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OPINION

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OPINION ON THE HIV ISSUE IN THE CONTEXT OF CHILD ADOPTION PROCEDURE

Asked by government departments for its views on the problem posed by identification of HIV infection in the context of the procedures for the adoption of children of minor age, the National AIDS Council heard evidence on the matter and debated it in plenary session.

The fostering or full adoption of children is generally the result of difficult family circumstances. It is an attempt to reform a family unit broken apart by intense suffering. HIV may have had its part to play in the past history of the adoptive parent or the adopted child. It is for this reason that the National AIDS Council wishes to stress the importance of seeking transparency in all situations, against a background of mature consideration of the issues, fully considered choices and confidentiality, in order to give the adoption the best possible chance of success.

1. The position of the prospective adoptive parents

Parents applying to adopt a child must undergo a medical examination conducted by a doctor of their choice. The latter, as part of an overall health check, including a medical and psychological assessment, may broach the subject of HIV, possibly suggesting a screening test. The usual conditions of voluntary participation, confidentiality, provision of information and assistance for preventive steps continue to apply in this situation. The issue of life expectancy does not arise any differently in the case of prospective adoptive parents than for prospective biological parents.

2. The position of children put up for adoption

The HIV-positive child, as a child whose health and life is under threat, falls as a consequence into the category of "children with special needs". The adoption of such a child must be undertaken in full awareness of all that is entailed. The adoptive parents must be aware that the child's future is compromised and be ready to support him or her in whatever situations arise. Such a decision, which is often arrived at gradually, requires lucidity and trust on the part of all involved. HIV infection can now be accurately and reliably identified in infants in France. The National AIDS Council recommends that screening for HIV should be included in the health checks undergone by children put up for adoption before the decision-making process begins with the prospective adoptive parents. The inevitable corollary of the transparency required by a relationship based on trust is guaranteed confidentiality and medical secrecy in the interests of both the child and the adults.

Where children are adopted abroad, the National AIDS Council recommends, at the time of the application for approval of the adoption, that the prospective adoptive parents be made aware of the possibility that the child might develop a fatal disease (AIDS or other serious medical conditions).

3. Acceptance of children from families affected by AIDS

In this situation, the biological parents are generally present and wish to play their role as parents, insofar as the disease permits, and to assure the future of their children in cases where the extended family cannot take them in. The National AIDS Council recommends that the departments of the child welfare agency and non-governmental organizations specializing in the fostering or adoption of children with special needs, seek to ensure that the links with the biological family are maintained for as long as possible, despite the disease and the difficulties of social integration. Care must be taken not to set the adoption process in train too early. The options of fostering the child or assistance from an outside carer must be envisaged as possible forms of assistance for families affected by AIDS. Moreover, if the family is not legally resident in France, its problems are aggravated. However, the family's access to healthcare and welfare must not be affected by this.

Evidence was heard from :

Alain Molla, barrister registered with the bar of Aix-en-Provence, Chair of AIDES Provence (November 15, 1994).

Myriam Mercy, Alain Danand, respectively Director and President of the not-for-profit association Sol EN Si (November 18, 1994).

Ms Leguet, Vice-President of the not-for-profit association L'Eau de Vie (November 29, 1994).

Professor Stéphane Blanche, paediatrics department, Necker Hospital, Paris (January 16, 1995).

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