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**RIGHTS OF THE CHILD**

**Note submitted by Mr. Juan Miguel Petit, Special Rapporteur on the sale  
of children, child prostitution and child pornography, in accordance with  
Commission on Human Rights resolution 2002/92**

**Addendum**

**PRELIMINARY NOTE OF THE MISSION TO FRANCE  
(25-29 November 2002)\***

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\* The preliminary note is being circulated in the language of submission and in French.

**Visit of the Special Rapporteur on the sale of children, child prostitution  
and child pornography to France, 25-29 November 2002**

**Preliminary note**

1. The Special Rapporteur, Mr. Juan Miguel Petit, visited France (Paris, St. Etienne and Lyon) at the invitation of the Government. He had requested the visit after having received information about a number of French children who were reportedly victims of paedophilia and pornography. He had also received information about efforts France was making to deal with the growing problem of trafficking of children and child prostitution. The Special Rapporteur would like to thank the French Government and acknowledge the very high level of cooperation and assistance it extended to him throughout his visit.
2. During the visit, the Special Rapporteur met the Minister for the Family, the Ambassador for Human Rights, high-level representatives from the Ministries of Foreign Affairs, Justice, Social Affairs, Labour and Solidarity, the President of the Children's Tribunal, the President of the *Tribunal de Grande Instance*, the Ombudsman for Children, police from the *Brigade des Mineurs* and the Office for the Repression of Trafficking, the French National Committee for UNICEF, and the President of the Sub-Commission on the Rights of the Child of the National Human Rights Commission. He also visited a children's centre in Chambon, St. Etienne. He met with NGOs and academics looking into relevant issues, and with Interpol in Lyon. He also spoke with representatives of the French media.
3. The full report of his visit to France will be available during the summer of 2003 and will be presented to the Commission on Human Rights at its sixtieth session in 2004.
4. The preliminary findings, conclusions and recommendations of the Special Rapporteur are presented below.

**Concerning sale of children**

5. Children are entering or travelling through France to other destinations for purposes of theft, begging and prostitution. Many of these are trafficked by force, while others travel of their own volition - some later becoming caught up in trafficking networks. The majority of these children come from Eastern Europe - notably Romania - and from West Africa.
6. The Government of France is attempting to work with the Governments of countries from which the children originate. Good cooperation has been established with the authorities of Romania and the two police forces are working together to ensure the protection of any child who is returned to Romania.
7. Concerning international adoption, approximately 3,000 children are adopted into France every year. The procedure regulating adoptions into France has become stricter, in accordance with France's obligations under the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption. France does not appear to be affected by the phenomenon of the sale of children into France through adoption.

### **Concerning child prostitution**

8. Prostitution is reportedly growing rapidly, but the regular use of minors is a relatively new phenomenon, and new legislation has been introduced to ensure that the clients of child prostitutes will be arrested. The Special Rapporteur commends the French Government for its efforts not to criminalize the children concerned by subjecting them to detention, and recognizes the difficulties they are facing in protecting such children from further prostitution.

9. Many foreign children are involved in prostitution. Most of the children in prostitution are controlled by pimps, some of whom live in another country and control the prostitution by cell phone from abroad, usually getting an older child to supervise the younger victims.

10. Concerning child sex tourism, the French Government is taking measures to combat these offences being committed abroad by French citizens. The Government has adopted extraterritorial legislation to increase the chances of offenders being arrested and brought to trial, and all French government representatives abroad have been instructed to collaborate with local police over these cases.

### **Concerning child pornography and child sex abuse**

11. The Special Rapporteur received information that the creation of child pornography involving French children is often connected with domestic child sexual abuse. He received allegations that parents and family friends are committing acts of child sexual abuse and sometimes making pornographic materials out of the abuse.

12. The Special Rapporteur was advised about the existence of a CD-ROM containing 8,000 pornographic images, known as the "Zandvoort" CD, after the Netherlands town in which it was discovered. A number of French parents had reportedly seen images of their children. French authorities examined the CD, forwarded it on to the authorities of other countries they believed were concerned, but concluded that the images dated back to the 1970s. However, some parents contest this, alleging that some of the photos contain clear evidence that they were taken recently. The CD-ROM has not been officially presented to Interpol for expert examination and comparison with known images held in a database, which would likely establish the age of these photos.

13. The Special Rapporteur does not consider that child sexual abuse is any more prevalent in France than in other European countries. However, it appears that many individuals in a position of responsibility for the protection of children's rights, particularly within the judiciary, are still largely in denial about the existence and extent of this phenomenon.

14. Individuals who suspect and report child abuse can find themselves accused of lying or manipulating the children concerned, and are at risk of prosecution or administrative sanctions for defamation if their allegations do not lead to the successful prosecution of the alleged abuser. In particular, medical professionals are at risk in this respect, and doctors do not appear to receive the assistance and support of the French National Medical Board.

15. In an increasing number of cases, a separated parent, usually the mother, chooses to take the child or children out of France rather than comply with a court decision giving visitation rights or awarding custody to the alleged abuser, which in turn might expose the child to further sexual abuse. Even some judges and lawyers who understand the weaknesses of the judicial system have informally advised some parents to take this course of action. These parents are then at risk of facing criminal proceedings for their actions both in France and often in the new country to which they travel.

16. A lack of adequate resources, training and specialization amongst judges and lawyers in dealing with cases of child sex abuse means that the rights of the child involved in judicial proceedings in some cases are not adequately protected, often leaving the children concerned at risk of continued abuse.

17. Although it is possible that some false allegations of child sex abuse have been made in relation to proceedings to determine custody arrangements for the child, of the cases brought to the attention of the Special Rapporteur, an examination of the evidence led him to the conclusion that the allegations were serious, substantiated and had not been dealt with according to the best interests of the child.

18. In civil cases to determine custody arrangements, the child has no automatic right to be heard. Although civil courts can hear the child at the discretion of the presiding magistrate, in almost all cases the child is not heard.

19. Where criminal proceedings are being taken against alleged abusers, civil rulings to determine custody arrangements or visitation rights are not supposed to be made until all criminal proceedings have been exhausted. In practice, however, this is not happening, resulting in a situation whereby a child is forced to spend time, often unsupervised, with a person under criminal investigation for abusing him or her.

### **Recommendations**

20. **Measures should be taken to establish the same level of cooperation with the authorities of all the other main countries from which children are trafficked, as has been established with the authorities of Romania.**

21. **Article 12 of the Convention on the Rights of the Child, which ensures the right of the child to have his or her wishes and opinions heard, and “in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child”, must be respected. The Special Rapporteur understands the importance of avoiding the situation in which a child is forced to repeat allegations several times, however it is more important that they are taken seriously and believed when they do speak of abuse.**

22. **Full and impartial investigations must be carried out against the alleged perpetrators, particularly where the medical reports, psychologist reports and reports of social workers substantiate the allegations of sexual abuse.**

23. **The French Government should officially give the “Zandvoort” CD-ROM to Interpol for examination and confirmation as to the age of the photos contained on it.**
24. **Given the number of cases in which there appears to have been a serious failure of justice for child victims of sexual abuse and for those trying to protect them, an independent body, ideally the National Human Rights Commission, should carry out an urgent investigation into the current situation.**
25. **The Children’s Ombudsman (*Défenseure des enfants*) should be fully resourced and provided with an adequate number of staff to receive and investigate future cases where there appears to have been a failure of justice concerning children’s rights.**
26. **Adequate resources must be allocated to the judiciary for child rights training and appropriate follow-up of cases.**
27. **Where criminal proceedings are being taken against alleged abusers, civil rulings to determine custody arrangements or visitation rights should not be made until all criminal proceedings have been exhausted. In the interim, the alleged abuser should be given the right of supervised access in circumstances where the supervisor is closely present at all times.**
28. **The French Medical Board must urgently review its procedures in order to support rather than condemn doctors who report their suspicions of child abuse**

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