the refusal in writing and can only do so on the basis of the investigation's needs (*décision spécialement motivée par les nécessités de l'investigation*). When ordering a provisional detention, the judge may also request that the detainee be kept incommunicado for a period of ten days, renewable once[98].The head of the place of detention may also refuse a visit, if they endanger the discipline and security of the place of detention.

Children wishing to visit a detainee are covered by the same rules on visits. However, it seems more difficult to justify the refusal to grant a visiting permit to children, since it is unclear how it might be likely to disrupt the trial or endanger the discipline and security of the place of detention.

2.3.5 Protection of private and family life

The child's privacy rights are protected during criminal proceedings and afterwards.

First of all, the information contained in the personality inquiry folder (*dossier unique d'enquête de personnalité*) (see section 2.3.7) are confidential[99]. Only lawyers, the child and his/her parents, or justice and youth protection professionals may have access to this folder. Only lawyers may request a copy of this folder. They are only allowed to give a copy to the child and his/her parents, if the latter have been made aware of the liability they incur should they disclose any information.

Secondly, the diffusion of the recording, or a copy, of the child's interview is forbidden. This recording is deleted five years after the prescription time has passed.

Thirdly, the hearing that concerns children as suspects must be held in closed session (*huis clos*).

Finally, the publication of any hearing materials whether through a book, the press, radio, cinema or otherwise is forbidden. The same is true of any text or illustration concerning the identity and personality of the accused children[100].

2.3.6 Alternatives to judicial proceedings

In all cases, the Public Prosecutor is free to decide whether to indict the suspect, which means to bring to trial, or not (*principe de l'opportunités des poursuites*)[101]. If choosing not to indict a child, the Public Prosecutor has three alternatives. First, simply to close the case (*classement sans suite*). Secondly, for children above the age of 13, to close the case under conditions (*classement sans suite sous conditions*); [102] or, thirdly, to propose a criminal settlement (*composition pénale*)[103]. The last two measures must be agreed by the child and his/her parents.

Closing the case under conditions

The Public Prosecutor may propose to close the case under the condition that the child executes one obligation. The Public Prosecutor may only choose this measure if s/he believes that it would provide compensation for the damage caused to the victim and end the disorder caused by the offence. Moreover, this measure seeks to give to the child the opportunity to gain an understanding of the elements of their act by putting him/her in context within society, its rules, institutions and individuals. Depending on the offence committed by the child, this measure may include:

[97] Criminal Procedure Code, Articles D.404.

[98] Criminal Procedure Code, Articles 145-4 and D.403.

[99] 1945 Ordinance, Article 5-2 (8th indent).

[100] 1945 Ordinance, Article 14.

[101] Criminal Procedure Code, Article 40-1.

[102] Criminal Procedure Code, Article 41-1 and 1945 Ordinance, Article 7-1.

[103] Criminal Procedure Code, Article 41-2 and 1945 Ordinance, Article 7-2.

- Undertaking training in a health or sanitary service, or a professional or social organisation
- Following a citizenship course

This may involve for instance participation in group courses on some of the following topics: justice, police, health, school, community, transportation, national defence, civil security, respect for others, solidarity, citizenship, drug use dangers, etc.

- Regularising the situation with regard to the law and applicable regulations
- Repairing the damage caused

The authority may propose that the child be involved in repairing the damage s/he has caused by doing an activity or helping to repair the damage incurred by the victim (to which the victim must agree) or in the best interests of the community. This action may be accompanied by an apology to the victim

- Entering into mediation

This measure offers the chance for the child to explain him/herself directly to his/her victim and offer an apology. It may also result in the payment of damages, in giving back that which was stolen, etc.

- Respecting a previous ruling from a judge
- Consulting a psychiatrist

If the obligation is respected by the child, the Public Prosecutor promises not to indict the child.

Criminal Settlement

The Public Prosecutor may propose a criminal settlement. This measure can only be offered if the child admits having committed one or more offences punishable by a fine or imprisonment for a term not exceeding five years. This measure is rarely used as it is very close to the work undertaken by the Juvenile Court, and therefore the Public Prosecutor is more likely to simply order the child to Court.

Depending on the offence committed by the child, this measure may include:

- paying a fine ;
- undertaking unpaid work for the benefit of the community, for a maximum of sixty hours over a period not exceeding six months (see the part on *Travail d'Intérêt Général* in section 3.1.2) ;
- undertaking an internship or training in a health or sanitary service, or a professional or social organisation, for a maximum period of three months over a period not greater than eighteen months,
- following a citizenship course (see above),
- providing the State with the object used to commit the offence or which is the product of the offence.

2.3.7 Minimising the burden of proceedings and ensuring a child-friendly environment

Presence of the Parents

France has set up a number of arrangements to ensure child-friendly justice, in particular, by giving certain rights and options to the child's parents at different stages of the proceedings:

- During a detention or retention, the parents may visit the child, choose a lawyer for him/her, and must be heard by the police officers[104]. Moreover, they may request that they assist their child during the interview, but this may be refused by the police officers.
- At any stage of the investigation, the child and his/her parents are summoned together and heard together[105], in the presence of their lawyer if it is required.
- The parents may oppose a proposition of immediate appearance (*comparution immédiate*) (see below).

Youth judicial protection service

Any investigative measure may be undertaken by the youth judicial protection service (*protection judiciaire de la jeunesse*) or authorised associations of the child's family's neighbourhood. The police may therefore be little used during the proceedings, minimising the stigma associated with the investigation. This is notably the case for the personality inquiry folder (*dossier unique d'enquête de personnalité*). This folder is required by the judge during a judicial investigation. Investigators will have a duty to develop the profile of the suspect, retrace the path of his/her life up to the day of the survey, and finally make a projection of him/her in the future. This profile is drawn by the youth judicial protection service or associations, providing the judge with better and more thorough information on the child's life, his/her situation and familial surroundings. Indeed, the investigators will be aware of the type of problems encountered in the child's neighbourhood, city and school, and social services might already know the family from previous social work or some of the child's friend, etc.

In any case, these services must be contacted and must give their opinion whenever the child is subject to a measure by the investigatory judge, Juvenile Court or Public Prosecutor, or a sanction by the Juvenile Court[106]. This is also the case after a decision has been taken: the Juvenile Court may mandate the youth judicial protection service to ensure the implementation of the child's obligation[107]. This service will also be contacted after a measure of provisional detention has come to an end. Immediately after the release of a child, these services must ensure the child follows the educative measures or probation (*liberté surveillée*) measures that have been taken in his/her best interests (see section 3).

Lawyer

Another individual involved with the child at all stages is their lawyer. The Public Prosecutor, Juvenile Court or investigatory judge will be extremely vigilant that the child is always in the presence of his/her lawyer when it is required. These authorities can request that the local Bar Association appoints a lawyer to the child in any circumstance[108].

Procedural measures during the trial

Concerning the trial itself, the Juvenile Court may prevent the child from attending the hearing if it is in the child's best interests[109]. This may also be ordered at any time during the debates[110]. Furthermore, when adults are also suspects together with one or several children, the children will never be required to attend the adults' hearing[111]. In both cases, the child would then be represented by his/her parents or lawyer. Finally, if several children are suspects, they will be judged each individually and only the victim, their representatives,

[104] 1945 Ordinance, Article 4.
[105] 1945 Ordinance, Article 10.
[106] 1945 Ordinance, Article 12.
[107] 1945 Ordinance, Article 20-9.
[108] 1945 Ordinance, Article 10.
[109] 1945 Ordinance, Article 13.
[110] 1945 Ordinance, Article 14.
[111] 1945 Ordinance, Article 6.

the suspected child's representatives, the lawyers and justice professionals may attend the hearing[112].

Procedures allowing for fast-tracking a judgment

In terms of procedural length, two elements come into play to quicken the process. Firstly, Public Prosecutors may order a short time judgment (*jugement à bref délai ou à délai rapproché*)[113], allowing for the hearing to take place in a timeframe of between 10 days to two months. This procedure can only be used if investigations on the facts are not, or no longer, necessary. Furthermore, the child's offence must meet the following criteria:

- For a child between 13 and 16 years old, suspicion of having committed a felony or misdemeanour that bears a sanction of at least five years yet no more than seven years of imprisonment,
- For a child above the age of 16, suspicion of having committed a felony or misdemeanour that bears a sanction of an imprisonment term of at least three years in case of flagrance (the child was caught in the act) or five years in other cases.

Secondly, the procedure of immediate appearance (*comparution immédiate*) allows the Public Prosecutor to order a hearing at the Juvenile Court within a day or two. Only the most worrying situations may lead to this (for instance the child is a second time offender whose first trial is still pending). During the hearing, the judge will still have the possibility to postpone the hearing, and send the case back to the Public Prosecutor, if s/he is not satisfied that all the elements have been gathered or that the procedure is adapted to the circumstances. The immediate appearance procedure can only be used in the following conditions:

- the Public Prosecutor must suggest it, and the child and his/her lawyer must agree to it. The parents may still oppose this ;
- the Public Prosecutor is satisfied that sufficient proof has been gathered (in practice, the case must therefore be a simple one with little doubt left to the culpability of the child) ;
- a personality inquiry folder on the child must have been drawn up within the previous year[114].

Furthermore, the child's offence must meet the following criteria[115]:

- For a child between 13 and 16 years old, suspicion of having committed a felony or misdemeanour that bears a sanction of at least five years yet no more than seven years of imprisonment,
- For a child above the age of 16, suspicion of having committed a felony or misdemeanour that bears a sanction of with an imprisonment term of at least one year in case of flagrance (the child was caught in the act) or three years in other cases.

In cases where temporary measures of public order (*mesures provisoires d'ordre public*) such as pre-trial detention or probation (see section 3.1.2) must be taken, the case will then be sent to the liberty and detention judge (*juge des libertés et de la détention*) (see section 2.3.9).

2.3.8 Protecting the child during interviews and when giving testimony

The interview will necessarily be done by youth brigade officers or specially trained officers (see section 2.1.3). Interviewing can moreover happen in a forensic unit.

[112] 1945 Ordinance, Article 14.

[113] 1945 Ordinance, Article 8-2.

[114] 1945 Ordinance, Article 14-2.

[115] 1945 Ordinance, Article 14-2.

Questioning during detention or retention must be recorded on video[116]. No one, not even the child, may oppose this recording. The recording can only be reviewed upon decision by the investigatory judge, Juvenile Court or Public Prosecutor in case of contestation of the official interrogatory statement of the interview (*procès verbal d'interrogation*).

The parents may ask to be present during an interview, which may be refused by the police.

Finally, the Public Prosecutor may require a psychological examination. However this is only compulsory in felony matters.

2.3.9 Right to be heard and to participate in criminal proceedings

The child is directly involved and kept informed of all acts taken by the Juvenile Court or the investigatory judge, and the Public Prosecutor throughout the proceedings and must always be heard with his/her parents, and lawyer if necessary.

The child is heard during a preliminary appearance in front of the Juvenile Court or investigatory judge (usually after a detention or retention when the Public Prosecutor has decided to indict the child or when educative measures are necessary). Being indicted opens a number of rights such as requesting investigations, as well as medical or other measures. This also includes any expertise that the child, his/her parents, and his/her lawyers are allowed to request by law[117]. The child may also use the right to delay the proceedings, to better prepare the lawsuit (*préparer le fond*).

When the matter is referred to a Juvenile Court directly, during the interview, the child is assessed on their current situation, parents are also heard and together with the judge they consider any investigatory and temporary educational measures (placement, expertise, personality inquiry, etc.). The judge may suggest alternatives (see section 2.3.6).

If provisional measures withholding the child's liberty are required by the Public Prosecutor, the child will also be brought in front of the liberty and detention judge (*juge des libertés et de la detention*).

When the matter is referred to an investigatory judge, the procedure will be the same as for adults (*instruction de droit commun*) with the exception of educational measures that the judge may also order[118]. If the judge believes the facts are established, the judge may also decide to refer the matter directly before the competent court.

When the matter is referred to a Juvenile Court to act as an investigatory judge, the investigation procedure may be much less formal than that conducted by the investigatory judge (*enquête par voie officieuse*)[119]. This investigation is not bound by legal formalities, and therefore no guarantees are attached to these forms.

During trial, the Juvenile Court hears the child, and the parents. The child is also duly represented by their lawyer.

2.3.10 Right to legal counsel, legal assistance and representation

In principle, a child pursued in justice must be assisted by a lawyer[120]. As explained in section 2.1.7., French local Bar associations organise groupings of lawyers trained in juvenile issues. Moreover, the child may use the judicial aid scheme to pay the lawyer.

From the outset of police custody, the child is informed of the right to consult a lawyer. The child may then simply appoint or request the appointment of a lawyer. A child in detention (see section 2.3.4) may furthermore speak with the lawyer from the outset of the custody, and then again during the 20th hour of custody at the child's or his/her parents' request. As

[116] 1945 Ordinance, Article 4-VI.

[117] Criminal Procedure Code, Article 166.

[118] 1945 Ordinance, Article 9.

[119] 1945 Ordinance, Article 8.

[120] 1945 Ordinance, Article 4.

indicated in section 2.3.4, offences related to drug trafficking, terrorism and serious felonies (*grande criminalité*) may lead to longer detention periods. A child suspected of these crimes may only consult with his/her lawyer after the first 24 hours of detention (in which case the detention has already been extended). In any case, the consultations during custody may not exceed 30 minutes. These consultations will remain confidential. At this point the lawyer will inform the child and his/her parents of the child's rights and will ensure that these rights have been respected. The lawyer will also inform them on the different possible outcomes of the proceedings. The lawyer will furthermore be able to access to the elements of the case.

During the first interview with the Public Prosecutor, the child will be reminded of the right to be assisted by a lawyer. If no lawyer has been appointed to the child's defence yet, the Public Prosecutor will ask that the child and his/her parents nominate one, or the Public Prosecutor will request the Bar association to appoint one (***désigné d'office***). During any interview or trial, the child will be reminded of this right, and under certain circumstances (such as when a judge wishes to take a measure or modify it) the presence of a lawyer is indispensable.

Should a child be regularly brought before a judge, it may happen that a host of successive lawyers be appointed. In the child's best interests, the Juvenile Court, aware of this problem, will ensure with the local Bar Association that the same lawyer be appointed for the child. However, even when a lawyer has been appointed, the child and his/her parents remain free to change and nominate a new one.

2.3.11 Remedies or compensation for violation of rights and failure to act

When one of the rights of the child as a suspect is not respected, the detention and procedure might be rendered void[121].

Penalties relating to the privacy rights of the child

Disclosing any information contained in the personality inquiry folder is punishable by a fine of EUR 3,750[122]. The diffusion of the recording, or a copy, of the child's interview is punished by one year of imprisonment and a fine of EUR 15,000. Publishing any materials from the trial or any text or illustration concerning the identity and personality of the accused children is liable to payment of a fine of EUR 15,000[123].

Remedies against measures and sanctions taken by the judge pre-trial

With regard to the actual decisions on the case, a child subject to a decision of an investigatory judge, may appeal within a month, to the house of instruction (*chambre de l'instruction*)[124]. Concerning educational measures taken by the Juvenile Court or investigatory judge, their implementation, and the child's progress and evolution, will constitute an important element in the assessment of the facts, personality and in the imposition of sanctions (see section 3.1.2 on sentencing) or alternative measures (see section 2.3.6).

Compensation

Finally, the child and parents are protected against the dishonesty or incompetency of their lawyer (the lawyer has failed to respect certain delays, has been negligent, etc.). Indeed, each Local Bar Association takes out a compulsory legal insurance for all of its members that covers them against their professional misconduct. The child and his/her parents must simply write to the lawyer whose services they are unsatisfied with explaining that they believe the lawyer has made a mistake in defending them and explaining briefly what this fault would be. The lawyer must then immediately report this accident to the insurance provider. The case will be followed by the insurance provider, which, in case of proven

[121] Cassation Court, Criminal Chamber, Decisions of 31 May 2011 (n° 2673; n° 2674; n° 3049; n° 3107).

[122] 1945 Ordinance, Article 5-2 (9th indent).

[123] 1945 Ordinance, Article 14.

[124] Criminal Procedure Code, Article. 82-1.

misconduct, would offer a compensatory settlement to the child and parents. If they refuse this settlement, the insurance provider would defend the lawyer in case of litigation. This actual sum of the compensation would be determined by the case-law in application of the concept of loss of opportunity (*perte de chance*) consisting in an examination of the actual loss incurred or, if it cannot be determined with precision, the likelihood of success of the legal action.

3 Child-friendly justice after judicial proceedings

3.1 The child as a victim or offender

3.1.1 Provision of information

The child as a victim

In the case of a victim as civil party (*partie civile*), the initiation of proceedings largely depends upon the Public Prosecutor's decisions. Whichever his/her decision, the Public Prosecutor must inform the victim's representative (i.e. the child's lawyer or his/her parents)[125].

After trial, the different courts advise the different parties of their decisions. In practice, this means the child's lawyer or his/her parents. The Public Prosecutor is competent to appeal upon any of the court's rulings. The child as a victim may appeal upon any court decision, including for instance pre-trial detention[126], but s/he may only do so with regard to those aspects concerning him/her as a civil party[127]. Even when the victim has not appealed s/he is informed of the dates of any appeal[128].

The child as a suspect/defendant

During the indictment, the child as a suspect, their parents and lawyer are closely involved with any measures taken. After trial, the different courts advise the different parties of their decisions. After the judgment and for measures taken during the indictment the child offender and parents may use two remedies that are the same for adults:

- Opposition (*l'opposition*)[129] ;

This measure is only available in case of judgment by default (*jugement par défaut*), that is to say when the child was not represented during the hearing. After the sentence has been pronounced and the child has been duly informed (*signifié*) of it, the child has ten days to oppose the judgment[130]. The act of opposition is made to the Public Prosecutor who promptly organises an opposition hearing and decides whether it would be justified to order a new trial (at the same court as for the first hearing). The Public Prosecutor informs the victim of the opposition[131].

If the child is not represented at the opposition hearing, then the first judgment is valid. If a second hearing is ordered, a summons must be delivered (see section 2.3.2). If the child is not represented then, it will not be possible to oppose this second judgment by default.

- Appeal ;

After the sentence has been pronounced and the child offender has been duly informed (*signifié*) of it, the child has 10 days to appeal. The child is duly informed of this right, and so are his/her parents and lawyer[132]. The appeal may concern the judgment in its entirety or just a part of it. The competent Court for Appeals in children's cases is the special chamber for children of the Appeal Court (*chambre speciale des mineurs de la cour d'appel*).

The Public Prosecutor may also appeal the decision if unsatisfied with the measures ordered by the court and in any case, should inform the victim.

[125] Criminal Procedure Code, Article 40-2 et q.
[126] Criminal Procedure Code, Article 186.
[127] e.g. Criminal Procedure Code, Article 380-1.
[128] e.g. Criminal Procedure Code, Article 380-2.
[129] Criminal Procedure Code, Article 489.
[130] Criminal Procedure Code, Article 491.
[131] Criminal Procedure Code, Article 490.
[132] 1945 Ordinance, Article 8-2.

3.1.2 Sentencing

A number of measures can be ordered by the Juvenile Court or the investigatory judge during the investigation and as a sentencing.

Measures imposed during the investigation

The Juvenile Court or investigatory judge may take the following educational measures (*mesures éducatives durant l'instruction*) during the investigation for children aged **10 to 18 years old**:

- Placement measures (*mesures de placement*) ;

The child may be placed in temporary care (*placement provisoire*). Although this measure is criminal in nature[133], it is the same as that described under section 2.1.3. on the protection from harm for child victims. The child may also be subject to a pre-trial probation (*liberté surveillée préjudicielle*)[134] (see placement measures below).

- Mediation (*mediation-réparation*) (see below) ;
- Day activity (*activité de jour*) (see below) ;

Moreover, the Juvenile Court or investigatory judge may take the following preventative measures (*mesures d'ordre public*) during the investigation for children **aged 13 to 18 years old**:

- Provisional detention (*détention provisoire*) (see section 2.3.4) ;
- Socio-educative judicial control (*contrôle judiciaire socio-éducatif*)[135];

This measure aims to limit the number of provisional detentions while ensuring the child respects a number of obligations and prohibitions such as to submit to a medical examination or treatment, prohibition to visit and interact with certain people or locations, etc.

Educative measures imposed by the judge as a sentence

The Juvenile Court may use the following educative measures in sentencing for children aged **10 to 18 years old** [136]:

- Blame (admonestation or avertissement solennel);

The judge holds the child guilty but will not act further. This conviction remains on the child's criminal record.

- Give the child back to his/her family;

This usually ends one of the placement measures (see below) or pre-trial detention.

- Mediation (médiation-réparation);

This measure is similar to both the mediation and reparation measures that may be proposed before indictment (see section 2.3.6 on alternatives to judicial proceedings). This measure may be pronounced at any time in the proceedings, provided the child and his/her parents agree to it. When mediation is pronounced after indictment, the charges will be dismissed, however it does not preclude the victim from seeking damages in a civil court. If the child does not carry out his/her obligation under the mediation agreement, it may not lead to a sanction.

- Day activity (*activité de jour*);

This consists in the child's participation in activities with a professional or in school (re)integration either within a public service institution, an association organising public

[133] 1945 Ordinance, Article 10.

[134] 1945 Ordinance, Article 28.

[135] 1945 Ordinance, Article 10-2.

[136] 1945 Ordinance, Article 8.

service activities, or within the youth judicial protection service. This measure may not exceed 12 months. The nature of the day activity must take into account the offence, the child's age and personality as well as his/her school obligations.

For children **aged 16 to 18 years old**, the daily activity can consist in community service (*Travaux d'Intérêt Général*)[137] subjecting them to the obligation to perform a service promoting training or social inclusion. This measure is usually taken when the child has shown understanding of his/her action and willingness to amend, allowing the court to still sanction him/her yet without pronouncing a prison sentence. A day activity cannot take more than 35 hours per week.

- Placement measures (*mesures de placement*);

Different placement measures may be taken such as the obligation to study and placement in a boarding school (*exécution de travaux scolaires et placement en internat*) where the child must be a school intern for a year and may be allowed to travel back to his/her parents during the weekend or the holidays, or the placement in an institution (*placement en institution*) whether for educational, professional, or medical purposes and for shorter or longer periods.

The child may also be placed on probation (*mesure de liberté surveillée*)[138] : this measure may complement the educational sanction or penalty imposed. It can be ordered in the indictment (*liberté surveillée préjudicielle*) or at the end of the proceedings. The measure is limited in duration and **is discontinued after a child reaches 18 years** of age. In practice, the measure is implemented in diverse ways, as its purpose is to be able to adapt the methods of monitoring to the child's situation. For instance, it may monitor the child and his/her family through seeing an educator on a regular basis, but it may also involve placing the minor in a Closed Education Centre (*Centre d'Education Fermé*). In this last instance, the youth judicial protection service must propose it to the judge.

Finally, the child may be placed under judicial protection (*mise sous protection judiciaire*). Like probation, this measure gives a flexible legal framework for the judge, allowing him/her to individualise educational measures whilst being able to take appropriate measures with regard to the child's evolution. As such, this placement can be made as Educational Assistance in Open Environment or as temporary care (see section 2.1.3).

These measures may be modified at will by the judge[139].

Educative sanction imposed by the Court

The Juvenile Court may use educative sanctions as sentencing for children aged **10 to 18 years old**. This recent modification to the 1945 Ordinance introduces hybrid measures with more stringent requirements than simple educational measures. The educative sanctions are as follow:

- providing the State with the object used to commit the offence or which is the product of the offence;
- prohibition to visit the place or places where the offence was committed for a period not exceeding one year;
- prohibition to meet or interact in any way with the victim for a period not exceeding one year;
- prohibition to meet or interact in any way with an accomplice for a period not exceeding one year;
- reparation measure (see section 2.3.6)[140];

[137] 1945 Ordinance, Article 20-5.

[138] 1945 Ordinance, Article 28.

[139] 1945 Ordinance, Article 29.

[140] 1945 Ordinance, Article 12-1.

- citizenship course (see section 2.3.6) for a period which may not exceed one month;
- placement measures in an institution (see above) for a period of three months, renewable once (renewable for one month maximum when the child is **aged 10 to 13),** or obligation to study and placement in a boarding school (see above);
- blame.

3.1.3 Deprivation of liberty

As a last resort, the Juvenile Court may order imprisonment. Children aged **below 13 years old** cannot be imprisoned. Children **above the age of 13**, however, can be subject to criminal conviction when the circumstances and their personality require it. Moreover, children **below the age of 16** benefit from a legal mitigation (*atténuation légale pour excuse de minorité)* and can only be convicted to half of the imprisonment term and fines[141]. Moreover, the total imprisonment term and total fines cannot exceed 20 years and EUR 7,500.

Finally, **children above the age of 16** may not benefit from this automatic legal mitigation in the following circumstances:

i. when the circumstances of the case and the child's personality require it;

ii. when a wilful felony of attack on life, physical or mental integrity has been committed, and the author is a second time offender (*récidiviste*);

iii. when either a physical or sexual assault, or a misdemeanour committed with the aggravating circumstance of violence, was committed and the author is a second time offender (*récidiviste*);

Under circumstances (i) and (ii), the Juvenile Court must specifically explain (*peine spécialement motivée*) why the Court chose to convict the child to a full sentence in spite of the mitigating rule. On the other hand, if a crime falls under circumstance (iii), the Juvenile Court must specifically explain its reasons if it chooses to apply the mitigating rule[142].

Mandatory sentencing

France has set up a system of mandatory sentencing (*peines planchers*) ensuring that second time offenders will be punished with at least a minimum number of years in prison. In France, mandatory sentencing for a misdemeanour is:

- 1 year in prison for a misdemeanour punishable by three years;
- 2 years in prison for a misdemeanour punishable by 5 years;
- 3 years in prison for a misdemeanour punishable by 7 years;
- 4 years in prison for a misdemeanour punishable by 10 years.

For felonies, mandatory sentencing is:

- 5 years if the maximum penalty is 15 years;
- 7 years if the maximum penalty is 20 years;
- 10 years if the maximum penalty is 30 years;
- 15 years if the maximum penalty is life imprisonment.

Legal mitigation applies as described above, effectively halving the mandatory sentence depending on the child's age and the circumstances of the case.

[141] 1945 Ordinance, Article 20-2.

[142] 1945 Ordinance, Article 20-2.

Places of child detention

As under provisional detention, a child **between 13 to 18** years old subject to a detention will be detained either in special quarters designated for children of a short-term house arrest (*maison d'arrêt*) or in a children's jail (*établissement pénitentiaire specialisé pour mineur*). Moreover, **children between 13 and 16** years old can only be detained in places where they will be in complete isolation from adult detainees and special educators will be present[143].

3.1.4 Criminal records

The National Criminal Record

A child's criminal record (*casier judiciaire*) contains all penalties imposed by a criminal court against him/her and follows him/her throughout his/her life.

There are however three parts to a French criminal record: parts No. 3 and No. 2 (those which may be issued to the child him/herself and administrative bodies) do not include proceedings or convictions or penalties imposed by any court against a child, regardless of the nature or amount of the penalty imposed. In contrast, part No. 1 of the criminal record, accessible only to judicial authorities, contains the entire educational measures and sentences pronounced against a child with the exception of sanctions that the court has expressly excluded from the record and mediation remedies[144].

Educational measures and sanctions will be removed from the criminal record (part No. 1) within three years of the sentencing, provided that no felony or misdemeanour has been committed in the meantime.

Other relevant records

Apart from the criminal record, many other files exist such as:

- the infringements processing system (système de traitement des infractions constatées STIC)[145].

  This system contains information concerning child offenders for a minimum of five years, 10 years for more serious crimes (for instance robbery with violence, drug trafficking) and 20 years for most serious crimes (for instance robbery with violence on vulnerable persons, sexual assaults and rapes)

  The system also contains information on the victim, in which case the information is kept for up to 15 years unless the victim requests the information to be erased and if the offender's conviction is final and not subject to appeal[146].

- the national automated sexual DNA file (fichier national automatisé des empreintes génétiques sexuelles)[147].

  Originally only for sexual crimes, it has been extended to several other crimes, whether suspects have been convicted or not. It concerns condemnation for bodily harm[148], as well as persons suspected of felony and misdemeanour, damage to persons or property (theft, destruction, assault and battery, etc.) and trafficking (drugs, prostitution …)[149].

  A child is registered in the file like an adult and cannot ask for erasure from this file[150]. The Public Prosecutor orders the collection of DNA samples for the registration.

[143] 1945 Ordinance, Article 11.

[144] This must be mediation ordered under 1945 Ordinance, Article 12-1.

[145] Created by Decree n°2001-583 of 5 July 2001 (OJ July 6, 2001).

[146] Decree of 5 July 2001 and Justice Circular of 6 July 2001.

[147] Criminal Procedure Code, Article 706-54 CPP.

[148] Law of 15 November 2001 on daily safety.

[149] Law of 18 March 2003 on internal security.

[150] Note No. 003064 of 15 June 2004 of the youth judicial protection department of the Ministry of Justice (DPJJ).

- judicial automated file for authors of sexual or violent offences (fichier judicaire automatisé des auteurs d'infractions sexuelles ou violentes FIJAIS).

  Violent and sexual offenders may be registered in the FIJAIS. The registration is mandatory when the offence is punishable by at least five years of imprisonment. It is optional and ordered by the Court or the Public Prosecutor if the offence is punishable by less than five years of imprisonment. A child cannot be erased from the file whether at the hearing or upon later request. The registration is made for a period of 20 years to 30 years for felonies.

4 Strengths and potential gaps

France has established a broad, child-friendly criminal justice system that rests on three pillars giving priority to education, individualisation and specialisation.

The specialisation of the different legal and non-legal actors is a real cornerstone of the French justice system for children. Youth brigades are set up in every police force. They are specifically trained to deal with children as victims and sometimes as suspects. Moreover, Public Prosecutors and Juvenile Courts are also trained to deal with children as victims and suspects. This allows for the judiciary to be both reactive and proactive in dealing with any child and, by extension, his/her family. Furthermore, a wide range of possible proceedings, measures and sanctions are given to both the Public Prosecutor and the Juvenile Court. This complete toolbox ensures that every situation, offence and child is given an individualised consideration where his/her best interests should prevail. Furthermore, the measures and sanctions taken by the Juvenile Court are flexible: they can be modified and tailored at will depending on the progress and evolution of the child, their environment, etc. Finally, judges involve the child, parents and lawyer in the different stages of the proceedings.

However, some elements of child-friendly justice seem to be either missing or challenged by the legislator. To start with, there is no minority threshold in France, leaving criminal accountability to an appreciation of the child's maturity alone (*discernement*). Moreover, over the past decade the legislator adopted measures that brought the law applicable to children as suspects closer to the law applicable to adults, with many elements even being refused by the Constitutional Council on the grounds that the criminal juvenile justice system must be specifically designed for and adapted to children.

As described above, for instance, children aged 10 to 13 years may be retained in custody for 12 hours (extendable), whilst older children may be detained in custody for 24 hours (extendable) when they are suspected of certain offences. Other examples include the near disappearance of the legal mitigation (*atténuation légale pour excuse de minorité*) given to children aged 16 years and above, as well as the setting up of minimum mandatory sentencing (*peines planchers*) leading to children aged 16 to 18 years old being treated nearly as adults for certain aspects. However, the current government, which announced in May 2012 that they intended to repeal the laws establishing the Juvenile Criminal Tribunal (*tribunaux correctionnels pour mineurs*) as well as abolish the system of mandatory sentencing, may reverse this general trend.

Conclusions

Juvenile justice in France rests upon three main pillars:

- education is favoured over punishment;
- jurisdictions should be specialised;
- judgments should be individualised.

The parents are responsible for making use of the child's rights in its best interests as a child is not recognised as legally capable. However, a child can be recognised as criminally liable from 13 years of age, and other measures may be taken for children below this age. A child aged between 10 to 13 years old can be found guilty of an infringement but the nature of the response of the justice system will take account of the child's young age and only educational measures or sanctions may be applied. Regardless of the child's age, it is however always necessary for the judge to ensure that the child is mature enough. Therefore, in juvenile justice a judge will ensure that the child, whether as a victim or suspect, is directly involved at all levels and acts in the proceedings as far as their understanding allows, and that parents are always involved.

The child's involvement is largely made possible by the specialisation of the different professionals involved in juvenile justice. First of all, specific police youth brigades have been set up and deal exclusively with juvenile justice matters related to victims. They are responsible for conducting the investigation and interviews of children, for explaining their rights to them, the procedure and actors involved. Moreover, youth brigades work in child-friendly environments. Secondly, some Public Prosecutors are specially trained to deal with juvenile cases and will be directly contacted when a child is a suspect or victim of a serious offence. The Juvenile Court, a specialised juvenile jurisdiction, can take any actions with regard to both children as victims and as suspects. Thirdly, recent efforts undertaken by the Bar Associations National Council aim at creating specialised French lawyers in juvenile justice by notably providing regular training and creating local children's lawyers groupings. A host of other non-legal actors are involved during the investigations, at the hearing, and afterwards, ensuring a multidisciplinary approach. Some of these actors are competent to provide a complete profile of the child as a suspect and will be heard by the judges, will be present at the hearing, and may directly suggest some measures or sanctions to the judge.

Finally, child-friendly justice is ensured through the complete 'toolbox' given to the Public Prosecutor and Juvenile Court. The Public Prosecutor can decide whether it is appropriate to take legal action or simply request protective or alternative measures, as a first step in the implementation of the education and individualisation pillars. Moreover, the Juvenile Court may use a number of educational, assistance, and punitive measures, and sanctions, tailored to each particular child given his/her specific situation. These measures or sanctions may moreover be adapted, modified or repealed at will, ensuring the child's best interests are taken into consideration both during the proceedings and afterwards.

However, some elements of child-friendly justice seem to be either missing or challenged by the legislator, blurring the lines separating juvenile justice from justice for adults. For instance, custody of children for 12 or 24 hours extendable depending on their age as well as the waning of the application of legal mitigation (*atténuation légale pour excuse de minorité*) given to children aged 16 years and above are clear indicators of the efforts made over the previous decade to blur these lines. Note that this situation may change in light of reforms announced in May 2012 by the current government to make the criminal juvenile justice system more child-friendly, e.g., the possible repeal of the laws establishing the Juvenile Criminal Tribunal (*tribunaux correctionnels pour mineurs)*.

Annex – Legislation reviewed during the writing of this report

- Circular of the Ministry of Justice of 2 May 2005 on the improvement of the judicial treatment of procedures on sexual offences
- Criminal Circular 99-4 F1 of 20 April 1999
- Law n° 98-468 of 17 June 1998 on the prevention and repressing of sexual offences, and the protection of children
- Criminal Code created by Law 92-686 of 22 July 1992 reforming the Criminal Code relating to the prosecution of crimes against the nation, the state and the public peace
- Judiciary Organisation Code created by Decrees n° 78-329 and n° 78-330 of 16 March 1978 establishing the Judiciary Organisation Code (1st Part) and (2nd Part)
- Civil Procedure Code created by Decree n° 75-1123 of 5 December 1975 establishing a new Civil Procedure Code
- Criminal Procedure Code created by Ordinance n° 58-1296 of 23 December 1958 modifying and completing the Criminal Procedure Code
- Ordinance n° 45-174 of 2 February 1945 on juvenile delinquency
- Law of 29 July 1881 on press liberty modified by the Law n°2000-516 of 15 June 2000
- Civil Code promulgated on 21 March 1804 (30 Ventôse Year XII) by Consul Napoléon Bonaparte