



# Access to justice for children

## Country fact sheet: **France**<sup>1</sup>



### Overview

**Country size:** 643 801 km<sup>2</sup>

**General Population:** 66,5 million

**Number of Children:** 15,3 million (from 0 to 19 years old)

**Date of ratification of the Convention on the Rights of the Child:**  
7 August 1990

**Date of abolition of the death penalty:** 9 October 1981

### Minimum ages

**Minimum age of criminal responsibility:** concept of judgement (*discernement*) of the child

**Age of imprisonment:** 13 years

**Age until juvenile justice legislation is applied:** 18 years

### Type of legal system

The French legal system is based on the civil law system.

### Specialisation of the system

France provides for several specialised institutions including:

- Child police units
- Child prosecution offices
- Child judges and courts
- Child legal aid
- Child probation services
- Child welfare services

### Child-specific legislation

- There is no specific provision referring to children in the French Constitution of 1958. However, the French Constitutional Council has ruled that the “best interests of the child” principle should be given constitutional status.
- As of 30 September 2021, the legislative reference for child criminal justice will be the new [Juvenile Criminal Justice Code](#),<sup>2</sup> created by Ordonnance n° 2019-950 of 11 September 2019 on the legislative role of the Juvenile Criminal Justice Code, as amended by its ratification law. The information included in this fact sheet is based on the new *Juvenile Criminal Justice Code (JCJC)*.
- Until ratification of the *JCJC*, Ordonnance n°45-174 dated 2 February 1945 continues to be the relevant law for child criminal justice.
- The French Criminal Procedure Code (FCPC) contains provisions addressing certain procedural rights for child victims, witnesses, suspects and accused.

The [Convention on the Rights of the Child](#) is partially incorporated into French law as not all of its provisions are directly applicable under national law. It is up to national courts to interpret the content of the provisions of the Convention and decide whether they are directly applicable before them and may be invoked by natural persons. French judicial and administrative courts have ruled that this was the case for some of them, including the “best interest of the child” principle.

<sup>1</sup> The information used to compile this fact sheet is based on the responses to the questionnaire received in June 2020.

<sup>2</sup> As of May 2021, the ratification law is currently still being discussed by members of National Assembly and Senate.

# Child suspects or accused in criminal proceedings

## Implementation of EU Directive 2016/800

The full transposition of EU Directive 2016/800 was achieved through the following pieces of legislation: Law of 23 March 2019 on 2018-2022 programming and reforming the justice system, Law of 18 November 2016 on the modernisation of 21st century justice, Decree of 24 May 2019 implementing the penal provisions of the Law of 23 March 2019 on 2018-2022 programming and justice reform of the justice system.

## Cross-cutting safeguards

- There is no minimum age set by law for criminal responsibility. France uses the concept of judgement (*discernement*)<sup>3</sup> of the child at the time of the commission of the offence. Therefore, unless there is proof that the child was unaware of the consequences of his/her behaviour, a child may be convicted for an offence regardless of his/her age. However, the new JCJC introduces a new rebuttable presumption that children below 13 years old lack judgement, while children over 13 years old are capable of judgement.
- Children may benefit from legal assistance at all stages of criminal proceedings, which can be free of charge in certain circumstances depending on the parents' resources. See *Law n° 91-647 of 10 July 1991 on legal aid*.
- A child has the right to have his or her parents or legal guardians present at all stages of the proceedings. See *JCJC, Article L. 12-5*.
- Court hearings involving children are not open to the public. Only the victim, witnesses, close relatives, and legal representatives may be present. The president of the court may even decide that the child should not attend all or part of the proceedings. See *JCJC, Articles L. 12-3 and L. 13-3 and FCPC, Article D. 594-18, III, 2*.

## Specific procedural measures

- The judge will have an assessment carried out for the child. This may include investigation of the social and family environment. Furthermore, a medical and psychological

examination of the child may be performed. Based on the evidence presented, the public prosecutor will decide whether a child may be prosecuted or not. See *JCJC, Articles L. 322-1 through L. 322-10*.

- Aftercare is available for children who are released from post-trial detention in order to facilitate the reintegration process.

## Diversion and alternatives to detention

- Children aged 13 to 18 can be sent to juvenile jail only if the measure is absolutely necessary or if it is impossible to take any other measure. Also, it must be shown that judicial supervision and electronic surveillance are insufficient.
- A public prosecutor or police officers appointed by him or her may propose criminal mediation as a remedial measure. However, the victim must express his or her agreement to the mediation. In the event of disagreement or non-execution of an agreement, the public prosecutor may resume proceedings.
- Diversion is possible at the court level. France collects data on children who have gone through diversion.
- There are alternatives to pre-trial detention for children so that children can await their trial in the community. See *JCJC, Articles L. 333-1 and L. 333-2 and L. 331-1 to L. 331-7*
- Alternatives to post-trial detention for children include judicial review, referral to a health, social or professional agency, electronically monitored house arrest, or a civic training course, or sentence to social and educational centres for children.
- Children have the right to be detained separately from adults. See *JCJC, Articles L. 124-1-L. 124-2 and FCPC, Article D. 594-18, III, 5°*.

<sup>3</sup> The new *Juvenile Criminal Justice Code* adds the definition of judgement as follows: "A minor is capable of judgement if he/she has understood and wanted his/her act and is able to understand the meaning of the criminal proceedings against him/her" (Article L. 11-1 of the new *Juvenile Criminal Justice Code*).

# Child victims and witnesses in criminal proceedings

## Implementation of EU Directive 2012/29

As of 11 May 2020, France has not fully transposed **EU Directive 2012/29** establishing minimum standards on the rights, support and protection of victims of crime, and the European Commission had ongoing infringement proceedings against France for its failure to fully transpose **EU Directive 2012/29**.

## Cross-cutting safeguards

- A child who is the victim of one of the offences mentioned in Article 706-47 of the FCPC shall be assisted by a lawyer when she/he is heard by the examining judge. *See FCPC, Article 706-51-1.*

- Examinations and witness confrontations with a minor who is the victim of one of the offences mentioned in Article 706-47 of the FCPC, are carried out, upon request, in the presence of a psychologist, a doctor, a member of the child's family, the appointed ad hoc administrator or another person mandated by the children's judge. *See FCPC, Article 706-53.*
- Other procedural safeguards provided for child victims and witnesses include the right to have one's parents/legal guardians present during the proceedings, right to psycho-emotional and other assistance, right to avoid contact with the offender and the right to appeal.

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## Focus on status offences

Child social services are generally the relevant authority in matters of chronic or persistent school truancy, running away from home or an institution, disobedience and behaving badly with parents or respected community members, at school, roaming the streets, collecting rubbish, selling tissues, and begging.

In extreme cases, criminal authorities may be involved, especially when the child's behaviour reveals bad parenting thus compromising the child's health, safety, morals or education. In addition, the child may face educational measures or criminal sanctions if his/her behaviour constitutes a criminal offence under French criminal law.

## Other relevant information

There are a variety of civil organisations working to improve the rights of children in contact with the law. Initiatives of non-governmental organisations (NGOs) include providing free child friendly legal services and offering training on child justice to lawyers. A list of relevant NGOs will be made available upon request.