AGE OF CONSENT: LEGAL REVIEW
FRANCE COUNTRY REPORT
FOREWORD

There is one barrier to health access and a major impediment to national and regional development across the globe that could be removed within a few days if only the policy decisions would be made. The removal of this barrier would promote gender equality, help end child marriage, reduce teenage pregnancy and girl dropout rates from secondary school, lower HIV incidence rates, and achieve the prerequisite for the demographic dividend. Let me explain.

As the Sustainable Development Goals (SDGs) become the world’s compass towards development and a better life for all people on the planet, sub-Saharan Africa faces a potential demographic disaster that could undermine many of the SDGs.

Many sub-Saharan countries have some of the highest fertility rates in the world which, if unaltered, will see those countries’ population, rising from 17 million to 43 million by 2050. Another country’s population that is currently at 27 million will more than double to 65 million by 2050, with yet another going from 53 million to 137 million. Not one of these countries will have reached the population turnaround required as an inescapable prerequisite for achieving a demographic dividend by 2050.

With increases like these on the same available land area, with the same or less access to drinking water, potentially less arable land available due to global warming, and services and GDP increasing at a far slower rate than population, it will be impossible to achieve the SDGs and improbable to even maintain the human development index achieved thus far by 2017. These are not scenarios or ‘maybes’. This is the inevitable future of the region unless something significant, such as the fertility rates, changes. Slowing and reversing population acceleration is essential to development in sub-Saharan Africa.

And yet, the world has a dark and shameful history of ‘population control’, legislating women’s rights to decide on having children away and forcing and coercing sterilisation. These restrictions on agency and autonomy have no place in a democratic, sustainable development world in the 21st century and the vast majority of nations achieving the demographic dividend have not resorted to such dark methods.

Increasing gender equality, keeping girls in safe schools for longer, reducing sexual and gender based violence, and increasing the sexual and reproductive health knowledge of young people are also factors. And of course, it is the increased access to modern contraceptives and women making choices about their own reproductive health that have turned the tide.

So this research report turns its attention to this access to modern contraceptive methods, as well as all other sexual and reproductive health (SRH) services. There are many barriers for adolescents around the globe - the majority of citizens in many countries – to access SRH services. Distance from services, lack of transport, lack of available commodities, poverty, inherited beliefs, harmful practices, and hostile staff attitudes can all be barriers to access. But only one barrier is self-inflicted by countries. And this barrier could disappear tomorrow, creating massive access for adolescents. It is the barrier of legal restrictions on adolescents’ access to SRH. The majority of countries in the region have placed arbitrary legal barriers to adolescent access by creating policies or laws with a number of parental consent and other restrictions, preventing adolescents from initiating their own healthcare.

In some cases, these have been gradually added to laws or policies with well-intentioned reasons to protect adolescents. In many cases, however, they reflect an idealised view of what older people think younger people should or should not be doing. Primarily, these idealised views revolve around sex. Older people, sometimes forgetting their own youth, think that the best protection for younger people is to abstain from sex until they are, perhaps 16, or even 18. Reality is, in many cases different, and by ignoring reality and locking adolescents out of the health system when it comes to sexual and reproductive health and rights (SRHR), adults are doing irreparable damage to their children and other children, as well as directly contributing to a looming demographic disaster for their nation.
Because this seems so obvious, recent global guidelines have called on countries to examine their current policies and consider revising them to reduce age-related barriers to access and uptake of all SRH services. To assist in this process, the SRHR Africa Trust (SAT) in collaboration with the Thomson Reuters Foundation, 20 global law firms, and UNICEF, has reviewed Age of Consent laws in 22 countries: Botswana, Kenya, Ivory Coast, Malawi, Morocco, Nigeria, South Africa, Swaziland, Tanzania, Zambia, Zimbabwe, Brazil, Jamaica, India, Indonesia, Thailand, Vietnam, Canada, United Kingdom, France, Sweden, and Ukraine. The range of countries was chosen to highlight a spread of geography, cultures, development status, nonachievement, in-transition and achievement of the demographic dividend, and adolescent health outcomes. In addition, SAT and UNICEF also undertook an Ethical, Cultural and Social review in nine countries (seven being from the 22 countries above, plus two others - Uganda and Philippines) to look at ethical cultural and social barriers impacting adolescent access to health and services including SRH services.

The data revealed some game-changing recommendations apparent to SAT:

1. Desexualise SRHR services and treat them as you would any other health system access;
2. Base both access and restriction decisions on child and adolescent development, competence and maturity to make decisions about their own health;
3. Do not make the age of sexual consent older than 16 years, and do not distinguish between young men and young women;
4. Have statutory rape provisions in place to protect adolescents from predatory adults;
5. Put ‘close in age’ exceptions to the age of sexual consent in place so that young adolescents having consensual sex with one another do not have to go to jail – a travesty affecting young men aged 13-16 years.

We offer this report and its insights to policymakers, legislators, development agencies, international cooperating partners, and activists wherever they may be. A thinking and action tool is currently being designed to accompany this report. If you wish to receive it or an electronic copy of this report, please send an e-mail to ageofconsent@satregional.org. Please also feel free to share ways in which you may have used this report or the action tool to create positive change with us and with one another.

Our hope is that these resources will create dialogue and action that will remove all legal barriers to adolescent access to SRH services and allow attention and resources to focus on the remaining and more intractable barriers.

Jonathan Gunthorp

Executive Director - SAT
ACKNOWLEDGEMENT

The SRHR Africa Trust (SAT) wishes to acknowledge the individuals, organisations and law firms that contributed to this report through their, expertise, co-operation and hard work.

Special thanks go to White and Case Law Firm in France that provided pro bono legal services to assist SAT with the underlying research for the review on the Age of Consent Legal Review in France, working with Arnold & Porter (UK) LLP, and in particular to Catherine Young for coordinating the legal review in all the participating countries.

SAT also wishes to thank civil society organisations and partners who attended the Age of Consent Validation Meeting that met to discuss and validate the draft Advocacy Toolkit. The meeting critically reviewed the draft reports, analysing the data collected for its accuracy and merits.

SAT is grateful to UNICEF for co-funding the review of the Age of Consent laws, policy frameworks, Ethical, Social and Cultural impacts on Sexual reproductive health and rights and HIV.

Last but not least, SAT thanks TrustLaw at the Thomson Reuters Foundation for their continued collaboration with SAT on health and rights and for brokering the partnerships between SAT and the law firms. TrustLaw is the Thomson Reuters Foundation’s global pro bono legal programme, connecting law firms and corporate legal teams around the world with high impact NGOs and social enterprises working to create social and environmental change.
DISCLAIMER

This legal review report and the information it contains is provided for general informational purposes only.

It has been prepared as a work of comparative legal review only and does not represent legal advice in respect of the laws of France. It does not purport to be complete or apply to any particular factual or legal circumstances. It does not constitute, and must not be relied or acted upon as legal advice or create an attorney-client relationship with any person or entity.

Neither White and Case, the SRHR Africa Trust, nor the Thomson Reuters Foundation accept responsibility for losses that may arise from reliance upon the information contained in this review report or any inaccuracies therein, including changes in the law since the review commenced in February 2016. Legal advice should be obtained from legal counsel qualified in the relevant jurisdiction(s) when dealing with specific circumstances.

Neither White and Case, nor any of the lawyers at White and Case, the SRHR Africa Trust, nor the Thomson Reuters Foundation is holding itself, himself or herself out as being qualified to provide legal advice in respect of any jurisdiction as a result of his or her participation in or contributions to this legal review report.
FRANCE

AGE OF CONSENT

LEGAL REVIEW
## ACRONYMS

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>AIDS</td>
<td>Acquired Immune Deficiency Syndrome</td>
</tr>
<tr>
<td>ANC</td>
<td>Antenatal Care</td>
</tr>
<tr>
<td>ART</td>
<td>Antiretroviral Therapy</td>
</tr>
<tr>
<td>EHP</td>
<td>Essential Healthcare Package</td>
</tr>
<tr>
<td>GDP</td>
<td>Gross Domestic Product</td>
</tr>
<tr>
<td>HCT</td>
<td>HIV Counselling and Testing</td>
</tr>
<tr>
<td>HIV</td>
<td>Human Immunodeficiency Virus</td>
</tr>
<tr>
<td>HPV</td>
<td>Human Papillomavirus</td>
</tr>
<tr>
<td>MMC</td>
<td>Medical Male Circumcision</td>
</tr>
<tr>
<td>MPR</td>
<td>Multiple-perpetrator Rape</td>
</tr>
<tr>
<td>MSP</td>
<td>Multiple Sexual Partners</td>
</tr>
<tr>
<td>PLWHA</td>
<td>People Living with HIV/AIDS</td>
</tr>
<tr>
<td>PLWHIV</td>
<td>People Living with HIV</td>
</tr>
<tr>
<td>PEP</td>
<td>Post-exposure Prophylaxis</td>
</tr>
<tr>
<td>PrEP</td>
<td>Pre-exposure Prophylaxis</td>
</tr>
<tr>
<td>SRHS</td>
<td>Sexual and Reproductive Health Services</td>
</tr>
<tr>
<td>UNAIDS</td>
<td>Joint United Nations Programme on HIV/AIDS</td>
</tr>
<tr>
<td>UNICEF</td>
<td>United Nations Children’s Fund</td>
</tr>
<tr>
<td>UNFPA</td>
<td>United Nations Population Fund</td>
</tr>
<tr>
<td>WHO</td>
<td>World Health Organization</td>
</tr>
<tr>
<td>YFS</td>
<td>Youth-friendly Services</td>
</tr>
<tr>
<td>CONTENT PAGE</td>
<td></td>
</tr>
<tr>
<td>------------------------------------------</td>
<td>-----</td>
</tr>
<tr>
<td>FOREWORD</td>
<td>i</td>
</tr>
<tr>
<td>ACKNOWLEDGEMENT</td>
<td>iii</td>
</tr>
<tr>
<td>DISCLAIMER</td>
<td>iv</td>
</tr>
<tr>
<td>ACRONYMS</td>
<td>vi</td>
</tr>
<tr>
<td>EXECUTIVE SUMMARY</td>
<td>viii</td>
</tr>
<tr>
<td>Chapter One: Introduction</td>
<td>1</td>
</tr>
<tr>
<td>Chapter Two: Age of Consent to sexual intercourse</td>
<td>3</td>
</tr>
<tr>
<td>Chapter Three: Access to contraception services and commodities</td>
<td>4</td>
</tr>
<tr>
<td>Chapter Four: Age of Consent and HIV testing</td>
<td>5</td>
</tr>
<tr>
<td>Chapter Five: Age of Consent and access to Antiretroviral Therapy (ART)</td>
<td>6</td>
</tr>
<tr>
<td>Chapter Six: Age of Consent and access to Pre-exposure Prophylaxis (PrEP) and Post-exposure Prophylaxis (PEP)</td>
<td>7</td>
</tr>
<tr>
<td>Chapter Seven: Age of Consent and access to safe abortions and/or post abortion care</td>
<td>8</td>
</tr>
<tr>
<td>Chapter Eight: Age of Consent on access to ante natal care (ANC)</td>
<td>9</td>
</tr>
<tr>
<td>Chapter Nine: Access to HPV vaccines and cervical cancer screening and treatment</td>
<td>10</td>
</tr>
<tr>
<td>Chapter Ten: Recommended intervention on legal and policy framework</td>
<td>11</td>
</tr>
<tr>
<td>Annex</td>
<td>12</td>
</tr>
</tbody>
</table>
EXECUTIVE SUMMARY

Age of Consent for sexual intercourse in France is 15 years. Sexual intercourse with a person under the age of 15 years is illegal.

Young persons under 18 years of age can access contraceptive services and emergency contraception including the 'Morning after Pill' without parental consent.

HIV testing for young people is accessible under the regulations stipulated by the general rule on access to medical treatment. HIV test results are confidential for both minors and adults and any HIV test results for a minor may not be disclosed to parents without the minor's consent.


HIV Post-exposure Prophylaxis (PEP) is accessible. Currently the general rule on Age of Consent to medical treatment applies and it requires parental consent to medically treat persons under 18 years of age unless the health of the patient is in danger. France has a law to address the risk of transmission but does not have a low to deal with Age of Consent to access PEP.

Pre-exposure Prophylaxis (PrEP) is not recommended for persons under 18 years of age. There is a temporary recommendation is in place until 2019 that only persons aged 18 years or older can access PrEP.

Abortion is legal in France, a woman under 18 years of age must either obtain parental consent or be accompanied by an adult of her choice.

The country has laws that enabling access to ANC. Young people's access to ANC is governed by the general rule on the Age of Consent to medical treatment applies. The French High Council for Public Health support the use of the Human Papillomavirus vaccination.
Chapter One: Introduction

The world's attention has moved beyond HIV and AIDS, yet it remains the leading killer of adolescents in Southern Africa, presenting a major impediment to healthy communities and a significant factor in the health and status of women and girls in the region.

According to Joint United Nations Programme on HIV/AIDS (UNAIDS) on prevention of HIV (2013), Eastern and Southern Africa is home to half the world's population living with HIV even if the region is only 5% of the world's population. Today the region continues to be the most infected and affected by the HIV/AIDS epidemic, with 48% of the world's new HIV infections among adults, 55% among children, and 48% of AIDS-related deaths.

Research conducted in many parts of the world shows that several legal and human rights barriers hinder access to, and uptake of, HIV services for adolescents. Key among these barriers are Age of Consent legislation and policies. Recent global guidelines have therefore explicitly called on countries to examine their current policies and consider revising them to reduce age-related barriers to access and uptake of the overall SRH services, HIV Counselling and Testing (HCT) and to linkages to prevention, treatment and care.

HIV is the most severe in the Southern Africa sub-region which includes Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Zambia, and Zimbabwe, with each having an adult HIV prevalence of over 10%. UNAIDS reports that Swaziland have the highest HIV prevalence in the world (26.0%), followed by Botswana (23.4%).

In 2011, there was an estimated 1.2 million adolescents aged 10-19 years old living with HIV, more than half of all HIV positive adolescents globally. Eastern and Southern Africa now have 10.5 million children who have lost one or both parents to AIDS.

The risk of becoming infected with HIV is higher for girls and young women and currently, HIV prevalence among young women aged 15 - 24 years stands at 4.8%, which is two and a half times higher than among men of the same age. In Swaziland, 15% of young women are HIV positive, compared to 6.5% of young men.

The advocacy campaign ‘All In To #EndAdolescentAIDS’ was launched as a global platform for action and collaboration for social change in February 2015 by global leaders and civil society partners. This global agenda provides opportunities for ensuring that existing and new strategies and programmes on HIV prevention, treatment and care are effectively implemented to benefit young people. These include the 2012 guidance on Pre-exposure Oral Prophylaxis (PrEP) for serodiscordant couples, men and transgender women who have sex with men at high risk of HIV transmission, as well as the 2013 guidance for HCT and care for adolescents living with HIV and young key population policy briefs.

All In To #EndAdolescentAIDS works through four workstreams. As part of workstream 1, global partners have prioritised joint action to take stock of the current situation in countries with respect to Age of Consent for services including HIV prevention by carrying out a systematic desk review of Age of Consent laws and a mapping of the processes led and outcome of reforms undertaken by countries to address this barrier. Through the All In To #EndAdolescentAIDS, many agencies and global partners including the United Nations Development Programmes (UNDP), the Joint United Nations Programme on HIV/AIDS (UNAIDS), the PACT and AIDS Alliance have already initiated actions on data collection to inform their policy advocacy efforts at globally and specifically within the 25 focus countries. This review will inform the development of a source or toolkit for learning on this theme and capacity building of experts and policymakers worldwide.

Why Age of Consent review?

Several global bodies, including UNICEF and WHO, are currently undertaking a number of initiatives to change the global guidelines with regard to adolescent access to a range of HIV prevention services, including Age of Consent and informed consent, confidentiality, availability, accessibility, and acceptability. Adherence and quality must inform these services.
The SRHR Africa Trust (SAT) in collaboration with UNICEF worked with participating local law firms, and a consultant to conduct the Age of Consent research. The three areas of the research included the following:

1. Age of Consent legal review
2. Ethical, Social, Cultural (ESC) desktop review
3. Youth Attitudes Survey

Therefore, the main goal of the project was to conduct research on “Age of Consent” laws, regulations, and policies, as well as ESC factors, in relation to adolescents. This entailed collecting country experiences to address Age of Consent laws / policies and ESC factors that serve as potential barriers to adolescents accessing SRH services, including HIV prevention, care and treatment. The research explored implications for expanding SRHR services and HTC in adolescents aged 10–19 years.

Methodology

The France legal review was prepared by SAT and is based on research conducted by White and Case Law Firm in France. The legal review focuses on the laws and policy support around the Age of Consent in relation to the various aspects relating to SRHR. The review looks at all the relevant national laws (including nationally recognised customary or religious laws), regulations and policies exploring the ages for girls and boys separately where relevant, including where contradictions exist in laws, policies, and regulations on these issues exist.

The review specifically looked at the following:

1. Age of Consent to sexual intercourse including the age for statutory rape
2. Age of Consent to access modern contraceptives, with and without parental consent
3. Age of access to emergency contraceptives with and without parental consent
4. Policy framework and legislation enabling or disenabling access to Pre-exposure Prophylaxis (PrEP) including Age of Consent, with and without parental consent
5. Policy framework and legislation enabling or disenabling access to Post-exposure Prophylaxis (PEP) including Age of Consent, with and without parental consent
6. Policy framework and legislation enabling or disenabling access to safe abortions and postabortion care including Age of Consent, with and without parental consent
7. Policy framework and legislation enabling or disenabling access to Antenatal Care (ANC) including Age of Consent, with and without parental consent
8. Policy framework and legislation enabling or disenabling access to HPV vaccines and cervical cancer screening and treatment, including Age of Consent, with and without parental consent
9. Age of Consent to access HIV testing without parental consent.
Chapter Two: Age of Consent to sexual intercourse

In France the Age of Consent to sexual intercourse is 15 years and sexual assault on a minor person illegal and punishable.

Legislation on Age of Consent to sexual intercourse

Article 227-25 of the French Penal Code: The commission, without violence, constraint, threat or surprise of a sexual assault on a minor person under 15 years of age is punishable by five years' imprisonment and a 75,000 Euro fine.

See also Article 388 of the French Civil Code: A minor is an individual of either sex who has not yet reached the full age of 18 years.

Definition of statutory rape

France does have a definition for statutory rape and the penal code has provision for both a prison term as well as a fine.

Legislation and policy framework on statutory rape

Article 227-25 of the Penal Code: The fact, for an adult, to exercise without violence, coercion, threat or surprise a sexual assault on the person of a minor under 15 years of age is punishable by five years imprisonment and a 75,000 Euro fine.

See also Article 388 of the French Civil Code: A minor is an individual of either sex who has not yet reached the full age of 18 years.

Exceptions for gay sex

France does not have any exceptions for gay sex.
Chapter Three: Access to contraception services and commodities

In France, a minor is a person under 18 years old. All minors () can access contraceptive services without parental consent as stipulated under the national public health decree.

Legislation and policy framework

**Article L1111-5 of the French Public Health Code:** The [doctor or midwife][nurse] can dispense with the need to obtain parental consent to medical decisions when preventive action, screening, diagnosis or medical treatment is required to safeguard the health of a minor, if the minor expressly opposes the consultation of those with parental responsibility for him/her in order to keep secret his/her state of health. However, the [doctor or midwife][nurse] should, in the first instance, endeavour to obtain the consent of the minor to such consultation. In the event that the minor maintains his/her opposition, the [doctor or midwife][nurse] can undertake the preventive action, screening, diagnosis or medical treatment. In this case, the minor shall be accompanied by an adult of his/her choice.

**Article L5134-1 of the French Public Health Code:** Parental consent or, where applicable, the consent of a legal representative is not required for the prescription, dispensing or administration of contraceptives to minors. The issuing contraceptives, carrying out of medical examinations for a contraceptive prescription, the prescription of these examinations or a contraceptive, as well as their management, for minors are protected as confidential.

**Access to emergency contraceptives**

All minors can access emergency contraceptive services without parental consent. Medicine used for the purposes of emergency contraception are provided to minors free of charge in pharmacies under the conditions set out by the country’s decree on public health.

Legislation and policy framework

*The Legal articles supporting this are as follows:*

**Article L5134-1 of the French Public Health Code**(translation): “Medicines intended to be used for the purposes of emergency contraception and which are not subject to mandatory medical prescription are provided to minors free of charge in pharmacies under conditions set by decree. In secondary schools, nurses may, pursuant to a national protocol defined by decree, in an emergency, administer emergency contraception to minor and non-minor students. They ensure that the student receives counselling and that medical monitoring is put in place, including by directing the student to a family planning or education centre.
Chapter Four: Age of Consent and HIV testing

Legislation relating to HIV testing does not provide for parental consent. In the absence of specific rules concerning the Age of Consent to HIV testing the rules concerning medical treatment apply.

Age of Consent to report HIV status directly to adolescents

Minors may ask their doctor not to communicate information about their health to their parents. Further, centres performing HIV testing are prohibited from recording and/or communicating the names of persons tested. Accordingly, HIV results, including the results of minors, are anonymous and may not be communicated to others without the permission of the patient.

Legislation and policy framework on HIV testing

Article L. 1111-2 of the French Public Health Code (on the general right to be informed of one’s own health)

Ministerial Order dated 9 November 2010: (on the biological diagnosis of HIV). Article 1 provides that an HIV diagnostic test can “be performed on any person, in his/her own and sole interest, he/she has given his/her free and informed consent”.

Article R. 2311-14 of the French Public Health Code: […] The Center [performing HIV diagnostic tests] cannot record or communicate to anyone the identity of [patients].
Chapter Five: Age of Consent and access to Anti-retroviral Therapy (ART)

Adolescents from 12 years can access ART. The law does not address access to ART by persons under 12 years of age. There are no specific rules on the Age of Consent to access ART so the general rule on consent to medical treatment applies. Non-emancipated minors should obtain parental consent to have access to the medication. However, French law gives power to doctors to dispense with the need for parental consent in some situations, for example, when the non-emancipated minor refuses to inform his/her parents. In this situation, doctors are allowed to dispense with the need for such consent if the health of the minor is in danger.

Legislation and policy framework on access to ART

*Decree of 25 November 2014* amends Article L5126-4 of the French Public Health Code to oblige the health minister to authorize: [ART] for infection by the HIV-1 virus in adults and adolescents from 12 years, [for new diagnoses] and [failed treatments] from a previous [course of] ART.
Chapter Six: Age of Consent and access to Pre-exposure Prophylaxis (PrEP) and Post-exposure Prophylaxis (PEP)

France does not have any prohibitions on PrEP and PEP under the French law. PEP is allowed under French law. However, the law does not deal with the Age of Consent to access PEP.

Young people’s access to PrEP

With reference to PrEP, while Truvada is officially meant to be used by persons who are already infected by HIV, a temporary recommendation allows the use of Truvada as PrEP but only by people who meet the following cumulative conditions:

a. they are 18 years old or older; and
b. they are at a higher risk of getting infected by HIV

Legislation and policy framework

Article L. 5121-12-1 of the French Public health Code provides that the National Drugs Agency (Agence nationale de sécurité du médicament) may issue temporary recommendations of use (Recommandation temporaire d’utilisation “RTU”) allowing the use of medicine for other purposes or in other conditions other than those set out in the marketing authorization to sell (Autorisation de mise sur le marché “AMM”).

Section 3 of the RTU dated 25 November 2015 provides that in the context of the RTU, as a PrEP for persons 18 years or older and who are at a high risk of being contaminated by HIV through sexual relations, TRUVADA is considered as an additional instrument in the AIDS prevention strategy.

Ministerial order from the French ministry of health dated March 13, 2008 concerning recommendations for people at risk for transmitting HIV provides: There has been since 1998 a mechanism to help people at risk of transmission. Also the mechanism should enable the competent service to limit the time between exposure to HIV and the initiation of VHIV Post Exposure treatment.

Article L1111-5 of the French Public Health Code provides that doctors do not need parental consent when a non-emancipated minor refuses to ask for it and when the health of the non-emancipated minor is in danger: The doctor or the midwife can overlook the need for parental consent to medical decisions when preventive action, screening, diagnosis or medical treatment is required to safeguard the health of a minor, if the minor expressly opposes the consultation of those with parental responsibility for him/her to keep secret his/her state of health.
Chapter Seven: Age of Consent and access to safe abortions and/or post abortion care

French law enables access to safe abortion and post abortion care. Non-emancipated minors should generally obtain parental consent to have access to an abortion. However, if a minor refuses to ask for parental consent, she may have access to an abortion and may be accompanied by an adult of her choice in the process.

Legislation and policy framework on safe abortion and post care

Article L2212-1 of the French Public Health Code:
A pregnant woman who does not want to pursue a pregnancy can ask a doctor to terminate her pregnancy. This termination may only be performed before the end of the twelfth week of pregnancy.

Article L. 2212-7 of the French Public Health Code:
If the woman is a non-emancipated minor, then she must obtain the consent of her parents or that of her legal guardian. This consent is included in the request for abortion which the woman submits to the doctor without any third parties present. If the non-emancipated minor wishes to keep the abortion secret, the doctor must, in her interest, attempt to obtain her consent to consult her parents or legal guardian […] If the minor does not want to go on in this process or if [parental] consent is not obtained, the abortion [and the post-abortion care] may be performed at the request of the minor […]. In such cases, the minor shall be accompanied by an adult of her choice. After the medical treatment, a second consultation must be proposed to inform the minor about contraceptives.
Chapter Eight: Age of Consent on access to Antenatal Care (ANC)

The French health system has a very favourable legislation framework for access to ANC. The texts on ANC do not provide for an Age of Consent and/or require parental consent. In the absence of specific rules concerning access to ANC the general rule on access to medical treatment applies (see section on ART).

Legislation and policy framework

Policy of enabling women to have access to ANC in their own interest and that of their children inferred by counsel from the relevant legislation).

Section 1 of Article L. 2131-1 of the French Public Health Code provides that prenatal diagnosis refers to medical practices, including obstetric and fetal ultrasound aiming to detect in utero in an embryo or fetus any serious condition.

Section 2 of Article L. 2131-1 of the French Public Health Code provides that pregnant women are entitled, on request, to fair, clear and adequate information regarding their right to obtain access to medical tests upon request to assess whether the embryo or fetus has a condition likely to impact the pregnancy.
Chapter Nine: Access to HPV vaccine, and cervical cancer screening and treatment

French and European health authorities support the use of the Human Papillomavirus (HPV) vaccine and screening for cervical cancer. Non-emancipated minors should obtain parental consent to have access to the vaccines. However, French law gives power to doctors to dispense with the need for parental consent in some situations, for example, when the health of the non-emancipated minor is in danger as a result of the denial of parental consent.

Legislation and policy framework

The summary for the public concerning the grant of marketing authorisation for Gardasil states that the Committee for Medicinal Products for Human Use (CHMP) assessed the medicine to reach its opinion in favour of granting a marketing authorisation and its recommendations on the conditions of use for Gardasil. According to the French High Council for Public Health, Gardasil was authorized by the European authorities in 2006 (see page 19 of the report).

Article L5121-8 of the French Public Health Code states that any medicine not within the scope of a marketing authorization granted by the European Medicines Agency can be authorized by the National Drugs Agency.

Article L1111-2 of the French Public Health Code provides that parental consent is needed when the person is a non-emancipated minor: The rights of minors or adults under guardianship mentioned in this article are exercised, as appropriate, by those with parental responsibility for them or their guardian.

Article L1111-5 of the French Public Health Code provides that doctors do not need parental consent when the non-emancipated minor refuses to ask for it and when the health of the non-emancipated minor is in danger: The doctor or the midwife can dispense with the need to obtain parental consent to medical decisions when preventive action, screening, diagnosis or intervention is required to safeguard the health of a minor, if the latter expressly opposes the consultation of those with parental responsibility in order to keep secret his state of health.
### Chapter Ten: Recommended intervention on legal and policy framework

<table>
<thead>
<tr>
<th>Area</th>
<th>Category of regulation</th>
<th>Required intervention</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age of sexual intercourse</td>
<td>L</td>
<td>LR</td>
</tr>
<tr>
<td>Definition of statutory rape</td>
<td>L</td>
<td>LR</td>
</tr>
<tr>
<td>Exceptions on Age of Consent - For example ‘gay sex’</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Young people’s access to contraceptive services</td>
<td>L</td>
<td>LR</td>
</tr>
<tr>
<td>Young people’s access to emergency contraceptives</td>
<td>L</td>
<td>LR</td>
</tr>
<tr>
<td>Policy framework and legislation on access to Antiretroviral Therapy (ART)</td>
<td>L</td>
<td>LR</td>
</tr>
<tr>
<td>Policy and legislation on young people’s access to PEP</td>
<td>L</td>
<td>LR</td>
</tr>
<tr>
<td>Policy and legislation and young people’s access to PrEP</td>
<td>L</td>
<td>GR</td>
</tr>
<tr>
<td>Policy framework and access to Antenatal Care (ANC)</td>
<td>L</td>
<td>LR</td>
</tr>
<tr>
<td>Policy framework and legislation on access to HPV vaccines and cervical cancer screening and treatment</td>
<td>L</td>
<td>GR</td>
</tr>
<tr>
<td>Policy framework and/or legislation on access to safe abortions and/or postabortion care</td>
<td>L P PW</td>
<td>LR</td>
</tr>
<tr>
<td>Age of Consent to access HIV testing without parental consent</td>
<td>L P</td>
<td>LR</td>
</tr>
<tr>
<td>Legal and policy framework on the Age of Consent HIV status will be reported directly to an adolescent</td>
<td>L</td>
<td>LR GR</td>
</tr>
<tr>
<td>Addressing various policy and legislation inconsistencies</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Annex

KEY QUESTIONS FOR THE LEGAL REVIEW

1. At what age may sex between consenting individuals legally take place? (Age of Consent to sexual intercourse) Indicate if there are different ages for males and females?
2. Is there a definition of statutory rape? Please define.
3. Are there exceptions to question (1)? For example, gay sex?
4. At what age may a young person access contraceptive services including contraceptive commodities? Please specify with and without parental consent if the answers are different.
5. May a young person access emergency contraceptives (e.g., the ‘Morning-after pill’) at what age? Please specify if there are different ages with and without parental consent.
6. Policy framework and legislation enabling or disenabling access to Antiretroviral Therapy (ART), including Age of Consent with and without parental consent.
7. Specify whether there is any prohibition on HIV Post-exposure Prophylaxis (PEP), including Age of Consent with and without parental consent.
8. If there is no prohibition in question 7, would young people be legally able to access PEP if it was offered? At what ages? Please specify if there are different ages with and without parental consent.
9. Is there any legislation or policy specifically enabling PEP use in country? Please specify if it deals with Ages of Consent and give details.
10. Specify whether there is any prohibition on HIV Pre-exposure Prophylaxis (PrEP), including Age of Consent with and without parental consent.
11. If there is no prohibition in question 10, would young people be legally able to access PrEP if it was offered? At what ages? Please specify if there are different ages with and without parental consent.
12. Is there any legislation or policy specifically enabling PrEP use in the country? Please specify if it deals with Ages of Consent and give details.
13. Please state whether there is policy framework and/or legislation enabling or disenabling access to safe abortions and/or postabortion care, including Age of Consent, with and without parental consent.
14. Policy framework and legislation enabling or disenabling access to Antenatal Care (ANC), including Age of Consent with and without parental consent.
15. Policy framework and legislation enabling or disenabling access to HPV vaccines and cervical cancer screening and treatment, including Age of Consent, with and without parental consent.
16. What is the Age of Consent to access HIV testing without parental consent?
17. What is the Age of Consent at which the HIV status will be reported directly to an adolescent and legal/policy requirements to report this status to her/his parents?
18. Please explain any inconsistencies between the answers above.