



**ANNUAL SUMMARY
REPORT
FOR 2007-2008**

I. Role and organization

The institution of the Défenseure des Enfants/Ombudsperson for Children was created by a law of March 2000.

The role of the Ombudsperson for Children is to **defend and promote child rights** as defined by law or by an international treaty like the **International Convention on the Rights of the Child** (or ICRC), ratified by France in 1990.

The Ombudsperson for Children is appointed by decree by the President of the Republic, for a non-renewable term of 6 years. Since 29 June 2006, Dominique Versini has held this position.

The Ombudsperson for Children has three priority missions:

- 1. To receive and handle individual complaints**
- 2. To propose modifications to legislative texts**
- 3. To promote child rights**

To assist her in these activities, the Ombudsperson for Children has the support of:

- A multi-disciplinary team (lawyers, magistrate, social workers, psychologists, etc. with varying backgrounds) to respond to individual complaints, prepare opinions, recommendations and legislative or regulatory texts, as well as to promote child rights.
- A team of 32 “Young Ambassadors for the Ombudsperson for Children” (JADE) to promote child rights. These young people are recruited within the framework of the voluntary French civil service. They work essentially in schools but also in social centres and children’s hospital departments. Their mission is to introduce young people to the International Convention on the Rights of the Child and role of the Ombudsperson for Children. In 2008, there were JADE “ambassadors” in all “*departments*” (counties in UK) in the Paris region and in the Rhone, Isère, Vienne and Bas-Rhin “*departments*”.
- A network of 55 regional representatives who act for her in the different “*departments*” and raise awareness of child rights. These local representatives inform the Ombudsperson of any dysfunctions in local institutions or, conversely, of positive initiatives which benefit the children in their region. They participate in activities to promote child rights locally and serve as mentors for any Ombudsperson’s Young Ambassadors in their “*department*”. When informed of a situation in which the rights of a child have been infringed, the local representatives can intervene in two ways:

- a) either they interview the person concerned (a parent, the child in question, etc.) and forward the file to the Ombudsperson for Children,
 - b) or they are empowered by the Ombudsperson to seek further information relative to a complaint: meet with the child and the family, mediate with a local institution, carry out a visit to learn more about a situation, etc.
- A consultative committee of young people (from 12 to 18) consisting in 20 teenagers who express their opinions year-round on the themes of concern to them as well as on the action and projects of the Ombudsperson for Children. Their assessments and their arguments help to enrich and orient the investigations of the Ombudsperson. The committee meets as a body two to three times a year with members of the Ombudsperson's team.

II. Individual complaints

Between 1 July 2007 and 30 June 2008, the Ombudsperson for Children handled 1,758 cases, of which 1,400 were new, representing a 4% increase over the previous year, with 358 cases carried over to this year. On average, this represents one complaint received per 8,000 to 9,000 minors, with strong regional variations. The "departments" in which most cases originate (> 20 complaints) are those with cities with significant urban populations (e.g. Marseille, Lyon, Lille, Bordeaux, Toulouse, etc.); the Paris region predominates, accounting for 27% of all cases, including 10% for the city of Paris alone.

These cases related to 2,423 children. Close to three quarters concern children under the age of 15. While the age groups between 0-6, 7-10 and 16-18 each account for 1/5th of the complaints received, the 11-15 year group encounters more problems, representing 32% of the complaints received. Young adults over the age of 18 also account for a non-negligible share of the cases, i.e. 7%.

Most complaints relate to the following typical situations:

- A. Conflicts related to difficulties in maintaining family ties following a family break-up (divorce, parental separation, death, etc.) (35%)
- B. Administrative difficulties for foreign minors, whether living alone or in a family (15%)
- C. Disputes related to foster placement or educational arrangements, or conflicts with a foster institution (8%)
- D. Situations relating to schools (8%)
- E. Social and/or housing problems for the family (6%)
- F. Problems related to health or disability care (6%)

The Ombudsperson for Children is not a substitute for specialized services or for legal and social welfare bodies set up to protect children. Her role is rather one of inter-institutional mediation and recommendation: she attempts to help the parties involved gain perspective on the situation and consider alternative solutions in the best interests of the child.

- She cannot intervene in any legal action already initiated before a court, or question a legal decision. She can, however, inform the attorney general (procureur général) of any dysfunction in the justice system which is potentially damaging to children.
- In the event of failure to execute a legal decision, the Ombudsperson can enjoin the parties to comply.
- The Ombudsperson collaborates with other independent authorities such as HALDE (the High Authority to Fight Discrimination and Promote Equality), CNDS (National Commission for a Code of Conduct & Safety), and CNIL (Committee on Information Technologies and Freedom).
- She works closely with the Ministry of Foreign Affairs to resolve situations in which French children are in difficulty or in danger abroad.

III. Opinions, positions and proposals for reform

The Ombudsperson for Children has interceded on numerous occasions in relation to topics of current interest as well as to give an opinion on proposed legislation or decrees before they are voted on or published. She has also organized two colloquia and spoken frequently to the press.

– **Law of 1 August 2007 on repeat offenders, both adults and minors:**

The Ombudsperson for Children has reiterated the twofold obligation imposed by the International Convention on the Rights of the Child to consider the best interests of the child and to give priority to education over repression in all criminal sanctions. In the absence of well-founded justification for an exception, these two principles stand in opposition to the gradual alignment of sentences applicable to young people aged 16 to 18 with those applicable to adults, on the one hand, and on the other, to automatic or quasi-automatic sentences imposed on minors who are repeat offenders. While the Ombudsperson for Children is not in principle opposed to criminal sanctions for minors, which are becoming more common (626 criminal sentences in 2004 compared with 559 in 2000 and 41,141 for minor offences in 2004 as against 36,437 in 2000), she continues to remind the courts that, in the interests of society itself, any sentence must take into consideration the background of the minor and the environment in which he/she lives, be understandable by the child and, above all, pave the way for his/her reintegration in society through a rehabilitation programme laid out at the beginning of the sentence.

– **Bill on detention:**

The Ombudsperson for Children has reiterated the conditions imposed by the International Convention on the Rights of the Child regarding the detention of minors: detention must be a last-resort measure only, when all other alternatives have been exhausted or found inappropriate; it must be for as brief a time as possible; the minor must be detained in a juvenile institution or in the juvenile section of a penitentiary, and he/she must be able to remain in contact with the family.

– **Draft bill on parental authority and the rights of third parties:**

Following up on her report for 2006 which dealt with this subject, the Ombudsperson for Children organized a lecture on 7 November 2007 on the theme of: "The child in the context of new parentalities: the status of third parties, step-parent status." The Government clearly approved certain recommendations of the 2007 report since it decided to introduce a **bill on the rights of third parties**, which is now in preparation. The Ombudsperson for Children had already been pleased to note that the law n° 2007-293 dated 5 March 2007, revising measures to protect children, introduced a provision under which social workers are specifically required by law to "*see that the bonds of affection build up between the child and other persons than his/her parents are maintained and even encouraged, in his own best interests.*" (Art. L 221-1-6° of the Code on social action and families). Moreover, it is now possible, on an exceptional basis when justified by the best interests of the child, for a juvenile judge to authorize the person, department or institution to whom the minor is entrusted to exercise exceptional powers similar to parental authority in certain specific circumstances (art. 357-7 of the Civil Code). Finally, the law enhances the possibilities for a third party to assume responsibility for a child in the event of the death of a parent, as it states that a family council will appoint a tutor for the minor, leaving greater freedom than before in the choice of a tutor, in light of the best interests of the child.

– **Mental health of adolescents**

Following a widespread survey of all categories of institutions and professionals concerned, as well as groups of parents and children, and following her report on "**Adolescents in distress: an argument for assuming real responsibility**", presented at the same time as her Annual Report for 2007, the Ombudsperson for Children called for the definition and implementation of a true **national strategy** designed to identify and, as early as possible, take charge of teenagers in difficulty or distress.

Above all, this strategy implies **seeking out teenagers** to be able to help them as early as possible, by developing **centres for teenagers** throughout France. The teenagers must be able to go to such centres with no restrictions, easily and free of charge (parental approval not required), to discuss the difficulties they are encountering in life and find suitable solutions to their somatic or psychological problems. These centres provide an opportunity to benefit from the work in partnership of all institutions involved in the lives of the young, the academic environment as well as educators, social workers for juveniles, magistrates, juvenile protection squads, and foster homes, and to ensure continuity and coordination in care. They must facilitate access to hospitalization by being associated with hospital facilities with specific wards for adolescents. There must be a possibility to meet and maintain contact with parents, as well. These centres may also be set up for training and for professional exchange of the different types of expertise related to juvenile care.

Another thing to be developed and progressively generalized around the country is **mobile teams and a presence in the field**, making it possible to seek out teenagers and adapt to their needs even when they do not express a specific need for care, directing them to suitable public facilities. Such teams enable handling problems as yet beneath the surface and avoiding the type of crisis situation that will require actual hospitalization. They constitute the link between those who identify teenagers in distress (parents, teachers, judges, etc.), the

adolescents themselves and public health services. They are also an indispensable part of a multi-disciplinary network.

Free round-the-clock access to a **national telephone crisis line** is also a necessity, to keep channels open to adolescents in distress.

These proposals have been favourably received by the President of the Republic and the various ministers concerned. In barely three months, the Minister of Health, Youth and Sports presented a **“youth-health plan”** that included several measures inspired by these recommendations, most particularly:

- fighting the intensive, widespread consumption of alcohol and marijuana,
- supporting the creation of centres for adolescents and the setting up of a network of multi-disciplinary mobile teams in direct contact with young people,
- experimental free access from cell phones to the *“Fil santé jeunes”* crisis line for young people,
- reinforcing measures to identify and prevent potential suicide situations among young people.

It is indispensable that the second phase of the government’s plan announced at the meeting of the Council of Ministers be engaged as quickly as possible; this involves finding ways to meet the needs of adolescents upon their entry into secondary school, even before they are 16; expanded access to child psychiatrists; and support systems for parents with children in distress.

The new European charter on mental health and well-being should also make it possible, by collectively identifying and assessing best practices, to promote and support the development of national strategies capable of generalizing successful measure to prevent crisis situations, to identify adolescents in distress and provide early care. The Ombudsperson expressed this wish on 13 June in Brussels at a high-level conference on mental health organized by the European Commission, at which she was asked to present her observations and recommendations.

– **Unaccompanied minors:**

Having noted significant disparities in the treatment and care of foreign minors who find themselves on French soil with no kind of support system, the Ombudsperson for Children organized a seminar in June 2008 attended by representatives of all the government sectors and associations involved in caring for unaccompanied minors, with the objective of formulating recommendations for the harmonizing of professional practices around five priorities:

1. Greater respect for the obligation to provide information to minors arriving by air, most particularly while they are in airport “holding areas”
2. Immediate protection for minors arriving overland in France with:
 - a. acceptance into an emergency facility (modelled on the Paris or Marseille facilities for “street children”) with a sufficient number of rooms

- b. and the appropriate administrative (juvenile social workers) and legal attention
3. Evaluation of the minor's real status in full respect of legal and ethical principles, in only those cases where the age and status of the minor cannot be established by legal means
4. Equal rights in relation to other young people of the same age with respect, in particular, to access to education, professional training, legal aid and obtaining a youth work contract
5. Establishing a life plan working with the young person and with associations and institutions, as recommended by the Council of Europe.

At the end of this seminar, the Ombudsperson for Children made **25 recommendations** to the government and social welfare associations in keeping with the International Convention on the Rights of the Child, with other international agreements, and with the best interests of the child.

– **Juvenile justice**

The Ombudsperson for Children was heard on 26 June 2008 by the committee charged with formulating proposals for legislative reforms relative to juvenile delinquency.

She called for the creation of a **CODE FOR MINORS** containing all civil and criminal provisions relating to young people in danger, whether victims or perpetrators, whether at liberty, in foster care or in detention, and whether French or foreign on French soil.

This new text would constitute the basis of a true national policy for the prevention of delinquency, and for protection and assistance for minors in all life situations.

Before being incorporated in this Code for Minors, any new legal text which might be applicable to minors would have to be reviewed for compatibility with previous texts and with the international commitments undertaken by France.

This CODE FOR MINORS would reiterate in its preamble all of France's international commitments relating to children, together with the constitutional principles pertaining to juvenile law and the following fundamental principles:

- The specificity of juvenile law.
- Protection of minors: with the devolution of educational assistance to the juvenile judge, to prevent delinquency through education (often the delinquent minor and the minor in danger are but two facets of the same individual, at different times or simultaneously)
- Reduction of criminal responsibility in accordance with age
- Primacy of education over repression
- The principle of graduated judicial response
- Personalization of judicial response: allowing for the personality and background of the minor and for the specificities of his/her educational environment

- Protection of the privacy of the minor through closed hearings and a ban on information in the media

The Ombudsperson for Children has formulated 30 recommendations for this code, based on four principles:

1. Limit the judicialization of offences committed by minors
2. Handle delinquency in full respect of the fundamental principles of juvenile justice
3. Make incarceration of minors an exceptional recourse and always accompany it with specific educational support
4. Provide more coherent and diversified responses to juvenile delinquency by finding solutions that are not exclusively penal

IV. Promotion of child rights

In addition to the total revamping of the website of the Ombudsperson for Children that included the creation of a “Youth” section, the most noteworthy events of 2007-2008 were three large-scale campaigns to raise awareness of child rights as they are laid out in the International Convention on the Rights of the Child.

A. Four new pedagogical tools

In partnership with the “*Défenseure des enfants*”, the “father” of Astérix, the celebrated cartoonist Albert Uderzo, decided for his 80th birthday to devote the proceeds over a two-year period from the sale of “*Astérix et ses amis*” to benefit the pioneering work of the Ombudsperson for Children in promoting the International Convention on the Rights of the Child. Four pedagogical tools were developed and validated by the Ministry of Education. They have been posted on line and can be downloaded free of charge from the website of the Ombudsperson for Children which has, since that time, registered a record number of visits (one million hits in one month):

- an album on “child rights” illustrated by the Astérix cartoon characters, intended for children from 7 to 10,
 - i a mini-teaching kit to help in exploiting the “child rights” album,
 - a a secondary school kit on “child rights” to enable teachers to guide their students through in-depth study of the International Convention on the Rights of the Child (presentation of the rights, quiz, ideas for discussions and surveys, useful information, etc.),
 - a a board game based on child rights, “*Astérix et le Tour des Droits*”, developed in partnership with Albert Uderzo and designed to be played alone or in a group, at home or at school. The content of all four has been validated by a multi-disciplinary reading committee of experts.

B. The Ombudsperson for Children’s “Young Ambassadors” programme

The “JADE” (*Jeunes Ambassadeurs du Défenseur des Enfants*) programme was set up at the beginning of 2007. It was extended for the 2007-08 school year and expanded through the finalizing of new partnerships with three new counties, Vienne (Poitiers), Bas-Rhin (Strasbourg) and Isère (Grenoble). The programme has two objectives:

- Familiarize children, teenagers and the adults around them with the International Convention on the Rights of the Child and the role of the Ombudsperson for Children.
- Get young people’s opinions on important questions that directly concern them (violence, discrimination, health, freedom of expression, justice, etc.) so as to better assess the collective dysfunctions which impede application of child rights in France.

Between October 2007 and June 2008, young JADE Ambassadors made visits to 167 secondary schools and 22 other specialized establishments for children (hospital wards, sports and activity centres, centres for handicapped children, foster homes for children placed by the courts or social services, refugee centres, etc.) in 12 departments. Thanks to their interventions, 20,657 children were made more aware of their rights.

C. “Giving young people a say”

In the run-up to the 20th anniversary of the International Convention on the Rights of the Child (1989 - 2009), the Ombudsperson for Children has, since April 2008, been conducting a **nation-wide consultation, open to all young people under the age of 18, entitled “Young people speak out”**. The three-phase programme involves an internet forum that is progressively opening up a public debate with young people under 18 on 8 major social issues: education, the family, the legal system, Internet and privacy, health, discrimination, violence, expression and participation. A tour of France will be conducted with theme forums organized on a departmental and regional level, and workshops involving some 150 young people in each case. And on 20 November 2009, spokespersons for all those who have participated in the theme forums will meet with recognized specialists like psychologist Boris Cyrulnik or former Justice Minister Robert Badinter. On that occasion, a Golden Book representing the collected thoughts of the young people will be finalized and officially adopted, to be presented to the President of the Republic and to Parliament.