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*European Commission
B-1049 Brussels*

Country report

Non-discrimination

Transposition and implementation at national level of
Council Directives 2000/43 and 2000/78

France

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Reporting period 1 January 2025 – 1 January 2026

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EXECUTIVE SUMMARY

1. Introduction

The key to the French legal approach to racism and discrimination is the abstract, universalist, formal concept of equality, enshrined in a range of instruments, including the Constitutions of 1946 and 1958. As a result, the legal framework has developed along two complementary lines: the condemnation of inequality based on 'origin', on the one hand, and the parallel refusal to recognise minorities and use the criteria of 'origin' for policy and administrative purposes, even in combating discrimination (confirmed by the Constitutional Council), on the other. In 2007, the Constitutional Council explicitly endorsed the French doctrine refusing to recognise the concepts of ethnic origin or race as legal, administrative or research categories¹ and directed that identification of ethnic origin or race be based on objective indications, such as nationality of parents and grandparents.

Although there is no constitutional text expressly prohibiting discrimination on the basis of age, disability, health or sexual orientation, according to the Constitutional Council the list of prohibited grounds of discrimination in the Constitution is an open one.² The Constitutional Council has not yet rendered a decision explicitly protecting sexual orientation or age; rather, it has held that the scope of the protection is to be interpreted in coherence with the scope of the protection of equal treatment afforded by Parliament.³

France affirms strongly its secular identity, and particularly in the public French educational system.⁴

Around 95 % of Roma in France are French citizens, designated by the legislature and public service as Travellers.⁵ The French Roma and persons who continue to have a Traveller way of life have been estimated to represent between 300 000 and 500 000 people.⁶ Foreign Roma are mostly migrants from Romania and Bulgaria and are estimated to number between 15 000 and 20 000, a figure that has been stable since 2005.⁷ The problems they experience and their relations with public services are very different. Historically, all French citizens who pursued a travelling way of life (including French Roma and non-Roma) had a specific legal and administrative status. This derogatory status was declared unconstitutional by the Constitutional Council in 2012,⁸ and was finally abrogated by the Law of 27 January 2017 on equality and citizenship.⁹ Meanwhile, their compensation for persecution and dispossession of their property during World War II has not yet been addressed.

The policy of eviction of Travellers and Roma from various types of precarious occupation of land persists. This policy targets precarious migrants as well. In 2022, the Government adopted the 2020-2030 National Roma Strategy, which aims to completely eliminate illegal occupation of land and slums. The plan intends to deploy a common undifferentiated approach to access to rights of Travellers, Roma and all populations living in slums.¹⁰

¹ Constitutional Council, 2007-557, 15 November 2007.

² Constitutional Council No. 2018-772 of 15 November 2018 held that disability is protected by paragraphs 10 and 11 of the Preamble to the Constitution of 1946 in relation to the protection of health, integrity and material security.

³ Constitutional Council QPC No. 2010-39, 6 October 2010.

⁴ Ministry of Education (2023) '[Vademecum Laïcité à l'école](#)' (Secularity in school handbook), December 2023.

⁵ In France, the law and administrative categories do not refer to the term Roma but describe French Roma as 'Travellers' (gens du voyage).

⁶ Vitale, T. (2018) 'Faire connaître l'histoire et les cultures de Roms pour mieux lutter contre les préjugés', Sciences Po CEE, The Conversation France 2018, submitted to HAL November 2024, available at : <https://sciencespo.hal.science/hal-01767031v1/document>.

⁷ Vitale, T. (2018) 'Faire connaître l'histoire et les cultures de Roms pour mieux lutter contre les préjugés'.

⁸ Constitutional Council, 5 October 2012, (QPC- 2012-279).

⁹ Law No. 2017-86 of 27 January 2017 on Equality and Citizenship ([LOI n° 2017-86 du 27 janvier 2017 relative à l'égalité et à la citoyenneté](#)).

¹⁰ France (2022) [Stratégie française pour l'égalité 2020-2030, l'inclusion et la participation des Roms](#) (French Strategy for equality, inclusion and participation of Roma).

Meanwhile, ever since 1990, the scheme of implementation of legal parking throughout the territory for Travellers,¹¹ as well as access to school,¹² is hindered by the active resistance of local elected officials and governmental policy. In addition, Travellers' caravans are not recognised as housing. As a result, persons living in caravans are the only ones who are not eligible for housing support or protected by the winter break in the enforcement of eviction orders.

2. Main legislation

In private law, the legal regime relating to discrimination is to be found in statutes and codified law i.e. the Labour Code (LC), the Penal Code (PC) and the Civil Code (CC). Administrative law, on the other hand, is mostly jurisprudential and is based on the implementation of a formal theory of equality. Directives 2000/43/EC and 2000/78/EC were transposed by the Law of 16 November 2001 transposing the EU directives on Discrimination, the Law of 30 December 2004 creating the equality body, the Law of 11 February 2005 for equal rights and opportunities and participation and citizenship of persons with disabilities (Law on Disability) and the Law of 27 May 2008 relating to the adaptation of national law to Community law in matters of discrimination (Law of 27 May 2008) integrating provisions in the Labour Code, the General Code of Public Service and the Mermaz Act of 6 July 1989 on relations between landlords and tenants.

General provisions prohibiting discrimination cover a number of prohibited grounds. The legal regimes cover not only the grounds contained in Article 19(1) of the Treaty on the Functioning of the European Union (TFEU), but also 20 more grounds of discrimination specific to French law. The Law of 27 May 2008 provides a definition of discrimination covering direct and indirect discrimination and harassment, as well as instructions to discriminate. It covers protection against victimisation and covers non-salaried and independent workers.

Magistrates, public agents working within Parliament under a specific status, and contractual public servants who hold one of the various statuses that are excluded from the application of the General Code of Public Service,¹³ are not covered by specific legislation. However, since the *Perreux* case, the Conseil d'État considers that Directive 2000/78/EC is directly applicable in national law to all public agents, and that they are all are covered by the Law of 27 May 2008, including agents of Parliament and magistrates.¹⁴

The approach to the protection of persons with disabilities further to the Law of 11 February 2005 on Disability focuses on compensation and integration in all areas of life including education, housing and universal accessibility of goods and services. The law provides a right to reasonable accommodation in the workplace, as well as positive action programmes imposing employment quotas for both the public and private sectors. However, employers can comply with their quota obligations by making financial payments to certain public funds instead of employing the specified percentage of persons with disabilities. The duty of reasonable accommodation covers education but does not extend to goods and services.

3. Main principles and definitions

The law does not define prohibited grounds of discrimination.

¹¹ French Interministerial Delegation for Access to Housing (DIHAL), website -[Travellers](#), (*Pôle Gens du voyage*); Acker. W. (2021) *Où sont les gens du voyage* (Where are the Travellers?), Éditions du commun.

¹² Conseil d'État, 8 December 2023, [No. 441979](#).

¹³ General Code of Public Service, Article L6.

¹⁴ Conseil d'État, 30 October 2009, No. 298348; Conseil d'État, 27 July 2016, No. 393292; Conseil d'État, October 2018, No. 40541825.

No application of the exceptions provided in Directive 2000/43/EC as regards race and ethnic origin was enacted in French law. The wording of the prohibition of discrimination on the grounds of origin/race includes the concept of assumed characteristics in relation to origin, race and religion. The systematic reference to physical appearance, national origin and last name in the list of prohibited grounds of discrimination is also a way to cover assumed characteristics. For other grounds, the jurisprudence relating to direct discrimination does not require the victim to establish his or her relation to a prohibited ground as the judge analyses the behaviour of the perpetrator. Assumed characteristics are the basis of the sanction in this context, too. Although discrimination by association is not expressly covered, except in the case of explicit protections provided by law (e.g. parents caring for children with disabilities), jurisprudence (established judicial precedents) has extended the legal protection to associated persons in matters of discrimination related to trade union activities, political opinions, disability and health.

There is no legal rule expressly addressing intersectional or multiple grounds of discrimination, but the courts have been prepared to make such findings when it is alleged and evidence shows unequal treatment resulting from a combination of grounds, such as sex and religion, sex and age, sex and disability, origin and religion, origin and union activities, sex and union activities, and age and union activities.

French law provides for the possibility to adopt exceptions relating to differences in treatment based on nationality, age and disability, or the armed forces. However, it does not provide for such a possibility as regards an ethos based on religion and belief, or health and safety at work.

The concepts of direct and indirect discrimination are defined in the Law of 27 May 2008. Whereas the definition of indirect discrimination conforms to the directives, that of direct discrimination does not. It excludes the possibility of proceeding by way of hypothetical comparison: the expression 'would have been' has been replaced by 'will have been'. However, courts regularly admit evidence of hypothetical comparisons to reach findings of discrimination. Finally, the law extends the definition of discrimination to harassment and instructions to discriminate.

The Law of 27 May 2008 creates a possibility for employers to invoke genuine and determining occupational requirements on all grounds, provided they pursue legitimate objectives and are proportionate.¹⁵ Article L1133-2 of the Labour Code provides for a specific possibility to make exceptions to the prohibition of discrimination on the ground of age if they are reasonably justified by a legitimate aim in relation to health and safety, protection of young people and older workers, training requirements, reasonable period of employment before retirement, professional integration or proper compensation.

In addition, Article 4 of the Law of 27 May 2008 regarding the burden of proof allows the defendant to respond to the shift in the burden of proof by presenting elements establishing that the alleged direct or indirect discrimination is justified by objective elements that are free of any discrimination. This provision could be interpreted as allowing the defendant to attempt to justify direct differential treatment in any situation.¹⁶

Article 114 of the Social Welfare Code contains a definition of disability that complies with the CJEU judgment in joined cases C-335/11 and C-337/11, *Ring and Skouboe Werge*. It is not limited to access to professional life and encompasses limitations in all areas of life, related or not to consequences of health problems. The definition of the prohibition of discrimination in employment on the basis of disability covers limitations resulting from the environment, without stating whether discrimination is direct or indirect. A person is covered by the protection whether or not he or she formally declares his or her disability, and whether or not his or her limitations are perceptible to their employer. People who

¹⁵ Law of 27 May 2008, Articles 2(3) and 8(3).

¹⁶ Law of 27 May 2008, Article 4.

have a functional need for reasonable accommodation are entitled to reasonable accommodation, and failure to provide such reasonable accommodation is held to constitute discrimination. The occupational health doctor is the authority that determines *in concreto* required reasonable accommodations for all employees in relation to all actual health conditions and disability, at all stages of the working relationship, independently of official recognition of disability.

4. Material scope

The protection against discrimination in France provides for civil, administrative and penal redress for all TFEU protected grounds and areas of discrimination. An extended material scope covering social protection, social advantages, education, access to health services and goods and services, applies to all protected grounds of discrimination.

The protection against discrimination is enforceable against both private and public persons, and physical and legal persons. Regarding employment, implementation applies to both the public and private sectors. The principle of equality is applicable to non-nationals, unless explicit legislation is adopted, and the legislature can justify a difference in treatment on the basis of conditions of public interest. Access to certain rights, such as the right to work and to access some social benefits, is conditional on the individual having the status of a legally resident foreign national. In addition, access to some professions is limited to French or EU nationals, and the fulfilment of various periods of regular residence may be imposed before affording a number of social protections and advantages.

The scope of protection against discrimination extends beyond that required by the directives.

5. Enforcing the law

Given that the law offers a common protection for most protected grounds, cases are often referred to as precedents, whether or not they discuss issues related to the same ground of discrimination. Since the implementation of Directives 2000/78 and 2000/43, development of the jurisprudence has established a principle of right to evidence in discrimination matters and has maintained claimants' motions to claim access to comparable evidence in the possession of the employer that is necessary to establish their case, in respect of hiring practice, pay and career progression.¹⁷ However, resistance to implementing the principles of indirect discrimination persists. Incorrect application of the shift in the burden of proof and the right to be given access to evidence before the lower courts continues to regularly have a negative impact on the success of claimants' claims.

Admissible means of evidence include the use of statistics. Statistics resulting from the comparative situation of employees of a common employer are now frequently used in labour law, even in cases of discrimination on the ground of origin.¹⁸ The Court of Cassation decided in 2023 and 2024 that the GDPR did not alter the right of claimants to access evidence under strict conditions controlled by judges.¹⁹ The admissibility of situation testing before criminal courts was introduced into the Penal Code in 2006,²⁰ and before the civil courts by legislation in 2017.²¹ It has not yet been used as evidence in civil cases.

All complaints alleging discrimination against a private party (employer, service provider, landlord, etc.) must be brought before the common civil regional courts (*tribunal*

¹⁷ Latraverse, S. (2025), 'Evidence of discrimination on the ground of racial and ethnic origin in employment cases, in the context of the GDPR: the French example', *European Equality Law Review*, 74.

¹⁸ Landmark case: Court of Cassation, social chamber, No. 21-19628, 14 December 2022.

¹⁹ Landmark case: Court of Cassation, social chamber, 8 March 2023 No 22-12492 and Court of Cassation, second civil chamber, 3 October 2024, No. 21-20979.

²⁰ Article 225-3-1 PC; Situation testing is being challenged before the ECtHR as constituting entrapment in violation of the right to a fair hearing: *SEJAC v. France*, No. 62583/17, February 2023.

²¹ Article 42 of Law No. 2017-86 of 27 January 2017 on Equality and Citizenship.

judiciaire). Salaried employees (in the private sector or contractual agents of an industrial or commercial public service) must bring their claim before the labour courts. Claims are subject to a statute of limitations of five years. Public agents (i.e. civil servants and non-statutory contractual public employees who are collectively called public agents in France) bring their claims before administrative courts and are not subject to a statute of limitations.²² Criminal prosecution is also available and constitutes the favoured means of action in matters relating to access to goods and services, given its symbolic impact, the low level of compensation provided by judicial redress, and the fact that the procedure is free for the victim.

Representative trade unions and NGOs dedicated to the fight against discrimination in their statutes and that have been in existence for over five years can act on behalf of a victim bringing a claim. The Code of Civil Procedure recognises the legal status before the civil courts of any person who has a legitimate interest in the dismissal or granting of the action.²³ The equality body (Defender of Rights) can present observations as *amicus curiae* before the courts and file elements of its investigation in the court record. Moreover, national law allows associations/organisations/trade unions that have existed for more than two years to act in the public interest on their own behalf, without a specific victim to support or represent (*actio popularis*), and to initiate group actions.²⁴

The general principle in French civil law is to remedy the prejudice by awarding compensatory pecuniary damages without further pecuniary sanction or punitive damages. In cases of discrimination at work, Article L1134-4 LC provides for the possibility of also requesting the annulment of the discriminatory measure concerned, resulting, for example, in the reinstatement of the employee who has been dismissed. Awards of non-pecuniary damages remain very low and therefore the sanctions fail to have a dissuasive impact, even more so in cases related to access to goods and services. To remedy the low impact of sanctions, Law No 2025-391 of 30 April 2025 has created a civil sanction for civil and contractual intentional faults, providing for the possibility to award a significant civil sanction independent of compensation in the event of an intentional violation of legal or contractual obligations committed in the course of a professional activity. The award is deposited in a fund dedicated to the financing of group actions.

Since 2001 and the adoption of the Law of 16 November 2001 transposing Directives 2000/78 and 2000/43, the law has integrated combating discrimination as an objective in collective bargaining, branch (sub-sections of the labour force) negotiations and national negotiations.

National law establishes various positive action measures that are either based on residence in an identified territory (a proxy for various disadvantages) or disability, including a 6 % quota in employment in the public and private sectors for persons with disabilities.²⁵

The implementation of all specific schemes that target Roma and Travellers, whether to facilitate their access to education and integration into state schools²⁶ or their access to parking, face overwhelming difficulties given the attitude of local authorities. Following a recommendation of the Defender of Rights, prefects and regional education authorities have put in place specific administrative procedures to facilitate registration in schools that proved to be very effective in practice. As regards access to parking, Traveller NGOs meet

²² Law No. 2008-561 of 17 June 2008 (*Loi n° 2008-496 du 27 mai 2008 portant diverses dispositions d'adaptation au droit communautaire dans le domaine de la lutte contre les discriminations*), available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000018877783>; General Code of Public Service, Article L131-1 et seq.

²³ Code of Civil Procedure (Code de procédure civile), Article 31.

²⁴ Law No. 2016-1547 of 18 November 2016 on the modernisation of the justice system in the 21st century (*Loi n° 2016-1547 du 18 novembre 2016 de modernisation de la justice du XXI^e siècle*), Articles 62 to 88,.

²⁵ Decree No. 2009-560 of 20 May 2009 (*Décret no 2009-560 du 20 mai 2009*).

²⁶ Ministerial Instruction 2012-143 of 2 October 2012.

regularly within the National Consultative Commission on Travellers (CNCGV), but according to their representatives, their exchanges remain informal and fail to advance the implementation of parking sites and the legal recognition of their caravans as residences.²⁷ On 17 December 2024, the Administrative Appeal Court of Marseille, for the first time, imposed heavy fines, damages, and reporting obligations on local authorities to sanction their failure to implement mandatory parking sites and stopping areas for Travellers, and fixed these record fines and damages in a decision of 5 November 2025 given the absence of action by local authorities.²⁸

In France, both the Court of Cassation and the Conseil d'État have recognised that there was an established practice of racial profiling by police and that Law No. 2008-496 transposing Directive 2000/43 and the shift in the burden of proof applied to the judicial treatment of these situations.²⁹ Meanwhile in 2025, in *Seydi and others v. France* regarding the allegations of a lack of access to an effective recourse, the ECtHR concluded that judicial treatment by the French courts of claims alleging identity checks based on race and origin showed due process and quality analysis, thus satisfying the requirements of effective access to judicial recourse.³⁰

6. Equality body

The Defender of Rights is the national human rights institution enshrined in Article 71 of the Constitution. Its powers and jurisdiction were precisely defined by the Institutional Act (*loi organique*) of 29 March 2011,³¹ which came into force on 1 May 2011. It merged the French Ombudsman (Médiateur de la République), the Children's Defender, the National Commission on Security Ethics and the former equality body, HALDE (Haute autorité de lutte contre les discriminations et pour l'égalité). In 2016, its mandate was further extended to cover the guidance and protection of whistleblowers.

The Defender of Rights has the jurisdiction to investigate complaints in all these areas, as well as competence to propose legislative reform, to pursue the promotion of rights and to carry out research in all its spheres of competence. It covers all grounds of discrimination, direct and indirect, prohibited by national laws and international conventions duly ratified by France. Its means for the resolution of complaints are amicable resolution, mediation, opinions, recommendations to the state or private parties, whether individual or general, and the ability to present its observations as *amicus curiae* and file its investigative file and observations before all jurisdictions, unilaterally or at the request of the court or the parties. It also has a specific power to propose a settlement in cases of discrimination covered by the Penal Code called '*la transaction pénale*' (penal transaction).

At the time of reporting, France has not adopted or prepared any transposition legislation to expand the powers of the Defender of Rights in application of Directive 2024/1499 which is required to be transposed by 19 June 2026. However, some requirements of the Directive are not formalised in the Institutional Act, such as ensuring proper financing of the anti-discrimination mandate, the provision of documented reasoning for the dismissal of any discrimination claims, the standing before the courts to present claims or represent a victim, the obligation to adopt a strategic plan, and reporting at least every four years on the state of discrimination in France.

²⁷ ECRI (2024), [Conclusions on the implementation of the recommendations in respect of France](#), ECRI(2025)02, adopted on 20 November 2024 and published on 19 February 2025.

²⁸ Administrative Court of Appeal of Aix-en-Provence, 17 December 2024, [No. 24MA00189](#); Administrative Court of Marseille, 4 November 2025 No. 24MA000189.

²⁹ Landmark decisions: Conseil d'État, (Administrative Supreme Court) Plenary Assembly, [Amnesty international et al](#), No. 454836, 11 October 2023. The Court of Cassation followed the same reasoning in its landmark decision: Court of Cassation (Judicial Supreme Court), first civil chamber, 9 November 2016, Nos. 15-24.207 to 15-25.877 regarding the liability of the state for racial profiling in police checks.

³⁰ ECtHR, *Seydi and others v. France*, 26 June 2025, No. 35844/17.

³¹ Institutional Act No. 2011-333 of 29 March 2011 (Loi organique n° 2011-333 du 29 mars 2011 relative au Défenseur des droits).

In 2024, the number of discrimination complaints received from individuals dropped by 15 %. According to the 2025 annual report,³² although claims reached 6 362 in 2025, despite an overall increase of 11 %, there were still 341 fewer complaints than in 2023. In contrast, complaints relating to the public service ombudsman mandate of the Defender of Rights increased by more than 20 %. This development reflects the fact that the institution's visibility, judicial action and activism in matters of discrimination have all declined since 2020. Historically, the Defender of Rights has been significantly engaged on issues related to Travellers' and Roma rights, but in 2024 and 2025, there was just one formal decision on an individual claim, and no report or initiative addressing this issue. The Defender of Rights currently focuses its multi-function mandate on access to public service of persons in situation of precarity, the fight against poverty and the impact of environment and AI on human rights. Since 2020, research and advisory interventions regarding public policy and legislation on its anti-discrimination mandate have been substantially taken on by the CNCDH and DILCRAH.³³

7. Key issues

Although anti-discrimination law has been implemented by higher courts since 2000, lawyers and academic reports systematically stress that claimants in employment cases still have to be ready to appeal to higher courts before obtaining a finding of discrimination³⁴ due to the combativeness of economic actors, and the continued reluctance of judges and representatives of the public service to abandon the rhetoric of neutral equality and overall equal treatment for the anti-discrimination legal framework based on the protection of specific groups.³⁵

As France has the largest Jewish and Muslim populations in Europe, it has been faced with a worrying rise in antisemitism expressly targeting Jewish persons in relation to anti-Israeli feelings since the events of 7 October 2023.³⁶

As regards artificial intelligence, the French data protection agency, CNIL, has issued guidelines in close collaboration with the Defender of Rights in many areas including employment, housing and the management of client information for commercial purposes.³⁷ It is notable that, although data protection and anti-discrimination issues are intertwined, individual claims are mostly addressed to the CNIL and framed in terms of a violation of the GDPR.

³² Defender of Rights (2026), *Rapport annuel d'activité 2025* (Annual report 2025), March 2026, available at: <https://www.defenseurdesdroits.fr/rapport-annuel-dactivite-2025-1107>.

³³ CNCDH (Commission nationale consultative des droits de l'homme /National Consultative Commission on Human Rights); DILCRAH (Délégué interministériel à la lutte contre le racisme, l'antisémitisme et la haine anti-LGBT/ Interministerial delegate on the fight against racism, antisemitism and LGBT+ hate).

³⁴ Perelman, J., Mercat-Bruns, M. (2016), *Les juridictions et les instances publiques dans la mise en œuvre du principe de non-discrimination: perspectives pluridisciplinaires et comparées* (Jurisdictions and public bodies and the implementation of non-discrimination: multi-disciplinary and compared perspectives), Sciences Po (Ecole de droit/CEVIPOF) et Université Panthéon-Assas- CERSA; RAJD and Trans Europe Experts, coordinated by Mercat-Bruns, M. and Latraverse, S. (2024), *Les enjeux du contentieux de la lutte contre les discriminations*, Société de Législation Comparée, Paris.

³⁵ Henneville-Vauchez, S. and Fondimare, E. (2019), 'Incompatibility between the French Republican Model and Anti-discrimination law? Deconstructing a familiar trope of narratives of French Law' in Havelkova, B., Möschel, M. (eds), *Anti-discrimination Law in Civil Law Jurisdictions*, Oxford University Press; pp. 56 to 75.

³⁶ Service de Protection de la Communauté Juive (SPCJ) (2024), *Les chiffres de l'antisémitisme en France en 2024*.

³⁷ CNIL, 21 November 2019 No. 2019-160 and CNIL, 23 May 2022, No. 2022-126; CNIL, Guidelines for data processing of personal data implemented in the context of commercial activities; CNIL, Guidelines for data processing implemented in the context of rental management, May 2021; CNIL, Deliberation No. 2025-047 of June 5, 2025, adopting a fourth recommendation on the application of the General Data Protection Regulation to the development of artificial intelligence systems (Délibération n° 2025-047 du 05 juin 2025 portant adoption d'une quatrième recommandation sur l'application du règlement général sur la protection des données au développement des systèmes d'intelligence artificielle).

The French Government has experimented with the use of AI in the field of surveillance through algorithmic recipient scoring in all areas of social protection and welfare in order to detect fraud.³⁸ The Government has also decided to prolong the experimental trial initiated during the Paris 2024 Olympic Games to use algorithmic processing of images collected by means of a video protection system or cameras installed on aircraft in order to detect and report certain events through imaging algorithmic analysis.³⁹

³⁸ Quadrature du Net (2024) Recipient scoring. For example, the family welfare fund (Caisse d'allocations familiales- CAF) uses a scoring algorithm to monitor and detect fraud. The lower a recipient's income, the higher his or her suspicion score, and the greater the risk of being audited.

³⁹ France, Senate, During the examination of the bill on the reinforcement of security, the experiment undertaken during the Paris Olympics, which was due to end in March 2025, was extended to March 2027.

INTRODUCTION

The national legal system

Laws are the main source of rights in France. They may be proposed by Government (bills) or by Parliament (proposed laws), and are adopted in Parliament, which is made up of two chambers, the National Assembly and the Senate. Before a law is enacted by the President of France, the Constitutional Council may, at the request of members of Parliament, verify its consistency with the Constitution. The effective implementation of enacted legislation also depends on the regulatory Section of the Supreme Administrative Court (Conseil d'État) adopting secondary legislation, such as decrees.

International conventions ratified by France can be directly invoked before the courts which have a duty to monitor the conformity of national legislation.

The jurisdictional order is made up of two branches: administrative courts have jurisdiction over all administrative litigation; judicial courts have jurisdiction over criminal and private law.

In private law, the general legal regime relating to discrimination is to be found in codified law, i.e. the Labour Code (LC), the Penal Code (PC), the Civil Code (CC) and Law No. 2008-496 of 27 May 2008 on various provisions implementing Community anti-discrimination law.⁴⁰

Public servants who take into consideration a criterion based on a prohibited ground of discrimination, such as religion or ethnic origin, can be sanctioned by their employer through the application of Article 131-12 of the General Code of Public Service, and prosecuted before criminal courts where, as public servants, they may receive aggravated sanctions for violating the criminal prohibition of discrimination at Articles 225-1 and 432-7 of the Penal Code. Administrative law, on the other hand, is mostly jurisprudential, and based on the implementation of a formal theory of equality: rules are held to meet the requirement of equality if they are the same for everyone. However, the Law of 27 May 2008 also applies to public agents, social protection, access to education and public service.

The law grants uniform and impartial protection to all individuals, and to their beliefs and allegiances, but this applies solely to them as individuals. For legal purposes, groups defined by such beliefs or allegiances simply do not exist. As a consequence, France has systematically rejected clauses in international conventions or declarations that imply that individuals should be granted rights on the basis of their membership of a minority, thus constituting a legal category on the basis of origin. Since the Second World War, the abstract principle of equality has been enshrined in the Constitutions of 1946 and 1958, as well as comprehensive criminal penalties for racism and xenophobia. The resulting French approach has developed along two complementary lines: the condemnation of racism, and the refusal to use criteria of 'origin', 'ethnicity', 'race' or religion for policy and administrative purposes. The broader principle of non-discrimination as applicable to administrative, civil and labour law, has been introduced more recently, and derives largely from EU law.

In France, since most of the legislation applies to all grounds of discrimination, cases are referred to as precedents whether or not they discuss issues related to the same ground of discrimination. Generally speaking, whether or not the courts apply EU law, they seldom refer to the EU directives.

⁴⁰ Law No. 2008-496 of 27 May 2008 Implementing Community Law in Relation to the Fight Against Discrimination (*Loi No. 2008-496 du 27 mai 2008 portant diverses dispositions d'adaptation au droit communautaire dans le domaine de la lutte contre les discriminations*), available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000018877783>.

List of main legislation transposing and implementing the directives

Official title of the law: Law No. 2001-1066 of 16 November 2001 relating to the fight against discrimination

Name used in this report: Law of 16 November 2001

Abbreviation: N/A

Date of adoption: 16 November 2001

Date of entry into force: 16 November 2001

Latest amendment: None

Weblink: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000000588617>

Grounds covered: mores, sexual orientation, sex, pregnancy, gender identity, origin, belonging, whether real or supposed, to an ethnic origin, a nation, a race, religion, physical appearance, last name, philosophical convictions, family situation, trade union activities, political opinions, age, health, disability.

Civil law

Material scope: private and public employment, goods and services

Principal content: prohibition of direct and indirect discrimination in public and private employment and good and services

Official title of the law: Law No. 2005-102 of 11 February 2005 for equal rights and opportunities, participation and citizenship of persons with disabilities⁴¹

Name used in this report: Law on Disability

Abbreviation: N/A

Date of adoption: 11 February 2005

Date of entry into force: 11 February 2005

Latest amendment: Law No. 2023-171 of 9 March 2023

Web link:

<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000809647>

Grounds covered: disability

Civil/administrative law

Material scope: employment, education, goods and services, housing, social rights, access to health

Principal content: completes transposition versus reasonable accommodation duties and positive action, covers employment, access to goods and services, housing, access to education and right to public support

Official title of the law: Law No. 2005-845 of 26 July 2005 relating to the development of services to individuals and diverse measures for social cohesion⁴²

Name used in this report: N/A

Abbreviation: N/A

Date of adoption: 13 July 2005

Date of entry into force: 27 July 2005

Latest amendment: None

Web link:

<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000632799&dateTexte=&categorieLien=id>

Grounds covered: age

Administrative law

Material scope: employment, public sector

Principal content: remove age limits for recruitment in the public sector

⁴¹ Law No. 2005-102 of 11 February 2005 for equal opportunities, participation, citizenship of persons with disabilities (Loi no 2005-102 du 11 février 2005 pour l'égalité des droits et des chances, la participation et la citoyenneté des personnes handicapées).

⁴² Law No. 2005-841 of 26 July 2005 relating to the development of services to individuals and diverse measures for social cohesion (Loi no 2005-841 du 26 juillet 2005 relative au développement des services à la personne et portant diverses mesures en faveur de la cohésion sociale).

Official title of the law: Law No. 2008-496 of 27 May 2008 relating to the adaptation of national law to Community law in Matters of Discrimination⁴³

Name used in this report: Law of 27 May 2008

Abbreviation: N/A

Date of adoption: 27 May 2008

Date of entry into force: 27 May 2008

Latest amendment: Law No. 2025-391 of 30 April 2025

Web link:

<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000018877783>

Grounds protected: mores, sexual orientation, sex, pregnancy, gender identity, origin, belonging, whether real or supposed, to an ethnic origin, a nation, a race or a particular religion, physical appearance, last name, family situation, trade union activities, political opinions, age, health, disability, genetic characteristics, place of residence, or banking residence, capacity to express oneself in a language other than French, apparent economic vulnerability, loss of autonomy

Civil and administrative law

Material scope: all fields: public employment, private employment, access to goods or services (including housing), social protection, social advantages, education

Principal content: correcting implementation of Directives 2000/43/EC and 2000/78/EC by providing definitions of direct and indirect discrimination, including harassment and instructions to discriminate to the definition of discrimination, completing prohibition of victimisation and creating new exceptions

Official title of the law: Institutional Act No. 2011-333 of 29 March 2011 creating the Defender of Rights⁴⁴

Name used in this report: Institutional Act

Abbreviation: N/A

Date of adoption: 29 March 2011

Date of entry into force: 29 March 2011

Latest amendment: Law No. 2022-400 of 21 March 2022

Web link:

<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000023781167>

Grounds protected: all grounds covered by French law and international conventions ratified by France. Open list including: general principle of equality, mores, sexual orientation, sex, pregnancy, gender identity, origin, belonging, whether real or supposed, to an ethnic origin, a nation, a race or a particular religion, physical appearance, last name, family situation, trade union activities, political and philosophical opinions, age, health, disability, genetic characteristics, place of residence or banking residence, capacity to express oneself in a language other than French, apparent economic vulnerability, loss of autonomy, refusal to be a victim of bullying

Civil, administrative and criminal law

Material scope: all fields: public employment, private employment, access to goods or services (including housing), social protection, social advantages, education, civil rights.

Principal content: Integrates HALDE with other human rights administrative body in a unique Constitutional Independent Authority acting as specialised equality body

⁴³ Law No. 2008-496 of 27 May 2008 relating to the adaptation of national law to Community law in matters of discrimination (Loi no 2008-496 du 27 mai 2008 portant diverses dispositions d'adaptation au droit communautaire dans le domaine de la lutte contre les discriminations).

⁴⁴ Institutional Act No. 2011-333 of 29 March 2011 creating the Defender of Rights (Loi Organique no 2011-333 du 29 mars 2011 relative au Défenseur des droits).

1 GENERAL LEGAL FRAMEWORK

Constitutional provisions on protection against discrimination and the promotion of equality

The Constitution of France includes the following articles dealing with non-discrimination.

The Declaration of the Rights of Man and of the Citizen of 26 August 1789 states in Article I: 'Men are born and remain free and equal in rights. Social distinctions can have no other basis than common utility'.⁴⁵

The Preamble to the Constitution of 1946 states:

'In the morrow of the victory achieved by the free peoples over the regimes that had sought to enslave and degrade humanity, the people of France proclaim anew that each human being, without distinction of race, religion or creed, possesses sacred and inalienable rights. France shall form with its overseas peoples a Union founded upon equal rights and duties, without distinction of race or religion',

and adds: 'Each person has the duty to work and the right to employment. No person may suffer prejudice in his work or employment by virtue of his origins, opinions or beliefs'.⁴⁶

Article 1 of the Constitution of 1958 states: '[France] shall ensure the equality of all citizens before the law, without distinction of origin, race or religion. It shall respect all beliefs'.⁴⁷

In a landmark decision of 15 November 2007, the Constitutional Council declared that studies relating to diversity of origin, discrimination and integration could be based on objective information, but that ethnic origin and race are not objective concepts and are contrary to Article 1 of the Constitution.⁴⁸

In addition, Article 10 of the Declaration of the Rights of Man and of the Citizen states: 'No one may be disturbed on account of his opinions, even religious ones, as long as the manifestation of such opinions does not interfere with the established Law and Order'.⁴⁹

The material scope of the constitutional protection is broader than that of the directives. The constitutional provisions cover race, origin, religion, opinions and sex. The Constitutional Council has held that the list of prohibited grounds of discrimination in the Constitution is an open one. It has not recognised a constitutional principle protecting equal treatment on the grounds of age or sexual orientation, but has recognised the constitutional protection of the principle of equality in relation to disability.⁵⁰ These provisions are directly applicable.

⁴⁵ Declaration of the Rights of Man and of the Citizen of 26 August 1789 (*Déclaration des droits de l'homme et du citoyen de 1798*), available at: <http://www.legifrance.gouv.fr/Droit-francais/Constitution/Declaration-des-Droits-de-l-Homme-et-du-Citoyen-de-1789>. Article 1: 'Les hommes naissent et demeurent libres et égaux en droits/ Les distinctions sociales ne peuvent être fondées que sur l'utilité commune'.

⁴⁶ Preamble to the Constitution of 1946 (*Préambule de la Constitution de 1946*): 'Au lendemain de la victoire remportée par les peuples libres sur les régimes qui ont tenté d'asservir et de dégrader la personne humaine, le peuple français proclame à nouveau que tout être humain, sans distinction de race, de religion ni de croyance, possède des droits inaliénables et sacrés/ Il réaffirme solennellement les droits et libertés de l'homme et du citoyen consacrés par la Déclaration des droits de 1789 et les principes fondamentaux reconnus par les lois de la République'.

⁴⁷ Constitution of 1958 (*Constitution de 1958*), Article 1: 'Elle [La France] assure l'égalité devant la loi de tous les citoyens sans distinction d'origine, de race ou de religion/ Elle respecte toutes les croyances.'

⁴⁸ Constitutional Council, *No. 2007-557 DC*, 15 November 2007.

⁴⁹ Declaration of the Rights of Man and of the Citizen of 26 August 1789 (*Déclaration des droits de l'homme et du citoyen de 1789*), Article 10: 'Nul ne doit être inquiété pour ses opinions, même religieuses, pourvu que leur manifestation ne trouble pas l'ordre public établi par la Loi'.

⁵⁰ On sexual orientation, Constitutional Council QPC No. 2010-39, 6 October 2010, available at: <https://www.conseil-constitutionnel.fr/decision/2010/201039QPC.htm>; on disability No. 2011-639 DC, 289/07/2011, available at: <https://www.conseil-constitutionnel.fr/decision/2011/2011639DC.htm>.

The provisions of the Constitution can only be invoked by a private party as a means of defence in litigation against a private party or the state, by claiming that the legislation is unconstitutional, by way of a specific procedure called an 'Exception of unconstitutionality' (*Question prioritaire de constitutionnalité – QPC*), requesting a referral to the Constitutional Council, the Conseil d'État or the Court of Cassation.

2 THE DEFINITION OF DISCRIMINATION

2.1 Definition of the grounds of unlawful discrimination within the directives

French anti-discrimination legislation does not define each ground. Since the list is very long, the judge does not approach a discrimination case by identifying whether or not the complainant conforms to the definition of one of the groups covered, instead the approach is more oriented towards an appreciation of the impact of the assumed characteristic on the behaviour of the perpetrator of discrimination or an adverse effect in comparison to another group in relation to a prohibited ground.

a) Racial or ethnic origin

The law does not provide a definition of race or ethnic origin.

National constitutional law refuses to validate the concepts of 'race' and 'ethnic origin' or to define them. As explicitly discussed in Parliament, the formulation of 'real or supposed ethnic origin, nation, race' is meant to emphasise the non-acceptance of the notions of race and ethnic groups and to take them into consideration as assumed characteristics taken into account by the discriminating party.⁵¹

Since the law prohibits taking these concepts into consideration to create legal categories, they are not defined. The concept of race is interpreted as being referred to in the Constitution as a prohibited concept.⁵² Ethnic origin is not interpreted either, as it is deemed to be a euphemism for race. That is why the 'nationality of origin', conceived as objective information about a person's ancestry, based on his or her nationality or the nationality of his or her parents, is deemed by the Constitutional Council to be the only objective reference to origin that is admissible in the face of the French refusal to take this category into consideration.⁵³

Under Article 1 of the Law of 27 May 2008, national law expressly prohibits discrimination on the grounds of nationality, mother tongue, physical appearance and being a member of a vulnerable social group. These proxies are regularly used before the courts to establish discrimination on the ground of ethnic origin in line with the parameters taken into account by the European Court of Justice in the *MV and Others* case C-417/23 of 18 December 2025 to find discrimination on the ground of ethnic origin.

However, courts will not define ethnic origin or race or discuss their components as defined by the Court of Justice in *MV and Others*, or whether a person or a group falls under this category. Courts will evaluate whether the alleged author of discrimination has taken into consideration such elements when adopting a decision or behaviour that discriminates directly or indirectly on the ground of origin and claimants are free to demonstrate and analyse this as they wish.⁵⁴ Thus, nothing prohibits French courts from taking guidance from the Court of Justice on what constitutes discriminatory behaviour on the ground of origin.

⁵¹ Parliamentary debates before the Senate on 9 January 2001 relating to amendment No. 15, available at: <http://www.senat.fr/seances/s200101/s20010109/sc20010109007.html>; amendment of all references to race in Law No. 2016-1547 of 18 November 2016, available at: <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000033418805/>; Tharaud, D., Boyer-Capelle, C. (2021) *Dictionnaire juridique de l'égalité et de la non-discrimination*, L'Harmattan.

⁵² Dhume, F., Cohen, V. (2018) 'Mentioning Racism, Silencing race and Listening to the Nation' (*Dire le racisme, taire la race, faire parler la nation*), in *Mots. Les langages du politique* 2018/1 (No. 116), pp. 55-72, available at: <https://www.cairn.info/revue-mots-2018-1-page-55.htm#>; Lochak, D. (1992) 'Race: A Legal Category?' (*La race : une catégorie juridique ?*) in *Mots. Les langages du politique*, pp. 291-303, available at: https://www.persee.fr/doc/mots_0243-6450_1992_num_33_1_1760.

⁵³ Constitutional Council, *No. 2007-557 DC*, 15 November 2007.

⁵⁴ Court of Cassation, 14 December 2022, No 21-19.628 and Article 1358 of the Civil Code: 'Unless otherwise provided by law, evidence may be presented by any means.' (in French: *Hors les cas où la loi en dispose autrement, la preuve peut être apportée par tout moyen*).

In practice the court looks for evidence of the behaviour of the discriminating party or impact of indirect discrimination based on indications that lead to presumptions. Given that the law covers appearance of origin, meaning appearance of being foreign or of foreign descent or not, and that direct discrimination essentially addresses assumptions made by the discriminating party, evidence of direct discrimination based on origin or the judgment of a racist person, can be based on foreign physical appearance or attributed origin related to a person's external appearance or characteristics, such as their last name, mother tongue or accent, culture, community, nationality, status of immigrant, etc.⁵⁵

In a decision of 5 February 2025, the criminal chamber of the Court of Cassation concluded for the first time that the use of the N word (in French) when talking to or about a person constituted an insult (*injure*) that can be criminally prosecuted in application of the Law on Freedom of the Press of 29 July 1881 (see summary of the case in section 12.2).⁵⁶ In France, where there was no tradition of prohibition per se of the N word in common language, this decision sets a very important precedent affirming that from now on, qualifying a person of being a 'Nigger' or 'Negress' is an insult forbidden by law, which cannot be justified by the identity of its author or allegations relating to the specific context of the statement.

b) Religion or belief

No definition of religion or belief in the law.

In French law there is no legal definition of religion or belief. The legal framework adopts the definition of Article 9 of the ECHR.⁵⁷ The Law of 9 December 1905 on the separation of Church and State addresses the concepts of freedom of worship and beliefs.⁵⁸

The list of grounds prohibited by French law uses multiple wordings to designate prohibited discrimination on the grounds of religion or belief: 'belonging, whether real or supposed, to a specific religion' and 'political and philosophical opinions'.

Article 1 of the Law of 9 December 1905 states: 'The Republic guarantees freedom of belief. It guarantees freedom of worship; the only restrictions being stated therein in the pursuit of the interest of public order'.⁵⁹ Freedom of religion is considered to be an aspect of freedom of opinion.

Meanwhile, the French Republic and public actors in general remain very active in protecting the principle of secularity of the state and public functions. Law No. 2021-1109 of 24 August 2021⁶⁰ relating to the respect of the principles of the Republic formally states the general principle of respect for the principles of equality and secularity of the public service at Article 1 and expressly establishes the duty of all private operators mandated by law to implement a public service to respect such principles of equality and secularity.

⁵⁵ See landmark cases: Court of Cassation, No. K 10-15873, *Airbus*, 15 December 2011, available at: <https://www.legifrance.gouv.fr/affichJuriJudi.do?oldAction=rechJuriJudi&idTexte=JURITEXT000024993730&fastRegId=946410880&fastPos=1>, and Court of Cassation, social chamber, 14 December 2022, No. 21-19628, available at: <https://juricaf.org/arret/FRANCE-COURDECASSATION-20221214-2119628>.

⁵⁶ Court of Cassation, criminal chamber, 5 February 2025, No. 23-86.340, available at: <https://juricaf.org/arret/FRANCE-COURDECASSATION-20250121-2386340>.

⁵⁷ Conseil d'État (2004) *Un siècle de laïcité* (One century of secularity), Public report, La documentation Française.

⁵⁸ Law of 9 December 2005 on the Separation of Church and State (*Loi du 9 décembre 1905 concernant la séparation des Églises et de l'État*), available at: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006070169&dateTexte=20080306>.

⁵⁹ Article 1: 'La République assure la liberté de conscience/ Elle garantit le libre exercice des cultes sous les seules restrictions édictées ci-après dans l'intérêt de l'ordre public'.

⁶⁰ Law No. 2021-1109 of 24 August 2021, available at: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000043964778>.

In a landmark decision of September 2024, the Conseil d'État confirmed its preliminary decision of September 2023, that the Minister of Education could, by Ministerial Instruction of 27 August 2023, define religious clothing forbidden in application of the Law of 15 March 2004 forbidding religious signs in state schools and prohibit the wearing of abayas and qamis in all public elementary and secondary schools.⁶¹ Hence, the National Bar Council adopted a national regulation imposing a neutral dress code to all lawyers.⁶²

In 2017, in the landmark *Bouagnaoui* decision, which was rendered further to the decision of the CJEU,⁶³ the Court of Cassation explicitly referred to the reasoning of the Court of Justice as regards the scope of the protection afforded to religion and referred to Article 9 of the ECHR as well as Directive 2000/78/EC to retain a notion of religion protecting both religion per se and the requirements of religious practice as subjectively defined by the individual.⁶⁴

In a landmark decision of 2022, the Court of Cassation⁶⁵ maintained the legality of the first in-house regulation adopted by a local bar association imposing a neutral dress code for lawyers before the courts and in all official functions, leading to the prohibition of religious head coverings for lawyers. The claimant's application to the ECtHR was declared non-admissible for apparent absence of violation of the Convention.⁶⁶

A legislative limitation on religious freedom exists in France. Indeed, sects are prohibited in France by Articles 223-15-2 to 223-15-4 of the Penal Code. Moreover, Law No. 2001-504 of 12 June 2001 allows the dissolution of any legal entity considered to be a sect and Law No. 2021-1109 of 24 August 2021 strengthening the respect of the principles of the Republic allows the dissolution of radicalised entities that incite violence, insurrection, and discrimination. Such entities can also incur criminal sanctions.⁶⁷ The CCIF⁶⁸ was dissolved by a French Government decree,⁶⁹ which was challenged and confirmed by the Conseil d'État in a decision based on explicit evidence brought by the Government of inflammatory and outrageous hate speech and provocation to discrimination on social media.⁷⁰ This decision is being challenged before the ECtHR.⁷¹

c) Disability

⁶¹ Conseil d'État, 27 September 2024, No. 487944, 4879177, m487974, available at:

<https://www.legifrance.gouv.fr/affichJuriAdmin.do?idTexte=CETATEXT000050279125>.

⁶² French National Bar Council (*Conseil national des barreaux*), 7 September 2023, internal regulations, Article 1.3bis amending Article 3 of Law No. 71-1130 of 31 December 1971, available at:

<https://www.gazette-du-palais.fr/actualites-professionnelles/costume-professionnel-de-lavocat-exit-tout-signe-distinctif/>.

⁶³ CJEU, 14 March 2017, C-188/15, *Asma Bouagnaoui, ADDH v. Micropole SA.*, EU:C:2017:204, available at:

<http://curia.europa.eu/juris/document/document.jsf?text=&docid=188853&pageIndex=0&doclang=FR&mode=lst&dir=&occ=first&part=1&cid=125215>.

⁶⁴ Court of Cassation, social chamber, 22 November 2017, No. 13-19855, *Asma Bouagnaoui, ADDH v. Micropole SA.* https://www.courdecassation.fr/jurisprudence_2/chambre_sociale_576/2484_22_38073.html; Claimant's application (No. 33629/22) to the ECtHR was declared non admissible for apparent absence of violation of the Convention.

⁶⁵ Court of Cassation, 1st civil chamber, 2 March 2022, No. 20-20185, available at:

<https://www.courdecassation.fr/decision/621f1707459bcb7900c39e7d>.

⁶⁶ ECtHR, *Asmeta v. France*, No. 33629/22, 13 April 2023.

⁶⁷ Law No. 2001-504 of 12 June 2001 reinforcing the prevention and repression of sectarian movements violating human rights (*Loi No. 2001-504 du 12 juin 2001 tendant à renforcer la prévention et la répression des mouvements sectaires portant atteinte aux droits de l'homme et aux libertés fondamentales*), available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT00000589924&categorieLien=id>.

⁶⁸ Collectif contre l'islamophobie en France (Collective against Islamophobia in France).

⁶⁹ Decree of 20 October 2021 dissolving the association Coordination contre le racisme et l'islamophobie, Official Journal No. 0246 of 21 October 2021, available at: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000044229528>.

⁷⁰ Conseil d'État, 9 November 2023, No. 459704, available at:

<https://www.legifrance.gouv.fr/ceta/id/CETATEXT000048384848/>.

⁷¹ Collectif contre l'islamophobie en France, ECtHR No. 15745/22, available at: <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-222933%22%7D>.

Law No. 2005-102 of 11 February 2005 for equal rights and opportunities, participation and citizenship of persons with disabilities (the Law on Disability),⁷² which covers all aspects of the protection of persons in situations of disability, revised the definition of disability contained in Article L114 of the Social Welfare Code (SWC), which is the definition used for all applications of the law. This definition applies for the purpose of implementing all provisions provided by French legislation, including anti-discrimination legislation:

'A disability is deemed to be any limitation of activity or restriction in relation to participation in life in society experienced by an individual in the context of his or her environment by reason of a substantial, lasting or definitive alteration of one or more physical, sensory, mental, cognitive or psychological faculties, of multiple disabilities or of a disabling illness.' (author's translation)⁷³

In addition, Article 5213-1 of the Labour Code provides a definition of 'worker with disabilities' as follows:

'Any person whose ability to obtain or keep a job is effectively diminished as a result of the alteration of one or many physical, sensory, mental or psychological functions.'⁷⁴

The prohibition of discrimination provided by Law No. 2001-1006 transposing the EU directives on discrimination and Law No. 2008-496 covers disability according to the revised definition of Article 114 of the SWC, which takes into consideration limitations resulting from the environment, and in respect of direct discrimination, takes into consideration the behaviour of the author of discrimination. It can thus be considered that it includes assumed characteristics, that the discriminated person does not have to establish that he or she is a person with disabilities and that the action of the employer on the basis of the mere perception that a person has a disability is enough to trigger the protection against discrimination.

The definition of disability is broader than that of the CJEU in case C-13/05, *Chacón Navas*, in that it is not limited to access to professional life and encompasses limitations in all areas of life, whether or not they are related to a disability or to the consequences of health problems. However, although the definition of disability could be interpreted to be in conformity with the definition in CJEU joined cases C-335/11 and C-337/11, *Ring and Skouboe Werge* in as much as it situates the definition of disability 'in relation to participation in life in society experienced by an individual in the context of his or her environment', the legislation is drafted in such a way that people who could satisfy the requirement of Article L114 of the SWC but who are not administratively recognised as such, or do not wish to be registered as a person with disabilities, may be deemed to face a difficulty in claiming protection under anti-discrimination law and enforcing their right to reasonable accommodation with their employer. However, the general protection against discrimination contained in Article L1132-1 (and following) LC, and Article 2(5) of Law No. 2008-496 of 27 May 2008 does not require administrative recognition in order for a person to receive protection against discrimination and has been sufficient to ensure their protection and recognition by the courts, who have not required evidence of administrative recognition to implement protection against discrimination. Discrimination is treated *in*

⁷² Law No. 2005-102 of 11 February 2005 on disability (*Loi n 2005-102 du 11 février 2005 pour l'égalité des droits et des chances, la participation et la citoyenneté des personnes handicapées*) (Law on Disability), available at: www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=SANX0300217L.

⁷³ Law on Disability, Article L 114: 'Constitue un handicap, au sens de la présente loi, toute limitation d'activité ou restriction de participation à la vie en société subie dans son environnement par une personne en raison d'une altération substantielle, durable ou définitive d'une ou plusieurs fonctions physiques, sensorielles, mentales, cognitives ou psychiques, d'un poly-handicap ou d'un trouble de santé invalidant'.

⁷⁴ Labour Code, Article 5213-1: 'Est considérée comme travailleur handicapé toute personne dont les possibilités d'obtenir ou de conserver un emploi sont effectivement réduites par suite de l'altération d'une ou plusieurs fonctions physique, sensorielle, mentale ou psychique.'

concreto as a question related to the facts of the case in relation to the specific circumstances of the claimant, behaviour of the perpetrator of the discrimination or actual access to the reasonable accommodation requirements - determined by the occupational health doctor in application of the definition in Article L114 SWC and the employer's obligation of prevention of occupational hazards and protection of health provided by Article L4121-1 of the Labour Code.⁷⁵

d) Age

No definition in the law.

The concept of age itself has not been defined by jurisprudence, it has been interpreted to cover situations of legal competence in civil law,⁷⁶ protection in relation to vulnerable persons (young and old) in labour law,⁷⁷ and the protection against discrimination.

e) Sexual orientation

No definition in the law.

The Constitutional Council refused to include discrimination based on sexuality in the definition of discrimination based on sex.⁷⁸ Protection against discrimination based on sexual orientation was first introduced into French law under the term 'mores', first in the Penal Code in 1985 (Law 5-772 of 25 July 1985)⁷⁹ then in the Labour Code in 1986 (Law 86-76 of 17 January 1986⁸⁰ and Law 92-1446 of 31 December 1992).⁸¹

The term 'sexual orientation' was added to the Labour Code and the Penal Code by the Law of 16 November 2001. Henceforth, the terms 'mores' and 'sexual orientation' co-exist. 'Mores' is now used for socially rejected behaviours, including smoking, behaviour covered by the right to privacy, etc. 'Sexual orientation' was not defined in the law. It is understood in French equality law to cover all sexualities such as bisexuality, heterosexuality, homosexuality and asexuality.⁸² The criminal chamber of the Court of Cassation has stated that homosexuality is a sexual orientation.⁸³ In a guide to combating discrimination related to sexual orientation and gender identity in employment, the French equality body, the Defender of Rights (Défenseur des droits), defined sexual orientation in the following terms:

⁷⁵ Orléans Court of Appeal, X. v. La poste, N. 10/01990, 15 November 2011; Court of Cassation, 12 May 2021, No. 20-10512.

⁷⁶ Articles 1145 to 1152 of the Civil Code.

⁷⁷ Court of Cassation, social chamber, 17/03/2015 No.13-27142, available at: <https://www.legifrance.gouv.fr/affichJuriJudi.do?idTexte=JURITEXT000030383142>; Conseil d'État, 27/10/2011, No. 343943, available at: <http://www.legifrance.gouv.fr/affichJuriAdmin.do?idTexte=CETATEXT000024736716>.

⁷⁸ Constitutional Council, No. 80-125, 19 December 1980, 1980 RJC I-88.

⁷⁹ Law No. 85-772 of 25 July 1985 relating to various social measures (*Loi No. 85-772 du 25 juillet 1985 portant diverses dispositions d'ordre social*), available at: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000317523&dateTexte=>.

⁸⁰ Law No. 86-76 of 17 January 1986 relating to various social measures (*Loi No. 86-76 du 17 janvier 1986 portant diverses dispositions d'ordre social*), available at: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000317532&dateTexte=>.

⁸¹ Law No. 92-1446 of 31 December 1992 relating to employment, development of part-time employment and unemployment insurance (*Loi No. 92-1446 du 31 décembre 1992 relative à l'emploi, au développement du travail à temps partiel et à l'assurance chômage*), available at: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000542542&categorieLien=id>.

⁸² Defender of Rights (2017) *Guide, Agir contre les discriminations liées à l'orientation sexuelle* (Guide on action against discrimination based on sexual orientation), May 2017, p. 10.

⁸³ Court of Cassation, criminal chamber, 28 November 2017 No. 16-85637.

'Sexual orientation refers to the sexual attraction and/or affection towards persons of the opposite sex (heterosexuality), of same sex (homosexuality) or either one or the other sex (bisexuality).'⁸⁴

Sexual orientation has not been interpreted to cover transgender people.

2.2 Multiple and intersectional discrimination

In France, multiple discrimination is not expressly prohibited by law.

In France, multiple discrimination is not taken into account when deciding sanctions on discrimination cases.

In France, intersectional discrimination is not expressly prohibited by law.

In France, when alleged by the claimant, intersectional discrimination is discussed in the legal reasoning of the judge when deciding on discrimination cases but has no impact on compensation which is strictly compensatory and does not change according to the source of liability.

The courts have regularly admitted claims of multiple discrimination.⁸⁵ They have allowed claimants to claim that they have been cumulatively and simultaneously discriminated against on a number of grounds: for example, in cases where access to university education or employment is based on an evaluation of a candidate which could be influenced by cumulative factors of age and nationality or age and sex, cases of discrimination against women wearing the headscarf and cases of sexual harassment against cleaning women who are foreign nationals. Therefore, no additional legislation is required in order to address this issue. Findings of multiple discrimination have had no impact on damages, since the damages are strictly compensatory: the law does not provide for the award of damages for each fault or incidence of discrimination or for punitive damages.

In France, the following case law deals with multiple and intersectional discrimination:

In a landmark decision of the Paris Administrative Court,⁸⁶ the issue of multiple/intersectional grounds was discussed in a case relating to access to adult education by an adult woman wearing a Muslim headscarf as a result of the defence presented by the school authorities that questioned whether her personal educational aims were serious because she was pregnant and her husband had substantial financial resources. This defence was held to be discriminatory and was dismissed by the court, but did not contribute to the evidence of discrimination per se determining the outcome of the case.

In the emblematic *Dos Santos* case, the Court of Cassation extensively discussed the details of the particular vulnerability related to the combination of adverse factors in the situation of an exploited illegal worker employed as a housemaid who had not been paid by her employer. The court expressly stated that the discrimination suffered by this woman did not require evidence by way of a comparison with other workers, considering the specific precariousness and difficulty of access to rights inherent to her situation. Thereby,

⁸⁴ Defender of Rights (2017) *L'orientation sexuelle fait référence à une attirance sexuelle et/ou affective envers des individus du sexe opposé (hétérosexualité), de même sexe (homosexualité) ou indifféremment pour l'un ou l'autre sexe (bisexualité): Défenseur des droits, Guide Agir contre les discriminations liées à l'orientation sexuelle et à l'identité de genre dans l'emploi*, May 2017, p. 10, available at: <https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/guide-num-lgbt-06.05.19.pdf>.

⁸⁵ Paris Court of Appeal, 10 September 2025, RG 21/054620, regarding a finding of combined racial and sex discrimination in the claimant's career, available at: <https://www.courdecassation.fr/decision/68c258cdb785cdee2a4101e1>.

⁸⁶ Paris Administrative Court, *Saïd v. Greta*, 27 April 2009, No. 0905233.9.

without expressly referring to multiple or intersectional discrimination, the court described the specific aggravated impact of unequal treatment based on a combination of factors such as sex, origin, class and precarious status.⁸⁷

Discriminatory hate speech in employment qualifies as harassment where insults cover multiple grounds of discrimination such as origin, religion, sexual orientation or age. In a case involving a security agent who was repeatedly insulted with phrases alluding to his origin, race, religion, sexuality and sexual orientation, the court found that discriminatory harassment based on multiple grounds had occurred and sanctioned the employer for their failure to intervene.⁸⁸ Courts have also reached a finding of discriminatory harassment in situations where demeaning comments were made in relation to an employee's old age.⁸⁹

Studies indicate that the confusion between Arab and Muslim in the general public is such that Islam or North African origin become assumed characteristics that lead to large-scale multiple and intersectional discrimination on the combined grounds of origin and religion that are reflected in the case law.⁹⁰ They also point to the combination of grounds of sex with origin and religion as regards women wearing the Islamic headscarf and women of African descent.

2.3 Assumed and associated discrimination

a) Discrimination by assumption

In France, discrimination by assumption is explicitly prohibited on the grounds of belonging to an ethnic origin, a nation, an alleged race or specific religion and is interpreted as being prohibited on all other grounds.

- Law of 16 November 2001 No. 2001-1066 on the fight against discrimination and Law No. 2008-496 of 27 May 2008, providing for the list of grounds protected in Article 225-1 of the Penal Code, Article L1132-1 of the Labour Code and Articles L131-1 ff. of the General Code of Public Service states that: 'discrimination exists in all distinctions between persons based on [followed by a list of grounds] ... by reason of his or her belonging or not belonging, to a real or assumed, ethnic group a nation, alleged race, or specific religion ...', [after which the list of grounds continues].

The law explicitly covers EU prohibited grounds, and also includes grounds that are proxies of origin, age, sex or disability by extending the list of prohibited grounds to physical appearance, surname, foreign language and banking domiciliation. The jurisprudence relating to direct discrimination does not require the victim to establish his or her relation to a prohibited ground as the judge analyses the behaviour of the perpetrator. The case law never discusses whether a person or a group meets the protected category. In this context, too, assumed characteristics are the basis of the sanction. The courts implement the prohibition of discrimination by looking for evidence that the discriminating party has taken into consideration characteristics related to prohibited grounds or to assumptions related to prohibited grounds.⁹¹

⁸⁷ Court of Cassation, social chamber, 3 November 2011 No. 10-20765, available at: <https://www.legifrance.gouv.fr/affichJuriJudi.do?idTexte=JURITEXT000024764368>.

⁸⁸ Court of Cassation, social chamber, 14 November 2024, no 23-17917, available at : <https://www.legifrance.gouv.fr/juri/id/JURITEXT000050510271>; Marie Mercat Bruns (2025), 'Hate speech and discriminatory harassment at work: outlines and evidence' (*Discours de haine et harcèlement discriminatoire au travail : contours et prevue*), *Droit social* 2025, 497.

⁸⁹ Douai Court of Appeal, 28 March 2025, No 23/00620; Aix en Provence Court of Appeal, 12 February 2007, No 06/04801.

⁹⁰ Defender of Rights (2018), 'Study on Access to Rights' (Enquête sur l'accès aux droits), published in its annual report of 2017; Defender of Rights (2018) Survey on Discrimination in the legal profession; Paris Court of Appeal, 05/12/2019, No. 17/10760.

⁹¹ Court of Cassation, No. K 10-15873, *Airbus*, 15 December 2011. Available at: <https://www.legifrance.gouv.fr/affichJuriJudi.do?oldAction=rechJuriJudi&idTexte=JURITEXT000024993730&astReqId=946410880&fastPos=1>.

Assumed characteristics are central to studies presented in evidence to establish a practice of racial profiling by police, which were accepted as evidence of discrimination by the Conseil d'État in the impactful 2023 decision alleging an established practice of racial profiling by police.⁹² It concluded that carrying out checks triggered by physical characteristics associated with origin constitutes discrimination that is prohibited by law.

Studies indicate that the confusion between Arab and Muslim is such that Islam becomes an assumed characteristic that leads to systematic and large-scale multiple discrimination on the combined grounds of origin and religion, as well as of sex, origin and religion.⁹³

b) Discrimination by association

In France, discrimination based on association with people with particular characteristics is interpreted as being prohibited by national law.

The grounds are listed in the Law of 16 November 2001 No. 2001-1066 on the fight against discrimination, providing for the list of grounds protected in Article 225-1 of the Penal Code, Article L1132-1 of the Labour Code, Article L131-1 of the General Code of Public Service, and Law No. 2008-496 of 27 May 2008 on various provisions implementing Community anti-discrimination law.

In a landmark case alleging discrimination on the basis of Article L1132-1 of the Labour Code, the court followed the arguments presented by the French equality body based on *Coleman v. Attridge Law and Steve Law*, and concluded that differential treatment of an employee by reason of her relationship with an individual protected by the prohibition of discrimination on the ground of trade union activities is protected by the prohibition of discrimination.⁹⁴

This interpretation seems to correspond to the definition of protection against discrimination in the *Coleman* and *Bervidi* cases. However, there are no court decisions relating to a situation of discrimination by association as indirect discrimination as in the *CHEZ Razpredelenie Bulgaria* case.⁹⁵

In France, the following national law expressly prohibits discrimination based on association with people who have particular characteristics:

- Article 225-1, paragraph 2 PC and Article 5 of Law No. 2008-496 prohibit discrimination perpetrated against legal persons and, in this regard, they can only be considered in terms of discrimination by association with their members/employees.

The law also protects persons who have caring responsibility for persons with disabilities. Article L3122-26 LC provides for a right to request an adjustment of working hours to the benefit of family members and carers of persons with disabilities and Article L1225-61 provides for an extension of parental leave after having a child with disabilities.

⁹² Conseil d'État, (Administrative Supreme Court) Plenary Assembly, Amnesty international et al, no 454836, 11 October 2023. The Court of Cassation followed the same reasoning in its landmark decision: Court of Cassation (Judicial Supreme Court), First Civil Chamber, 9 November 2016, Nos. 15-24.207 to 15-25.877 regarding the liability of the state for racial profiling in police checks.

⁹³ Defender of Rights (2018), 'Study on Access to Rights' (Enquête sur l'accès aux droits), published in its Annual Report of 2017; Defender of Rights (2018) Survey on Discrimination in the legal profession.

⁹⁴ Haute autorité de lutte contre les discriminations et pour l'égalité, HALDE – the former equality body. Landmark case: Caen Appeal Court, *Enault v. SAS ED*, No. 08/04500, 17 September 2010. The same reasoning was applied in the two following cases: Toulouse Court of Appeal, 1 December 2023 No. 21/01737; Aix-en-Provence Court of Appeal, 8 October 2013 No. 11/22183, available at: https://juridique.defenseurdesdroits.fr/index.php?lvl=notice_display&id=9113&opac_view=-1.

⁹⁵ Court of Justice of the European Union (CJEU), judgment of 17 July 2008, *Coleman v. Attridge Law and Steve Law*, C-303/06 EU:C:2008:415; judgment of 16 July 2015, *CHEZ Razpredelenie Bulgaria AD v. Komisia za zashtita ot diskriminatsia*, C-83/14, EU:C:2015:480; judgment of 11 September 2025, *GL v. AB SpA (Bervidi)*, C-38/24, ECLI:EU:C:2025:690.

2.4 Direct discrimination (Article 2(2)(a))

a) Prohibition and definition of direct discrimination

In France, direct discrimination is prohibited in national law. It is defined.

Direct discrimination is covered by all the legislation covering all the prohibited grounds of discrimination (Articles 225-1 and 2 PC, Articles 1132-1 ff LC and Article L1141-1 LC, Article 1 of Law No. 89-462 of 6 July 1989 on landlords and tenants⁹⁶ (known as the Mermaz Act), further to amendments introduced by the Law of 17 January 2002, and Article 6 of Law No. 83-634 of 13 July 1983 on the rights and obligations of civil servants, now Articles L131-1 and following of the General Code of Public Service).⁹⁷ These texts list the grounds and the prohibited discriminatory conduct.

Law No. 2008-496 of 27 May 2008 introduces in Article 1, paragraph 1, a definition of direct discrimination, which provides as follows:⁹⁸

'Direct discrimination shall be deemed to occur in a situation where, on the grounds of a person's actual or supposed membership or non-membership of an ethnic group or race, or of their religion, belief, age, disability, sexual orientation or sex, they are treated less favourably than another is, has been or will have been treated in a comparable situation.'

This is not literally the same as the definition contained in the directives in as much as it does not explicitly foresee a hypothetical comparison relating to how an individual 'would be treated in a comparable situation'. However, the French courts do use inferences and hypothetical comparisons.⁹⁹

The Penal Code at Article 225-1 refers to direct discrimination and provides the following definition: 'any distinction on the ground of a person's origin... actual or supposed membership or non-membership of a given ethnic group, nation, race or religion shall constitute discrimination'.¹⁰⁰

b) Justification for direct discrimination

Article 4 of the Law of 27 May 2008 and Article L1134-1 of the Labour Code regarding the burden of proof allow the defendant to respond to the presumption of discrimination by presenting elements establishing that the apparent direct or indirect discrimination alleged is justified by objective elements that are free of any discrimination. This provision could be interpreted as allowing the defendant to attempt to justify direct differential treatment in any situation.

⁹⁶ Law 89-462 of 6 July 1989 on relations between landlords and tenants (*Loi No. 89-462 du 6 juillet 1989 tendant à améliorer les rapports locatifs*) (Mermaz Act), available at: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006069108>.

⁹⁷ General Code of the Public Service available at: https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000044416551/2022-03-01.

⁹⁸ Law of 27 May 2008, Article 1: 'Constitue une discrimination directe la situation dans laquelle, sur le fondement de son appartenance ou de sa non-appartenance, vraie ou supposée, à une ethnie ou une race, sa religion, ses convictions, son âge, son handicap, son orientation sexuelle ou son sexe, une personne est traitée de manière moins favorable qu'une autre ne l'est, ne l'a été ou ne l'aura été dans une situation comparable.'

⁹⁹ For example, in a case relating to discrimination on the grounds of origin, see landmark case Court of Cassation, social chamber, *Dos Santos*, No. 10-20765, 3 November 2011, available at: <http://www.legifrance.gouv.fr/affichJuriJudi.do?oldAction=rechJuriJudi&idTexte=JURITEXT000024764368&astReqId=1975217984&fastPos=1>.

¹⁰⁰ Article 225-1 of the Penal Code (*Article 225-1 du Code pénal*), available at: <http://www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000006417831&cidTexte=LEGITEXT00006070719>: 'Constitue une discrimination toute distinction en raison de leur origine... de leur appartenance ou de leur non-appartenance, vraie ou supposée, à une ethnie, une nation, une race, une religion déterminée.'

'In the light of these elements, the defendant must establish that the measure or decision is justified by objective elements which are free of any discriminatory component.'¹⁰¹

Interpretation is required to determine whether this provision complies with Directives 2000/43/EC and 2000/78/EC. To date, court decisions have accepted discussion of issues where no direct evidence of unequal treatment was established and have expressly stated that they rejected justifications of direct discrimination, and especially on the grounds of disability and origin.¹⁰²

2.5 Indirect discrimination (Article 2(2)(b))

a) Prohibition and definition of indirect discrimination

In France, indirect discrimination is defined and prohibited in national law.

Since Law No. 2001-1066 of 16 November 2001 came into force, indirect discrimination has been covered by non-criminal legislation covering all prohibited grounds of discrimination (Article 1132-1 LC and following and L1141-1 LC, Article 1 of the Mermaz Act on landlords and tenants No. 89-462 of 6 July 1989, further to amendments introduced by the Law of 17 January 2002, Article L131-1 of the General Code of Public Service). These texts list the grounds and the prohibited discriminatory behaviours.

Law No. 2008-496 of 27 May 2008 introduces at Article 1, paragraph 2, a definition of indirect discrimination, which provides as follows:¹⁰³

'Indirect discrimination shall be deemed to occur where an apparently neutral provision, criterion or practice, which, on one of the grounds mentioned in paragraph 1, gives rise to a particular disadvantage for persons in comparison with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.'

As regards the obligation to address structural discrimination in relation to a practice that can contribute to indirect discrimination, in 2023, several associations brought a group action before the Conseil d'État in plenary session asking that the state put an end to the widespread practice of discriminatory identity checks based on physical characteristics associated with real or supposed origin, and to take measures to prevent such practices.¹⁰⁴ The Conseil d'État dismissed the cases on the basis that their demands for injunctive relief against the state did not respect the requirements of the separation of powers. However,

¹⁰¹ Law of 27 May 2008, Article 4: 'Toute personne qui s'estime victime d'une discrimination directe ou indirecte présente devant la juridiction compétente les faits qui permettent d'en présumer l'existence. Au vu de ces éléments, il appartient à la partie défenderesse de prouver que la mesure en cause est justifiée par des éléments objectifs étrangers à toute discrimination. Le présent Article ne s'applique pas devant les juridictions pénales'.

¹⁰² Court of Cassation, social chamber, *Airbus*, No.10-15873, 15 December 2011, available at: <https://www.legifrance.gouv.fr/affichJuriJudi.do?oldAction=rechJuriJudi&idTexte=JURITEXT000024993730>; Court of Cassation, first civil chamber, Nos. 15-24.207 to 15-25.877 regarding the liability of the state for racial profiling in police checks, 9 November 2016, available at: https://www.courdecassation.fr/jurisprudence_2/premiere_chambre_civile_568/relatifs_contr_35473.html; Conseil d'État, No. 301572, 22 October 2010, *Bleitrach*, available at: <https://www.legifrance.gouv.fr/affichJuriAdmin.do?oldAction=rechJuriAdmin&idTexte=CETATEXT000022952080&fastReqId=761863097&fastPos=1>; Conseil d'État, Plenary, No. 298348 30 October 2009, available at: <https://www.legifrance.gouv.fr/affichJuriAdmin.do?idTexte=CETATEXT000021219388>.

¹⁰³ France, Law of 27 May 2008, Article 1: 'Constitue une discrimination indirecte une disposition, un critère ou une pratique neutre en apparence, mais entraînant, pour l'un des motifs mentionnés au premier alinéa, un désavantage particulier pour des personnes par rapport à d'autres personnes, à moins que cette disposition, ce critère ou cette pratique ne soit objectivement justifié par un but légitime et que les moyens pour réaliser ce but ne soient nécessaires et appropriés'.

¹⁰⁴ Conseil d'État, Plenary session, 11 October 2023, No 454836, available at : https://www.legifrance.gouv.fr/ceta/id/CETATEXT000048197376?init=true&page=1&query=454836%2C+Amenesty+International+France+&searchField=ALL&tab_selection=all.

it concluded that identity checks carried out on the basis of physical characteristics associated with foreign origin are discriminatory, prohibited by law, and widespread although they are not systematic. It stated that while there was evidence of discrimination in the practice of identity checks, taking into account the testimonies, reports, and studies produced by the applicants, the indications were that these practices are not so widespread as to be described as 'systemic' or 'generalised'. Nevertheless, the Conseil d'État recognised that such practices are institutional and that this imposes on the state the obligation to take measures to prevent such discrimination as the state is responsible for implementing all measures that are necessary to prevent discrimination in identity checks.

b) Justification test for indirect discrimination

Article 1, paragraph 2, of Law No. 2008-496 of 27 May 2008 provides for the following justification test for indirect discrimination: '(...) unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary'.

There are still very few higher court decisions discussing the justification presented in response to a presumption of indirect discrimination, and the decisions of the lower courts remain inconsistent.

The Court of Cassation has taken some decisions regarding arguments that could be used to justify unequal remuneration. It decided that they must be based on the justification of an objective difference proportional to the difference in payment¹⁰⁵ in order to defeat the argument of unequal treatment. Nevertheless, the Court of Cassation has also accepted arguments to evaluate the legitimate aim that could justify differential remuneration on economic grounds.¹⁰⁶

In a landmark case from 2009 where claimants did not argue discrimination, the Court of Cassation unilaterally found discrimination towards part-time workers in relation to condition of access to holidays. It decided that where there is a presumption of indirect discrimination based on statistical evidence, the judge must take positive steps to question the reasons behind the contested measure and seek acceptable justifications by the employer.¹⁰⁷ The Court reiterated this position in a landmark decision of 14 December 2022 regarding quantitative evidence of unfavourable treatment on the ground of origin.¹⁰⁸ In this case the employer's unspecific and undocumented argument that the discrepancy in hiring must be the result of an inferior number of candidates of extra-European origin to these specific posts, was not accepted by the Court in the absence of evidence relating to the hiring decisions under scrutiny before the court.

In 2012, the Conseil d'État first used the concept of indirect discrimination in a landmark case concerning discrimination on the ground of disability and a reduction in the variable portion of the salary of a magistrate with the public prosecution office who had become deaf and whose pleading duties had been replaced by administrative functions.¹⁰⁹ The Conseil d'État decided that the rule applicable to variable salaries was not proportionate and had to be redefined to counter the adverse impact, so as to prevent salary loss in relation to the variable portion and take into consideration only the claimant's performance in carrying out his redefined duties.

¹⁰⁵ Court of Cassation, social chamber, M. Gabriel Aguera et al v. Société M2PCI et al., No. 03-40465, 16 February 2006.

¹⁰⁶ Court of Cassation, social chamber, ESRF v. M. X., confirmed in another matter against ESRF on 17 April 2008 (Soc. 819 FS-P+B).

¹⁰⁷ Court of Cassation, social chamber, No. 07-42801, 01 December 2009, <https://www.legifrance.gouv.fr/affichJuriJudi.do?oldAction=rechJuriJudi&idTexte=JURITEXT000021389648&fastReqId=205231441&fastPos=1>.

¹⁰⁸ Court of Cassation, social chamber, 14 December 2022, No. 21-19628, available at: <https://juricaf.org/arret/FRANCE-COURDECASSATION-20221214-2119628>.

¹⁰⁹ Conseil d'État, Volot-Pfiser v. Ministry of Justice, No. 347703, 11 July 2012.

2.5.1 Statistical evidence

a) Legal framework

In France, there is legislation regulating the collection of personal data.

Data collection is governed by Law 78-17 of 6 January 1978 on information systems, data and the protection of freedom amended by Law No. 2018-493 of 23 June 2018 to conform to the General Data Protection Regulation 2016/679¹¹⁰ and covers the collection and manipulation of personal information relating to both computerised and non-computerised information and files. This legislation is enforced by the French Data Protection Authority (Commission nationale informatique et liberté, CNIL).

Personal information is defined in Article 2 of the Law as any information relating to an identified physical person or to a person who is directly or indirectly identifiable in reference to an identification number or personal attributes. Article 6(I) defines sensitive data, the collection of which is forbidden except as provided for in Article 6(II), referring to Article 9 of the EU General Data Protection Regulation. Sensitive data is any information that allows identification of a person relating to race, ethnic origin, philosophical and political opinions, religion, union activities, health, sexual activity or sexual orientation. Neither an employer nor anyone, in the course of business, may gather this information except in certain regulated circumstances related to specific small-scale studies or in arguing a case before the courts (see Article 31(I), paragraph 2).

Articles 30, 31, 32 of the Law authorise the statistical treatment of personal data by the state and national government statistics institutes.

In a landmark decision of 15 November 2007, the Constitutional Council declared that studies relating to diversity of origin, discrimination and integration could be based on objective information, but that ethnic origin and race are not objective concepts and are contrary to Article 1 of the Constitution.¹¹¹

In France, statistical evidence may be admitted before the courts in order to establish direct and indirect discrimination.¹¹²

General rules of civil and criminal procedure and the provisions transposing Directives 2000/43/EC and 2000/78/EC do not refer expressly to the use of statistical evidence. The law follows the general admissibility conditions of such evidence in court.

b) Practice

In France, statistical evidence is used in practice in order to establish direct and indirect discrimination and to defend findings of apparent discrimination.

- Surveys and studies

National statistics institutes regularly publish data relating to the economic situation and employment of people in relation to age and disability but statistics agencies (INSEE,

¹¹⁰ Law 78-17 of 6 January 1978 on information systems, data and freedoms (*Loi No. 78-17 du 6 janvier 1978 relative à l'informatique, aux fichiers et aux libertés*), available at: <https://www.cnil.fr/fr/la-loi-informatique-et-libertes#article6>.

¹¹¹ Constitutional Council, [No. 2007-557 DC](#), 15 November 2007.

¹¹² Court of Cassation, social chamber, 3 July 2012, No. 10-23013; Court of Cassation, social chamber, Airbus, No. K 10-15873, 15 December 2011; Court of Cassation, Social Chamber, 14 December 2022, No 21-19628; Conseil d'État, 11 October 2023, No. 454836 ; in support of class actions see: Court of Cassation, Social Chamber, 9 April 2025, No. 22-23639.

DARES, DRESS and INED)¹¹³ refuse to collect data on race and ethnic origin in the national census except regarding nationality.

In preparation for the 2025 census, in March 2024, Decree No. 2003-485 of 5 June 2003¹¹⁴ was amended to introduce a question on the place of birth of each parent. Previously, racial and ethnic statistical indicators, allowing policy impact evaluation or monitoring, did not exist. The question was introduced to enable authorities to gain a better understanding of the situation of descendants of immigrants and to improve their understanding of inequalities and discrimination that extend beyond the first generation. Gathering this information, in conjunction with the other variables (diploma, social category, age, etc.) will make it possible to study social and residential segregation, inequalities and possible discrimination (such as overexposure to unemployment, for example) by detailed origin and at local level, which is not possible with other surveys. The results have not yet been published.

Meanwhile, origin is a type of sensitive data and it is not collected by employers.

Such data can nevertheless be collected in small-scale multicriteria surveys and studies under the supervision of the national statistics agencies (based on a maximum representative sample of 5 000 selected people).

In April 2012, the Defender of Rights and the CNIL published joint guidelines for human resources managers in order to explain to them how they could develop a methodology to produce quantitative management indicators in relation to the promotion of diversity that would be in compliance with the current requirements of the law. In addition, in June 2025, CNIL adopted a recommendation regarding the methodology to be followed by employers in carrying out self-implemented surveys to measure diversity in employment.¹¹⁵

The treatment of such data must be confidential, anonymous and reserved for the external group monitoring the implementation of the anti-discrimination programme. Once the study has been completed, the data collection programme must be destroyed immediately. For studies conducted by survey, the answers must be anonymous, and their use exclusively reserved for use in the context of the study by those individuals responsible for the study.

- Court cases

In labour law, the constant jurisprudence of the social chamber of the Court of Cassation in matters of discrimination has favoured an approach based on access to evidence in order to allow, when necessary, the comparative analysis of the situation of the claimant against that of parties that are allegedly not discriminated against. This comparative approach necessarily allows the claimant to establish a statistically significant difference based on an analysis of evidence emanating from the employer regarding the respective situations of employees, in relation to prohibited grounds of discrimination, including ethnic origin, race, religion, age, sexual orientation and disability.

Statistics resulting from the comparative situation of employees of a common employer are now often used in labour law, based on the comparative approach developed by the

¹¹³ The National Institute of Statistics and Economic Studies (Institut national de la statistique et des études économiques, INSEE); the Directorate for Research, Studies and Statistics of the Ministry of Labour, Employment, Vocational Training and Social Dialogue (Direction de l'animation de la recherche, des études et des statistiques, DARES); the Directorate for Research, Studies, Assessment and Statistics of the Ministry of Social Affairs, Health and Women's Rights (Direction de la recherche, de l'évaluation, des études et des statistiques, DRESS); and the French Institute for Demographic Studies (Institut national des études démographiques, INED).

¹¹⁴ France, Decree No. 2003-485 of 5 June 2003, (Article 38(I)(2)), available at: <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000000595581>.

¹¹⁵ France, CNIL (2025), *Enquêtes de mesure de la diversité au travail : la CNIL publie ses recommandations*, (Surveys measuring diversity in employment : the CNIL publishes its recommendations), available at: <https://www.cnil.fr/fr/recommandation-mesure-diversite-travail>.

CJEU in discrimination cases,¹¹⁶ and repeatedly recognised by the Court of Cassation.¹¹⁷ In cases related to discrimination on the ground of apparent origin, the Court of Cassation has expressly stated that after the shift in the burden of proof, the defendant must present data - such as last names or nationality - relating to the 'apparent origin' of candidates who applied and of employees hired.¹¹⁸ The Court gives no instruction or guidance and may admit or dismiss the evidence proposed. However, the rules of evidence are free ('libres') and the parties generally use a list of employees showing last names, nationality or appearance.

The Conseil d'État has also recognised that statistics relating to the age of candidates held admissible by a jury can create a presumption of discrimination.¹¹⁹

There is no indication that foreign law examples have been used in order to justify the use of statistical evidence before the French courts. However, decisions of the CJEU have been at the core of all the arguments supporting the comparative approach to evidence of discrimination.

- Construction of evidence

Sensitive data and data based on origin are admissible before the courts.¹²⁰ They are empirically constructed and without technical constraints, their value being essentially subject to the evaluation of the judge. They are also used regularly by the national equality body (formerly HALDE and now the Defender of Rights).

As regards the ground of origin, evidence is based on appearance of origin based on deductions made from lists of employees on the basis of their last names, physical appearance and/or nationality.

Failure to undertake such a comparative analysis is deemed to be the equivalent of refusing the claimants access to the enforcement of their rights to protection against discrimination. The Court of Cassation decided in a landmark decision of 8 March 2023 that this right to access evidence applied even when the data to be communicated could be qualified as personal sensitive data according to the GDPR, such as identifying the name or physical identity of employees.¹²¹ In 2024, the issue relating to the admissibility of a request by a claimant to access nominative comparative evidence under the GDPR, was deferred by the social chamber of the Court of Cassation to the second chamber of the Court, which specialises in the determination of civil procedure issues. The second civil chamber reiterated this position in a decision of 3 October 2024, adding that the evidence must, however, be limited to what is strictly necessary to allow the claimant to exercise their rights to access evidence to present their case and that the judge must impose conditions to ensure protection against dissemination of the data beyond the strict requirements of the case.¹²² Moreover, in a decision of 9 April 2025, the Court of Cassation established for the first time the applicability of the principle of right to access personal data of comparable employees for the necessary statistical analysis in support of group actions (French class actions) related to discrimination claims.¹²³

¹¹⁶ See for example, CJEU, judgment of 13 May 1986, Bilka, C-170/84, EU:C:1986:204; 17 October 1989, Danfoss, C-109/88, ECLI:EU:C:1989:383; 27 October 1992, Enderby, C-127/92, ECLI:EU:C:1993:313.

¹¹⁷ Court of Cassation, social chamber, 3 July 2012, No. 10-23013; Court of Cassation, social chamber, P+B Fluchère, Dick and CFDT v. SNCF, No. 1027, 28 March 2000; CA Paris 17 October 2003. Appeal from Paris Regional Court 22 November 2002, D.O. July 2003 p. 284, 'Moulin Rouge' SOS Racisme and Marega v. Beuzit et Association du Moulin.

¹¹⁸ Court of Cassation, 14 December 2022, No. 21-19628: <https://juricaf.org/arret/FRANCE-COURDECASSATION-20221214-2119628>.

¹¹⁹ Conseil d'État, No. 16-102017, 16 October 2017.

¹²⁰ Court of Cassation, social chamber, Airbus, No. K 10-15873, 15 December 2011.

¹²¹ Court of Cassation, social chamber, 8 March 2023 No. 22-12492.

¹²² Court of Cassation, 2nd civil chamber, 3 October 2024 No. 21-20979.

¹²³ Court of Cassation, social chamber, 9 April 2025, No. 22-23639, available at: <https://www.legifrance.gouv.fr/juri/id/JURITEXT000051464923?isSuggest=true>.

The use of a quantitative analysis of the results of recruitment procedures in order to establish the exclusion of candidates for employment on the grounds of origin and age, and discrimination in racial profiling was expressly recognised by the Court of Cassation.¹²⁴

More recently, in a landmark case from 2023, in a group action against the state, the Conseil d'État admitted in evidence quantitative studies based on a survey on the experience of persons who experienced police checks - who self-identified their origin or physical appearance - supervised by the Defender of Rights, the French equality body, which was taken into account to establish the existence and significance of the practice of racial profiling by the police in France.¹²⁵

2.6 Harassment (Article 2(3))

a) Prohibition and definition of harassment

In France, harassment is prohibited in national law. It is defined.

In France, harassment explicitly constitutes a form of discrimination.

It takes the form of sexual harassment, moral harassment and discriminatory harassment.

There are three coexisting legal regimes: a general legal regime which is not defined in relation to a list of prohibited grounds of discrimination, applicable to any relevant employment situation; a legal regime related to sexual harassment; and a legal regime pursuant to the definition of discrimination in Article 1(1) of Law No. 2008-496 of 27 May 2008 that does not require repeated acts:

'Any behaviour related to one of the grounds mentioned in paragraph 1 and any behaviour of a sexual nature to which a person is subjected, with the purpose or effect of violating his or her dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment.'¹²⁶

This definition covers situations that impact one person or several people. It provides the applicable definition to all civil and administrative legislation on discrimination, regarding individual actions and class actions.

Outside discrimination law, the general regime of harassment is provided by criminal law (Articles 222-33 and 222-33-2 PC), civil and administrative law in access to goods and services, social protection, access to education, housing (Article 2(3) of Law No. 2008-496 of 27 May 2008) and labour law (Articles L1152-1 for moral harassment and L1153-1 for sexual harassment, Labour Code, and Article L133-1 et seq. of the General Code of Public Service). In addition, Article L111-6 of the Code of Education prohibits harassment in school and Article 5 of the Law 2022-299 of 2 March 2022 combating harassment in school created Article L543-1 of the Code of Education, which imposes an obligation on school directors to prevent, detect and address situations of school harassment.

¹²⁴ Court of Cassation, social chamber, 14 December 2022, No. 21-19628, available at: <https://juricaf.org/arret/FRANCE-COURDECASSATION-20221214-2119628>; Court of Cassation, first civil chamber, Nos 15-24.207 to 15-25.877 regarding the liability of the state for racial profiling in police checks, 9 November 2016, available at: https://www.courdecassation.fr/jurisprudence_2/premiere_chambre_civile_568/relatifs_contr_35473.html.

¹²⁵ Conseil d'État, (Administrative Supreme Court) Plenary Assembly, Amnesty international et al, No. 454836, 11 October 2023.

¹²⁶ Law of 27 May 2008, Article 1 paragraph 3: '1° Tout agissement lié à l'un des motifs mentionnés au premier alinéa et tout agissement à connotation sexuelle, subis par une personne et ayant pour objet ou pour effet de porter atteinte à sa dignité ou de créer un environnement intimidant, hostile, dégradant, humiliant ou offensant.'.

The Labour Code specifically states that no employee should be the victim of such behaviour or be sanctioned for having testified or complained in relation thereto (Article L1152-2 LC). It is applicable to both the private and public sectors and its definition covers acts perpetrated by superiors as well as by colleagues and volunteers.

In 2024, the Court of Cassation referring to paragraph 3 of Article 1 of the Law of 27 May 2008, held that discrimination includes any act related to one of the grounds mentioned in the first paragraph suffered by a person and having the purpose or effect of undermining his or her dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment. Discriminatory hate speech in employment is also held to constitute discriminatory harassment. In a landmark case from 2024 involving a security agent who was repeatedly insulted with phrases alluding to his origin, race, religion, sexuality and sexual orientation, the court found that there was discriminatory harassment based on multiple grounds of discrimination.¹²⁷ Courts have also reached a finding of discriminatory harassment in a situation where demeaning comments were made in relation to an employee's old age.¹²⁸

In another landmark case relating to harassment on the ground of race and origin, the Court of Cassation decided in 2024 that racist remarks made by a superior at a Christmas party organised by the social committee of the employer, form part of professional life and constitute discriminatory harassment.¹²⁹ In 2023, the Court of Cassation expressly stated in a landmark decision that, even if other facts alleged are not conclusively established by evidence, evidence of only one act, in this case designating the employee as 'the Lebanese', is sufficient to constitute discriminatory harassment and to shift the burden of proof.¹³⁰

Article L1153-1 LC defines sexual harassment as 'repeated statements or acts' or pressure that is repeated or not. These statements or acts are 'of a sexual nature that violate a person's dignity because of their humiliating or degrading content or because they generate an intimidating, hostile or offensive environment'. The definition also includes 'pressure with the perceived or real aim of obtaining sexual favours for a person's own benefit or the benefit of a third party'.¹³¹ The courts have decided that homosexual sexual advances are covered by the prohibition of sexual harassment.¹³² They have held that this provision assimilates to sexual harassment all forms of sexual misconduct, including acts and statements of a sexual nature that are motivated by a person's sexual orientation or gender identity.¹³³

In the general regime applicable to harassment, Article L1154-1 LC provides for the shift in the burden of proof in the same terms as those used in Directives 2000/43/EC and 2000/78/EC.

¹²⁷ Court of Cassation, social chamber, 14 November 2024, No. 23-17917, available at : <https://www.legifrance.gouv.fr/juri/id/JURITEXT000050510271>; Marie Mercat Bruns (2025), 'Hate speech and discriminatory harassment at work: outlines and evidence' (*Discours de haine et harcèlement discriminatoire au travail : contours et prevue*), *Droit social* 2025, 497; The Conseil d'État followed the same position in Conseil d'État, 7 October 2022, No. 450492, available at: <https://www.conseil-etat.fr/fr/arianeweb/CE/decision/2022-10-07/450492>.

¹²⁸ Douai Court of Appeal, 28 March 2025, No 23/00620; Aix en Provence Court of Appeal, 12 February 2007, No 06/04801.

¹²⁹ Court of Cassation, social chamber, 15 May 2024, No. 22-16287.

¹³⁰ Court of Cassation, social chamber, 20 September 2023, No. 22-16130.

¹³¹ Article L1153-1 of the Labour Code, available at: <https://www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000026268379&cidTexte=LEGITEXT000006072050>: 'Aucun salarié ne doit subir des faits: 1° Soit de harcèlement sexuel, constitué par des propos ou comportements à connotation sexuelle répétés qui soit portent atteinte à sa dignité en raison de leur caractère dégradant ou humiliant, soit créent à son encontre une situation intimidante, hostile ou offensante ; 2° Soit assimilés au harcèlement sexuel, consistant en toute forme de pression grave, même non répétée, exercée dans le but réel ou apparent d'obtenir un acte de nature sexuelle, que celui-ci soit recherché au profit de l'auteur des faits ou au profit d'un tiers'.

¹³² Paris Court of Appeal, 18e Ch., section C, Ste Euro Disney v. Vallinas, Juris Data No. 023467, 8 October 1992.

¹³³ Versailles Court of Appeal, 17 March 2022 No. 18/02748; Rouen Court of Appeal, 10 March 2022, No. 19/01250.

In three landmark decisions, the Court of Appeal of Orléans, the Administrative Tribunal of Dijon in 2017, and the Court of Appeal of Paris in 2019, recognised the concept of a harassing atmosphere and held that the employer could be held liable for discriminatory harassment as a result of tolerating a working environment typified by bad jokes, obscene graffiti on the wall, desecration of the Qur'an, or comments of a sexist or racist nature.¹³⁴ This jurisprudence has been confirmed by a decision of the criminal chamber of the Court of Cassation, pointing to institutional harassment in cases where managers implement a company policy that, knowingly, leads to a deterioration in the working conditions of the employees.¹³⁵

In 2025, the Court of Cassation concluded that the behaviour of a director who carries out attitudes and makes comments that are sexual, sexist, racist, and stigmatising on the basis of homosexual orientation, is unacceptable even if he is appreciated by his colleagues and they were intended to be humorous. Such behaviour makes it impossible for the director to remain in the workplace.¹³⁶ In another case from 2025, it also decided that photomontages circulated within the company that undermined dignity, constituted discriminatory harassment linked to prohibited grounds such as gender and sexual orientation, and resulted in all employees being entitled to receive compensation, regardless of whether they made complaints to their hierarchy or not.¹³⁷

In 2025, the Court of Cassation also points out that the obligations arising from Articles L. 1132-1 (discrimination) and L. 1152-1 (moral harassment) of the Labour Code are distinct, and that failure to comply with each of them may give rise to independent specific remedies if the identifiable damages relate to each occurrence.¹³⁸

b) Scope of liability for harassment

Where harassment is perpetrated by an employee, in France, both the employer and the employee are liable. The purview of the employer's safety obligations covers the behaviour of third parties.¹³⁹

The definition of harassment as prohibited by French labour law covers actions by people in authority and that of colleagues as well (Articles 1151-1, 1152-1 and 1153-1 LC).

In practice, the employer shares the liability with the harassing employee(s). In order to escape liability, the employer or person responsible must establish having taken all necessary preventive measures in general, through training of management and clear guidelines, and in the individual case by taking immediate measures in order to put an end to the alleged harassment.¹⁴⁰

¹³⁴ Orléans Court of Appeal, No. 15-02566, 07/02/2017; Dijon Administrative Tribunal, No. 1702533, 29/12/2017, Montpellier Labour Court, No. 13/00529, 26/05/2015; Paris Court of Appeal, No. 17/10760, 05/12/2019.

¹³⁵ Court of Cassation, criminal C=chamber, 21 January 2025, No. 22-87.145, available at: https://www.courdecassation.fr/decision/678f6a5a29d9a5b0535ebb19?search_api_fulltext=2287145&op=R&echercher&date_du=&date_au=&judilibre_jurisdiction=cc&previousdecisionpage=&previousdecisionindex=&nextdecisionpage=0&nextdecisionindex=1.

¹³⁶ Court of Cassation, social chamber, 5 November 2025, No. 24-11.048, available at: <https://www.legifrance.gouv.fr/juri/id/JURITEXT000052587057/>.

¹³⁷ Court of Cassation, social chamber, 15 October 2025, No. 23-24.002, available at: <https://www.legifrance.gouv.fr/juri/id/JURITEXT000052484655/>.

¹³⁸ Court of Cassation, social chamber, February 26, 2025, No. 23-15831, available at: <https://www.legifrance.gouv.fr/juri/id/JURITEXT000051284050/>.

¹³⁹ Riom Court of Appeal, 29 June 2021, No. 20/00437.

¹⁴⁰ Court of Cassation, social chamber, No. 14-11563, 22/09/2015, available at: <https://www.legifrance.gouv.fr/affichJuriJudi.do?oldAction=rechJuriJudi&idTexte=JURITEXT000031230475&astReqId=1132526842&fastPos=1>, also: Court of Cassation, social chamber, 1 June 2016, No. 14-19702, available at: <https://www.legifrance.gouv.fr/affichJuriJudi.do?idTexte=JURITEXT000032636211>; Court of Cassation, social chamber, 13 December 2017, No. 16-14999, available at: <https://www.legifrance.gouv.fr/affichJuriJudi.do?oldAction=rechJuriJudi&idTexte=JURITEXT000036216565&astReqId=717589372&fastPos=1>.

Furthermore, it provides for an obligation on the part of the employer to guarantee a safe work environment free of harassment (Article 1152-4 LC). This provision creates an obligation on the part of the employer to take all necessary measures to put an end to harassment in the workplace. In the public services the same principles apply.

In a landmark decision of 2019, the Court of Cassation had to determine the extent of the obligation of the employer to intervene in a situation where volunteers in a de facto position of authority were harassing a tutored employee.¹⁴¹ The Court found that the employer had an obligation to take effective measures to protect their employees when it was in a situation to exert de facto authority over non-salaried persons who were responsible for the sexist harassing behaviour.¹⁴² The Court specifically pointed out the lack of 'reaction' on the part of the tutor, which was the trigger for liability.

The Court of Cassation decided in the above mentioned case of 14 November 2024 that an employee who writes to his employer to complain about racist remarks made about him over a period of months by his superiors in the workplace, one of them greeting everyone but him, presents sufficient evidence to impose on the employer the burden of establishing that his failure to intervene was justified by objective factors unrelated to any discrimination.¹⁴³

Finally, further to a finding of systematic discrimination in a woman's career and salary evolution combined with a lack of interest in the employee's complaints, the Court of Appeal of Paris decided in 2025 that the cumulative attitude and failure to intervene constituted a distinct discrimination claim deserving dedicated compensation.¹⁴⁴

In 2025, the criminal chamber of the Court of Cassation decided that a company policy that, knowingly, leads to a deterioration in the working conditions of the employees constitutes institutional harassment prohibited by law.¹⁴⁵

Law No. 2021-1109 of 24 August 2021 relating to the respect of the principles of the Republic introduced Article 6 *quater* A in the Law of 13 July 1983 on the rights of public agents,¹⁴⁶ now Article L135-6 of the General Code of Public Service, and created an obligation on all public services to create a complaints mechanism to protect public agents (i.e. civil servants and non-statutory contractual public employees who are collectively called public agents in France) against discrimination, violence and harassment.

In general, the Criminal Code at Articles 222-33-2 et seq. forbids harassment in all its forms towards all persons. Regarding third persons, the duty of protection against third party intervention is bound to the existence of a legal bond creating a duty on the part of a protector which can be the employer, the private service provider, the landlord, the

¹⁴¹ This is an employment contract with specific tutoring in order to accompany the return to employment of persons in a very precarious situation.

¹⁴² Court of Cassation, social chamber, 30 January 2019, No. 17-28905, available at: <https://www.legifrance.gouv.fr/affichJuriJudi.do?oldAction=rechJuriJudi&idTexte=JURITEXT000038112097&astReqId=1554383201&fastPos=1>.

¹⁴³ Court of Cassation, social chamber, 14 November 2024 No. 23-17917, available at: <https://www.courdecassation.fr/decision/6735a29f8bdc6c39ccf7991e>.

¹⁴⁴ Paris Court of Appeal, September 10, 2025, No. 21/05462, available at : <https://www.courdecassation.fr/decision/68c258cdb785cdee2a4101e1>; this reasoning was also applied by the Versailles Court of Appeal, 27 March , 2025, No. 23/00289, available at: <https://www.courdecassation.fr/decision/67e63b2b2985b65426f725ab>

¹⁴⁵ Court of Cassation, criminal chamber, 21 January 2025, No. 22-87.145, available at: https://www.courdecassation.fr/decision/678f6a5a29d9a5b0535ebb19?search_api_fulltext=2287145&op=R&echercher&date_du=&date_au=&judilibre_jurisdiction=cc&previousdecisionpage=&previousdecisionindex=&nextdecisionpage=0&nextdecisionindex=1.

¹⁴⁶ Law of 13 July 1983, Article 6 *quater* A, available at: https://www.legifrance.gouv.fr/loda/article_lc/LEGIARTI000043982125, now Article L135-6 of the General Code of Public Service available at: https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000044427582.

school authorities, the public service provider, the healthcare or social service provider, etc.

Regarding the education sector, Article L111-6 of the Code of Education prohibits harassment in school and Article 5 of the Law 2022-299 of 2 March 2022 combating harassment in school created Article L543-1 of the Code of Education imposing an obligation on school directors to prevent, detect and address situations of school harassment while Article 222-33-22-3 of the Penal Code sanctions moral harassment by students and professionals in school and higher education. Finally, Law 2025-732 of 31 July 2025, regarding the fight against antisemitism, racism, discrimination, violence and hatred in educational institutions creates a comprehensive programme to address antisemitism and racism in higher education through the training of personnel, the promotion of equality and the establishment of claim procedures.¹⁴⁷

2.7 Instructions to discriminate (Article 2(4))

a) Prohibition of instructions to discriminate

In France, instructions to discriminate are prohibited in national law. Instructions are defined.

In France, instructions to discriminate explicitly constitute a form of discrimination.

In France, instructions to discriminate do not require a hierarchical relationship between the instructor and instructed person.

Instructions to discriminate are not covered as such by the Labour Code, the Civil Code or the Penal Code. Instead, Law No. 2008-496 defining the legal framework of the protection against discrimination provides the definition of discrimination applicable to all legal provisions at Article 1, paragraph 5, defining instructions to discriminate as a form of discrimination. It provides the following definition:

‘...the fact of instructing anyone to adopt the behaviour defined in Article 2’.¹⁴⁸

There is no specific provision regarding incitement to discriminate, but such a prohibition results from the application of general principles of liability. Incitement and instructions to discriminate correspond to the notion of complicity in Articles 121-6 and 121-7 PC and the general principles of liability in civil law.

The Law on the Press of 1881 prohibits provocation to perpetrate racial, religious, sex, disability and sexual orientation discrimination, as well as complicity (Articles 23 and 24 of the Law on the Press of 1881 for public provocation, and Article R625-7 PC for non-public provocation).¹⁴⁹ The law does not define the word provocation. The Court of Cassation has clearly established that in cases of discrimination the prohibited provocation refers to instructions to discriminate as defined by Articles 225-1 and 225-2 PC.¹⁵⁰

In a landmark decision of 2023, the criminal chamber of the Court of Cassation decided that statements made by an imam in a mosque, reading a Hadith calling for the murder of Jews without interpretative observations is covered by the prohibition.¹⁵¹

¹⁴⁷ Law 2025-732 of 31 July 2025, regarding the fight against antisemitism, racism, discrimination, violence and hatred, available at: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000052018661>.

¹⁴⁸ Law of 27 May 2008, Article 1, para. 5: ‘Le fait d’enjoindre à quiconque d’adopter un comportement prohibé par l’Article 2’.

¹⁴⁹ Law of 29 July 1881 on Freedom of the Press (*Loi du 29 juillet 1881 sur la liberté de la presse*), available at: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006070722&dateTexte=20080312>.

¹⁵⁰ Court of Cassation, criminal chamber, 12 April 1976, and 22 May 1989.

¹⁵¹ Court of Cassation, criminal chamber, 19 December 2023, [No. 22-87200](#).

Law No. 2021-1109 of 24 August 2021¹⁵² relating to the respect of the principles of the Republic, creates a new offence in the Penal Code at Article 223-1-1 of intentionally exposing persons to hatred and risk of violence by the publication of personal information.

Considering the above, we can consider that in France the law regarding instructions to discriminate and harassment is interpreted to include explicit instructions and/or preferences or suggestions with a discriminatory impact and/or encouragement or pressure.

b) Scope of liability for instructions to discriminate

In France, the instructor, his or her supervisor and the discriminator are liable.

In labour law an employee's superior and the employer entity bear liability for the actions of the entire chain of command of their subordinates.

In a few cases, the exacting burden of proof with regard to the liability of senior management was met by way of inferences from the facts because, regardless of the absence of direct evidence, the court was persuaded of its active involvement in what was a discriminatory policy.¹⁵³ In fact, it is the manager giving instructions who is targeted by the procedure in criminal cases; the court is looking for evidence of the involvement of the decision maker and then concludes as to the joint liability of the instructor and the author for the acts of the discriminator, but in general, the employer is the only person sued in the procedure before the labour court.¹⁵⁴

The jurisprudence attacking statements of polemicists holds that the prohibition of provocation to discriminate could not limit freedom of expression of reasoned philosophical and political criticism even when it targets the legitimacy of European anti-discrimination law.¹⁵⁵

2.8 Reasonable accommodation duties (Article 2(2)(b)(ii) and Article 5 Directive 2000/78)

a) Implementation of the duty to provide reasonable accommodation for persons with disabilities in the area of employment

In France, the duty on employers to provide reasonable accommodation for persons with disabilities is included in the law and is defined.

Article L1132-1 of the Labour Code provides that no person may be sanctioned, dismissed or be subject to a discriminatory measure by reason of his or her disability as the law guarantees the principle of equal treatment of workers with disabilities and, in paragraph 2, that in any litigation relating to the application of this principle, the shift in the burden of proof provided for in Article L1134-1 LC, and resulting from the transposition of Directive 2000/78/EC, is applicable.

In addition, this provision must be read in relation to Article L5213-6, paragraph 1 LC, which provides that in order to ensure respect for the principle of equal treatment and

¹⁵² Law No. 201-1109 of 24 August 2021, available at: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000043964778>.

¹⁵³ High Judicial Court of Versailles, 2 April 2001. CA Paris, Sté NIDEK Europarc, No. 4835.96, 20 March 1997.

¹⁵⁴ Court of Cassation, criminal chamber, 21 January 2025, No. 22-87.145; High Judicial Court of Paris 14 November 2002 No. 0019304084 Cantuel Horbette (Hotel La Villa), Essindi et al. Court of Appeal of Paris 17 October 2003. Appeal from High Judicial Court of Paris 22 November 2002, D.O. July 2003 p. 284, 'Moulin Rouge' SOS Racisme and Marega v. Beuzit et Association du Moulin.

¹⁵⁵ Conseil d'État, No. 417228, 15 October 2018, available at: <https://www.legifrance.gouv.fr/affichJuriAdmin.do?oldAction=rechJuriAdmin&idTexte=CETATEXT000037499785&fastReqId=2109776164&fastPos=1>.

reasonable accommodation of employees with disabilities in the workplace, as defined in Article L114 of the Social Welfare Code (SWC),

'(...), employers shall take appropriate measures, in accordance with the specific situation, to allow workers with disabilities to have access to or to maintain a position of employment which corresponds to their qualifications, to execute their work, to progress therein and to have access to training adapted to suit their needs'¹⁵⁶ (author's translation).

and Article 2(5) of Law No. 2008-496 of 27 May 2008, which states:

'These principles [the prohibition of discrimination] do not forbid a) Measures taken in favour of persons with disabilities to make equal treatment possible;...'

Paragraph 4 of Article 5213-6 LC explicitly provides that 'failure to take all necessary measures can constitute discrimination as defined by Article L1132-1 LC' (author's translation).

Article L3122-26 LC provides for a right to request an adjustment of working hours, not only for persons with disabilities, but also for the benefit of family members and carers of persons with disabilities. The Labour Code also provides for an extension of parental leave after having a child with disabilities (Article L1225-61 LC).

Article L1133-3 LC provides that unequal treatment based on the decision that a person is not physically able to do the job by reason of health or disability, as determined by the occupational health doctor after taking into consideration the possibilities of reasonable accommodation of the work environment and/or working conditions, does not constitute discrimination.

Law No. 2008-496 of 27 May 2008 did not extend the obligation of reasonable accommodation to non-salaried and independent workers (including third-party employees, volunteers and liberal professionals). However, in the landmark *Bleitrach* case,¹⁵⁷ which related to access of a lawyer to the court house, the Conseil d'État recognised a duty on the state to take positive measures to provide access to court buildings for persons with disabilities working as auxiliaries of justice within a liberal profession (i.e. lawyers, bailiffs, etc.) by direct application of Directive 2000/78/EC and Law No. 2005-102 on Disability. The same issue could be raised by non-salaried and independent workers regarding access to many public places where they come to perform their work, such as town halls, public clinics, etc.

The employer must establish the disproportionate burden in providing reasonable accommodation in order to justify not providing reasonable accommodation, that may even lead to inability to perform the work and dismissal.

The only applicable limitation to the obligation of reasonable accommodation that has been identified by the legislature are those that translate into 'disproportionate costs'. These are defined by Article 5213-6 paragraph 2 LC, taking into account any financial support available to the employer (cf. Article 37 of Law No. 2005-102 on Disability, concerning Article L5213-10 LC on financial subsidies for the adaptation of the work environment awarded by the departmental director of labour).

¹⁵⁶ Article L 5212-13 LC: '(...) les employeurs prennent, en fonction des besoins dans une situation concrète, les mesures appropriées pour permettre aux travailleurs handicapés d'accéder à un emploi ou de conserver un emploi correspondant à leur qualification, de l'exercer ou d'y progresser ou pour qu'une formation adaptée à leurs besoins leur soit dispensée'.

¹⁵⁷ Conseil d'État, No. 301572, 22 October 2010, available at: <https://www.legifrance.gouv.fr/affichJuriAdmin.do?oldAction=rechJuriAdmin&idTexte=CETATEXT000022952080&fastReqId=761863097&fastPos=1>.

This law is supplemented by two decrees:

- Decree No. 2006-134 of 9 February 2006 on the recognition of the severity of the disability;¹⁵⁸
- Decree No. 2006-501 of 3 May 2006 on the fund for the professional integration of persons with disabilities.¹⁵⁹

These instruments set the criteria for determining the financial support provided to the employer. They are based on the level of impairment and the corresponding additional functional cost of employment resulting from the implementation of reasonable accommodation.

Similar provisions were integrated into Law 83-634 of 13 July 1983 on the rights and obligations of civil servants (now Article L131-8 and 131-12 of the General Code of Public Service).¹⁶⁰ These provisions are supplemented by the above mentioned provisions of the Labour Code on the implementation of reasonable accommodation duties, which are applicable to both the private and public sectors.

There is no provision defining a disproportionate burden beyond the notion of disproportionate costs specified by Article 5213-6 paragraph 2 of the Labour Code.

In 2017, further to a wide consultation with employers, NGOs and stakeholders, the Defender of Rights published a guide to provide employers and all agencies with a general framework for the implementation of the duty to provide reasonable accommodations.¹⁶¹ The guide intends to make explicit the scope of the obligation, its constraints and limits and its interaction with other applicable legal schemes. It remains the only comprehensive publication for employers on the subject.

The guide clearly explains the many intricate regulatory texts and indicates that a failure to comply with general accessibility or building regulations will be relevant, and related costs will not be deemed disproportionate. However, the employer can be exempt as regards adaptation of access to the premises if he establishes that he benefits from a derogation because there are no available premises or the premises cannot technically be adapted. No case has yet been adjudicated in which the impossibility of adapting the premises has been raised.

b) Case law

The *Vaulot-Pfister* case is a landmark decision by the Conseil d'État on the issue of reasonable accommodation in the public service. The claimant was a magistrate with the public prosecution office who became deaf and was exempted from public hearings and as a result was subjected to a substantial reduction of his variable remuneration.¹⁶² The

¹⁵⁸ Decree No. 2006-134 of 9 February 2006 on the recognition of the burden of disability (*Décret no 2006-134 du 9 février 2006 relatif à la lourdeur du Handicap*), available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000458030>.

¹⁵⁹ Decree No. 2006-501 of 3 May 2006 on the fund for the professional integration of persons with disabilities (*Décret No. 2006-501 du 3 mai 2006 relatif au fonds pour l'insertion des personnes handicapées dans la fonction publique*), available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000814863&dateTexte=&categorieLien=id>.

¹⁶⁰ Law No. 83-634 of 13 July 1983, complemented by Law 84-16 of 11 January 1984 on the civil service of the state, Law 84-53 of 26 January 1984 on the civil service for the local and regional levels of government and Law 86-33 of 9 January 1986 on the hospital civil service, (now Articles L131-1 and following of the General Code of Public Service), available at: https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000044427698.

¹⁶¹ Defender of Rights (2017), *Emploi des personnes en situation de handicap et aménagement raisonnable* (The employment of persons with disabilities and reasonable accommodation), December 2017: <https://www.defenseurdesdroits.fr/fr/guides/guide-aménagement-raisonnable>.

¹⁶² Conseil d'État, No. 347703, 11 July 2012, available at: <https://www.legifrance.gouv.fr/affichJuriAdmin.do?idTexte=CETATEXT000026198987>.

justification for this was that the bonuses compensate for the objective burden of service and that his hearings burden had been reassigned to others who thus had their burden increased.

The Conseil d'État reversed the lower courts' decisions and decided that, pursuant to Directive 2000/78/EC, the duty of reasonable accommodation on the part of the public employer creates a corresponding right to the benefit of the magistrate, guaranteeing that the measures taken will not create a disadvantage as regards remuneration or prevent proper professional progression. Maintaining pay was part of the reasonable accommodation. The fact of taking the disability into account to set objectives cannot generate unequal treatment as regards remuneration.

In a landmark decision from 2024, the Court of Cassation gave explicit guidelines to lower court judges on evaluating evidence presented by the parties and determining whether the duty of reasonable accommodation had been met before approving the dismissal of an employee for reason of unfitness. The failure of the employer to answer the employee's request or obtain advice from specialised bodies to identify concrete measures to adapt the employee's workplace or working conditions, constitutes evidence of implicit failure to fulfil the reasonable accommodation duty that shifts the burden of proof on defendant employer. The judge must then evaluate whether the employer has presented evidence demonstrating that this refusal is justified by reasons that are unrelated to any discrimination, that it is due to the material impossibility to take such measures or the disproportionate burden they represent.¹⁶³

In 2025, the Court of Cassation decided that when the occupational physician expressly stated in his opinion that 'continuing to employ the employee' would be seriously detrimental to his health, this meant that employment with the same employer was impossible and that the employer, the Paris public transport agency RATP, was therefore not required to invite the employee to request a transfer to another position.¹⁶⁴

c) Definition of disability and non-discrimination protection

The obligation to make reasonable accommodation established by Article L5213-6 LC provides for a protection to the benefit of any person designated in Article L5212-13 LC, which lists all the administrative statuses that would encompass workers with disabilities.

These reasonable accommodation obligations can therefore benefit all employees with official recognition, those who have the status of worker with disabilities, those who have suffered an accident at work resulting in a degree of disability greater than 10 % and who have received compensation in this regard, those in receipt of disability pensions and veterans with disabilities in all situations of employment integration and those who have not been officially assessed as having a disability but about whom the occupational health medical service (composed of ergonomists and medical doctors) advises that a reasonable accommodation is needed, at the time of hiring and later on, for all types of employment and functions, unless making the accommodation entails a 'disproportionate burden' (a concept that is not defined but which in practice generally relates to costs).

In terms of legal rights, a person who meets the definition of worker with disabilities under Article L5213-1 LC in a situation described in Articles 114 to 114-5 of the Social Welfare Code (SWC) can argue his or her right to reasonable accommodation on the ground of the general protection against discrimination contained in Article L1132-1 ff. LC and Article 2

¹⁶³ Court of Cassation, 15 May 2024, No. 22-11652, available at: <https://www.legifrance.gouv.fr/juri/id/JURITEXT000049602260>.

¹⁶⁴ Court of Cassation, social chamber, 10 December 2025, No. 24-13.602, available at: <https://www.courdecassation.fr/decision/693927b4c988783351cb6634>.

of Law No. 2008-496 of 27 May 2008, and his or her right will be recognised by the courts.¹⁶⁵

The definition of disability for all purposes, including the private and public sector and education, is provided by Article 114 of the SWC. It provides protection whether or not he or she formally declares his or her disability, and whether or not his or her limitations are perceptible to their employer. The occupational health doctor is the authority that determines *in concreto* required reasonable accommodations for all according to Article 5213-1 LC at the time of hiring, at regular yearly intervals and return from sick leave. The occupational health doctor will determine all required accommodation needed for the person to perform work and preserve his or her health relating to all individual and collective health or functional requirements. The employer is required by law to implement the prescribed individual reasonable accommodation measure(s).

The provisions of the Labour Code to implement reasonable accommodation duties apply to the public sector.

d) Failure to meet the duty of reasonable accommodation for persons with disabilities

In France, failure to meet the duty of reasonable accommodation in employment for persons with disabilities is recognised as a form of discrimination in both the private and the general public sectors.

As regards private and public employment, cases essentially sanction insufficient accommodation as constituting discrimination but do not discuss the sufficiency of accommodation measures that must be undertaken.¹⁶⁶

The employer can refuse to implement reasonable accommodation in cases of disproportionate burden. Article L5212-6, paragraph 2 LC provides that 'the refusal to take such measures [*reasonable accommodation*] may constitute discrimination according to Article L1133-2 LC'. The claimant thus benefits from the legal regime of discrimination covering both direct and indirect discrimination, which gives them the benefit of the right, specific to the anti-discrimination legal framework, to obtain access to evidence in possession of the defendant on their handling of the situation, of the shift in the burden of proof and of consequences related to the nullity of the decision.

The law provides no precision as to when it will deem a refusal to make 'accommodation' (or take 'necessary measures') to be discrimination or what is a disproportionate burden. Where the courts have been called on to decide whether or not the disproportionate burden was established in respect of the requirement for reasonable accommodation, they have made their findings 'in fact' without further discussion defining the concepts of reasonable accommodation or disproportionate burden.¹⁶⁷

In practice, the disproportionate burden generally relates to costs. This is determined as a question of fact by the courts on a case-by-case basis, with little discussion of the criteria used to proceed to this evaluation since French judicial decisions are very synthetic and do not expand on principles but simply provide conclusions. A few cases provide some guidance on the approach to evaluation by the court. The jurisprudence has decided that disproportionate costs must take into consideration any public financing available to put in place the reasonable accommodation, in line with Article 5 and Recital 21 of Council Directive 2000/78. In addition, it holds that the burden of evidence falls on the employer

¹⁶⁵ Orléans Court of Appeal, X. v. La poste, No.10/01990, 15 November 2011.

¹⁶⁶ Court of Cassation, social chamber, 6/03/2017 No. 15/206037; 28/01/2018 No. 42616; Douai Court of Appeal, 21/12/2012, No. 12/00623; Douai Court of Appeal, 29/01/2016 No. 15/00506; Bordeaux Court of Appeal, 20/10/2011 No. 10/03585.

¹⁶⁷ Court of Cassation, social chamber, 6/03/2017 No. 15/206037; 28/01/2018 No. 42616; Douai Court of Appeal, 21/12/2012, No. 12/00623; Douai Court of Appeal, 29/01/2016 No. 15/00506; Bordeaux Court of Appeal, 20/10/2011 No. 10/03585.

to provide proof that they had applied for money from the fund for the integration of persons with disabilities¹⁶⁸ and that this defence will not be available if the accommodation relates to the failure to implement accessibility obligations provided by law (see the discussion of the *Bleitrach* case in Section 2.8.a above).¹⁶⁹

Jurisprudence relating to the evaluation of the requirements of reasonable accommodation and the obligation of the employer to take 'necessary measures to provide access to work' imposes on employers the obligation to present evidence that they implemented all required reasonable accommodation measures before dismissing an employee,¹⁷⁰ and took all necessary steps to reassign employees who have been declared unfit by the occupational health doctor.¹⁷¹ Necessary measures cover all measures necessary to allow the person to get to work, such as requests for adapted vehicles. If the employer argues disproportionate burden, it must establish that it applied for money from the fund for the integration of persons with disabilities.¹⁷²

However, the law is not interpreted as imposing an obligation on the employer to create a new position that meets the reasonable accommodation needs of the worker with a disability.¹⁷³ Dismissing an employee because of the lack of availability of work in vacant positions corresponding to accommodation requirements prescribed by the occupational health doctor is not discrimination as defined by Article L1133-3 of the Labour Code.

e) Duties to provide reasonable accommodation in areas other than employment for persons with disabilities

In France, there is a duty to provide reasonable accommodation for persons with disabilities outside the area of employment, which is widely defined by Articles 114 to 114-5 of the SWC since the adoption of the Law on Disability of 11 February 2005. Article 114-1 SWC provides that:

'All persons with disabilities are entitled to the solidarity of the entire national community, which guarantees them, by virtue of this obligation, access to the fundamental rights recognised for all citizens and the full exercise of their citizenship.'

The state guarantees equal treatment for persons with disabilities throughout the country and sets multi-year action objectives.

Education

Law No. 2005-102 on Disability provides for a duty to integrate children and students with disabilities into the mainstream education system. The right to education and to reasonable accommodation within education of children with disabilities is affirmed in Articles 19 to 22 of Law No. 2005-102 on Disability.

Article 11 affirms a right of access to local mainstream schools and the right to an individual educational programme.¹⁷⁴

¹⁶⁸ See note No. 145, Administrative Court of Caen, No. 0802480, 1 October 2009.

¹⁶⁹ Conseil d'État, No. 301572, 22 October 2010, available at: <https://www.legifrance.gouv.fr/affichJuriAdmin.do?oldAction=rechJuriAdmin&idTexte=CETATEXT000022952080&fastReqId=761863097&fastPos=1>.

¹⁷⁰ Nantes Administrative Court, 30 September 2009, req. No. 076871 and No. 076996.

¹⁷¹ Court of Cassation, social chamber, 03/06/2020 No. 18-21993: <https://www.legifrance.gouv.fr/affichJuriJudi.do?oldAction=rechJuriJudi&idTexte=JURITEXT000041995790>.

¹⁷² Administrative Court of Caen, No. 0802480, 1 October 2009.

¹⁷³ Versailles Court of Appeal, 30 January 2020, No. 18/01698.

¹⁷⁴ Ministerial Instruction No. 2006-126 of 17 August 2006 on the implementation of the individual educational programme (*Circulaire relative à la mise en oeuvre et au suivi du projet personnalisé de scolarisation*) available at: <http://www.education.gouv.fr/bo/2006/32/MENE0602187C/htm>.

In a landmark decision of 15 December 2010,¹⁷⁵ the Conseil d'État concluded that adapted access to education for children with disabilities at preschool level is a fundamental freedom, and failure of the school authorities to maintain the accommodation determined by the individual educational programme, in this case providing the pupil with an educational assistant, violates that freedom. The Conseil d'État went even further and decided in a landmark case of 20 April 2011¹⁷⁶ that the provisions of the individual educational programme paid for by the state authorities also covered needs related to extracurricular activities and therefore established an obligation that should be implemented without delay, regardless of budgetary and logistical considerations. Therefore, parents can benefit from injunctive relief ordering that all necessary measures be taken by the education authorities in order to satisfy the requirements of the implementation of this right.¹⁷⁷

Law No. 2005-102 of 11 February 2005 on Disability further establishes, through Article L112-4 of the Code of Education, an explicit obligation to adapt examination processes to the needs of students with disabilities.

Between 2004 and 2023,¹⁷⁸ the integration of students with disabilities in ordinary schools increased by 220 %, from 134 000 in 2004 to 460 000 students with disabilities in 2023. Individualised support has been multiplied by 5 (28 108 assistants in 2006 compared to 130 000 in 2023),¹⁷⁹ which is an increase of 6 % per year, although requests for educational assistance have increased twice as fast (12 % per year). Overall, 67 % of children with disabilities have requested and obtained educational assistance.¹⁸⁰ Despite the increase in human support, the Defender of Rights published a report in 2022 warning of the difficulties linked to the deficiencies in the quality and nature of the support given that in many cases it is central to the child's inclusion in school.¹⁸¹ Examples given by the Defender of Rights included: delayed administrative decisions, delayed implementation, non-replacement of absent support person, absence of training of teachers, support persons without sufficient training, imprecise indications on the needs of the child and insufficient coordination and dialogue with socio-medical professional supporting the child outside of school.

In 2021, the Government adopted a policy for the inclusion of students with disability in higher education.¹⁸² Each university must adopt an in-house policy to ensure the support of students with disability through a specific service. Accommodations can consist of equipment adjustments, mobility support, organisational, pedagogical or human accommodation and support.¹⁸³

¹⁷⁵ Conseil d'État, No. 344729, 15 December 2010, available at:

<https://www.legifrance.gouv.fr/affichJuriAdmin.do?idTexte=CETATEXT000023248217>.

¹⁷⁶ Conseil d'État, No. 345434, 20 April 2011, available at:

<https://www.legifrance.gouv.fr/ceta/id/CETATEXT000023897748/>; Conseil d'État, No. 345442, 20 April 2011, available at: <https://www.legifrance.gouv.fr/ceta/id/CETATEXT000023897749/>.

¹⁷⁷ Article L 521-2 of the Code of Administrative Justice (*Code de Justice administrative*), available at:

<https://www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000006449327&cidTexte=LEGITEX T000006070933&dateTexte=20010101>.

¹⁷⁸ These are the most recent data available: Senate (2023) *Report on educational inclusion*, Cedric Vial, 3 May 2023, Available at: <https://www.senat.fr/rap/r22-568/r22-5681.pdf>.

¹⁷⁹ Senate, Answer to a question to the Minister of Education, 23/11/2023, available at:

<https://www.senat.fr/questions/base/2023/qSEQ230908441.html#:~:text=Pour%20la%20rentrée%202023%2C%20le,enseignement%20adapté%20à%20leurs%20besoins>.

¹⁸⁰ Senate (2023) *Report on educational inclusion*, Cedric Vial, 3 May 2023, Available at:

<https://www.senat.fr/rap/r22-568/r22-5681.pdf>.

¹⁸¹ Defender of Rights (2022), *Accompagnement humain des élèves en situation de handicap* (The human support given to children with disabilities at school), available at:

<https://www.defenseurdesdroits.fr/fr/rapports/2022/08/rapport-accompagnement-humain-des-eleves-en-situation-de-handicap>.

¹⁸² Ministry of Higher Education and Research (2021), 'For an inclusive university', (*Pour une université inclusive*), November 2021, available at: <https://www.enseignementsup-recherche.gouv.fr/fr/pour-une-universite-inclusive-82057>.

¹⁸³ Ministry of Health, Family and Persons with Disability (2025), 'My disability journey: higher education', (*Mon parcours handicap, études supérieures*), December 2025, available at:

In 2022, 59 000 students with disability were supported by the special services dedicated to disability.¹⁸⁴ Specifically, 83.6 % benefit from at least one accommodation measure to pass exams while 16.4 % had no accommodations. Such students are 1.7 times more likely to leave the system without completing their degree.

Access to goods and services except buildings and infrastructures

Article 47 of the Law No 2005-102 of 11 February 2005 imposes on public services and some private service providers the obligation to ensure that persons with disabilities have access to the same level of information and communication, regardless of the means of access, the type of content, or the method of access.

Article 53 of Law No. 2005-102 on Disability specifically provides for the right to be accompanied anywhere by an assistance animal and Article 65 establishes the provision of a special card for persons with disabilities, giving them and those accompanying them priority of access on public transport and in public places, waiting areas and queues.

The prohibition of discrimination on the ground of disability in access to goods and services provided by Articles 225-1 and 225-2 PC has been interpreted by the HALDE, the Defender of Rights and the criminal courts to impose an absolute duty to comply with accessibility obligations leading to equal treatment.

The HALDE decided that this obligation was violated by a bank's requirement that visually impaired people mandate someone to manage their accounts,¹⁸⁵ and by an insurer's abusive refusal to insure a person with a disability that did not have implications for their health.¹⁸⁶

The criminal courts have sanctioned insufficient accommodations that lead to denial of access to services. It issued sanctions for a refusal to register a person with disabilities for an aqua gym class,¹⁸⁷ and a refusal to allow a person in a wheelchair access to a cinema.¹⁸⁸

Except regarding access to mainstream schools, all the provisions create positive obligations without reference to alleviations or limitations related to the idea of disproportionate burden. The only admissible defence is based on established considerations of safety.¹⁸⁹

f) Duties to provide reasonable accommodation in respect of other grounds

In France, there is a legal duty to provide reasonable accommodation in respect of other grounds in the public and private sector.

Religion

In matters relating to the free exercise of religion, accommodation measures relating to leaves of absence exist in respect of public and private employment and education.¹⁹⁰ All accommodation measures result from judicial decisions relating to reasonable limitation to

<https://www.monparcours handicap.gouv.fr/etudes-superieures/quels-sont-les-amenagements-et-adaptations-pendant-vos-etudes-superieures>.

¹⁸⁴ Ministry of Health, Family and Persons with Disability, Fourth follow-up meeting on inclusive university, February 2024, available at: <https://handicap.gouv.fr/quatrieme-comite-national-de-suivi-de-luniversite-inclusive-des-etudiants-en-situation-de-handicap-plus-nombreux-et-mieux-accompagnes>.

¹⁸⁵ HALDE, Deliberation 2007-296. Available at: <http://www.defenseurdesdroits.fr>.

¹⁸⁶ HALDE, Deliberation 2007-234. Available at: <http://www.defenseurdesdroits.fr>.

¹⁸⁷ GAP Trial Court, No. 12025000010, 22/05/2014.

¹⁸⁸ Court of Cassation, criminal chamber, No. 05-85888, 20/06/2006, available at: <https://www.legifrance.gouv.fr/affichJuriJudi.do?idTexte=JURITEXT000007640193>.

¹⁸⁹ Limoges Court of Appeal, 14 May 1991.

¹⁹⁰ Ministry of Education (2023) *La Laïcité à l'école, Vademecum* (Handbook on secularity in school), December 2023.

individual and collective rights and freedoms, that evaluate whether the request for an authorisation of absence for a religious holiday or a religious practice creates a disruption of service to the organisation that is disproportionate.

The Conseil d'État has decided that students could request authorisations to be absent on religious holidays or Saturdays (for Jewish students) as long as it was compatible with schoolwork and attending exams and respected public order within the school.¹⁹¹

In the public service, Ministerial Instruction from the Ministry of Public Service No. 2106 of 14 November 2005 regarding authorisations of absence on religious grounds provides for a right for leave of absence on the ground of religious holidays except when it is impossible by reasons of necessity of service.¹⁹²

¹⁹¹ Conseil d'État, 14 April 1995, No. 125148, available at: <https://www.legifrance.gouv.fr/affichJuriAdmin.do?idTexte=CETATEXT000007837158>.

¹⁹² Ministerial Instruction from the Ministry of Public Service No. 2106 of 14 November 2005 (*Instruction ministérielle n°. 2106 du 14 novembre 2005*), not published, completed by Ministerial Instruction of 10 February 20012, NOR:MFPF1202144C, available at: https://www.fonction-publique.gouv.fr/files/files/textes_de_reference/2012/C_20120210_0002.pdf.

3 PERSONAL AND MATERIAL SCOPE

3.1 Personal scope

There are no cases involving the use of artificial intelligence or automated systems regarding issues specifically relating to the personal scope of application of Directives 2000/43 and 2000/78.

3.1.1 EU and non-EU nationals (Recital 13 and Article 3(2), Directive 2000/43 and Recital 12 and Article 3(2), Directive 2000/78)

In France, there are no residence or citizenship/nationality requirements for protection under the relevant national laws transposing the directives.

The general protection against discrimination covers everyone, including precarious migrants and undocumented migrants, and the principle of equality is applicable to non-nationals unless the legislature can justify a difference in treatment based on conditions of public interest, such as having the status of legal foreign resident for access to the right to work or conditions of access to some social benefits and public service.¹⁹³

However, as was documented by a report prepared by the Group for Studying and Combating Discrimination (*Groupe d'Etude et de lutte contre les discriminations* – GELD)¹⁹⁴ on a situation that remains to this day, the law allows for some difference in treatment in access to specific professions and jobs (about 7 000 named jobs), subjecting them to conditions of citizenship, whether French, of that of bilateral partner countries (such as some African countries) or of the European Union.¹⁹⁵

3.1.2 Natural and legal persons (Recital 16, Directive 2000/43)

a) Protection against discrimination

In France, the personal scope of anti-discrimination laws, i.e. Article L1132-1 of the Labour Code, Articles L131-1 and following of the General Code of Public Service, Article 225-1 of the Penal Code and Article 2 of Law No. 2008-496 of 27 May 2008, covers natural and legal persons for the purpose of protection against discrimination.

b) Liability for discrimination

In France, the personal scope of anti-discrimination laws (same provisions as above) covers natural and legal persons for the purpose of liability for discrimination.

Physical and legal persons, whether public or private, are bound to uphold the prohibition against discrimination in criminal law (Articles 121-2 PC for legal persons and 432-7 PC for public authorities), private law (Article L1132-1 of the Labour Code and Article 2 of Law No. 2008-496 of 27 May 2008) and public law (Articles L131-1 and following of the General Code of Public Service and Article 2 of Law No. 2008-496 of 27 May 2008 and Law No. 2001-1066 on the fight against discrimination).

¹⁹³ Constitutional Council, 89-296 DC, 22 January 1990, R.F.D.C. No. 2 1990, obs Favoreu.

¹⁹⁴ First French anti-discrimination body created in 2000, which paved the way for the establishment of the HALDE.

¹⁹⁵ GELD (2000) Note No. 1 *Une forme méconnue de discrimination et les emplois fermés aux étrangers: secteur privé, entreprises publiques, fonctions publiques*, (Publication No. 1 on legal discrimination and employment which is inaccessible to foreign nationals), March 2000, available at: <http://www.gisti.org/doc/presse/2000/ged/index.html>.

3.1.3 Private and public sector including public bodies (Article 3(1))

a) Protection against discrimination

In France, the personal scope of national anti-discrimination law covers the private and public sectors, including public bodies, for the purpose of protection against discrimination.

National law resulting from the transposition of Directives 2000/43/EC and 2000/78/EC by the Law of 16 November 2001 and the Law of 27 May 2008 applies to both the private and public sectors, including public bodies, except in areas for which transposition has not taken place and for which jurisprudential interpretation regarding the direct effect of the directives must be invoked, i.e. magistrates, parliamentary administrators and state contractual agents outside the scope of the Law of 1984 are excluded by application of Article L6 of the General Code of Public Service.

b) Liability for discrimination

In France, the personal scope of anti-discrimination law covers the private and public sectors, including public bodies, for the purpose of liability for discrimination.

Physical and legal persons, whether public or private, are bound to uphold the prohibition of discrimination in criminal law (Articles 121-2 PC for legal persons and 432-7 PC for public authorities), private law and public law. In addition, Article 5 of Law No. 2008-496 expressly provides that the law is applicable to all public and private persons.

3.2 Material scope

Most claims relating to discrimination in the use of AI are presented to the French data protection agency, CNIL, and are framed in terms of a violation of the GDPR.

The CNIL works in close collaboration with the Defender of Rights, (the French equality body), in respect of potential discrimination related to the implementation of artificial intelligence and automated systems. In 2025, it has adopted recommendations consisting of three practical fact sheets to guide the parties concerned at all stages of the conception and evaluation of the AI system being developed, including on conducting a data protection impact assessment (DPIA).¹⁹⁶

There are cases relating to issues involving the use of artificial intelligence or automated systems in relation to education and access to goods and services but the author has found no judicial or administrative cases in relation to employment and occupation.

3.2.1 Conditions for access to employment, to self-employment or to occupation, including selection criteria, recruitment conditions and promotion, whatever the branch of activity and at all levels of the professional hierarchy (Article 3(1)(a))

In France, national legislation prohibits discrimination in relation to conditions for access to employment, self-employment or occupation, including selection criteria, whatever the branch of activity and at all levels of the professional hierarchy, for the five grounds and in both the private and public sectors, as described in the directives.

¹⁹⁶ Commission Nationale Informatique et Libertés (CNIL), Deliberation No. 2025-047 of 5 June 2025, adopting a fourth recommendation on the application of the General Data Protection Regulation to the development of artificial intelligence systems (*Délibération n° 2025-047 du 05 juin 2025 portant adoption d'une quatrième recommandation sur l'application du règlement général sur la protection des données au développement des systèmes d'intelligence artificielle*), available at: <https://www.legifrance.gouv.fr/cnil/id/CNILTEXT000051937813/>.

Further to the adoption of Law 2008-496, Article 2(1) and (2) provides that all employees, civil servants and state contracting agents as well as independent workers are protected against discrimination with respect to all the grounds covered by Article 19 TFEU and other grounds specific to French law including gender identity.¹⁹⁷

The extent of the protection and the legal regimes are translated in the Penal Code, the Labour Code and Articles L131 *et seq.* of the General Code of Public Service on the rights and obligations of public agents. The material scope varies according to whether the situation is covered by the Penal Code, the Labour Code or administrative law and according to the ground of discrimination.

Independent workers are expressly protected against all forms of discrimination by Article 2(1) and (2) of Law 2008-496 including access to employment, self-employment and occupation, recruitment conditions and promotion.

In addition, Article 18 III of Law No. 2005-882 of 2 August 2005 specifies that 'Articles 1 to 4 and 7 to 10 of the Law of 27 May 2008, apply to all freelance collaboration contracts covering independent professionals and contractors, including upon termination.'¹⁹⁸

Article L1132-1 LC is the provision that states the material scope of the prohibition of discrimination in private employment. It applies to salaried workers as well as temporary employees and vocational apprenticeships, and covers different forms of the employment relationship from hiring to retirement, including selection criteria and recruitment conditions.

The criminal regime (as established by Articles 225-1 and 225-2 PC and Article 4 of Law No. 2008-496) provides protection against discrimination in recruitment, vocational apprenticeships and training, for salaried employees, public agents and independent workers. It does not provide for a shift in the burden of proof and covers only direct discrimination.

In France, access to the civil service is conditional on passing a competitive entry examination. Article 19 of Law No. 2005-102 on Disability establishes an express obligation to adapt the examination processes to the needs of candidates with disabilities. The Government adopted several decrees required to implement Law No. 2005-102 on Disability and, on 21 December 2005, adopted Decree No. 2005-1617¹⁹⁹ on accommodation for candidates with disabilities in competitive examinations for entry into the civil service.

Furthermore, in France, most limitations for access to public service based on maximum age requirements have been repealed, but are in all cases not applicable to candidates with disabilities.

In 2019, the CNIL adopted a reference framework for data processing used in personnel management, including all modalities of recruitment procedures, which it updated in

¹⁹⁷ The purview of situations covered by gender identity has not yet been interpreted by the courts. However, Parliamentary discussions clearly indicate that in France gender identity is considered to cover gender identity expression and sex characteristics: see Jaunait, A. (2020) 'Génèses du droit de l'identité de genre, approches des configurations socio-juridiques' (Genesis of the law of gender identity: socio-juridical issues), *Droit et Société*, 2020/2, No. 105 pp. 429-451, available at: <https://www.cairn.info/revue-droit-et-societe-2020-2-page-429.htm>.

¹⁹⁸ Law No. 2005-882 of 2 August 2005, available at: <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000000452052>.

¹⁹⁹ Decree No. 2005-1617 of 21 December 2005 on the accommodation of examinations in higher education for students with disabilities (*Décret n°2005-1617 du 21 décembre 2005 relatif aux aménagements des examens et concours de l'enseignement scolaire et de l'enseignement supérieur pour les candidats présentant un handicap*), available at: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000456607>.

2022.²⁰⁰ It provides that the following information on surveyed employees can be collected: nationality, name, photograph, marital status, date of birth. In addition, in June 2025, CNIL adopted a recommendation regarding the methodology to be followed by employers using self-implemented surveys to measure diversity in employment.²⁰¹ It requires that the survey serve a specific pre-defined legitimate purpose, that the employer ensure that the survey is anonymous and non-compulsory, and that they take measures to ensure data protection, that employees be explicitly informed on their rights, that questions be formulated to lead to an answer by yes or no, multiple choice, or stating a degree of satisfaction, without qualitative free writing content witnessing personal experience that could lead to identification of the employee. It explicitly forbids questions by which the employee declares being associated with a racial or ethnic group, but allows identification by nationality or geographical origin, or asking a person whether he or she feels discriminated against on the ground of their skin colour, always allowing the person to refuse to respond.

3.2.2 Employment and working conditions, including pay and dismissals (Article 3(1)(c))

In France, national legislation prohibits discrimination in working conditions, including pay and dismissals, for all five grounds and for both private and public employment.

Employment and working conditions, including pay and dismissals, are covered by Article L1132-1 LC, Article L131-12 of the General Code of Public Service, Article 86 of Law No. 2019-1462 of 27 December 2019 regarding the exercise of an elective mandate and Article 2(1) and (2) of Law No. 2008-496 for all Article 19(1) TFEU grounds, as well as grounds covered by French law including gender identity.²⁰² However, working conditions are not covered by Article 225-2 of the Penal Code.

This protection applies regardless of whether or not a person is a French citizen.

In a case referred by a French court, the CJEU extended the purview of protection against discrimination on the ground of disability in employment, to persons with disabilities performing an activity in an occupational centre for persons with disabilities, and therefore extends the scope of the application of the rule of equal treatment.²⁰³

Article L131-1 of the General Code of Public Service provides for the protection of public agents against direct and indirect discrimination on all the prohibited TFEU grounds. However, Article L6 states that, in conformity with Article 64 of the Constitution of 1958, it does not cover the status of magistrates who are not considered as civil servants and are governed by Ordinance No. 58-1270 of 22 December 1958.²⁰⁴ Public servants working in Parliament are also not subject to the General Code of Public Service since Article L6

²⁰⁰ CNIL, 21 November 2019 No. 2019-160, available at: <https://www.legifrance.gouv.fr/cnil/id/CNILTEXT000041804010/>; and CNIL, 23 May 2022, No. 2022-126, available at: <https://www.legifrance.gouv.fr/cnil/id/CNILTEXT000047110895/>

²⁰¹ France, CNIL (2025), *Enquêtes de mesure de la diversité au travail: la CNIL publie ses recommandations*, (Surveys measuring diversity in employment: the CNIL publishes its recommendations), available at: <https://www.cnil.fr/fr/recommandation-mesure-diversite-travail>.

²⁰² The purview of situations covered by gender identity has not yet been interpreted by the courts. However, parliamentary discussions clearly indicate that in France, gender identity is considered to cover gender identity expression and sex characteristics: see Jaunait, A. (2020) 'Génèses du droit de l'identité de genre, approches des configurations socio-juridiques' (Genesis of the law of gender identity: socio-juridical issues), *Droit et Société*, 2020/2, No. 105 pp. 429-451, available at: <https://www.cairn.info/revue-droit-et-societe-2020-2-page-429.htm>.

²⁰³ CJEU, judgment of 26 March 2015, *Fenoll*, C-316/13, ECLI:EU:C:2015:200, available at: <https://curia.europa.eu/juris/document/document.jsf?text=&docid=163249&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=11363992>; to date the status of people attending work-based occupational centres has still not changed and there are cases pending that have not yet been decided.

²⁰⁴ Ordinance No. 58-1270 of 22 December 1958 relating to the status of magistrates (*Ordonnance No. 58-1270 du 22 décembre 1958 portant loi organique relative au statut de la magistrature*), available at: <http://legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000339259>.

provides that they are governed by separate parliamentary rules. These texts have not been amended to implement Directives 2000/78/EC and 2000/43/EC and do not provide any protection against discrimination on any grounds.

In its landmark decision of 30 October 2009, the Conseil d'État decided that, given the failure of the Government to transpose Directive 2000/78/EC to their working conditions, it could be invoked directly by magistrates before administrative courts.²⁰⁵ Since then, the Conseil d'État has repeatedly decided that all civil servants are covered by the Law of 27 May 2008.²⁰⁶

In a decision regarding the legality of the dismissal of a public agent who was arguing that he could not be held responsible for his repeated use of violent inflammatory language towards a colleague on account of his mental health, the Conseil d'État decided that the law does not require the public employer to verify the mental state of an agent before delivering a sanction, even when he is aware of a psychiatric condition.²⁰⁷ The claimant has the burden of establishing that his mental state impaired his judgment at the time of each incident to such a degree that he should not be held responsible for his actions.²⁰⁸

Article L1132-1 LC is the provision that states the material scope of the prohibition of discrimination in private employment. It applies to salaried workers as well as temporary employees and vocational apprenticeships, and covers all stages of the employment relationship from hiring to retirement.

In addition, the Labour Code forbids discriminatory provisions (L1121-1 LC) in in-house regulations (L1321-3 LC) and collective bargaining agreements (L2251-1 LC).

The Court of Cassation systematically states that the judge has the positive duty to verify whether a collective agreement has a discriminatory impact on grounds protected by the law.²⁰⁹

The criminal regime (as established by Articles 225-1 and 225-2 PC and Article 4 of Law No. 2008-496) that provides protection against discrimination offers the only possible criminal action in the case of denial of a right granted by law (Article 432-7 PC) and hindrance of economic activity (Article 225-2, paragraph 2), which may cover independent employees. It does not provide for a shift in the burden of proof and covers only direct discrimination.

The reference framework for data processing used in personnel management was adopted by CNIL in 2019 and updated in 2022²¹⁰ with the collaboration of the French equality body, the Defender of Rights. In addition, in June 2025, CNIL adopted a recommendation regarding the methodology to be followed by employers using self-implemented surveys to measure diversity in employment.²¹¹

²⁰⁵ Conseil D'État, No. 298348, 30 October 2009 available at: <https://www.conseil-etat.fr/ressources/decisions-contentieuses/les-grandes-decisions-du-conseil-d-etat/conseil-d-etat-assemblee-30-octobre-2009-mme-perreux>.

²⁰⁶ Conseil d'État, 27 July 2016, No. 393292, Conseil d'État, 25 October 2018, No. 405418.

²⁰⁷ Conseil d'État, 15 October 1971, No. 75258.

²⁰⁸ Conseil d'État, 17 February 2023, No. 450852, available at: <https://www.conseil-etat.fr/fr/arianeweb/CE/decision/2023-02-17/450852>.

²⁰⁹ Court of Cassation, social chamber, No. 16-19949, 17 January 2018, available at: https://www.legifrance.gouv.fr/affichJuriJudi.do;jsessionid=FD99F0DAC9A8DFD35F7F0B494825155A.tplqfr28s_1?oldAction=rechExpJuriJudi&idTexte=JURITEXT000036584552&fastReqId=7189939; Court of Cassation, social chamber, 6 September 2023 No. 22-10656.

²¹⁰ CNIL, 21 November 2019 No. 2019-160, available at: <https://www.legifrance.gouv.fr/cnil/id/CNILTEXT000041804010/>; and CNIL, 23 May 2022, No. 2022-126, available at: <https://www.legifrance.gouv.fr/cnil/id/CNILTEXT000047110895/>.

²¹¹ France, CNIL (2025), *Enquêtes de mesure de la diversité au travail : la CNIL publie ses recommandations*, (Surveys measuring diversity in employment: the CNIL publishes its recommendations), available at: <https://www.cnil.fr/fr/recommandation-mesure-diversite-travail>.

3.2.3 Access to all types and all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience (Article 3(1)(b))

In France, national legislation prohibits discrimination in vocational training outside the employment relationship, such as adult lifelong learning courses or vocational training provided by technical schools or universities.

Vocational training and guidance are covered by Articles 225-2 PC, L1132-1 LC and Article L131-12 of the General Code of Public Service with respect to all the Article 19(1) TFEU grounds, as well as grounds covered by French law including gender identity.²¹² In addition, Law No. 2008-496, Article 2, completes the implementation of Directives 2000/43/EC and 2000/78/EC by creating a general principle prohibiting direct and indirect discrimination on the basis of 'race' and ethnic origin (Article 2, paragraph 1) and protection against direct and indirect discrimination for all workers including independent and non-salaried workers, on all the Article 19(1) TFEU grounds (Article 2, paragraph 2).

In a landmark decision of 2022,²¹³ the Court of Cassation decided that the President of the Bar could refuse that a student lawyer take the oath necessary to pursue her vocational training, because she was wearing a discreet hair cover and the traditional 19th century lawyer's cap in substitution of her Islamic veil. The application before the ECtHR was declared non admissible for apparent absence of violation of the Convention.

We have found no cases brought before the judicial and administrative courts relating to issues involving the use of artificial intelligence or automated systems regarding all types and all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience.

The reference framework for data processing used in personnel management was adopted by CNIL in 2019 and updated in 2022²¹⁴ with the collaboration of the French equality body, the Defender of Rights. In addition, in June 2025, CNIL adopted a recommendation regarding the methodology to be followed by employers using self-implemented surveys to measure diversity in employment.²¹⁵

3.2.4 Membership of, and involvement in, an organisation of workers or employers, or any organisation whose members carry on a particular profession, including the benefits provided for by such organisations (Article 3(1)(d))

In France, national legislation prohibits discrimination in relation to membership of and involvement in, workers' or employers' organisations as formulated in the directives for all five grounds and for both private and public employment.

Law No. 2008-496 Article 6, Article 2141-1 LC states that, 'Any salaried employee can freely become a member of the union of his or her choice and cannot be excluded on

²¹² The purview of situations covered by gender identity has not yet been interpreted by the courts. However, parliamentary discussions clearly indicate that in France, gender identity is considered to cover gender identity expression and sex characteristics: see Jaunait, A. (2020) 'Génèses du droit de l'identité de genre, approches des configurations socio-juridiques' (Genesis of the law of gender identity: socio-juridical issues), *Droit et Société*, 2020/2, No. 105 pp. 429-451, available at: <https://www.cairn.info/revue-droit-et-societe-2020-2-page-429.htm>.

²¹³ Court of Cassation, social chamber, *Asmeta vs Bar of Lille*, 2 March 2022, No. 20-20185, available at: <https://www.courdecassation.fr/decision/621f1707459bcb7900c39e7d>.

²¹⁴ CNIL, 21 November 2019 No. 2019-160, available at: <https://www.legifrance.gouv.fr/cnil/id/CNILTEXT000041804010/>; and CNIL, 23 May 2022, No. 2022-126, available at: <https://www.legifrance.gouv.fr/cnil/id/CNILTEXT000047110895/>.

²¹⁵ France, CNIL (2025), *Enquêtes de mesure de la diversité au travail : la CNIL publie ses recommandations*, (Surveys measuring diversity in employment: the CNIL publishes its recommendations), available at: <https://www.cnil.fr/fr/recommandation-mesure-diversite-travail>.

grounds prohibited by Article 1133-1 LC (that is, all the Article 19(1), TFEU grounds, as well as grounds covered by French law including gender identity), and Article 2131-5 LC provides that any member who holds French or foreign citizenship can participate in union activities and management. Article 2314-16 LC provides that all salaried employees are eligible to become an employees' representative if they are 18 years of age and have been an employee of the organisation for at least one year.

With respect to the election of employment tribunal judges, lists presented by a political party or an organisation favouring discrimination are illegal (L1441-23 LC). However, to be eligible, the candidate must have French citizenship.

Articles L113-1 and L131-1 of the General Code of Public Service provide that in the public sector 'Union rights are guaranteed to civil servants'.

Article 2, paragraph 2, of Law No. 2008-496 creates a specific protection of affiliation and involvement in a professional or trade organisation for all grounds protected by Directive 2000/78/EC as well as real or assumed ethnic origin and race.

Finally, trade unions, employers' associations and all other organisations must abide by Article 225-2 of the Penal Code prohibiting discrimination in access to goods and services, including services offered by the union to its members. The list of prohibited grounds targeted by this prohibition is stated in Article 225-1 PC and includes health, age, disability, sexual orientation, gender identity, racial and ethnic origin, convictions, religion, political opinions and sex.

The reference framework for data processing used in personnel management was adopted by CNIL in 2019 and updated in 2022²¹⁶ with the collaboration of the French equality body, the Defender of Rights. In addition, in June 2025, CNIL adopted a recommendation regarding the methodology to be followed by employers using self-implemented surveys to measure diversity in employment.²¹⁷

3.2.5 Social protection, including social security and healthcare (Article 3(1)(e) Directive 2000/43)

In France, national legislation prohibits discrimination in social protection, including social security and healthcare, as formulated in the Racial Equality Directive. This prohibition also covers non-nationals.

Law No. 2008-496 completes the implementation of Directive 2000/43/EC by integrating, in Article 2(3), a prohibition of all types of discrimination defined in Article 1 of the law, on the basis of all grounds listed at Article 1 (all Article 19(1) TFEU grounds), as well as grounds covered by French law including gender identity and making provision for the shift in the burden of proof, as regards social protection, including social security and healthcare.

There is also a specific provision for access to healthcare providing a general prohibition of discrimination in access to healthcare that does not specify a list of grounds in Article L1110-3 of the Public Health Code.²¹⁸

²¹⁶ CNIL, 21 November 2019 No. 2019-160, available at: <https://www.legifrance.gouv.fr/cnil/id/CNILTEXT000041804010/>; and CNIL, 23 May 2022, No. 2022-126, available at: <https://www.legifrance.gouv.fr/cnil/id/CNILTEXT000047110895/>.

²¹⁷ France, CNIL (2025), *Enquêtes de mesure de la diversité au travail : la CNIL publie ses recommandations*, (Surveys measuring diversity in employment: the CNIL publishes its recommendations), available at: <https://www.cnil.fr/fr/recommandation-mesure-diversite-travail>.

²¹⁸ Public Health Code, Article L1110-3, available here: <https://www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000037950426&cidTexte=LEGITEXT000006072665&dateTexte=20191101>.

Articles 11 to 18 of Law No. 2005-102 on Disability provide for an unconditional right to social protection, including social security and healthcare of persons with disability.

In addition, for all grounds of discrimination and beyond, the general principles of public law are based on a general principle of equality in the public service (see Section 0.1 and Section 1, Article 1, of the Constitution of 1958, the preamble of the Constitution of 1946 and the Declaration of the Rights of Man and of the Citizen of 1789) and a universal principle of non-discrimination in access to healthcare, which is not restricted to any prohibited ground of discrimination (Article 1110-3 Social Welfare Code – SWC). These principles also apply to civil servants. In addition, all residents in France benefit from the same social rights, regardless of nationality.

However, Article 2(3) of Law No. 2008-496 provides for a possibility to justify differential treatment on protected grounds in matters of health, social protection and social security by arguing legitimate aim and proportionality, and Article 2(6) allows for all derogations provided by law. The law targets direct discrimination and is drafted without creating exceptions on the ground of origin or race. However, the current state of French law and jurisprudence would not admit legitimate aim and proportionality arguments based on origin or race.²¹⁹

All social protection public services have implemented surveillance algorithms, which, for the time being, monitor sources of revenue.²²⁰

a) Article 3(3) exception (Directive 2000/78)

National law does not rely on the exception in Article 3(3) of the Employment Equality Directive in relation to religion or belief, age, disability and sexual orientation, since the rules on access to social security and healthcare are universal.

Decree No. 2010-961 of 25 August 2010²²¹ provides for special conditions of access to social security minimum income for persons under 25 years of age, requiring them to have held a remunerated activity for a certain period of time – to be determined by regulation – before being eligible.

3.2.6 Social advantages (Article 3(1)(f) Directive 2000/43)

In France, national legislation prohibits discrimination in social advantages as formulated in the Racial Equality Directive.

Article 2(3) of Law No. 2008-496 completes the implementation of Directive 2000/43/EC by integrating a prohibition of all types of discrimination defined in Article 1 of the law, on all grounds covered by Article 1, i.e. for all Article 19(1) TFEU grounds, as well as grounds covered by French law including gender identity and makes provision for the shift in the burden of proof, as regards contributory benefits.

In addition, for non-contributory benefits, the general principles of public law are based on a general principle of equality in the public service (see Article 1 of the Constitution of 1958 referring to the preamble of the Constitution of 1946 and the Declaration of the Rights of Man and of the Citizen of 1789). These principles also apply to civil servants. In addition,

²¹⁹ See Constitutional Council, [No. 2007-557 DC](#), 15 November 2007, para. 1.

²²⁰ Quadrature du Net, (2024) Recipient scoring, available at: <https://www.laquadrature.net/2024/03/13/notation-des-allocataires-la-caf-etend-sa-surveillance-a-lanalyse-des-revenus-en-temps-reel/>. For example, the family welfare fund (Caisse d'allocations familiales-CAF) uses a scoring algorithm to monitor and detect fraud. The lower a recipient's income, the higher his or her suspicion score, and the greater the risk of being audited.

²²¹ Decree No. 2010-961 of 25 August 2010 relating to the extension of social security minimum income for persons under 25 years of age, available at: <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000022741137/>.

all residents benefit from the same social rights regardless of nationality. For instance, the cost of access to municipal services and social support can only be based on socio-economic considerations.

Article 2(3) of Law No. 2008-496 provides for a possibility to justify differential treatment on protected grounds in matters of health, social protection and social security and Article 2(6) allows for all derogations provided by law.

In France, the lack of definition of social advantages does not create problems.

The reference framework for data processing used in personnel management was adopted by CNIL in 2019 and updated in 2022²²² with the collaboration of the French equality body, the Defender of Rights, as described in section 3.2.1 above.

3.2.7 Education (Article 3(1)(g) Directive 2000/43)

In France, national legislation prohibits discrimination in education as formulated in the Racial Equality Directive.

National education is considered as a public service accessible to all and subject to respect for the general principle of equality applicable to the public service (Article L111-1 of the Code of Education). Therefore, discrimination in access to education is prohibited on all Article 19(1) TFEU grounds, as well as all grounds covered by French law including gender identity, and all other distinctions relating to the rights of children as covered by the UN Convention on the Rights of the Child (UNCRC).

If a child's parents are in France illegally, administrative courts will quash any decision taking origin or illegal residence/occupation of land into account to deny the child or student access to school or preschool, until university and higher education.²²³ Regarding access to university or higher education, registration is conditional upon the residing student establishing his or her legal presence on the territory. Non-EU foreign nationals of countries that have not subscribed a bilateral convention with France are subject to specific registration fees.²²⁴

Law No. 2008-496 completes the implementation of Directive 2000/43/EC and provides (at Article 2 paragraph 3) for action before judicial and administrative courts in the event of discrimination in education on all grounds prohibited in France and a shift in the burden of proof. Any evidence of the practice of segregation or public managers taking a prohibited ground into account, directly or indirectly, would give rise to a right to take action before the administrative courts, civil courts and criminal courts.

Claims of discrimination in education involving the private sector, whether it be a private school or discrimination perpetrated by a private party in the context of an internship, benefit from no specific means of legal action other than a general private law civil liability claim on the basis of Article 1 of the Law of 27 May 2008 and a criminal claim based on Article 225-2 of the Penal Code.

The author of this report has found no cases relating to issues involving the use of artificial intelligence or automated systems that have been presented before the judicial courts.

²²² CNIL, 21 November 2019 No. 2019-160, available at: <https://www.legifrance.gouv.fr/cnil/id/CNILTEXT000041804010/>; and CNIL, 23 May 2022, No. 2022-126, available at: <https://www.legifrance.gouv.fr/cnil/id/CNILTEXT000047110895/>.

²²³ Grenoble Court of Appeal, 13 November 1991. TA Bordeaux, 14 June 1988, El Rhazouari, Recueil Lebon, p. 518.

²²⁴ France, Article 8 and Annex 2 of Executive Order of 19 April 2019 relating to registration fees in higher education, available at: <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000038396885>.

One situation gave rise to several claims before the Defender of Rights, the CNIL, and administrative courts, all questioning the opacity of algorithms further to the implementation of a national mandatory higher education application processing software program named 'Parcoursup' that is used by the Ministry of National Education and which handles applications from all students. Students' unions alleged that the application could give rise to a violation of the principle of equality and that students had a right to be made aware of the method and criteria used to select their applications. The Constitutional Council held that applicants to a national pre-registration procedure for undergraduate courses in higher education had a right to be informed of the criteria and reasons for a school's decision, but that this right belonged solely to the individual student and could not give rise to a general right of the public and student unions to have access to source codes and the criteria used to create the program's algorithms.²²⁵

Religion

The principle of equality has been used to adjudicate on the applicability of the obligation to attend school to children whose religion enjoins worship on a day other than Sunday. In this case, the Conseil d'État gave priority to the protection of freedom of worship, arguing that compulsory school attendance is not intended to, and may not lawfully, deny to pupils who request it such individual leave of absence as may be necessary for worship or celebration of a religious festival, at least in so far as their absence is compatible with performance of the tasks entailed by their studies and with the maintenance of good order (*ordre public*) in the school.²²⁶

The Law on the application of the principle of secularism in state schools was adopted on 15 March 2004 and published on 17 March 2004 (Law of 15 March 2004 No. 2004-228).²²⁷ It forbids '...in state primary, secondary and high schools, the wearing of symbols or clothing by which students manifest their religious affiliation' (author's translation). Discreet religious symbols remain authorised.

The administrative instruction of 18 May 2004 on the conditions of enforcement of the above-mentioned law was published on 25 May 2004 (Ministerial Instruction No. 2004-084 of 18 May 2004).²²⁸ It states that 'the prohibited symbols and clothing are those by which people are immediately identified with their religious beliefs, such as the Muslim headscarf, by whichever word it may be designated, the kippah or a cross of manifestly excessive dimension' (author's translation). It was supplemented by Ministerial Instruction of 31 August 2023,²²⁹ forbidding abayas and qamis in state schools as constituting ostentatious religious signs. In a landmark decision of 27 September 2024,²³⁰ the Conseil d'État decided that such clothing constituted ostentatious religious signs that could be forbidden through application of the aforementioned legislation. Both ministerial instructions emphasise the necessity of organising a true dialogue between the student, the parents or legal representatives and the headteacher of the school, in order to limit disciplinary sanctions to cases of deliberate refusal by the student to abide by the law.²³¹ According to statistics published by the newspaper *Le Monde* on 9 September 2023, only

²²⁵ Conseil constitutionnel QPC 2020-834, 3 April 2020, available at:

<https://www.legifrance.gouv.fr/cons/id/CONSTEXT000041803800/>.

²²⁶ Conseil d'État, *Consistoire central des israélites de France*, Mr Koen, No. 157653, 14 April 1995, available at: <https://www.legifrance.gouv.fr/affichJuriAdmin.do?idTexte=CETATEXT000007855903>.

²²⁷ Law No. 2004-228 of 15 March 2004 on the principle of secularism in state schools (*Loi No. 2004-228 du 15 mars 2004 encadrant, en application du principe de laïcité*), available at: <http://legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000417977>.

²²⁸ Available at: <http://www.education.gouv.fr/bo/2004/21/MENG0401138C.htm>.

²²⁹ France, Ministerial instruction NOR: MENG2323654N of 31 August 2023, available at: <https://www.education.gouv.fr/bo/2023/Hebdo32/MENG2323654N>.

²³⁰ Conseil d'État (Council of State), 27 September 2024, No. 487944, available at: <https://www.legifrance.gouv.fr/ceta/id/CETATEXT000050279125>.

²³¹ Ministry of Education (2023) *Vademecum La Laïcité à l'école* (Handbook on secularity in school), December 2023.

300 students returned to school wearing abayas or qamis and, after the mediation process, fewer than 67 refused to remove them.²³²

Legal actions challenging 'the prohibition of religious garments in state schools brought before administrative courts in 2006 and, ultimately, before the ECtHR have been dismissed.²³³ On 1 November 2012, the UN Human Rights Committee contradicted the European Court of Human Rights holding that a student's expulsion from school by the application of 'neutral' garment regulations pursuant to the Law of 15 March 2004 for wearing Sikh religious symbols was a violation of the student's right to freedom of religion pursuant to Articles 2, 17, 18 and 26 of the International Covenant on Civil and Political Rights.²³⁴

The Law of 31 December 1959 recognises religious private schools and provides for the possibility to enter into a contract with the Ministry of Education to benefit from financial support from the state for such schools which follow the national education programme, whether they are Catholic, Protestant, Jewish or Muslim.²³⁵

Students who will not submit to clothing requirements and secular public-school teaching do not pursue their education in state school and instead register with private schools or obtain authorisations to proceed to home schooling and register with the national home-schooling system, known as CNED (*Centre national d'enseignement à distance*). According to the Government report entitled 'Muslim Brotherhood and Political Islam in France',²³⁶ in July 2024, the network of Muslim religious schools comprised 74 establishments, 12 513 pupils, an increase of 1 000 since 2022, 21 linked to the Muslim Brotherhood movement (4 200 pupils) and five Muslim religious schools that met the conformity requirements to benefit from a contract of association with the Ministry of Education.

The Ministry of Education issues monthly reports monitoring incidents of violation of secularity in schools that cover insubordination, provocation of school authorities by students and/or their parents as well as non-conformity with the requirements of the neutral dress code.²³⁷ In 2025, 518 incidents were reported in relation to violations of the neutral dress code that led to interventions of the regional secularity coordinator. The reports do not document the outcome of their interventions.

Commentators and Government authorities note that the number of children who end up pursuing their studies through home schooling and private schools has substantially increased.²³⁸

To combat out-of-school education and the establishment of radical Islamist schools, Law No. 2021-1109 of 24 August 2021 relating to the respect of the principles of the Republic imposes formal authorisations to pursue home schooling, and registration formalities on private schools in order to allow checks and monitoring. The school can be shut down in the absence of proper registration and those who do not submit to the requirements of the

²³² Le Monde and AFP (2023) '[Abaya à l'école : l'interdiction à nouveau validée par le Conseil d'État](#)', 9 September 2023, updated 25 September 2023.

²³³ Conseil d'État, No. 285394, 5 December 2007; ECtHR, No. 25463.08, 30 June 2009.

²³⁴ UN Human Rights Committee, 106th session, No. 1852/2008, 4 December 2012, *Bikramjit v. France*, available at: <http://hrlibrary.umn.edu/undocs/1852-2008.html>.

²³⁵ Law No. 59-1557 of 31 December 1959 governing relations between the state and private schools (*Loi n° 59-1557 du 31 décembre 1959 sur les rapports entre l'Etat et les établissements d'enseignement privés*) available at: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000693420>.

²³⁶ France, Report to the President of the Republic and the Defense and Security Council (2024), *Muslim Brotherhood and Political Islam in France (Frères musulmans et islamisme politique en France)*, July 2024, made public in April 2025, available at: <https://www.interieur.gouv.fr/actualites/dossiers-de-presse/publication-du-rapport-freres-musulmans-et-islamisme-politique-en-france>.

²³⁷ France, Ministry of Education, *Monthly reports on the respect of values of the Republic* (*Bilans mensuels de l'action valeurs de la République*).

²³⁸ National Assembly, Hearing of 11 December 2019, available at: <https://www.assemblee-nationale.fr/dyn/docs/CRCANR5L15S2020PO767517N014.raw>.

public authorities can be prosecuted and liable to one year's imprisonment and a EUR 15 000 fine.

On the participation of parents wearing religious symbols in school activities, the Conseil d'État indicated in a landmark opinion of 2013 that mothers accompanying their children to out-of-school activities do not have the legal status of a 'voluntary contributor to the public service', but are carrying out the role of parent, and that therefore the state cannot impose an obligation of religious neutrality on them. However, it stated that the competent authority, on a case-by-case basis, could recommend that they abstain from manifesting their religion and beliefs, if maintaining peace in a given situation or environment requires it.²³⁹ Since then, in a landmark decision of July 2019, the Administrative Court of Appeal of Lyon has nuanced the position of the Conseil d'État and decided that parents participating in educational activities on school premises were participating in the public service and subject to the obligation of neutrality.²⁴⁰ This represents the official position of school authorities today.

Disability

Law No. 2005-102 on Disability reformed the assistance and education of children and students with disabilities. It creates an express obligation on the state to ensure the education of all children and students with disabilities. The right to education and to reasonable accommodation is affirmed in Articles 19 to 22 of the Law on Disability. Article 11 affirms a right of access to local mainstream schools up to and including higher education and the right to an individual educational programme.

Decree No. 2005-1589 of 19 December 2005 was adopted to enforce the administrative simplification of the management of the various rights of persons with disabilities.²⁴¹ Title IV of the Law on Disability gives competence to the Commission for the Rights and Autonomy of Persons with Disabilities (CDAPH) to assess the situation of the child and recommend a personalised programme of education that will also be taken into consideration when subsequently determining the rights of the child under the general compensation scheme for all persons with disabilities established by the law and conditions of access to special support. It must determine whether children, in consideration of the 'personal life plan' established by the CDAPH, should be placed in the mainstream educational system, in some cases with special support, in specialised classes (CLIS) or in specialised educational institutions.²⁴² Parents cannot demand an educational orientation which differs from that proposed by the CDAPH. They can only challenge the conclusions of the CDAPH before the judicial court.

When required by the Commission for the Rights and Autonomy of Persons with Disabilities, the obligation to provide a support assistant to the child extends to extracurricular activities, whether or not they are compulsory.²⁴³

²³⁹ Defender of Rights (2013) [The relationship between the freedom of religious expression and public services](#), adopted by the Plenary Assembly of the Conseil d'État on 19 December 2013.

²⁴⁰ Lyon Administrative Appeal Court, 23 July 2019, No. 17LY04351, available at: <https://www.legifrance.gouv.fr/affichJuriAdmin.do?idTexte=CETATEXT000038915805>.

²⁴¹ Decree No. 2006-583 of 23 May 2006 on the regulatory provisions of Book III of the Code of Education J.O. No. 120, 24 May 2006 (*Décret n° 2006-583 du 23 mai 2006 relatif aux dispositions réglementaires du livre III du code de l'éducation*), available at:

<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000607176>.

²⁴² Decree No. 2005-1587 of 19 December 2005 on the Departmental House [Authority] for the Persons with Disabilities, J.O. No. 295, 20 December 2005 (*Décret No. 2005-1587 du 19 décembre 2005 relatif à la maison départementale des personnes handicapées et modifiant le code de l'action Sociale et des familles*), available at:

<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000454078&dateTexte=&categorieLien=id>. Decree No. 2005-1752 of 20 December 2005 on schooling for students with disabilities J.O. No. 304, 31 December 2005, (*Décret n°2005-1752 du 30 décembre 2005 relatif au parcours de formation des élèves présentant un handicap*), available at:

<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000456016>.

²⁴³ Nantes Administrative Court of Appeal, No. 17NT02962, 25 June 2018.

Law No. 2005-102 on Disability also creates (through Article L112-4 of the Code of Education) an express obligation to adapt examination processes to the benefit of children with disabilities.

In a landmark decision of September 2005, the Administrative Court of Lyon decided that the failure of the state to provide access to school to a child with disabilities because of insufficient available adapted facilities makes the state liable for damages, regardless of whether or not it is at fault, the additional burden on the family being unreasonable.²⁴⁴ The Supreme Administrative Court decided that the state bears the obligation that rests upon all authorities of the state to provide the necessary resources.²⁴⁵

In 2020, however, the Conseil d'État revised this position in a landmark decision and decided that the duty of the state to finance human support was limited to school time, leaving the burden of financing non-schooling activities to local financing.²⁴⁶

As regards higher education, in 2021, the Government adopted a policy for the inclusion of students with disability in higher education. Each university must adopt an in-house policy to ensure the support of students with disability through a specific service. Accommodations can consist of equipment adjustments, mobility support, organisational, pedagogical or human accommodation and support.

A landmark case relates to the insufficiencies of the AI automated systems handling applications from all students in higher education, named 'Parcoursup'. Consideration of the special arrangements for studying applications from students with disabilities had been omitted or deleted. A free text space was provided for entering any specific situation, but was not designed to compensate for the elimination of pre-existing specific admission procedures for pupils with a disability. As a result, the Defender of Rights found that all specific modalities had de facto been taken in consideration by 5 out of 30 academies, and requests by free text box had jeopardised the students' applications in the 25 other academies. The Defender of Rights adopted a decision to recommend the reinstatement of all previous specific arrangements for the benefit of students in situation of disability, as well as the publication of an impact assessment and a report on the outcomes within 6 months.²⁴⁷ The program's deficiencies were corrected within three months.

- Available data

Between 2006 and 2024,²⁴⁸ integration of students with disabilities in ordinary and specialised education increased by 240 %, from 232 400 students with disabilities in 2006 to 563 400 in 2024, i.e. 4.7 % of pupils. In ordinary schools specifically, however, it has risen by 320 % over the same period (i.e. 121.6 % in elementary school and 463.7 % in secondary school).

Individualised support was multiplied by 5 (28 108 assistants in 2006 compared to 130 000 in 2023,²⁴⁹ which is an increase of 6 % per year; meanwhile, the requests for educational assistance have increased by twice that (12 % per year). Overall, 67 % of children with

²⁴⁴ Administrative Court of Lyon, M. & Mme Hebri, No. 0403829, 29 September 2005, AJDA, 2005, 1874.

²⁴⁵ Conseil d'État, Annie Beaufils, No. 31850, 16 May 2011; Conseil d'État, No. 418702, 28 March 2018.

²⁴⁶ Conseil d'État, 20 November 2020, No. 422248, available at: <https://www.conseil-etat.fr/fr/arianeweb/CE/decision/2020-11-20/422248>.

²⁴⁷ Defender of Rights, Decision of 21 December 2018 no 2018-323, available at: https://juridique.defenseurdesdroits.fr/index.php?lvl=notice_display&id=27282&opac_view=-1.

²⁴⁸ France, Ministry of Social Services, Department of Research (DREES), 'Jeunes handicapés: près des deux tiers des 6-15 ans accompagnés sont scolarisés en milieu ordinaire fin 2022, contre moins de la moitié fin 2010', *études et résultats* No. 1352, 6 November 2025, available at: https://drees.solidarites-sante.gouv.fr/publications-communique-de-presse/etudes-et-resultats/251106_ER_jeunes-handicapes.

²⁴⁹ Senate, Answer to a question to the Minister of Education, 23/11/2023, available at: <https://www.senat.fr/questions/base/2023/qSEQ230908441.html#:~:text=Pour%20la%20rentrée%202023%2C%20le,enseignement%20adapté%20à%20leurs%20besoins>.

disabilities had requested and obtained educational assistance.²⁵⁰ Despite the increase in human support, in 2022 the Defender of Rights published a report warning about the difficulties linked to the deficiencies in the quality and nature of the support, given that in many cases it is central to the child's inclusion in school.²⁵¹ Examples of issues include: delayed administrative decisions, delayed implementation, non-replacement of absent support person, absence of training of teachers, support persons without sufficient training, imprecise indications on the needs of the child, insufficient coordination and dialogue with the sociomedical professional supporting the child outside of school.

In 2023-2024, 467 300 pupils with disabilities were enrolled in ordinary school, which is an increase of 1.5 % compared to 2022-2023. The detailed data published in 2024 related to the school year 2022-2023:²⁵² 234 400 children with disability were attending elementary school (77 % in ordinary classes), 100 % benefited from human support in ordinary school, and 95 % attended full time; there were 232 900 children with disability in secondary school (74 % of whom were in ordinary classes) of whom 95 % benefited from human support. In addition, 8 % of children aged between 6 and 15 years were integrated in services that do not provide them with schooling.

In January 2023, the Prime Minister announced a national strategy to increase resources and support for children with disabilities based on the right of each child to have an adapted educational plan called the 'personalised schooling project' (*Projet personnalisé de scolarisation* - PPS), to increase the number of support staff to 132 000 persons, and create 303 new specialised units (increasing the total to 10 272 units) along with an increase in budget of EUR 200 million.²⁵³

For the school year 2024-2025, the Government made a public announcement that human help would from now on take charge of children's support during the lunch hour and financing of extra-curricular activities.²⁵⁴ For September 2025, the Government announced that 520 600 pupils were attending school, that there were 500 support coordinators deployed in all school districts and that 2 000 more persons providing human help had been hired with a total of 140 000 agents dedicated to the support of children with disabilities.²⁵⁵

In 2021, the Government created the National Coordination Committee for Inclusive University Education, which held its first meeting in May 2021 at which it announced the creation of a dedicated support platform and the adoption of an inclusion plan by 85 % of universities.²⁵⁶ The latest data available, which relates to the school year 2022, indicates that 59 000 students with disabilities were registered in higher education,²⁵⁷ i.e. 2 % of

²⁵⁰ Senate (2023) *Report on educational inclusion*, Cedric Vial, 3 May 2023, Available at: <https://www.senat.fr/rap/r22-568/r22-5681.pdf>.

²⁵¹ Defender of Rights (2022), *Accompagnement humain des élèves en situation de handicap* (The human support given to children with disabilities at school), available at: <https://www.defenseurdesdroits.fr/fr/rapports/2022/08/rapport-accompagnement-humain-des-eleves-en-situation-de-handicap>.

²⁵² Ministry of Social Services, Department of Research (DREES) (2025) *Le handicap en chiffres* (Disability in numbers), January 2025, available at: https://drees.solidarites-sante.gouv.fr/sites/default/files/2025-01/PANORAMAS%20HANDICAP%20éd.%202024_WEB%202.pdf.

²⁵³ France, Prime Minister (2023) 'Education Day 2023: What progress for students with disabilities?', 31 January 2023, available at: <https://www.monparcours handicap.gouv.fr/actualite/journee-de-leducation-2023-queles-avancees-pour-les-eleves-handicapes>.

²⁵⁴ Ministry of National Education (2024), 'Inclusive education today, key numbers', available at: <https://www.education.gouv.fr/la-scolarisation-des-eleves-en-situation-de-handicap-1022>.

²⁵⁵ Ministry of National Education (2025), *École inclusive: l'État poursuit son engagement*, published 22 December 2025, available at: <https://handicap.gouv.fr/ecole-inclusive-letat-poursuit-son-engagement-pour-garantir-tous-les-eleves-des-parcours-scolaires-continus> : and <https://www.education.gouv.fr/la-scolarisation-des-eleves-besoins-educatifs-particuliers-1022>.

²⁵⁶ Ministry of Higher Education (2021), 'First National coordination committee for inclusive university education', press release, May 2021: <https://www.enseignementsup-recherche.gouv.fr/fr/premier-comite-national-de-suivi-de-l-universite-inclusive-46887>.

²⁵⁷ Ministry of Social Services, Department of Research (DREES) (2025) *Le handicap en chiffres* (Disability in numbers), January 2025.

the registered students. This indicates an increase of 15 % compared to 2021; 83 % are registered at university.

A 2019 study based on the school performance of children with disabilities born in 2001 and their situation in the school system in 2018 indicates that 70 % of the children attended up to the 9th grade level, and 33 % obtained the 9th grade diploma (*brevet*) between 2015 and 2018. The study found that 28 % passed the professional diploma and 9 % passed the general programme. The level of success of those who undertook the exams was equivalent to that of children without disabilities: 53 % passed the exam with a one-year delay compared to their peers.²⁵⁸

As regards higher education, the latest data was published in June 2025 and related to academic year 2023-2024. At the start of the academic year of 2023, 64 000 students with disability were registered in higher education, i.e. 2.2 % of the student population, 59.1 % of whom were women. This is 8.5 time more than in 2003, 1.9 times more compared to 2018, and 8.5 % or 5 000 students more than the previous year. In 2023, 54 081 students declared that they had a disability or 84.7 % of students in higher education attend university compared to 58.3 % in the general student population. Approximately 22.1 % go on to a master's degree compared to 38.2 % of the rest of the population.

In 2022, 59 000 students with disability were supported by the special services dedicated to disability. Of those, 83.6 % benefit from at least one accommodation measure to pass exams while 16.4 % had no accommodations. Such students are 1.7 times more likely to leave the system without completing their degree.

a) Trends and patterns regarding Roma pupils

In France, there are no specific trends and/or patterns in education regarding Roma pupils, such as segregation.

Legal segregation on ethnic grounds is prohibited at all levels of the legal order and ethnic origin cannot form the basis of educational policy in France (see Chapter 1 above). The allocation of a state school place is legally determined by the child's address. Geographical zoning has no impact on the educational programme, which is national and identical throughout the country, except that some areas have an increased budget if they are dealing with children in social vulnerability. The number of school-age children identified as Travellers or living in slums was estimated in 2012 at 80 000.²⁵⁹ In 2019, a youth NGO created an association to fight for the effective attendance in school of children facing registration and attendance difficulties (*L'École pour tous*). These children are members of Roma, Traveller, migrant and very precarious communities and the association estimated that there were 100 000 such children.²⁶⁰

In 2016, a study supported by Romeurope reported that 67 % of children between the age of 12 and 16 living in slums did not really attend school.²⁶¹ This statistic remains stable to this day.²⁶²

²⁵⁸ Ministry of Education, Education evaluation service (2019) Information note No. 19.16, May 2019, available at: <https://www.education.gouv.fr/17-ans-quatre-eleves-sur-dix-en-situation-de-handicap-nes-en-2001-ont-passe-le-diplome-national-du-5510>.

²⁵⁹ Auditor General (2012) *L'accueil et l'accompagnement des gens du voyage* (Accommodation and support for Travellers), available at: <https://www.ccomptes.fr/fr/publications/laccueil-et-laccompagnement-des-gens-du-voyage>.

²⁶⁰ Petition promoted by *École pour tous*: <https://www.change.org/p/m-jean-michel-blanquer-ministre-de-l-education-nationale-100-000-enfants-%C3%A0-la-porte-de-l-%C3%A9cole-m-blanquer-acceptez-nos-6-demandes-urgentes/u/30109915>.

²⁶¹ Romeurope, CDERE (2016), 'Teenagers living in slums and squats: school impossible' (*Ados en bidonvilles et en squats: l'école impossible*), 27 September 2016, available at: <https://www.romeurope.org/ados-en-bidonville-et-en-squats-lecole-impossible-etude-sur-la-scolarisation-des-jeunes-ages-de-12-a-18-ans-collectif-pour-le-droit-des-enfants-roms-a-leducation-2/>.

²⁶² Enfance et jeunesse info, 2026, available at: www.enfancejeunesseinfos.fr.

In November 2024, the CNCDH, (Commission Nationale consultative des droits de l'Homme - National Consultative Commission on Human Rights), after a large consultation, issued an opinion to the Government on the issue of non-schooled children, stressing that there is no indicator allowing a precise quantification of the problem in France.²⁶³ However, Traveller children and children living in slums – which includes very poor children as well as Roma and children of non-documented migrants – are identified as children with difficulties in accessing education.

The education system provides for special classes to integrate newly arrived foreign migrant children and Traveller children²⁶⁴ and Law No. 2000-614 of 5 July 2000, on the accommodation of Travellers, provides for a duty to accommodate the temporary school attendance of French Traveller children and Roma children.²⁶⁵

The national parking accommodation scheme for Travellers aims to stabilise residence and promote school attendance for children. All mayors are obliged to accept enrolment of children in school even for a few days, followed by registration by the school principal (Articles L131-10 and 131-11 of the Code of Education and 227-17-2 of the Penal Code). However, where the scheme has been implemented, it tends to generate concentrations and in some cities (Dijon, Nancy and Toulouse), there are some isolated schools with a majority of children from the Traveller community on their rolls because of geographic zoning. In addition, in contradiction to the objectives of stability, the scheme's terms and conditions of occupation often provide for a maximum period of stay that forces parents to leave and interrupt the school year.²⁶⁶

Ministerial Instruction No. 2012-142 of 2 October 2012 on school integration of Traveller children reiterates the duty to integrate Traveller and Roma children, regardless of their nationality, housing conditions and legal residency on French territory. This instruction was complemented by another ministerial instruction²⁶⁷ providing for the implementation in every school district of the CASNAV scheme (centres for the promotion of school attendance by non-French-speaking children who have recently arrived in France and Traveller children). In order to facilitate integration, children can register for school

²⁶³ CNCDH (2024), *Avis sur l'accès à une scolarisation effective à tous les enfants* (Opinion on effective access to education of all children) A-2024-8, 5 November 2024, NOR: CDHX2429476V, available at: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000050443988>.

²⁶⁴ Defender of Rights (2018) *Etude sur la scolarisation des élèves allophones nouvellement arrivés et des enfants issus de familles itinérantes et de voyageurs* (Study on the schooling of newly arrived foreign children and Traveller children), EVASCOL (Institut national supérieur de formation et de recherche), June 2018, p.148, available at: <https://www.defenseurdesdroits.fr/fr/communiqu%C3%A9-de-presse/2018/12/etude-sur-la-scolarisation-des-eleves-allophones-nouvellement-arrivees>; Franchi, V. (2002) *Raxen 4 European Monitoring Centre on Racism and Xenophobia (EUMC) French national report on Education*, available at: http://fra.europa.eu/sites/default/files/fra_uploads/186-CS-Education-en/pdf; Policy document No. 2002-102 issued on the 25 April 2002; On the educational integration of newly arrived non-French-speaking children, see Ministerial Instruction No. 2012-141 of 2 October 2012 relating to the school integration of newly arrived non-French-speaking children, (*Circulaire no 2012-141 du 2 octobre 2012 relative à la scolarisation des élèves allophones nouvellement arrivés*), <https://www.education.gouv.fr/bo/12/Hebdo37/MENE1234231C.htm>; Ministerial Instruction No. 2012-142 of 2 October 2012 relating to the schooling of children from Traveller families and families without residence (*Circulaire no 2012-142 du 2 octobre 2012, REDE 236611C/ RED-DEGESCO A1-1 relative à la scolarisation de enfants issus de familles itinérantes et de voyageurs*), available at: http://www.education.gouv.fr/pid25535/bulletin_officiel.html?cid_bo=61529.

²⁶⁵ Law No. 2000-614 of 5 July 2000 relating to the accommodation of Travellers (*Loi No. 2000-614 du 5 juillet 2000 relative à l'accueil et à l'habitat des gens du voyage*), <http://legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT00000583573>.

²⁶⁶ Defender of Children (2016), *Rapport droit de l'enfant 2016. Droit fondamental à l'éducation : une école pour tous, un droit pour chacun* (Children's rights report 2016. The fundamental right to education: a school for all, a right for each child), available at: <http://www.defenseurdesdroits.fr/fr/publications/rapports/rapports-annuels-droit-de-l'enfant/droit-fondamental-l'education-une-ecole>.

²⁶⁷ Ministerial Instruction No. 2012-143 of 2 October 2012 relating to the organisation of CASNAV (*Circulaire no 2012-143 du 02 octobre 2012 relative à l'organisation des CASNAV*), available at: https://www.education.gouv.fr/bo/12/Hebdo37/MENE1234234C.htm?cid_bo=61527.

attendance directly with the CASNAV who support newly arrived migrant and Traveller children in the same structure.²⁶⁸

In addition, the CNED home-schooling system registers all Traveller children at primary school level and secondary level without costs; some of these children follow traditional education and some follow classes aimed to combat illiteracy.²⁶⁹

As recognised in the ESRC decisions of 25 January 2012, *European Roma and Travellers Forum v. France*, and the decision issued further to the complaint of *Médecins du Monde v. France*, published 21 January 2013, the ongoing eviction of Travellers and foreign Roma populations, resulting from Government policy against the unauthorised occupation of private and public property, significantly hinders children's access to education in practice.

In its report from 2021, the Defender of Rights states that only 32 % of Traveller children between 4 and 5 years old attend school, and only 82 % of children aged 6 to 15 years attend school, with 84 % finishing school without qualifications.²⁷⁰ Under pressure from the Defender of Rights and NGOs, the Ministry of Education authorities and prefects are intervening directly to undertake unilateral enrolment of children in state schools.

As most mayors are also MPs, they often attempt to defer compliance with the demands of the governmental authorities until the eviction from campsites has been carried out by the local authorities. It is important to stress that they adopt this attitude even when the education authorities, courts or prefects intervene and request that children be enrolled.²⁷¹

In a landmark decision of 19 December 2018, the Conseil d'État, for the first time, stated that illegal occupation of land does not justify a mayor in refusing school enrolment to the Roma children living therein.²⁷² In a landmark decision of June 2019, the criminal chamber of the Court of Appeal of Versailles deciding in a return decision after the Court of Cassation quashed the previous decision, concluded that the refusal of a mayor to register children in school, when those children are living in a precarious camp and are members of the Roma community, constitutes the offence of refusal of the benefit of a right as defined by Article 432-7 of the Penal Code.²⁷³ In a landmark decision of 2023, the Conseil d'État also quashed the decision of a mayor to regroup and segregate in a gymnasium separate from other children Roma children from families that had recently occupied an illegal slum, given the fact that evidence showed that places were available in regular schools.²⁷⁴

Since the school year 2022-2023, the administrative procedures have been simplified and the number of school mediators accompanying families to facilitate administrative procedures for registration in school has been increased.²⁷⁵ Pursuant to initiatives undertaken in the context of the National Roma strategy adopted in March 2022, the

²⁶⁸ France, Ministry of Education (2023) 'Academic centres for access to school of allophone and Travelling children' (*Centre académique pour la scolarisation des élèves allophones et issus de familles itinérantes et de voyageurs-CASNAV*), available at: <https://eduscol.education.fr/1201/casnav>.

²⁶⁹ France, Ministry of Education, Academic centres for access to school of allophone and Travelling children (*Centre académique pour la scolarisation des élèves allophones et issus de familles itinérantes et de voyageurs-CASNAV*), available at: <https://eduscol.education.fr/1201/casnav>.

²⁷⁰ Defender of Rights (2021) *Travellers; remove the barriers to access to rights*, p. 19, available at: <https://www.defenseurdesdroits.fr/rapport-gens-du-voyage-lever-les-entraves-aux-droits-269>.

²⁷¹ Defender of Rights (2018), *Etude sur la scolarisation des élèves allophones nouvellement arrivés et des enfants issus de familles itinérantes et de voyageurs* (Study on the schooling of newly arrived foreign children and Traveller children).

²⁷² Conseil d'État, 19 December 2018, No. 408710, available at: <https://www.legifrance.gouv.fr/affichJuriAdmin.do?oldAction=rechJuriAdmin&idTexte=CETATEXT000037834583&fastReqId=2123024625&fastPos=1>.

²⁷³ Court of Appeal of Versailles, 19 June 2019, No. 18/01049. The claimants were supported by Romeurope and two pro-bono lawyers, Jérôme Karsenty and Slim Ben Achour.

²⁷⁴ Conseil d'État, No. 441979, 8 December 2023 available at: <https://www.conseil-etat.fr/fr/arianeweb/CE/decision/2023-12-08/441979>.

²⁷⁵ France (2022), Ministerial instruction for launching school year 2022-2023 (*Circulaire de rentrée 2022*) NOR:MENE2219299C, available at: <https://www.education.gouv.fr/bo/22/Hebdo26/MENE2219299C.htm>.

Interministerial Delegation on Emergency Accommodation and Access to Housing (*Délégation interministérielle à l'hébergement et à l'accès au logement*, DIHAL)²⁷⁶ has pursued a scheme of school attendance mediation with an investment of EUR 1.6 million. Its estimates of 6 000 minors living in slums date back to 2019. It reports that this scheme allowed the registration of 3 700²⁷⁷ children from illegal campsites in the school year 2023-2024, as opposed to 1 430 such children in 2019. However, it estimates that nearly 70 % of them suffered from problems of non-enrolment, discontinuous schooling or dropping out of school altogether. For 2024-2025, it records 3 910 registrations and an increase of 1 049 children with specific special educational support.²⁷⁸

3.2.8 Access to and supply of goods and services that are available to the public (Article 3(1)(h) Directive 2000/43)

In France, national legislation prohibits discrimination in access to and the supply of goods and services as formulated in the Racial Equality Directive.

The Penal Code (Article 225-2) covers all Article 19(1) TFEU grounds, as well as grounds covered by French law including gender identity, and sanctions discrimination in access to goods and services in the private and public sectors on all grounds covered by French law.

Further to the adoption of Law No. 2016-1547 of 18 November 2016 on the modernisation of the justice system in the 21st century, Article 2(3) of Law No. 2008-496 completes the implementation of Directive 2000/43/EC by prohibiting all types of discrimination defined in Article 1 of the law, i.e. for all Article 19(1) TFEU grounds, as well as grounds covered by French law including gender identity, with the benefit of the shift in the burden of proof before administrative and civil jurisdictions in access to goods and services, whether private or public, on the basis of all grounds prohibited by French law.

However, except with regard to race and ethnic origin, paragraph 2 of Article 2(3) generalises the possibility of justifying discrimination in access to goods and services, social protection, social advantages, health and education in the following terms:

'This principle does not preclude difference of treatment based on one of the grounds mentioned in Article 1 when they are justified by a legitimate aim and the means to pursue this objective are necessary and appropriate.'²⁷⁹

The law does not provide for a general reasonable accommodation duty in access to goods and services.

In a case relating to access to public swimming pools by women wearing a burkini, the Conseil d'État decided in a landmark decision of 2022²⁸⁰ that if a strict dress code consisting of tight swimwear, trunks and bathing suit covering essential parts of the body is imposed for access to public pools on the basis of public order, health, sanitary and safety requirements, derogations allowing bathers to be more covered cannot be admitted to accommodate religious requirements.

²⁷⁶ CNCDH (2024), *Avis sur l'accès à une scolarisation effective à tous les enfants* (Opinion on effective access to education of all children) A-2024-8), 5 November 2024, NOR: CDHX2429476V, available at : <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000050443988>.

²⁷⁷ DIHAL (2024), *Résorption des bidons-villes*, available at: <https://www.blog-resorption-bidonvilles.fr/post/médiation-scolaire-2023-2024-des-avancées-importantes-pour-l'accès-à-l-éducation>.

²⁷⁸ DIHAL (2026), January 2026 Newsletter, available at: <https://q7dz7.r.a.d.sendibm1.com/mk/mr/sh/1f8JAEjGcfF85v4JoHsvLRdvwn/Ry6zalhv2VEw>.

²⁷⁹ Law No. 2008-496, 27 May 2008, Article 2(3): 'Ce principe ne fait pas obstacle à ce que des différences soient faites selon l'un des motifs mentionnés au premier alinéa du présent 3° lorsqu'elles sont justifiées par un but légitime et que les moyens de parvenir à ce but sont nécessaires et appropriés', <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000018877783>.

²⁸⁰ Conseil d'État, City of Grenoble, 21 June 2022, No. 464648, available at: <https://www.conseil-etat.fr/fr/arianeweb/CE/decision/2022-06-21/464648>.

The author of this report has found no individual cases relating to issues involving the use of artificial intelligence or automated systems in respect of access to and supply of goods and services that are available to the public that have been presented before the judicial and administrative courts. Most claims are presented to the French data protection agency, CNIL, and are framed in terms of a violation of the GDPR.

The CNIL has adopted a guideline for the processing of personal data of clients implemented for commercial activities.²⁸¹

However, the author has identified one relevant decision of the French equality body, the Defender of Rights. It resulted from a claim of discrimination on the ground of age in opening a bank account online. The claimant alleged that upon indicating a date of birth giving rise to an age beyond 75 years of age, the opening form displayed an error message below the date of birth field stating that opening the account is conditional on being 'between 18 and 75 years of age'. The bank justified this condition by risks related to insufficient 'digital literacy' of the elderly and the need to ensure the legal capacity of prospective customers. The bank stated that it does not refuse to open accounts for people aged over 75, but only 'gave preference to face-to-face openings, allowing simplified underwriting and the provision of personalised advice'. This information did not appear on the bank's website. The Defender of Rights held that the generalisation behind this policy was discriminatory. It recommended to the bank remove the age limit of 75 from its online account opening form, that it provide assistance to ensure better support for people who are not digitally literate, and that it train all staff in the fight against discrimination in access to financial services.²⁸²

Article 8 of the French Data Protection Act of 6 January 1978 stipulates that it is forbidden to process biometric data for the purpose of uniquely identifying a natural person, except with his or her consent or, in view of the state's security protection functions, subject to public interest imperatives. This provision was used to authorise the state to make biometric identity documents compulsory.²⁸³

A petition was lodged with the French Constitutional Council concerning the constitutionality of Article 10 of Law 2023-380 of 19 May 2023 relating to the 2024 Olympic and Paralympic Games, which provides that, on an experimental basis,²⁸⁴ images collected by means of a video protection system or cameras installed on aircraft may be subject to algorithmic processing in order to detect and report certain events. Members of Parliament argued that these provisions would infringe the principle of equality before the law, since the criteria on which the algorithmic processing would be based would not exclude all discrimination. The Constitutional Council²⁸⁵ ruled that, in order to meet the constitutional objective of preventing breaches of public order and, in particular, controlling the risk of terrorist attack, the legislature may authorise the algorithmic processing of images collected by means of a video protection system or cameras installed on aircraft. However, the implementation of such surveillance systems must be accompanied by special safeguards to protect the right to privacy and by reserving such treatment for certain particularly high-risk events for a limited period of time, to be interrupted when the conditions of risk are no longer met. To prevent any discrimination, the law excludes all facial recognition and unique biometric identification systems on which individual decisions

²⁸¹ CNIL (2021) *Guidelines for data processing of personal data implemented in the context of commercial activities*, available at: https://www.cnil.fr/sites/cnil/files/atoms/files/referentiel_traitements-donnees-caractere-personnel_gestion-activites-commerciales.pdf.

²⁸² Defender of Rights, 5 November 2024, No. 2024-163, available at: https://juridique.defenseurdesdroits.fr/index.php?lvl=notice_display&id=53465.

²⁸³ Conseil d'État, 4 November 2020 No. 432656.

²⁸⁴ France, Senate; during the examination of the bill on the reinforcement of security, the experiment which was due to end in March 2025 was extended to March 2027, text adopted available at: <https://www.assemblee-nationale.fr/dyn/17/amendements/0636/AN/237>.

²⁸⁵ Constitutional Council, 2023-850 DC 17 May 2023, available at: <https://www.conseil-constitutionnel.fr/decision/2023/2023850DC.htm>.

are based. It is up to the authorities to monitor algorithms to ensure compliance with the law.

a) Distinction between goods and services available publicly or privately

In France, national law does not distinguish between goods and services available to the public (e.g. in shops, restaurants and banks) and those that are only available privately (e.g. those restricted to members of a private association).

Article 2 of Law No. 2008-496 prohibits discrimination in the access to and supply of goods and services, without distinction between goods available to the public or privately.

The Penal Code (Article 225-2) does not distinguish between goods or services that are offered privately and those that are available to the public. In the public sector, the same provision (Article 432-7 PC) punishes any public servant who refuses to any person the benefit of a right afforded by law or hinders the free exercise of an economic activity. However, the Law No. 2004-204 of 9 March 2004 adapting justice to developments in criminality, created an aggravated sanction in the case of a discriminatory refusal to sell goods or to provide access to public places.²⁸⁶

3.2.9 Housing (Article 3(1)(h) Directive 2000/43)

In France, national legislation prohibits discrimination in the area of housing as formulated in the Racial Equality Directive.

Article 2(3) of the Law of 27 May 2008 prohibits all forms of discrimination in access to goods and services including housing, whether private or public, on all grounds prohibited by French law i.e. for all Article 19(1) TFEU grounds, as well as grounds covered by French law including gender identity. These provisions apply to nationals and non-nationals and are enforceable before civil and administrative courts.

In addition, Article 1(3) of Law No. 89-462 of 6 July 1989 on relations between landlords and tenants, enforceable before the civil courts, prohibits discrimination in access to rental housing, whether private or social housing, on all grounds of discrimination prohibited by national law i.e. for all Article 19(1) TFEU grounds, as well as grounds covered by French law including gender identity.²⁸⁷ These provisions also apply to nationals and non-nationals.

Article 15 III of the Mermaz Act on relations between landlords and tenants²⁸⁸ provides special protection to older tenants: a landlord cannot avail themselves of all available legal means to put an end to a lease in favour of persons aged 70 years and more who have resources inferior to 1.5 times the minimum wage, without proposing equivalent substitute housing located in the same geographical area.

This protection has led to refusals to rent housing to older persons. The courts have held that instructions given to real estate agents by landlords who refuse to rent housing to old people who, because of their statutory protection related to their age (70 years), cannot be evicted in order to repossess an apartment, must not be acted upon by the real estate

²⁸⁶ Law No. 2004-204 of 9 March 2004, adapting justice to developments in criminality (*Loi No. 2004-204 du 9 mars 2004 portant adaptation de la justice aux évolutions de la criminalité*), available at: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000249995&dateTexte=&categorieLien=id>.

²⁸⁷ Law No. 89-462 of 6 July 1989 on landlords and tenants, known as the Mermaz Act, available at: <https://www.legifrance.gouv.fr/loda/id/LEGISCTA000006118901>.

²⁸⁸ Law No. 89-462 of 6 July 1989 on landlords and tenants, known as the Mermaz Act, available at: <https://www.legifrance.gouv.fr/loda/id/LEGISCTA000006118901>.

agent and cannot be invoked by them in defence when they are accused in criminal and civil prosecutions of discrimination in access to goods and services on the ground of age.²⁸⁹

In France, there is a general practice of requesting security for the rent as a condition of the lease. The Law of 6 July 1989 on relations between landlords and tenants was amended in 2006 to prevent landlords from refusing security on the basis that the guarantor is in a foreign country or is a foreign national.²⁹⁰ Meanwhile, rejection of security offered by an individual's parents who live abroad or in French overseas territories continues to be largely used as a reason to refuse to rent to non-nationals.

Furthermore, the Penal Code's prohibition of discrimination in Article 225-2 on all covered grounds in access to goods and services has been interpreted to cover housing whether in relation to rentals or sales.

There can be no exception to the prohibition of racial discrimination in French law, and the law provides no exception to the principle of non-discrimination in housing. The courts have held that even reasonable safety considerations unilaterally raised by a landlord cannot justify discriminating in renting an apartment to a person with disabilities.²⁹¹

There is no governmental policy that targets discrimination against migrants in the field of housing. National housing policies focus on anti-poverty measures and on equality between geographical areas.²⁹²

In a landmark case of July 2017, the criminal chamber of the Court of Cassation decided for the first time that a social housing corporation was legally responsible for the decision of an allocation committee that dismissed an application on the ground that the candidate was of African or Caribbean origin on the ground of requirements of social mix, even though the allocation committee was composed of people external to the social housing corporation itself.²⁹³

Most claims relating to issues involving the use of artificial intelligence or automated systems regarding housing are presented to the French data protection agency, CNIL, and are framed in terms of a violation of the GDPR.

The author of this report has, however, found one individual criminal case presented by SOS Racism before the criminal courts on the ground of discrimination prohibited by Article 225-2 of the Penal Code, alleging that a social housing corporation, in order to manage equilibrium between social groups, had implemented a selection criterion indicating the origin of social housing applicants. The Court of Cassation dismissed the case on the ground that no evidence had been presented to establish discriminatory intent on the part of the social housing manager.²⁹⁴

²⁸⁹ Versailles Correctional Court, 2 January 2012, No. 11126080164; Judicial Tribunal, 20 May 2011 No. 11-10-000481.

²⁹⁰ Article 22-1 of Law No. 89-462 as amended by Law No. 2006-396 of 31 March 2006 on equal opportunities.

²⁹¹ High Judicial Court of Paris, 17th Chamber, Poncelet v. Lassailly, No. 0402608235, 28 June 2005.

²⁹² See programme of the National Agency for the National Agency for Territorial Cohesion (Agence nationale pour la cohésion des territoires, ANCT) available at: <https://agence-cohesion-territoires.gouv.fr>; see the programme of the National Agency of Urban Regeneration (Agence nationale de rénovation urbaine, ANRU), available at: <https://www.anru.fr/>.

²⁹³ Court of Cassation, criminal chamber, 11 July 2017, 16-82426, available at: <https://www.legifrance.gouv.fr/affichJuriJudi.do?oldAction=rechJuriJudi&idTexte=JURITEXT000035192594&fastReqId=1856731927&fastPos=1>.

²⁹⁴ Court of Cassation, criminal chamber, 22 September 2015, No. 14-84802, available at: <https://www.legifrance.gouv.fr/juri/id/JURITEXT000031225951/>.

The French Data Protection Authority (CNIL) has adopted guidelines for the processing of data on prospective tenants, tenants and guarantors, rental agencies and intermediaries involved in the rental of accommodation.²⁹⁵

Disability

Article L111-7 of the Construction and Housing Code²⁹⁶ requires public and residential buildings to be designed and built to be accessible to persons with disabilities.

Decree No. 2006-555 of 17 May 2007 specifies that the obligation relates to common areas, internal and external, part of the parking space for vehicles, residential lifts, collective premises and equipment.²⁹⁷

Although Law No. 2005-102 on Disability had imposed a deadline that all buildings open to the public must conform to accessibility requirements by 2015, this was postponed by Law No. 2014-789 of 10 July 2014 authorising the Government to adopt legislative measures for the implementation of the accessibility of public places. This delay postponed the prosecution and issuing of sanctions provided by the 2005 law beyond 1 January 2015. In exchange, operators of public places (i.e. private and public managers) must formally undertake to abide by a specific calendar for each type of works, providing for a timetable of between three months and nine years, according to the type of works. The calendar sets out detailed deadlines for preparing and programming the works, taking the form of 'programmed accessibility timetables' (*agendas d'accessibilité programmée* – Ad'AP) to schedule building works for periods going from three to nine years for historical works, with all works related to these agendas being completed for 2028.²⁹⁸ In addition, in case of delay or difficulty, the owner can request an extension to complete the works (Article L111-7-8 of the Construction and Housing Code). Since 2019, it is no longer possible to file a new request for an Ad'AP to execute works, but the execution of existing agendas can still be postponed in the case of the acquisition of a building in application of Article L165-4 of the Code of Construction and Housing and the Decree of 16 December 2019²⁹⁹ in the case of acquisition of a building, merging of many planned works or of technical/financial difficulty. Failure to report on the implementation of the required works is sanctioned by administrative fines provided by the Decree.

Ad'APs are used by each regional unit. According to figures from 2024, only 50 % of all programmed work on public buildings has been executed.³⁰⁰ There has not yet been a final evaluation of implementation. The President of the Republic declared in 2023 that he was

²⁹⁵ CNIL (2021) *Guidelines for data processing implemented in the context of rental management*, May 2021, available at: https://www.cnil.fr/sites/cnil/files/atoms/files/referentiel_relatif_aux_traitements_de_donnees_personnelles_mis_en_oeuvre_dans_le_cadre_de_la_gestion_locative.pdf.

²⁹⁶ Construction and Housing Code (*Code de la construction et de l'habitat*), available at: <https://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006074096>.

²⁹⁷ Decree No. 2006-555 of 17 May 2006 on the accessibility of buildings receiving the public and residential buildings and modifying the Construction and Housing Code, J.O. No. 115, 18 May 2006 (*Décret No. 2006-555 du 17 mai 2006 relatif à l'accessibilité des établissements recevant du public, des installations ouvertes au public et des bâtiments d'habitation et modifiant le code de la construction et de l'habitation*), available at: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000819417&dateTexte=&categorieLien=id>.

²⁹⁸ Ministry for the Ecological and Inclusive Transition, Ad'AP, available at: <https://www.ecologique-solidaire.gouv.fr/ladap-agenda-daccessibilite-programmee%20>.

²⁹⁹ France, Decree No. 2019-1376 of 16 December 2019, available at: <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000039631177>.

³⁰⁰ Handicap.fr (2024), 'Non accessible public buildings: the great failure of the state?' (*ERP non accessibles: la grande faillite de l'État?*), available at : <https://informations.handicap.fr/a-erp-non-accessibles-la-grande-faillite-de-l-etat-37279.php>; Maire-info.com (2025), 'The Law on Disability; a positive result but obstacles to be overcome according to the government' (*Loi handicap: un bilan positif mais encore des obstacles à surmonter, selon le gouvernement*), 7 February 2025, available at: <https://www.maire-info.com/handicap/loi-handicap-un-bilan-positif-mais-encore-des-obstacles-a-surmonter-selon-le-gouvernement-article-29375>.

not in favour of the implementation of sanctions³⁰¹ and the state has authorised a further postponement of implementation deadlines for public buildings to 2027.

Meanwhile Law No. 2018-1021, adopted on 23 November 2018, has lowered the standards of accessibility of new housing by limiting the obligation to build lifts in buildings of four floors and more and by creating a duty of evolutionary adaptability, whereby the obligation is not to build accessible housing but housing that can be adapted to be accessible. This legislation has been held to be a substantial hindrance to the construction of accessible housing.³⁰²

The public investments in accessibility are coordinated by the Interministerial Committee for Disability (Comité interministériel du Handicap – CIH). At the 2023 annual meeting, it appointed an interministerial delegate with a budget of EUR 300 million over five years, to enhance the coordination and implementation of Ad'APs in public infrastructure, such as transport, and small spaces accessible to the public.³⁰³ In May 2024, at the Inter-ministerial Committee on Disability, the Prime Minister announced the financing of MaPrimeADAPT, which is an ongoing scheme implemented through a request that can be completed online to finance renovation works to adapt individual housing to the needs of a person's disability or those of an elderly person, with a maximum contribution of EUR 22 000 per person.³⁰⁴ In addition, the Disability Compensation Aide can be combined with the PrimeADAPT, to finance housing adaptation up to a limit of EUR 10 000.

Articles L441-1, 441-3 and 441-5 of the Construction and Housing Code provide for a priority in the allocation of social housing for registered persons with disabilities and their families.

a) Trends and patterns regarding housing segregation for Roma

In France, there are trends and patterns of housing segregation and discrimination against Roma.

In March 2022, after an 18-month-long consultation process led by the DIHAL, the Interministerial Delegation on Emergency Accommodation and Access to Housing (*Délégation interministérielle à l'hébergement et à l'accès au logement*), the French Government adopted its National Roma strategy in application of the recommendation of the Council of the European Union.³⁰⁵ It reiterates the intention to pursue the national policy adopted by the Ministerial Instruction of 25 January 2018, for the clearance of illegally occupied land and slums, underlining its universalist approach to access to rights of Travellers, Roma and populations living in slums. The intention is to accelerate the reduction of the number of slums and illegal camps through policies of sustainable integration on the basis of social support, including in access to public services, employment, housing and registration of children in school, and through the use of a digital monitoring platform. The strategy is supported by a dedicated budget (EUR 8 million), which was committed in 2022 following the ministerial instruction on reviewing the capacity of existing departmental schemes.³⁰⁶

³⁰¹ France, Declaration of the President of the Republic at the National Conference on Disability of 26 April 2023, available at <https://www.vie-publique.fr/discours/289243-emmanuel-macron-26042023-personnes-handicapees>.

³⁰² Law No. 2018-1021 adopted on 23 November 2018 (*LOI n° 2018-1021 du 23 novembre 2018 portant évolution du logement, de l'aménagement et du numérique*), available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000037639478&categorieLien=id>.

³⁰³ France, Interministerial Committee on Disability (CIH), Meeting of 20 September 2023, available at: <https://handicap.gouv.fr/comite-interministeriel-du-handicap-du-20-septembre-2023>.

³⁰⁴ France, Interministerial Committee on Disability (CIH), Meeting of 16 May 2024, available at: <https://handicap.gouv.fr/comite-interministeriel-du-handicap-du-16-mai-2024>.

³⁰⁵ France (2022), *Stratégie française pour l'égalité, l'inclusion et la participation des Roms* ([French strategy for equality, inclusion and participation of Roma](#)).

³⁰⁶ France, (2022) Ministerial Instruction of 10 January 2022 No. NOR: INTK2200421J relating to the relaunch of departmental scheme for the parking and housing of Travellers, (*Circulaire du 10 Janvier 2022 relative à*

Travellers

The Traveller population benefits from a nationwide specific accommodation scheme. Municipalities of more than 5 000 inhabitants have an obligation to accommodate travelling populations by providing parking sites designated as *aires d'accueil* as stipulated by Law No. 2000-614 of 5 July 2000, and the technical requirements of these areas are provided by Decree 2019-1478 of 26 December 2019,³⁰⁷ reviewing legislation that was first adopted in 1990 (Law No. 90-449 of 31 May 1990). This legislation was amended in 2018 by Law No. 2018-957 to modify the area of reference to define conformity in terms of obligations of parking sites for Travellers.³⁰⁸ The law has restricted the obligations of small towns and, since the introduction of Law No. 2018-957, defines the area of reference in relation to a group of municipalities. The installation of motor homes on unauthorised parking sites is sanctioned by administrative eviction measures created by Law No. 2003-239 of 18 March 2003.³⁰⁹

When a group of municipalities fails to provide specific sites for the Traveller community, it is barred from seeking the removal of Travellers' trailers and from prohibiting parking³¹⁰ and can be challenged for this failure before the administrative courts.

In a landmark decision of 17 December 2024, the Administrative Court of Appeal of Aix-en-Provence imposed injunctive relief with a schedule to implement parking sites, fines and reporting obligations further to the failure of local authorities to execute, six years after a judgment ordering the implementation of mandatory parking sites.³¹¹ In a decision of 5 November 2025, it further fixed record fines and damages awards given the absence of action by local authorities.³¹²

Insufficient availability of parking sites continues to generate massive illegal parking, monitoring by the police and criminalisation of the Traveller way of life by the large-scale issuance of fines in application of Article 322-4-1 of the Penal Code. This practice is made possible due to two main factors: Travellers have little financial means to contest the fines imposed by the police when the situation does not justify it and Travellers are de facto concentrated in areas that have satisfied their legal obligations, while, as it is recognised by Government, the number of spaces is insufficient for the needs of the Traveller population in these areas.³¹³

The concentration of Travellers and the lack of available space is still a major problem. A ministerial instruction was issued in January 2022 to request the revision of all

la relance des schémas départementaux d'accueil et d'habitat des gens du voyage), available at: <https://www.gouvernement.fr/commission-nationale-consultative-des-gens-du-voyage-4906>.

³⁰⁷ France, Law No. 2000-614 of 5 July 2000 relating to the accommodation of Travellers (*Loi No. 2000-614 du 5 juillet 2000 relative à l'accueil et à l'habitat des gens du voyage*).

<http://legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000583573>; Decree No. 2019-1478 of 26 December 2019 relating to technical rules applicable to areas of accommodation for Travellers (*Décret n°2019-1478 du 26 décembre 2019 relatif aux normes techniques applicables aux aires d'accueil des gens du voyage*), available at: https://www.legifrance.gouv.fr/lo_i/loi/2018/11/7/INTX1731081L/jo/texte.

³⁰⁸ France, Law No. 2018-957 of 7 November 2018 on accommodation for Travellers and combating illegal sites (*Loi n° 2018-957 du 7 novembre 2018 relative à l'accueil des gens du voyage et à la lutte contre les installations illicites*), available at: <https://www.legifrance.gouv.fr/eli/loi/2018/11/7/INTX1731081L/jo/texte>.

³⁰⁹ France, Law No. 2003-239 of 18 March 2003 on internal security (*Loi No. 2003-239 du 18 mars 2003 pour la sécurité intérieure*), available at: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000412199>.

³¹⁰ High Judicial Court of Montauban, No. 02/00171, 3 May 2002. Available at: www.rajf.org/article/php3?id_article=1043.

³¹¹ Administrative Court of Appeal of Aix-en-Provence, *La Vie du Voyage*, 17 December 2024, No. 24MA00189.

³¹² Administrative Court of Marseille, 4 November 2025 No. 24MA000189.

³¹³ Romeurope CNDH, (2022) Annual report of collective evictions from informal living spaces (*Rapport annuel de l'observatoire des expulsions collectives des lieux de vie informels*), October 2022, available at: https://www.observatoire-des-expulsions.org/storage/wsm_publication/8b0prvyMGrER5LrVPID2K9Dx16aNWgYCxYM0yFeU.pdf.

departmental schemes in order to increase the parking capacity of existing schemes.³¹⁴ According to the most recent official data published by the DIHAL, at the end of 2023, on the 1 363 existing parking sites and out of the prescribed 33 543 parking places, there were 26 869 places available on 1 100 parking sites, i.e. 408 fewer spaces than in 2022, including 1 570 rental spaces on 296 family rental sites and 31 778 spaces on 212 large-scale parking sites; 95 implementation schemes had been adopted, but 19 had not been revised for more than 6 years, and one department, the Val-de-Marne, had no scheme in place. Of the parking sites planned under mandatory programmes, 81 % were realised and 28 departments out of 95 had completed implementation.³¹⁵ NGOs consider that 60 000 places are needed in total and the authorities admit that there is a structural deficit of parking sites and spaces. They had originally planned 41 589 places.

Meanwhile, NGOs denounce the environmental discrimination relating to the choice of sites for the campsites, which are often installed adjacent to municipal dumps or chemical plants.³¹⁶ Some families attempt to purchase land, which for economic reasons is often situated in areas where residential construction is not permitted, and they thereby enter into complicated legal conflicts with municipalities with respect to their conditions of occupation of the land. Many mayors adopt decrees to forbid motorhome parking on their entire territory, in order to prevent unauthorised parking on private land. Even though such decrees have systematically been found to be illegal, this situation increases monitoring, evictions and an overall atmosphere of a denial of access to rights.³¹⁷

Traveller NGOs meet regularly within the National Consultative Commission on Travellers (CNCGV), but according to their representatives, their discussions remain informal and fail to advance the implementation of parking sites and the legal recognition of their caravans as residences. In France, Travellers' caravans are not recognised as housing. As a result, persons living in caravans are the only ones who are not eligible for housing support or protected by the winter break in the enforcement of eviction orders. ECRI recommended in its 2022 review of the French situation that the caravans be recognised as housing. In addition, given the insufficient number of available parking sites and spaces, it recommended that the illegality of parking outside dedicated areas be reconsidered. In its 2024 country monitoring review, ECRI found that France had failed to implement both of these recommendations.³¹⁸ The situation has not changed in 2025.

Foreign Roma

According to NGOs and the last report of the Directorate of Housing and Planning, the situations has remained the same since 2020: 15 000 persons of Roma origin live in 300 illegal camps and slums.³¹⁹

Since 2008, with an uninterrupted escalation since 2012, the Government has pursued a systematic policy to eradicate slums occupied by Roma and, since 2015, other homeless

³¹⁴ France, (2022) Ministerial Instruction of 10 January 2022 No. NOR : INTK2200421J relating to the relaunch of departmental scheme for the parking and housing of Travellers, (*Circulaire du 10 Janvier 2022 relative à la relance des schémas départementaux d'accueil et d'habitat des gens du voyage*), available at: <https://www.gouvernement.fr/commission-nationale-consultative-des-gens-du-voyage-4906>.

³¹⁵ France (2024) DIHAL, *Renforcer l'inclusion des gens du voyage, Bilan au 31 Décembre 2024* (Reinforcing the inclusion of Travellers, Assessment at December 31, 2024), available at: <https://www.info.gouv.fr/organisation/delegation-interministerielle-a-l-hebergement-et-a-l-acces-au-logement/renforcer-linclusion-des-gens-du-voyage>.

³¹⁶ Acker, W. (2021) *Where are the Travellers ? (Où sont les gens du voyage)*, Éditions du commun, 2021, available at: <https://www.editionsducommun.org/products/ou-sont-les-gens-du-voyage-william-acker>.

³¹⁷ Bordeaux Administrative Appeals Court, No. 03BX00379, 1 December 2005.

³¹⁸ ECRI (2024), *Conclusions on the implementation of the recommendations in respect of France CRI(2025)02*, adopted on 20 November 2024 and published on 19 February 2025, available at: <https://rm.coe.int/ecri-conclusions-on-the-implementation-of-the-recommendations-in-respe/1680b449bd>.

³¹⁹ Directorate of Housing and Urban Planning (2025) *Résorption des campements illicites et des bidonvilles* (Clearance of illegal camps and slums), 10 February 2025, available at: <https://www.ecologie.gouv.fr/resorption-des-campements-illicites-et-des-bidonvilles>.

precarious migrants as well. Their status has been qualified as that of unauthorised occupants of private and public property.

A ministerial instruction was published on 28 August 2012, intending to put in place a policy anticipating the dismantling of slums as being illegal camps, in order to implement humanitarian conditions in relation to access to housing, education and social rights in the context of each eviction of Travellers, Roma and other precarious migrants from illegally occupied land. All the available evaluations by the Ministry of Social Affairs indicate that the local authorities have not been complying with the instruction and that the generalised eviction policy has generated a situation in which the constant eviction of Travellers, foreign Roma and other migrant populations, is not de facto accompanied by concrete measures of access to emergency shelter or housing.

In this context, the Ministerial Instruction of 28 August 2012 has been used by NGOs before the courts to obtain deferment of eviction orders before the court of enforcement responsible for execution of the judgment,³²⁰ and counter what have become local policies of harassment. NGOs, with the support of the Defender of Rights, have been successful in deferring eviction on the ground of the positive obligations of the state to accommodate the rights of Roma persons who are evicted, provided by the jurisprudence of the ECtHR³²¹ and the European Committee of Social Rights,³²² and to obtain enforcement of their access to decent emergency housing rights provided by Article 412-3 and 4 of the Code of Civil Enforcement Procedure.³²³

On 25 January 2018, the Government published a ministerial instruction completing its instruction of 28 August 2012³²⁴ to revisit its policy regarding eviction of residents of slums and illegal camps in order to facilitate access of Roma and migrant homeless persons to housing rights. This instruction raised significant hope on the part of NGOs such as Romeurope, since it integrated a number of their recommendations supporting a co-constructed approach concentrating on local consultation, the protection of rights and for the integration of the occupants. However, to date, the former eviction policy seems to be ongoing.

Public data relating to Roma and Traveler's eviction is common to all evictions of illegal campsites referred to above. It has not been updated since 2022 when DIHAL reported that in October 2022, 12 000 EU nationals were living on 270 sites, and approximately 20 000 persons including 5 000 isolated minors, were living on 446 sites, if all populations were taken in consideration. DIHAL stated that 1 256 persons evicted from illegally occupied land and slums were provided with long-term housing and social integration between 2019 and 2022, and that 17 sites were eradicated during the same period.³²⁵ No indications are provided as to the identity or characteristics of the persons supported by DIHAL.

What was formerly an annual report by Romeurope was later on published by a coalition of NGOs under the heading 'Observatory of informal campsites'. Its last publication dates

³²⁰ High Judicial Court of Bobigny, JEX, 24 January 2013 No. 12/13284; Paris Court of Appeal, 29 January 2016, No. 14/21925.

³²¹ ECtHR, *Yordanova*, 24 April 2012, No. 25446/06, available at: [https://hudoc.echr.coe.int/enq#{%22appno%22:\[%225446/06%22\]}](https://hudoc.echr.coe.int/enq#{%22appno%22:[%225446/06%22]}); ECtHR, *Winterstein*, 17 October 2013, No. 27013/07, available at: [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22001-126910%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-126910%22]}).

³²² ECSR, 11/09/2012, No. 67/2011, available at: <http://hudoc.esc.coe.int/enq?i=cc-67-2011-dadmiss-fr>.

³²³ Articles L. 412-3 and 4 of the Civil Procedure Code on execution provide that the judge is competent to allow delays that can postpone eviction from three months up to three years in order to satisfy obligations enforcing the rights to dignified and emergency housing.

³²⁴ Instruction of Government supporting a renewed policy for the suppression of slums and illegal camps (*Instruction du Gouvernement visant à donner une nouvelle impulsion à la résorption des campements illicites et des bidonvilles*), No. NOR: TERL1736127, 25 January 2018, available at: http://circulaires.legifrance.gouv.fr/pdf/2018/01/cir_42949.pdf.

³²⁵ DIHAL (2022), 'Slum clearance', available at: <https://resorption-bidonvilles.dihal.gouv.fr>.

back to December 2024 and will be updated in autumn 2026. Despite governmental discourse on the national policy, data published by CNDH Romeurope in its report from December 2024 indicated a continuing acceleration of the policy of systemic eviction from living areas, leaving the inhabitants in very precarious conditions. In 2024, 94 % of evictions were implemented without prior evaluation, 68 % of evictions were executed without ensuring basic housing rights and shelter protection and a third are implemented without judicial decisions.³²⁶ It further reported 1 484 evictions, 876 of which took place on the northern coast of France and 608 elsewhere; of those on the northern coast, in the Pas de Calais department alone there were 838 evictions and 75 699 persons were evicted. The report indicated that the number of evictions had increased by 34 % in comparison to 2023. As a result, 108 456 persons were evicted from among other things, 513 tents, 424 mixed tents and informal constructions, 218 caravans and 177 squats. This represents an average eviction of 4 sites and 297 people per day. In 87 % of cases, people's belongings had been destroyed.

This indicates a constant substantial increase in the number of evictions, which reflects the 'fragmentation' of living areas resulting from the Government's systematic policy of repeated evictions, as the author has reported since 2012.

In a landmark decision, the Conseil d'État decided in February 2019 that, in the absence of imminent necessity, an eviction could not be ordered without securing the rights of the illegal Roma occupants.³²⁷ Taking a contrary position, the Court of Cassation, contradicting the long-standing jurisprudence of the ECtHR protecting the conditions of eviction of Travellers and Roma (reiterated in 2020 in the *Hirtu v. France* case³²⁸), has held in two landmark decisions of 2019 – one relating to the occupation of private land³²⁹ and the other regarding the occupation of the property of a town³³⁰ – that the violation of the various rights of illegal occupants could not be disproportionate considering the gravity of the impact of their occupation on the right to property. The Court held that eviction was the only measure that would allow the owners to recuperate the full measure of their right to property. Therefore, the interference resulting from the respect of the right to domicile of occupying Roma families protected by Articles 8 and 14 ECHR could not be allowed to become disproportionate in the face of the gravity of the violation of the right to property. The Court decided that considering the absolute character of the right to property, all occupation of the property without title, even if it had occurred over a long period of time, whether it be property belonging to private owners³³¹ or vacant public land, constitutes a manifestly illicit violation that allows the owner to obtain redress by way of eviction by injunctive relief, regardless of the protected rights to housing of the Roma families occupying the land.³³²

Since this decision, on 17 November 2022, the ECHR rendered six decisions regarding the eviction of Roma from illegal occupied land in France.³³³ These cases were made further to

³²⁶ Romeurope CNDH, (2024) Annual report of collective eviction from informal living spaces (*Rapport annuel de l'observatoire des expulsions collectives des lieux de vie informels*), December 2024, available at: https://www.romeurope.org/wp-content/uploads/2024/12/Rapport-Observatoire-des-expulsions_2024_version-web.pdf.

³²⁷ Conseil d'État, 13 February 2019 No. 427423.

³²⁸ ECtHR, *Hirtu v. France*, 14/08/2020, No. 24720/13, available at: <http://hudoc.echr.coe.int/eng?i=001-202442>.

³²⁹ Court of Cassation, third civil chamber, 4 July 2019, No. 18-17119, available at: <https://www.legifrance.gouv.fr/juri/id/JURITEXT000038762757/>.

³³⁰ Court of Cassation, third civil chamber, 28 November 2019, No. 17-22810, available at: <https://www.legifrance.gouv.fr/affichJuriJudi.do?oldAction=rechJuriJudi&idTexte=JURITEXT000039465719&astReqId=246564261&fastPos=1>.

³³¹ Court of Cassation, third civil chamber, 4 July 2019 No. E 18-17119, available at: https://www.gisti.org/IMG/pdf/jur_cas_2019-07-04.pdf.

³³² Roma and Travellers' rights NGOs have indicated that they intend to take these cases to the ECtHR and the UN HRC.

³³³ ECHR, 17 November 2022, No. 13561/15, available at: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-221823%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-221823%22]}); ECHR, 17 November 2022, No. 35697/15 available at: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-221824%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-221824%22]});

six different evictions of Roma claimants, typical of ongoing evictions pursued in application of governmental policy, on the basis of illegal occupation of land. They alleged violation of domicile and right to private life in application of Article 8 of the ECHR.

In a context where occupation of land was illegal, recent and met with rapid reaction from owners and public authorities, the Court decided that the claimants could not argue a legitimate expectation to remain in the camps. Since the eviction was preceded by a decision of the authorities, i.e. a judge, the court found that the interference had a legal basis. As regards the balance of opposing interests, where it was found before the trial court that the camps generated substantial disturbances, in a context of substantial dangers to health, safety, manifest disturbance to the environment and violation of the property rights of the owners, the interference was held to be legitimate and proportionate and the judge was considered to have properly justified that the occupation of land was a substantial disturbance to public order justifying eviction. Considering that Article 8 ECHR does not give a right to be provided with a domicile, if a claimant does not demonstrate long-term occupation and having undertaken action to be provided with a long-term domicile, the authorities satisfy their burden by demonstrating that they proposed a hotel room for a few days to persons present at the time of the eviction.

ECHR, 17 November 2022, No. 36779/16, available at: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-221825%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-221825%22]}); ECHR, 17 November 2022, No. 41969/16, available at: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-221826%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-221826%22]}); ECHR, 17 November 2022, No. 45871/16, available at: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-221827%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-221827%22]}); ECHR, 17 November 2022, No. 72596/16, available at: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-221828%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-221828%22]}).

4 EXCEPTIONS

4.1 Genuine and determining occupational requirements (Article 4 Directive-2000/43, Article 4(1) Directive 2000/78)

In France, national legislation provides for an exception for genuine and determining occupational requirements.

Article 2, paragraph 3, and Article 6, paragraph 3, of Law No. 2008-496 created the general possibility of raising an exception based on genuine and determining occupational requirements, which has been relied upon for example to attempt to justify restrictions on wearing the Islamic headscarf and has generated the stream of jurisprudence that led to the referral to the CJEU in the *Bougnaoui* case.³³⁴

The possibility of raising a general exception was introduced in 2008. In addition, it is framed in terms that leave open the possibility of justifying occupational requirements in each individual case.

Article 6, paragraph 3 of the Law provides:

'The prohibition of discrimination does not forbid difference in treatment if it constitutes a genuine and determining occupational requirement, as long as the objective pursued is legitimate and the requirement proportionate.'³³⁵

During discussion of Law No. 2016-1088 of 8 August 2016 on employment, the modernisation of social dialogue and the protection of professional careers, Parliament unanimously adopted a provision (Article 2) that amends the Labour Code to create, at Article L 1321-2-1, the ability for employers to set out in their in-house regulations the principle of 'neutrality' as a rule and to stipulate restrictions on expressions of belief by employees. These restrictions have been considered to be justified by the exercise of other fundamental rights and liberties or by the necessities of the good functioning of the service, as long as they are proportionate to the objective pursued.³³⁶

In the landmark *Bougnaoui* case, the Court of Cassation deciding the case in 2017³³⁷ followed the reasoning of the Court of Justice.³³⁸ First, it explicitly refers to the reasoning of the Court of Justice as regards the scope of the protection afforded to religion and refers to Article 9 of the ECHR as well as Directive 2000/78/EC to maintain a concept of religion that protects both religion per se and the requirements of religious practice as subjectively defined by the beholder. Secondly, it concludes that Micropole's decision to dismiss the claimant by reason of her refusal to remove her headscarf when clients so demand, constitutes direct discrimination, and that therefore the only possible justification would be an exception provided by Article 4(1) of Directive 2000/78/EC, regarding genuine and

³³⁴ CJEU, 14 March 2017, C-188/15, *Asma Bougnaoui, ADDH v. Micropole SA.*, EU:C:2017:204, available at: <http://curia.europa.eu/juris/document/document.jsf?text=&docid=188853&pageIndex=0&doclang=FR&mode=lst&dir=&occ=first&part=1&cid=125215> ; see Section 2.1 b) discussing the case.

³³⁵ Law 27 May 2008, Article 6 Para. 3: 'L'Article L. 1133-1 est ainsi rétabli: 'Art. L. 1133-1.-L'Article L. 1132-1 ne fait pas obstacle aux différences de traitement, lorsqu'elles répondent à une exigence professionnelle essentielle et déterminante et pour autant que l'objectif soit légitime et l'exigence proportionnée.'.

³³⁶ France, Law No. 2016-1088 of 8 August 2016 on employment, the modernisation of social dialogue and the protection of professional careers (*Loi n° 2016-1088 du 8 août 2016 relative au travail, à la modernisation du dialogue social et à la sécurisation des parcours professionnels*), Article 2: 'Le règlement intérieur peut contenir des dispositions inscrivant le principe de neutralité et restreignant la manifestation de convictions religieuses des salariés, si ces restrictions sont justifiées par l'exercice d'autres libertés et droits fondamentaux ou par les nécessités du bon fonctionnement de l'entreprise et si elles sont proportionnées au but recherché.', available at: <https://www.legifrance.gouv.fr/eli/loi/2016/8/8/2016-1088/jo/texte>.

³³⁷ Court of Cassation, No. 13-19855, *Asma Bougnaoui, ADDH v. Micropole SA.*, 22 November 2017, available at: https://www.courdecassation.fr/jurisprudence_2/chambre_sociale_576/2484_22_38073.html.

³³⁸ CJEU, 14 March 2017, *Asma Bougnaoui, ADDH v. Micropole SA.*, C-188/15, EU:C:2017:204, available at: <http://curia.europa.eu/juris/document/document.jsf?text=&docid=188853&pageIndex=0&doclang=FR&mode=lst&dir=&occ=first&part=1&cid=125215>.

determining occupational requirements, such requirements being justified by the nature of the task to be executed. In evaluating whether the employer's justifications meet this requirement, it refers to the decision of the Court of Justice stating that the will of an employer to fulfil the wishes of its clients cannot be considered as a genuine and determining occupational requirement.

The Court of Cassation also decided in a landmark decision of 1 July 2020,³³⁹ that a security agent who was required to accompany foreign clients in the Middle East and was dismissed for having refused to modify his beard, which was perceived by the client as a religious statement, was a victim of direct discrimination.

Regarding the public service, external symbols of an individual's religion, such as wearing a headscarf, are forbidden for all members of the public service, who must respect the principle of neutrality,³⁴⁰ whether or not they are in contact with the public. In the landmark decision *Ebrahimian v. France* ECtHR validated the doctrine that a rule resulting from the constant jurisprudence of the Conseil d'État and imposing an obligation of religious neutrality on civil servants and public officials met the requirements of Article 9 of the ECHR, as it was held to have a sufficient legal basis and remain within the margin of appreciation of the state to give priority to the principle of secularism and neutrality of public service over the right of the claimant to express her religion.³⁴¹

Meanwhile, both the Conseil d'État and the Court of Cassation decided that having a beard could not be held to be a violation of the religious neutrality obligation imposed on public service workers.³⁴²

In a landmark case from 2021, the Court of Cassation found that, in the absence of a written general instruction or general neutrality clause in the employer's in-house regulation, a commercial chain's policy relating to physical appearance requiring a saleswoman to remove her Islamic veil could not constitute in itself a genuine and determining occupational requirement and resulted in direct discrimination on the ground of religion.³⁴³

French courts apply the principle of genuine and determining occupational requirements in accordance with the CJEU case law.

4.2 Employers with an ethos based on religion or belief (Article 4(2) Directive 2000/78)

In France, national law does not provide an exception for employers with an ethos based on religion or belief.

In 2024, the Court of Cassation was faced with a case challenging the rules relating to mandatory weekly rest provided by Articles L3132-3 and L3132-13 of the Labour Code. They provide that in the absence of approved demands of derogation, grocery stores be forbidden to employ salaried employees on Sunday afternoons. The defendant, the owner of a grocery store selling exclusively kosher food, being subject to the religious requirement to close for Sabbath, had unilaterally fixed the weekly day of rest of all employees on Saturday, with employees working all day on Sundays. The Labour Inspectorate initiated

³³⁹ Court of Cassation, social chamber, 1 July 2020, No. 18-23743, available at:

https://www.courdecassation.fr/jurisprudence_2/chambre_sociale_576/715_8_45097.html.

³⁴⁰ Conseil d'État, Mlle Marteaux No. 217017, 3 May 2000; Conseil d'État, No. 244428, 15 October 2003.

³⁴¹ ECtHR, No. 64846/11, 26 November 2015, <http://hudoc.echr.coe.int/fre?i=001-158878>.

³⁴² Conseil d'État, 12 February 2020, No. 418299, available at: <https://www.conseil-etat.fr/fr/arianeweb/CE/decision/2020-02-12/418299>; Court of Cassation, social chamber, 1 July 2020, No. 18-23743, available at:

https://www.courdecassation.fr/jurisprudence_2/chambre_sociale_576/715_8_45097.html.

³⁴³ Court of Cassation, social chamber, 14 April 2021, No. 19-24079, available at:

<https://www.legifrance.gouv.fr/juri/id/JURITEXT000043473508>.

an action in court to order the employer to respect the rule forbidding the requirement for employees to work on Sunday afternoons. The Court decided that³⁴⁴ in the present state of constitutional law³⁴⁵ and EU law,³⁴⁶ setting the weekly day of rest is subject to the discretion of Member States, and that consequently, setting it on Sunday is not contrary to protected rights and freedoms given that the law provides for a number of possibilities to apply for a derogation, which the defendant had not done.

- Conflicts between rights of organisations with an ethos based on religion or belief and other rights to non-discrimination

In France, there are no specific provisions or case law relating to conflicts between the rights of organisations with an ethos based on religion or belief and other rights to non-discrimination in the context of employment.

Ever since the landmark decision of the Court of Cassation on 17 April 1991 in *Fraternité Ste Pie*, the religious orientation of the employer does not justify an exception to the application of Article L122-45 LC (now Article L1132-1 ff. LC). In this landmark case, which preceded the directive, the court decided that the sexual orientation of the employee was not in and of itself sufficient to justify dismissal. At the time, it considered that the employer was required to establish that the behaviour of the employee had, considering their function and their objective behaviour, generated substantial disruption (*'trouble caractérisé'*) within the community.³⁴⁷ Since an isolated decision of the Court of Appeal of Montpellier in 1993,³⁴⁸ courts have not sanctioned behaviours manifesting the sexual orientation of an employee. On the contrary, employers who sanction employees on this ground are sanctioned by the courts.³⁴⁹

4.3 Armed forces and other specific occupations (Article 3(4) and Recitals 18 and 19, Directive 2000/78)

In France, national legislation provides for an exception for the armed forces in relation to age or disability discrimination (Article 3(4), Directive 2000/78/EC).

France has taken up the right to implement an exception under Article 3(4) of Directive 2000/78/EC allowing derogations concerning criteria based on maximum age (for recruiting and active service) and on disability by way of a declaration to the European Commission. However, it has not been formalised in legislation.

Article L3211-1 of the Code of Defence defines the armed forces as comprising the members of the following bodies professionally dedicated to national security, the defence of the interests of the Republic and the protection of its citizens: the army, the navy, the air and space force and the national gendarmerie, as well as support services and joint agencies. This definition applies to the above-mentioned exception.

Meanwhile, the formal job specifications for career sub-officers do not contain requirements based on age or physical aptitude.

³⁴⁴ Court of Cassation, social chamber, 15 May 2024, No. 22-23399, available at: <https://www.courdecassation.fr/decision/66445073b94eb60008b3d0ff>.

³⁴⁵ DC 6 August 1989, No. 2009-588.

³⁴⁶ CJEU, 12 November 1996, UK v. Commission; CJEU, 9 November 2017, C-306/16, Maio Marques da Rosa.

³⁴⁷ Court of Cassation, social chamber, 17 April 1991, Droit Social 1991, 485.

³⁴⁸ Court of Appeal of Montpellier, 28 January 1993.

³⁴⁹ Court of Appeal of Paris, 21/06/2018 No. 16/02237; Conseil d'État, 11/06/2014, No. 369994; Court of Cassation, social chamber, 24/04/2013 No. 11-5204; Court of Appeal of Versailles, 10/01/2012 No. 11-15204; Martigues Labour Court, 20 January 2003, Boutin v. TNT.

There are maximum age limits between 63 and 67 for officers, and 59 and 66 for sub-officers.³⁵⁰

In France, the scope of the exception is limited to safeguarding the combat effectiveness of the armed forces. The scope of the exception does not extend to non-combat staff, such as civilians employed in administrative positions in the army.

4.4 Nationality discrimination (Article 3(2))

a) Discrimination on the ground of nationality

In France, national law includes exceptions relating to difference of treatment based on nationality.

The law imposes conditions for access to certain rights, such as the right to work, restricting them to people with the status of legal foreign resident, and creates some differences in treatment based on nationality in access to specific professions and jobs. Articles R5221-17 to R5221-22 of the Labour Code provide that a migrant person must request a work permit in order to authorise the employer to sign an employment contract. This authorisation is required for all non-EU foreign nationals who cannot benefit from the terms of a bilateral convention between their country and France.

Also, some professions are subject to a condition of nationality; the access of non-EU and non-French nationals to certain jobs is restricted.³⁵¹

The law provides for limits to the social protection afforded to non-EU and non-French nationals that do not apply to EU citizens and their family members. They relate to access to all allowances for the support of migrant children who accompany their parents under Article 512-2 of the Social Security Code. Even if the parents are legal residents, if the children have not arrived in France through the procedure of family reunification, allowances will be denied unless the parents have received an exemption from the outset. These requirements relating to social and economic considerations have been considered to be within the margin of appreciation of the state by the ECtHR in a decision of 1 October 2015.³⁵² The only exceptions are enforced by the courts in application of bilateral conventions or EU conventions with third countries that provide for equal treatment of migrant workers in relation to social protection.

In addition, the Social Security Code imposes specific requirements for non-EU foreign residents in France, including the requirement that they have a period of continuous legal residence before they are eligible for a number of allowances, including the minimum income benefit (*Revenu de solidarité active*), the allowance for adults with disabilities and old-age minimum allowance (Article 816-1).

Although these rules implementing differential treatment rely on the ground of nationality, they create significant problems for poor, older non-EU citizens who have worked in France for many decades before requesting social benefits. Establishing proof of regular residence and presence for a period of 10 years for the old-age minimum allowance is very often de facto impossible for older migrant workers, who have been encouraged to return to their

³⁵⁰ Article L4139-16 of the Code of Defence, available at: <https://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006071307&idArticle=LEGIARTI000037202061>.

³⁵¹ The GELD (2000) in March 2000 and then the HALDE in its deliberations of 2008 and 2009 (2008-189 and 2009-139) have drawn the attention of the Government to these forms of legal discrimination, requesting that an assessment be made of the legality of the conditions of nationality in access to certain professions, which should be limited to functions that entail the exercise of prerogatives of public authority (*prérogatives de puissance publique*).

³⁵² ECtHR, *Okitaloshima Okonda Osungu et Selpa Lokongo v. France*, Nos 76860/11 and 51354/13, 1 October 2015, https://www.gisti.org/IMG/pdf/jur_cedh_2015-10-01_prestations_familiales.pdf.

home countries for part of the year by the authorities: they are often practically illiterate, French customs seldom stamp their passports and they do not file income tax returns due to a lack of sufficient resources. Payments are therefore often suspended, sums paid are claimed back and older non-EU and non-French nationals find themselves in complicated situations where they are unable to establish their continuous presence in France for a period of 10 years.

In France, nationality (as in citizenship) has been held by courts to be explicitly mentioned as a protected ground in all anti-discrimination legislation under the term 'nation'.³⁵³

Although it will have very limited impact on the interpretation of legal residents' rights given that they are covered by labour law and penal law and that legal residents benefit from equal treatment in the application of the Constitution and general principles of public law, Law No. 2008-496 at Article 5(2) expressly states for the first time that the law prohibiting discrimination applies without prejudice to provisions governing the entry and residence of third-country nationals and Article 2(6) of Law No. 2008-496 authorises differences in treatment created by laws and regulations.

Access to employment

As documented in the report produced by the GELD in 2000, the decision of the HALDE of 30 March 2009³⁵⁴ and the report of the Defender of Rights on the fundamental rights of foreign nationals,³⁵⁵ French legislation continues to maintain some legal discrimination in access to specific professions and jobs (about 7 000 named jobs in a number of different pieces of legislation), subjecting them to conditions of citizenship or national or European qualification requirements. This list, which covers liberal professions and a number of jobs in the private sector financed by the state (public transport, power companies, etc.), has not evolved significantly since 2000.

However, the courts consider that less favourable employment conditions on the ground of nationality constitute direct discrimination on the ground of nationality and indirect discrimination on the ground of origin.³⁵⁶

Access to health

Until they are officially authorised to reside in the country, undocumented migrants, including asylum seekers and unaccompanied minors, are covered by a specific public health insurance called State Medical Support (*Aide médicale d'état, AME*).

Social protection

For more than 15 years, judicial activism failed to obtain recognition that the French policy denying access to family benefits to children of documented foreign nationals who have not entered the French territory following the very lengthy family reunification procedure constituted discrimination on the ground of nationality. In 2015, the European Court of Human rights had maintained the Court of Cassation's position concluding that the state's

³⁵³ Court of Cassation, criminal chamber, No. 01-85650, 17 December 2002, <https://www.legifrance.gouv.fr/affichJuriJudi.do?oldAction=rechJuriJudi&idTexte=JURITEXT000007070672&astReqId=831302130&fastPos=6>.

³⁵⁴ HALDE, decision 2009-139 of 30 March 2009, available at: <http://www.defenseurdesdroits.fr>.

³⁵⁵ Defender of Rights (2016), *Les droits fondamentaux des étrangers en France* (The fundamental rights of foreigners in France), May 2016, available at: <http://www.defenseurdesdroits.fr>.

³⁵⁶ Paris Employment Tribunal, RG N°F 05/12309 and following, 21 September 2015, 832 old North African migrant workers (Chibanis) v. French National Railway Company (SNCF), appeal dismissed by the Paris Court of Appeal, social chamber, No. 15/11389, 31 January 2018.

denial was not based on nationality but on the failure of the parents to follow the required procedure for legal entry of their children to the territory.³⁵⁷

In 2024, the CJEU reversed this jurisprudence.³⁵⁸ An Armenian national, TX, holding a single permit authorising him to work in France, applied for family benefits for his minor children present in France, two of whom had not entered French territory following the family reunification procedure, which can take several years. The family welfare fund (*Caisse d'allocation familiale*), in accordance with the jurisprudence of the Court of Cassation, rejected his application on the grounds of irregular entry. TX challenged this decision before the French courts, arguing that he was entitled to equal treatment under Directive 2011/98/EU.

The CJEU decided that Article 12(1)(e) of Directive 2011/98/EU requires equal treatment in social security matters for third-country nationals legally resident in a Member State and holding a single permit. National legislation requiring dependent children to show proof of lawful entry in order to be taken into account for the purposes of family benefits is contrary to that principle. The Court considers that this condition introduces an unjustified difference in treatment between nationals and third-country nationals, in breach of the right to equal treatment.

Police checks

In a landmark decision of January 2017, the Constitutional Council expressly stated that the provisions of the Code of Penal Procedure and of the Code relating to the conditions of legal residence of non-nationals (*Code de l'entrée et du séjour des étrangers et du droit d'asile* – CESEDA) allowing the public prosecutor to mandate the police to conduct identity checks without reason, could not be interpreted in such a fashion as to authorise discriminatory checks on the ground of origin or to authorise police checks solely for the purpose of verifying the legality of the presence in France of the people subject to the check.³⁵⁹

Goods and services

Regional authorities regulate transportation tariffs in the greater Paris region (Île-de-France). In this context, Article L1113-1 of the Transport Code allows the region to implement a special tariff for persons who have income under the limit set out in Article L861-1 of the Social Security Code. On 17 February 2016, the regional authorities of the Paris region adopted a decree providing that persons who are non-legal residents are excluded from the benefit of the special public transportation tariffs for persons experiencing social vulnerability, regardless of their income. In a landmark decision of 2019, the Conseil d'État decided that Article L1113-1 of the Transport Code did not allow any distinction on any ground other than financial resources. Therefore, the provision does not allow the region to create such a distinction without exceeding its authority and violating the principle of equality. The Conseil d'État did not, however, discuss the arguments raised by counsel alleging discrimination.³⁶⁰

³⁵⁷ ECtHR, *Okitaloshima Okonda Oungu v. France & Selpa Lokongo v. France*, 1 October 2015, Nos 7680/11 and 51354/13, available at: <https://hudoc.echr.coe.int/#%7B%22fulltext%22%3A%5B%2276860%2F11%22%5D%2C%22itemid%22%3A%5B%22001-157628%22%5D%7D>.

³⁵⁸ CJEU, 19 December 2024, *CAF Hauts de Seine*, C-664/23, ECLI:EU:C:2024:1046, available at: <https://curia.europa.eu/juris/document/document.jsf?jsessionid=80B5A5A3E8139564AA4FD026F53763D2?text=&docid=293845&pageIndex=0&doclang=FR&mode=req&dir=&occ=first&part=1&cid=44316>.

³⁵⁹ Constitutional Council Decision, *No. 2016-606/607 QPC*, 24 January 2017.

³⁶⁰ Conseil d'État, 9 October 2019, *No. 423937*.

Access to education

As mentioned in Section 3.2.7, public education is considered to be a public service accessible to all and subject to respect for the general principle of equality applicable to the public service (Article L111-1 of the Code of Education). Therefore, discrimination in access to education on the ground of nationality is prohibited and it is a general principle of administrative law that, if a child's parents are in France illegally, this cannot be taken into account to deny the child access to school or preschool.

However, this principle does not apply to access to university. In addition, for social scholarships to access higher education, Ministerial Instruction No. 2019-096 of 18 June 2019 imposes a condition of prior legal residence of two years and more for non-EU foreign nationals,³⁶¹ which has been held to be reasonable and proportionate by the Conseil d'État.³⁶²

b) Relationship between nationality and 'racial or ethnic origin'

In relation to discrimination based on 'nation' (meant as country of origin or citizenship), race or ethnic origin, whether it is direct or indirect, nationality and nationality of origin are regularly treated as an acceptable indication to constitute the comparable group in order to establish unequal treatment. Nationality is often assimilated with origin when the law does not explicitly allow restrictions based on nationality.

In many cases alleging criminal discrimination sanctioned by Articles 225-1 and 255-2 of the Penal Code, the criterion of nationality has been held to be a form of direct discrimination based on origin, as the Penal Code refers to discrimination based on the link with a nation.

In civil cases, the Court of Cassation has treated discrimination based on nationality as a source of apparent indirect discrimination on the ground of origin that allows for justification on the part of the employer.³⁶³

In 2007, for the first time, in a landmark decision, the Constitutional Council explicitly endorsed the refusal by French doctrine to recognise or use the concepts of ethnic origin or race to construct legal, administrative or research categories on the basis of which differential treatment could be evaluated.³⁶⁴ It indicated that any policy, legal text or study relating to origin must take into account objective indicators of a person's origin and cannot construct subjective categories such as white, black, multiracial, Asian, etc. Only concrete factors such as the name, the place of birth, the nationality of parents and grandparents or the department of birth in France will be deemed admissible.³⁶⁵

Since this decision, most French studies on discrimination based on origin use the parameter of nationality of origin, meant as citizenship, to compile statistics in research and for monitoring purposes, since no other criterion is considered as sufficiently objective and generally admitted.

³⁶¹ Minister of Education, Ministerial Instruction No. 2019-096 of 18 June 2019, available at: <https://www.education.gouv.fr/bo/19/Hebdo26/ESRS1916927C.htm>.

³⁶² Conseil d'État, 13 October 2021, No. 434055, available at: <https://www.legifrance.gouv.fr/ceta/id/CETATEXT000044205276/>.

³⁶³ Court of Cassation, social chamber, ESRF v. M. X., No. 03-47720, 9 November 2005, confirmed in another matter against ESRF on 17 April 2008 (Soc. 819 FS-P+B).

³⁶⁴ Constitutional Council, [2007-557](#), 15 November 2007.

³⁶⁵ National Assembly, Parliament Report No. 47 of 20 November 2020 of the hearing of the CNIL (Data Protection Authority) by the Mission on the Emergence and Evolution of different forms of racism (*Mission d'information sur l'émergence et l'évolution des différentes formes de racisme*), available at: https://www.assemblee-nationale.fr/dyn/15/comptes-rendus/racisme/l15racisme2021047_compte-rendu.

In preparation for the 2025 census, Article 38(I)(2) of Decree No. 2003-485 of 5 June 2003 was amended on 28 March 2024³⁶⁶ to introduce a question on the place of birth of each parent. Until now, racial and ethnic statistical indicators, allowing policy impact evaluation or monitoring, have not existed, so this development will enable authorities to gain a better understanding of the situation of descendants of immigrants.

4.5 Health and safety at work (Article 7(2) Directive 2000/78)

In France, there are no exceptions in relation to disability and health and safety at work as allowed under Article 7(2) of the Employment Equality Directive.

Health is a ground of discrimination forbidden by Article 1 of Law of 27 May 2008, Article L131-1 of the General Code of Public Service and Article 225-1 of the Penal Code.

However, Article 24 II of Law No. 2005-102 on Disability provides for the specific protection of health and safety for workers with disabilities and agents of the public service. They benefit from enhanced medical monitoring as determined by the occupational health doctor (Article R. 4624-18 of the Labour Code), and the employer must ensure the accessibility of sanitary facilities and catering areas (Article R. 4225-6 of the Labour Code).

In addition, a specific scheme to support employers in maintaining persons with disabilities or health conditions in employment is delivered by the specialised services of the Ministry of Employment.³⁶⁷ In addition, Law No. 2005-102 on Disability creates a fund for the integration of registered persons with disabilities into both private and public employment, known as the AGEFIPH for the private sector and FIDHFP for the public sector (Article 36 creating Article 5212-12 LC).

4.6 Exceptions related to discrimination on the ground of age (Article 6 Directive 2000/78)

4.6.1 Direct discrimination

a) Justification of direct discrimination on the ground of age

In France, national law allows for specific justifications for direct discrimination on the ground of age.

Article 6 of Law No. 2008-496 creates Article L1133-2 paragraph 2 of the Labour Code, which provides for specific justifications regarding discrimination on the ground of age.

It provides that 'differences in treatment on the ground of age do not constitute discrimination when they are objectively and reasonably justified by a legitimate aim, such as the need to protect the health or safety of workers, to promote their integration into the workforce, to ensure their employment, their redeployment, or their compensation in the event of job loss, and when the means of achieving that aim are necessary and appropriate.'

Article 6 of the Law of 27 May 2008 itself does not indicate that these measures have to be adopted in relation to an employment policy, labour market and vocational training objectives, or specify any other criteria to evaluate whether they pursue a legitimate aim and respect the principle of proportionality.

³⁶⁶ France, Decree No. 2003-485 of 5 June 2003, available at: <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000000595581>.

³⁶⁷ Assistance services in support of the continued employment of persons with disabilities (services d'aide au maintien dans l'emploi des travailleurs handicapés).

It authorises the employer to unilaterally impose specific conditions of employment on the ground of age and expressly states as non-discriminatory and legitimate, practices and rules unilaterally defined by the employer in references to age that lead to the definition of limitations on access to employment, the adoption of specific working conditions or of a maximum recruiting age, and maximum age limits to take into consideration periods of training and a reasonable period of work before retirement.

The opportunity given to each employer to create and justify exceptions to the prohibition of discrimination on the ground of age provided at Article 6 of the Law of 27 May 2008 seems too wide and appears to delegate to individual employers the possibility given to the Government to create legitimate differences in treatment aimed at the protection of employees who may be vulnerable due to their age.

Therefore, it would appear not to satisfy the requirements of the case law of the Court of Justice of the European Union. However, when this is argued, French courts have implemented strict tests verifying the objective pursued by the age limit and its proportionality.

A number of cases of the social chamber of the Court of Cassation and of the Conseil d'État for public agents, have held that differential treatment of older workers that are close to retirement age, in relation to redundancy compensation, was not discriminatory if it was reasonable and proportionate.³⁶⁸

In 2025, the Court of Cassation (applying Article L. 1133-2 LC interpreted in the light of Article 6 of Directive 2000/78/EC and the Court of Justice's decision of 6 December 2012 in *Baxter*) held that a measure that was aimed at promoting proper management of resources in relation to age groups in the workforce, and was negotiated with social partners constituted a legitimate objective reflecting a balance that was appropriate. In the context of a retirement age fixed by collective agreement at 60 years of age, specific unemployment insurance benefits for persons over 60, providing for a reduction of 5 % for each year after 60, was reasonable and proportionate, taking into consideration the professional perspectives, financial position and social benefits of various members of the workforce.³⁶⁹

Justifications based on requirements of human resources management have been deemed too general and not proportionate in the private and public sectors.³⁷⁰ For example, overtly denying employees access to training because of imminent retirement constitutes age discrimination, since retirement age can be postponed in France and younger workers can also leave the company.³⁷¹

b) Permitted differences of treatment based on age

In France, national law permits differences of treatment based on age for any activities within the material scope of Directive 2000/78/EC.

³⁶⁸ Court of Cassation, social chamber, No. 09-42071, 17 November 2010; Court of Cassation, social chamber, No. 10-24219, 5 December 2012; Conseil d'État, 11 October 2021, [No. 440078](#); Court of Cassation, social chamber, [No. 23-15.410, 8 January 2025](#).

³⁶⁹ Court of Cassation, social chamber, 8 January 2025, No. 23-15.410, available at: <https://www.legifrance.gouv.fr/juri/id/JURITEXT000051012256/>.

³⁷⁰ Court of Cassation, social chamber, No. 10-10465, 16 February 2011; Conseil d'État, No. 373746, 26 January 2015, available at: <https://www.legifrance.gouv.fr/affichJuriAdmin.do?idTexte=CETATEXT000030192187>.

³⁷¹ Court of Cassation, social chamber, No. 13-10294, 18 February 2014.

Previous age limits in access to employment were removed by Article 1 of Executive Order 2005-901 and Ordinance No. 2021-1574 of 24 November 2021,³⁷² except in access to public service in the following cases:

- Agents in active armed service subject to early retirement (army, police, etc.).
- Conditions related to minimum age requirements in view of the experience called for by the function, for example to take on higher management responsibilities.
- Conditions of age related to genuine occupational requirements.³⁷³

Public sector agents benefit from security of employment and regulatory wage schemes based on years of service. There is no redundancy or severance.

The considerations based on age regarding access to employment in the public sector appear to meet the requirements of the CJEU case law, as they pursue legitimate objectives and an effort has been made to meet the test of proportionality.

In addition, a number of texts regulating employment status, such as that of railway workers or civil servants, which provide for age limits, are still in force, and are being progressively challenged by employees and trade unions. Cases relating to statutory age limits in specific occupations have only been deemed justified as long as they required a stringent scrutiny of performance requirements, for example, in the case of pilots and air traffic controllers. However, such age limits can never lead to mandatory retirement if the employee is not entitled to a full pension.

c) Fixing of ages for admission to occupational pension schemes

In France, national law does not allow occupational pension schemes to fix ages for admission to the scheme, taking up the possibility provided for by Article 6(2).

In France, occupational pension schemes are regulated by the state and based on a principle of actuarial neutrality that therefore do not use actuarial criteria.

4.6.2 Special conditions for younger or older workers

In France, there are special conditions set by law for older and younger workers in order to promote their vocational integration.

For younger workers, Articles L6325-1 ff. LC set up special working conditions and a legal regime for apprenticeship, embodied in a specific apprenticeship qualification contract for candidates under 25 years of age. In addition, the Labour Code provides for specific rules for the protection of younger workers under 18 years of age limiting working time and night shifts (Articles L3162-1, L3163-2, L3164-2 and L3164-1 LC), and forbidding employment in certain jobs that expose employee to dangerous conditions (Articles L4153-1, L4153-8 and R4153-15 to R4153-52 LC).

Older workers have a right to decreasing working hours in the prospect of progressive retirement (Article L351-15 of the Social Security Code).

Private employers can hire unemployed workers over 57 years under a special short-term contract (Article D1242-2 LC) and can benefit from financial support if the workers will be

³⁷² [Executive Order No. 2005-901 of 2 August 2005](#) relating to conditions of age in accessing public service (*Ordonnance No. 2005-901 du 2 août 2005 relative aux conditions d'âge dans la fonction publique et instituant un nouveau parcours d'accès aux carrières de la fonction publique territoriale, de la fonction publique hospitalière et de la fonction publique de l'État*).

³⁷³ Articles L131-5 and L131-6 of the General Code of Public Service, available at: https://www.legifrance.gouv.fr/codes/section_lc/LEGITEXT000044416551/LEGISCTA000044420885/2022-03-01/#LEGISCTA000044427700.

acquiring new skills or participating in a professional programme for re-entering the workforce.³⁷⁴

Article 2 of Executive Order 2005-901 of 2 August 2005 introduces means of access to certain functions in the public service without entry examination, by combining formal training with internships, for people between 16 and 25 years of age who have left school without recognised diplomas or with an insufficient level of education to obtain level C employment in the public service (lowest level).

The Government adopted Law No. 2012-1189 of 26 October 2012 to put in place a scheme to promote employment of young workers under 25 years of age, called 'Contract of employment for the future' (*Contrats emplois d'avenir*).³⁷⁵ It creates Articles L5134-110 ff. of the Labour Code, establishing a specific employment contract of one to three years, benefiting from a special social contribution regime and financing by the state. The aim is to facilitate access to employment and professional training for workers between the ages of 16 and 25, (and 30 in the case of persons with disabilities), who have low levels of qualifications in sectors with high employment development potential and sectors of social and environmental utility identified by the regional authority (*Conseil régional*). Decree No. 2012-1210 of 31 October 2012, modified by Decree No. 2014-188 of 20 February 2014, sets out the specific requirements and conditions of regional state financing.³⁷⁶

In a landmark case from 2022 relating to a collective agreement suppressing an advantage to flight attendants over 50 consisting in the possibility of benefiting from increased rest time instead of increased salary, the Court of Cassation held that since the suppression of the advantage led to equal treatment of all employees, levelling down was not forbidden and could not be considered as indirect discrimination even if it suppressed an advantage benefiting a specific age group.³⁷⁷

4.6.3 Minimum and maximum age requirements

In France, there are exceptions permitting minimum and maximum age requirements in relation to access to employment and training.

The age at which it is permissible to enter the workforce is regulated by Article L4153-1 LC, which sets 16 years of age as the general norm, without prejudice to specific regimes (qualification and apprenticeship contracts L6325-1 LC ff. at 15) and summer employment after the age of 14.

There is no maximum age in the private sector. Moreover, Article L5331-2 LC forbids offers of employment containing an age limit that would not otherwise be imposed by law.

³⁷⁴ Law No. 2020-1577 of 14 December 2020 relating to the reinforcement of inclusion in employment through economic activity (*Loi No. 2020-177 du 14 Décembre 2020 relative au renforcement de l'inclusion dans l'emploi par l'activité économique*) available at: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000042665434>.

³⁷⁵ Law No. 2012-1189 of 26 October 2012 creating jobs for the future (*Loi No. 2012-1189 du 26 octobre 2012 portant création des emplois d'avenir*), available at: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000026536632&dateTexte=&categorieLien=id>.

³⁷⁶ Decree No. 2014-188 of 20 February 2014 modifying the decree relating to jobs for the future (*Décret No. 2014-188 du 20 février 2014 portant modification du décret No. 2012-1210 du 31 octobre 2012 relatif à l'emploi d'avenir*), available at: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000262918&dateTexte=&categorieLien=id>.

³⁷⁷ Court of Cassation, social chamber, 21 September 2022, No. 21-14042, available at: <https://juricaf.org/arret/FRANCE-COURDECASSATION-20220921-2114042>.

However, as mentioned above, Article L1133-1, paragraph 2, LC allows for a maximum age requirement 'for recruiting, based on the required training for the function or the requirement of pursuing a reasonable period of employment before retirement'.

Further to the adoption of Law 2009-972 of 3 August 2009³⁷⁸ relating to mobility and professional careers in the public service, the Government adopted Decree 2013-593 of 5 July 2013³⁷⁹ on conditions of admission to entry examinations for access to the higher civil service, which provides at Article 13 that the Government may adopt age limits for access to corps of higher civil service by decree. Although this possibility remains, it has not adopted such a decree, therefore the age limits that previously applied are no longer in force.

On 8 September 2021, in a landmark case, the Conseil d'État was called upon to determine the legality of the minimum threshold of 31 years of age required to access the selection process that allows candidates that meet specific experience requirements to be admitted to the career of judicial judge by submitting a dossier. The state alleged the necessity to limit access to the National School of Magistrates (*Ecole nationale de la magistrature* – ENM), which confers more prestigious career possibilities, to candidates under 31 taking entry examinations, without giving further details. The Conseil d'État decided that the state did not present justifications that such a requirement refusing the option for those under 31 years to be recruited by dossier was appropriate or necessary, and thereby it annulled the age barrier.³⁸⁰

4.6.4 Retirement

a) State pension age

In France, there is no state pension age at which individuals are obliged to begin to collect their state pensions.

However, there is a state pensionable age at which a person is allowed to collect their pension. If an individual wishes to work beyond the state pensionable age, the pension can be deferred.

An individual can also collect a pension and still work.

Since 1984, in order to receive a state pension, a salaried worker must resign from their current employment, but they can thereafter find another employment in the private sector. If they collect their state pension, they can continue to work. However, from the time they start collecting their state pension, employees cannot collect unemployment benefits.³⁸¹

Rights to the state pension are subject to both conditions of age and number of years of contribution and they change regularly. On 30 December 2025, Parliament adopted the

³⁷⁸ Law No. 2009-972 of 3 August 2009 relating to mobility and professional careers in the public service (*Loi n° 2009-972 du 3 août 2009 relative à la mobilité et aux parcours professionnels dans la fonction publique*), available at: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000020954520&fastPos=1&fastReqId=1375373593&categorieLien=cid&oldAction=rechTexte>.

³⁷⁹ Decree 2013-593 of 5 July 2013 (*Décret n° 2013-593 du 5 juillet 2013 relatif aux conditions générales de recrutement et d'avancement de grade et portant dispositions statutaires diverses applicables aux fonctionnaires de la fonction publique territoriale*) <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000027666449&categorieLien=id>.

³⁸⁰ Conseil d'État, 8 September 2021, No. 453471, available at: www.conseil-etat.fr/fr/arianeweb/CE/decision/2021-09-08/453471.

³⁸¹ National Collective Agreement safeguarding the personalised redeployment agreement (Accord National Interprofessionnel de sécurisation de la convention de reclassement personnalisé), 23 December 2008.

Law on the financing of social security for 2026,³⁸² which suspended the impact of the previous reform extending the pensionable age and number of years of contribution for a right to full pension to 64 years of age and 43 years of contribution. As a result, pensionable age is set at 62 years and 9 months and the right to full pension to 170 quarters of contribution. The amount of the pension will depend on the number of years of contribution at the time the employee claims his or her pension, in accordance with Law No. 2003-775 of 21 August 2003.³⁸³

Article 351-8 of the Social Security Code establishes 67 years old as the age at which the full state retirement pension is accessible without penalty independently of the number of years of contribution.

People who began to work before 20 years of age can claim a state pension at 63, provided they have contributed for 43 years, and those who began to work before 16 can claim state pension by the age of 58, provided they have contributed for 43 years. Employees with disabilities and employees caring for a child with disabilities can benefit from full retirement at the eligible age even if they have not contributed the required number of years (Article L351-8 of the Social Security Code).

On 27 June 2006 Law No. 2006-737 adopted increasing retirement benefits for public servants with disabilities to increase pension rights by 30 % for each year of disability during service and lowering the retirement age accordingly.³⁸⁴

b) Occupational pension scheme

In France, there is a standard age when people can begin to receive payments from occupational pension schemes and other employer-funded pension arrangements.

Occupational pension schemes are managed by the state and follow rules applicable to state pension schemes.³⁸⁵ Other employer-funded retirement benefits arrangements, over and above legal requirements, are purely contractual.

The provisions relating to employer-funded occupational pension schemes are aligned with those of the state pension. The general rule stated in Articles 17 and 18 of Law No. 2010-1330 of 9 November 2010 is that the occupational pensionable age is the same as for state pensions. However, the number of years may be more favourable according to the retirement regime.³⁸⁶ Exceptions to the general rule are also subject to age requirements. Article L1133-2 LC provides for the possibility to derogate in this regard from the prohibition of discrimination on the ground of age on the basis of employment policy.

If an individual wishes to work longer, payments from such occupational pension schemes can be deferred subject to the same conditions as the state pension schemes.

³⁸² Law No. 2025-1403 of 30 December 2025, available at: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000053226384>.

³⁸³ Law 2003-775 of 21 August 2003 reforming old-age pensions (*Loi No. 2003-775 du 21 août 2003 portant réforme des retraites*), available at:

<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000781627>; Law No. 2006-396 of 31 March 2006 on equal opportunities (*Loi No. 2006-396 du 31 mars 2006 pour l'égalité des chances*) Article 2, available at: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000268539>.

³⁸⁴ Law No. 2006-737 of 27 June 2006 providing for an increase in pension for civil servants with disabilities (*Loi No. 2006-737 du 27 juin 2006 visant à accorder une majoration de pension de retraite aux fonctionnaires handicapés*), available at:

<http://legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000816584>.

³⁸⁵ Law No. 2003-775 of 21 August 2003 reforming old-age pensions. Law No. 2006-396 of 31 March 2006 on equal opportunities.

³⁸⁶ Law No. 2010-1330 of 9 November 2010 reforming retirement schemes (*Loi No. 2010-1330 du 9 novembre 2010 portant réforme des retraites*), available at: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000023022127&dateTexte=&categorieLien=id%20>.

An individual can collect an occupational pension and still work.

c) State-imposed mandatory retirement ages

In France, there is no state-imposed mandatory retirement age in the private sector.

In France, there is a state-imposed mandatory retirement age with discretion to extend in the public sector.

Public servants face an age limit in employment that triggers payment of their occupational and state pensions. This limit is 67 years of age and can be extended for a maximum of three years. The condition to be met is to have the care of children who are either under the age of 18 or are still pursuing their education at any level (Article 28 Law No. 2010-1330 of 9 November 2010).

Meanwhile, the Conseil d'État held that the possibility provided by Article L566-1 of the General Code of Public Service (GCPS) did not change the age limit in the public service of 67 years into a right to extend service to 70 years of age and does not create an obligation to maintain a public agent in service until the age of 70. Article L566-1 of the GCPS creates a possibility to extend service, and this option is accompanied by a wide range of managerial discretion on the part of the head of service, which must be exercised by evaluating the request in relation to the interest of the service. The head of service can therefore pursue the objective to renew the team in the interest of the service and give priority to the integration of younger agents of less seniority to motivate a refusal of the request of extension of service without discriminating on the ground of age.³⁸⁷

d) Retirement ages imposed by employers

In France, national law does not permit private employers to set retirement ages (or ages at which the termination of an employment contract is possible) by contract and/or collective bargaining and/or unilaterally before the age of 70. Private employers can impose retirement at 70 but they are not obliged to do so.

Further to the adoption of Law No. 2008-1330 of 17 December 2008, Article L1237-5 of the Labour Code refers to Article 351-8 of the Social Security Code to determine the age at which an employer can impose the retirement of an employee on the ground of age.³⁸⁸ The employer can offer retirement to the employee at 65 and each year thereafter. The employee may, however, defer such imposed retirement until they reach the age of 70.

After the age of 70, Article L1237-5 of the Labour Code provides that the employer can impose retirement on the ground of age, but must compensate the employees in the same conditions as if he was being dismissed. Usual conditions of retirement in collective agreements and labour contracts are applicable as long as they do not contradict legal principles. Thus, all provisions of collective agreements and other labour contracts which would provide for the automatic interruption of the labour contract by reason of the age of the employee or because they would be entitled to benefit from an old-age pension before they have reached 70 are null and void.

In its first decision dealing with maximum age limits imposed in the private sector, the Court of Cassation decided in a landmark case of 2012 that an internal regulation limiting ski instructors' activity after 62 years of age and favouring young recruits in the allocation of teaching classes in order to promote the activity of young instructors violates Law No.

³⁸⁷ Conseil d'État, 11 April 2024, No. 489202, available at: <https://www.legifrance.gouv.fr/ceta/id/CETATEXT000049409457/>.

³⁸⁸ Law No. 2008-1330 of 17 December 2008, on financing social security (*Loi No. 2008-1330 du 17 décembre 2008 de financement de la sécurité Sociale pour 2009*) available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000019942966>.

2008-496 of 27 May 2008 and Directive 2000/78/EC. It does not meet the requirements of Article 6(1)(a) of Directive 2000/78/EC because it favours purely individual private interests that are specific to ski schools and their concern to satisfy the requests of their clients, which therefore do not qualify as legitimate aims as provided by Article L1133-2 of the Labour Code.³⁸⁹

However, some employees working for public utilities such as the public railway (SNCF) and public utility service (EDF), are governed by specific legislative statutes that provide special retirement schemes and age of retirement. The Court of Cassation has confirmed that when implementing the mandatory retirement provision such employers must verify that the age requirement is objectively and reasonably justified by a legitimate objective, such as reasonable management of the age pyramid in the workforce or employment of young workers, and whether the unilateral interruption of the claimant's activity was a means to attain this objective.³⁹⁰

e) Employment rights applicable to all workers irrespective of age

The law on protection against dismissal and other laws protecting employment rights apply to all workers irrespective of age, even if they remain in employment after attaining pensionable age or any other age.

However, Articles L1237-5-1 and 1237-8 LC provide for the right of the employer to end the employment contract if the employee has attained the full right to the retirement pension according to Article L351-1 of the Social Security Code and is 70 years of age. Nevertheless, as indicated above, retired people can pursue another employment after receiving their pension.

f) Compliance of national law with CJEU case law

In France, some national legislation is not in line with the CJEU case law on age³⁹¹ regarding compulsory retirement.

However, in France, the courts are bound by European and international law before national law. Since national courts deem Directive 2000/78/EC to be directly applicable in the case of a legislative gap, they will enforce the Directive and CJEU case law. If some professions are formally still subject to statutory age limits for lack of legislative intervention, the Conseil d'État systematically holds them to be contrary to Directive 2000/78/EC when they are challenged unless, after close scrutiny, it finds a justification based on safety and physical skill requirements (see cases cited in Section 4.6.1).

Therefore, although it cannot be said that all legislation in respect of the justification of age requirements has been reviewed and is in conformity with the requirement set out in the CJEU case law, judicial challenges are effective, and the courts uphold CJEU case law.

4.6.5 Redundancy

a) Age and seniority taken into account for redundancy selection

In France, national law permits age and seniority to be taken into account in selecting workers for redundancy, with a preference maintaining older workers in employment defined at Article L1233-5 LC.

³⁸⁹ Court of Cassation, No. 13-27142, 17 March 2015, available at: <http://www.legifrance.gouv.fr/affichJuriJudi.do?oldAction=rechJuriJudi&idTexte=JURITEXT000030383142&fastReqId=964259005&fastPos=50>.

³⁹⁰ Court of Cassation, social chamber, 17 May 2023, no 21-25622, available at: <https://www.courdecassation.fr/decision/646479325c7899d0f88f8ab2>.

³⁹¹ CJEU, judgment of 13 September 2011, Prigge and others, C-447/09, ECLI:EU:C:2011:321.

b) Age taken into account for redundancy compensation

In France, national law provides compensation for redundancy. This is affected by the age of the worker.

The legal protection against dismissal is applicable to all workers regardless of age. A decree provides for an additional compensation of 25 % for employees dismissed after 10 years or more employment after 55 years of age, as well as a specific increased unemployment insurance for employees who are dismissed after 55 years of age.³⁹²

These measures attempt to counter the difficulties of remaining in the labour market after 50. In France, the rate of redundancy rises after 55 years of age and the rate of employability drops, to become quasi null after 59. The number of persons without employment or retirement rises by 8 % between 55 and 61.

As regards conventional compensation for redundancy, the social chamber of the Court of Cassation decided in a landmark case on the limitation of compensation awarded to employees who are a few years away from full retirement on the ground of their age. The Court decided that the derogation to the prohibition of direct discrimination on the ground of age then provided by Article L1133-1 LC (now L1133-2) authorised an employer to limit compensation of older workers close to retirement. To take into account only the period prior to retirement is an admissible justification to direct discrimination on the ground of age that meets the requirements of reasonableness and proportionality provided by the exception authorised by Article 6 of Directive 2000/78/EC, given that the purpose of compensation is to indemnify loss related to unemployment.³⁹³ A number of cases of the social chamber of the Court of Cassation for private sector employees and of the Conseil d'État for public agents have held that differential treatment in collective redundancy plans of older workers that are close to retirement age, in relation to redundancy compensation, is a differential treatment on the ground of age authorised by Article L1133-2 of the Labour Code and is not discriminatory if it was reasonable and proportionate.³⁹⁴

In its decision of 8 January 2025, the Court of Cassation discussed the provision of a collective agreement providing for the gradual reduction of severance pay starting at 60 years of age. It held, referring to Article 6 of Directive 2000/78 and the Court of Justice decision of 6 December 2012 in *Baxter*,³⁹⁵ that this measure aimed to promote retirement in order to encourage proper management of resources in relation to age groups in the workforce, was negotiated with social partners and constituted a legitimate objective reflecting a balance that was appropriate. Given a retirement age fixed by collective agreement at 60 years of age, specific unemployment insurance benefits for persons over 60, the reduction of 5 % for each year after 60 was held to be reasonable and proportionate, taking in consideration the professional prospects, financial position and social benefits of various members of the workforce.

Regarding compensation for suppression of positions in the public service, the Conseil d'État holds the same reasoning that considering severance pay for job elimination, which is intended to compensate the affected employee for the economic consequences of the termination, a difference in treatment of employees who are eligible for a full pension pursues a legitimate aim, is not disproportionate and respects Article 6 of Directive 2000/78 and the principle of non-discrimination.³⁹⁶

³⁹² France, Decree No. 2017-1398 of 25 September 2017, available at: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000035638382>.

³⁹³ Court of Cassation, social chamber, Banque Finaref, No. 09-42071, 17 November 2010.

³⁹⁴ Court of Cassation, social chamber, No. 09-42071, 17 November 2010; Court of Cassation, social chamber, No. 10-24219, 5 December 2012; Conseil d'État, 11 October 2021, [No. 440078](#); Court of Cassation, social chamber, [No. 23-15.410, 8 January 2025](#).

³⁹⁵ CJEU, 2 December 2012, *Baxter*, C-152/11.

³⁹⁶ Conseil d'État, 11 October 2021, [No. 440078, available at. : https://www.legifrance.gouv.fr/affichJuriAdmin.do?idTexte=CETATEXT000044200808](#).

4.7 Further exceptions necessary in a democratic society: Public security, public order, criminal offences, protection of health, protection of the rights and freedoms of others (Article 2(5), Directive 2000/78)

In France, national law does not include exceptions that seek to rely on Article 2(5) of the Employment Equality Directive (i.e. public security, public order, criminal offences, protection of health, protection of the rights and freedoms of others).

4.8 Any other exceptions

In France, there are other exceptions to the prohibition of discrimination (on grounds covered by this report) provided in national law.

Article 2(6) of Law No. 2008-496 authorises differences in treatment created by laws and regulations.

Article 225-3 PC lists admissible exceptions to the penal sanction of the principle of non-discrimination set out in Articles 225-1 and 225-2 PC. These are: insurance operations related to life expectancy, disability and incapacity insurance as regards the ground of health (paragraph 1); refusal to hire an individual on the ground of their health or disability, only when it results from a certificate of incapacity provided by the occupational health authorities (paragraph 2); and refusal to provide goods and service based on manifest danger related to the specific reality of the geographical area (paragraph 6).

5 POSITIVE ACTION (Article 5 Directive 2000/43, Article 7 Directive 2000/78)

a) Scope for positive action measures

In France, positive action is neither explicitly permitted nor prohibited in national law in respect of disability and age.

The French legal framework does not contain a general derogatory provision authorising unilateral implementation of positive action measures.

French positive action, as conceived by the jurisprudence of the Conseil d'État, is based on apparently objective categories recognised by law, such as social condition,³⁹⁷ sex, disability and age.³⁹⁸

Positive action measures per se have not been implemented by the legislature in relation to race, ethnicity, origin, religion, sexual orientation and opinions and convictions, as they are not reflected in legal categories recognised by law.³⁹⁹ The legislature has structured its intervention around talent search and integration programmes for foreign nationals and by using proxies based on neutral factors, such as territorial links to designated geographical areas or socioeconomic considerations.

In its opening provision, the Law No. 2005-102 on Disability affirms the right of persons with disabilities to the support of all members of the nation and, in Article 11, the right to compensation for disability (Article L114-1 1 SWC).

Article 1133-3 LC states that positive action measures taken to promote equal opportunities for the benefit of persons with disabilities are not to be construed as discrimination.

Moreover, Article L1133-2 LC allows for differential treatment on the ground of age that is objectively and reasonably justified by a legitimate aim, in order to maintain health, support professional integration or maintain employment of workers, if the means to pursue these objectives are reasonable and necessary. However, in 2017, the Government abrogated the decree establishing a positive action scheme to support employment of workers over the age of 50.⁴⁰⁰

Meanwhile, Article 15 III of the Mermaz Act (No. 89-462 of 6 July 1989) provides special protection to older tenants: a landlord cannot avail themselves of all available legal means to put an end to a lease in favour of persons aged 70 years and more who have resources inferior to 1.5 times the minimum wage, without proposing equivalent substitute housing located in the same geographical area.

b) Quotas in employment for persons with disabilities

In France, national law provides for a quota for the employment of persons officially assessed as having a certain degree of disability.

³⁹⁷ Appeal Administrative Court of Paris, 8 November 2003, [No 02PA02821](#).

³⁹⁸ Conseil d'État (1996), 'Public report No. 48', pp. 86 and 91.

³⁹⁹ Laidie, Y. and Picard, P. (2016), *Le principe de non-discrimination: l'analyse du discours du juge administratif* (The principle of non-discrimination: analysis of the discourse of the administrative courts), Credespo – Université de Bourgogne, 2016, available at: <http://www.gip-recherche-justice.fr/wp-content/uploads/2016/10/Note-de-synth%C3%A8se-214.04.03.21-1.pdf>.

⁴⁰⁰ Decree No. 2009-560 of 20 May 2009 amended by Executive Order No. 2017-1387 of 22 September 2017 (Article 9), available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000020639752&dateTexte=20190225>.

The Law on the Employment of Persons with Disabilities No. 87-157 instituted a quota system.⁴⁰¹ Despite the cost to employers of sanctions related to the failure to meet their obligation to employ a quota of employees with disabilities, the Court of Cassation decided in a landmark case of 2003 that workers with disabilities were not obliged to disclose their status to their employer.⁴⁰²

Law No. 2005-102 on Disability creates a fund for the integration of registered persons with disabilities into both private and public employment, as well as providing for sanctions if the employment quota of 6 % imposed on all employers, set out in the law, is not respected (Article 36 creating Article 5212-12 LC). Article 36 of the law maintains the possibility of substituting compliance with the obligation to employ a minimum quota of 6 % of salaried workers with disabilities provided by Article 5212-2 LC by making a financial contribution to the abovementioned funds (known as the AGEFIPH for the private sector and FIDHFP for the public sector), which finances the integration of workers with disabilities and public servants. The amount is fixed by Decree No. 2012-943 of 1 August 2012 and starts at 400 times the hourly minimum wage per missing employee per year for a business of 20 to 199 employees to a maximum of 1 500 times the hourly minimum wage per employee per year for businesses that employ no one with disabilities, and creates a similar obligation for the public sector (see section 2.8.a above), for financing reasonable accommodation.⁴⁰³

The method of calculating employers' compliance has been modified to eliminate the possibility of taking into consideration contracts awarded to special facilities for the employment of persons with disabilities.⁴⁰⁴ However, a portion of the value of such contracts can be taken into consideration and deducted from the fine to be paid by an employer that does not otherwise meet the quota requirement.

The latest evaluations of the rate of employment in the private sector for 2025 were published in November 2025 by the statistics directorate of the Ministry of Employment and Social Affairs and AGEFIPH.⁴⁰⁵ The employment rate of persons with disabilities represents 4 % of the workforce in the private sector (+ 0.2 points in one year i.e. 720 800 employees). The evaluation shows that of the 111 300 employers targeted by the quota obligations to employ at least one person with disabilities, 35 % met or exceeded the quota and 28 % did not employ any persons with disabilities but satisfied their obligation entirely by paying the compensation fee.

The unemployment of persons with disabilities had decreased from 15 % to 12 % in 2023 and has remained stable since then, compared to a rate of 7 % in the general population; the rate of employment of persons with disabilities increased by 3 % in one year.⁴⁰⁶

In 2024, the number of trainees with disabilities in apprenticeships increased by 12 % from 2023, with 15 713 new contracts being signed.⁴⁰⁷

⁴⁰¹ Law No. 87-517 of 10 July 1987 to promote the employment of persons with disabilities (*Loi No. 87-517 du 10 juillet 1987 en faveur de l'emploi des travailleurs handicapés*), available at: <http://legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000512481>.

⁴⁰² Court of Cassation, social chamber, No. 1083, 6 May 2003, *Revue de jurisprudence Sociale* 8-9/03, p. 733.

⁴⁰³ Decree No. 2012-943 of 1 August 2012, available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000026252005&categorieLien=id>.

⁴⁰⁴ Law no 2018-771 of 5 September 2018, available at: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000037367660>.

⁴⁰⁵ AGEFIPH (2025) *Observatoire de l'emploi et du handicap*, (Employment and disability observatory) November 2025, available at: <https://www.agefiph.fr/actualites-handicap/parution-du-tableau-de-bord-du-1er-semester-2025-emploi-et-chomage-des>.

⁴⁰⁶ AGEFIPH (2025) *Observatoire de l'emploi et du handicap*, (Employment and disability observatory) November 2025, available at: <https://www.agefiph.fr/actualites-handicap/parution-du-tableau-de-bord-du-1er-semester-2025-emploi-et-chomage-des>.

⁴⁰⁷ AGEFIPH (2025) *Observatoire de l'emploi et du handicap*, (Employment and disability observatory) November 2025, available at: <https://www.agefiph.fr/actualites-handicap/parution-du-tableau-de-bord-du-1er-semester-2025-emploi-et-chomage-des>.

AGEFIPH's research monitoring of employment rates indicates that 3.9 million members of the labour force, whether employed or not, were recognised as persons with disabilities (8.1 % of the total active population). According to the data, 46 % of persons with disabilities were declared as active and 41 % held a job, i.e. 1 352 000; 55 % were long-term unemployed, whereas 9.4 % of jobseekers are persons with disabilities.⁴⁰⁸

According to its annual report for 2024, AGEFIPH collected EUR 575.7 million from 111 300 public and private employers and operated a budget of EUR 560.7 million, which it distributed to financing schemes to support the costs of investment for individual adaptations of workplaces and the various mechanisms to support workers with disabilities in the workplace. Large private employers and public employers perform significantly better in employing persons with disabilities.⁴⁰⁹

In 2024, the FIDHFP fund collected EUR 127 060 million (-14 % compared to EUR 147 900 million in 2023) to finance support schemes amounting to EUR 118 490 million (+ 6 % compared to EUR 111 020 million in 2023). It reports an employment rate of 5.93 % in the public sector corresponding to 287 130 persons employed.⁴¹⁰

In 2024, the French Court of Auditors (Cour des comptes) initiated an evaluation of the French public policy in favour of the inclusion of persons with disabilities in employment since 2005 and published its report in January 2026.⁴¹¹ Its considerations are based on the finding that this public policy is based on a body of law and obligations imposed on companies and the public sector, as well as public spending of EUR 1.3 billion per year, while direct public aid financed by the state for integration into the mainstream workplace affects nearly 1.2 million people.

The Court of Auditors considers the results to be 'insufficient' given the exhaustive legal framework and significant private resources and public financial aid. The Court criticises a public policy that insufficiently mobilises the notion of discrimination, and justifies too many derogations. It observes that the overall approach of public policy is too 'fragmented' and 'based on a plurality of actors who are insufficiently coordinated.' It continues by saying that the policy 'creates an institutional landscape that is difficult for employers and people with disabilities to understand'. It concludes that this fragmentation is accentuated by a siloed funding approach. Indeed, the employment rate for people with disabilities has improved 'only slightly', rising from 37 % to 39.3 % between 2005 and 2023, while their activity rate has remained stable over the same period (from 44 % to 44.8 %). Similarly, for the year 2024, the Court notes that 'only 35 % of subject companies fulfil their obligation to employ people with disabilities through direct employment, while 28 % do not employ any.' The unemployment rate remains high and the legal employment target is not being met, pointing to the complexity of the system, inconsistent support, and a lack of effective controls as major obstacles. The public sector is more committed than the private sector. The Court proposes seven recommendations to simplify governance, integrate action strategies into a regional framework and strengthen controls and incentives in order to move from a compensation approach to a strengthening of the obligation to achieve inclusion.

⁴⁰⁸ AGEFIPH (2025) *Rapport d'activité* (Annual report 2024), available at: <https://www.agefiph.fr/a-propos-de-agefiph>.

⁴⁰⁹ AGEFIPH (2025) *Rapport d'activité* (Annual report 2024), available at: <https://www.agefiph.fr/a-propos-de-agefiph>.

⁴¹⁰ FIPHFP (2025) *Rapport d'activité 2024* (Annual report 2024), available at: <https://www.fiphfp.fr/sites/default/files/2025-09/FIPHFP%20Rapport%20activité%202024%20accessible.pdf>.

⁴¹¹ France, Court of Auditors (Cour des comptes) (2026), *La politique en faveur de l'inclusion dans l'emploi des personnes en situation de handicap*, (The Policy Promoting the Inclusion of Persons with Disabilities in Employment), Public Report, January 2026, available at: <https://www.ccomptes.fr/fr/publications/la-politique-en-faveur-de-linclusion-dans-lemploi-des-personnes-en-situation-de>.

6 REMEDIES AND ENFORCEMENT

6.1 Judicial and/or administrative procedures (Article 7 Directive 2000/43, Article 9 Directive 2000/78)

a) Available procedures for enforcing the principle of equal treatment

In France, the following procedures exist for enforcing the principle of equal treatment (judicial, administrative and alternative dispute resolution such as mediation).

There are judicial and non-judicial means of legal action in France.

Administrative procedure for access to persons with disabilities' rights

Article 64 of Law No. 2005-102 on Disability creates a Departmental Administrative Centre (*Maison départementale*) for persons with disabilities that is intended to centralise all administrative procedures for providing rights to persons with disabilities. It further creates a claim reference person within these departmental centres (Article 146-13 SWC), who will pass on the claim of the person with disabilities to the competent authority or jurisdiction. The decree establishing these departmental centres was adopted on 19 December 2005 (Decree No. 2005-1587).⁴¹² Such centres do not deal per se with individual legal claims and has no competence in matters of discrimination.

Non-judicial means of intervention

Both private and public employers can initiate a non-judicial in-house inquiry if a victim of harassment brings to their attention, or if they suspect, an incidence of discrimination, as they must guarantee a working environment free of such practices.

Staff representatives, the human resources manager or work councils (*Comité d'entreprise*) also have the power to request social dialogue on the integration of workers with disabilities (L2241-5, L2242-13 and L2242-14 of the Labour Code (LC)) and working conditions (L2241-3 and L2241-44 LC).

Labour inspectors have reinforced investigative powers. They can enter all premises (Article L8113-5 LC), obtain communication of any document or information providing evidence of the facts, whether on paper, computerised or other (L8113-4. LC). They may also draft a contravention report certifying their observations (L8113-7 LC) and submit this report to the Public Prosecutor (Article 40 Code of Penal Procedure, CPP).

With regard to mediation, Articles 21 and 131 of the New Code of Civil Procedure expressly refer to the duty of the judge to favour mediation and to designate a third-party mediator upon obtaining the consent of the parties to that end. Conciliation is proposed to all parties as the first stage of any legal action before the Employment Tribunal in application of Article L1423-13 LC. The labour inspector (L611-1 ff.) can also initiate these non-judicial means of action. However, it is not compulsory.

Article L131-12 of the General Code of Public Service sets out the principle of disciplinary sanction against any public servant committing discriminatory actions.

With respect to complaints against the public service, mediation can be pursued by the Defender of Rights (*Défenseur des droits*) or one of the many mediators put in place by specific public services relating to social protection, education, public transport, the postal

⁴¹² Decree No. 2005-1587 of 19 December 2005 on the creation of the departmental centre for persons with disabilities (Décret No. 2005-1587 du 19 décembre 2005 relatif à la maison départementale des personnes handicapées), available at: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000000454078>.

service, finance, etc. This mediation is pursued without prejudice to the administrative legal action, which must be pursued independently.

Law No. 2021-1109 of 24 August 2021 relating to the respect of the principles of the Republic introduces Article 6 *quater* A into the Law of 13 July 1983 on the rights of public agents,⁴¹³ now Article L135-6 of the General Code of Public Service, and creates an obligation on all public services to create a complaint mechanism to protect public agents from discrimination, violence and harassment.

In addition, the Defender of Rights, the French equality body, can investigate any complaints alleging discrimination on any ground covered by French law and present observations before a judge, as *amicus curiae* (see Section 7). However, its decisions are not binding.

Legal actions against private parties

Legal actions may be brought before the Employment Tribunal (*Conseil de Prud'hommes*) in matters related to employment, private sector salaried employees or contracted public servants of an industrial or commercial public service.

In cases of discrimination in employment, Article L1133-3 LC provides for action seeking damages as well as the possibility of requesting the annulment of a discriminatory measure before the Employment Tribunal.

The employees' representative's right of alert in cases of violations of human rights and freedoms in the workplace, stipulated in Article L2313-2 LC, entitles the representative to file an emergency petition for injunctive relief before the Employment Tribunal and applies to cases of discrimination.⁴¹⁴

It is important to note that on 12 December 2006, the Court of Cassation decided in a landmark case that employment tribunals had jurisdiction over pre-contractual matters and were competent in cases related to access to employment and apprenticeship.⁴¹⁵

Legal actions may also be brought before the judicial court (*Tribunal judiciaire*) in cases relating to all other matters such as housing and access to goods and services.

Legal action against the state or a public service

All claims against public services, in matters related to the employment of public servants (Article L131-1 *et seq.* of the General Code of Public Service) and to access to public services (such as access to school and social rights) must be brought before the administrative courts, whether they relate to the application of Law No. 2008-496 completing the implementation of Directives 2000/43/EC and 2000/78/EC in all matters dealing with the public services including education, or rely on general principles of administrative law that also provide legal redress against discrimination. The administrative court may correct the situation and/or award damages.

Legal action to obtain an order for desegregation of a school has never been initiated.

Collective redress procedure specific to anti-discrimination law

⁴¹³ Law of 13 July 1983, Article 6 *quater*, available at: https://www.legifrance.gouv.fr/loda/article_lc/LEGIARTI000043982125, now Article L135-6 of the General Code of Public Service, available at: https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000044427582.

⁴¹⁴ Court of Cassation, social chamber, 26 May 1999, Bull. Civ. V No. 238.

⁴¹⁵ Court of Cassation, social chamber, No. 06-40662, 06-40799 and 06-40.864, 20 December 2006.

A collective redress mechanism called group action has been established to allow trade unions and NGOs to initiate action to put an end to a discriminatory rule, practice or behaviour (*action en cessation de manquement*). It can be initiated to request that the discriminatory measure be stopped and/or to initiate an action for liability with a request for damages to the benefit of all members of the group (Articles 62 to 88 Law No. 2016-1547 on the modernisation of the justice system in the 21st century amended by Article 16 Law No. 2025-391 of 30 April 2025).⁴¹⁶

Criminal procedure

The criminal courts are competent in matters related to recruitment, sanctions and dismissals in the workplace, and access to goods and services (including all public services such as public housing, education, social rights, etc). They may impose criminal sanctions (i.e. fines, prison, loss of civil rights) and damages if the claimant has lodged a civil complaint before the criminal court. The time limit for the prosecution of discrimination through a criminal action is three years (Article 8 CPP).

Pursuant to Article 28 of the Institutional Act (*loi organique*) of 29 March 2011 creating the Defender of Rights, the Defender of Rights can negotiate a settlement, under the supervision of the public prosecutor.

Articles 121-1 and 121-2 PC establish the criminal responsibility of physical and legal persons. Article 225-2 PC, in the case of a private party, and Article 432-7 PC, in the case of a public servant or public authority, provide for a criminal complaint filed with the police or public prosecutor. The prosecution acts based on police enquiries (Article 15-3 CPP) after the victim's complaint or further to notice given by any public servant (Article 40 CPP). Victims and NGOs can also directly notify the public prosecutor. It is the public prosecutor who decides, further to his enquiries, whether or not to prosecute. A private party and the Defender of Rights, if the respondent refuses a settlement, can also initiate proceedings by way of direct citation (*citation direct*) but then they bear the entire burden of proof.

Mechanisms to support access to justice

Since 1996, France has put in place a national network of points of access to rights (*points d'accès au droit*), offering legal expertise and free legal consultations. The network is managed by the Ministry of Justice and implemented through the Departmental Commission on Access to Rights under the supervision of the President of the First Instance District Court.

Law No. 2005-102 on Disability recognises the right of people with impaired hearing to a sign language interpreter before the civil and criminal courts and the right of the visually impaired to the provision in Braille of civil and criminal court records (Article 76), all these measures being provided at the cost of the state.

Public buildings and courts must be accessible to the public (Article L111-7 of the Construction and Housing Code) unless they have obtained special authorisation from the prefect (Ministerial Instruction No. 94-55 of 7 July 1994, R111.19.3 CCH. Construction and Housing Code). Article L152-4 of the Construction and Housing Code provides for enforcement of this principle through criminal fines and injunctive relief.

⁴¹⁶ Articles 62 to 88 of Law No. 2016-1547 of 18 November 2016, available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000033418805&categorieLien=id>.

b) Barriers and other deterrents faced by litigants seeking redress

Legal expertise

Litigants seeking redress are faced with a number of barriers, whether they result from their situation or from insufficient legal expertise on the part of judicial actors and NGOs;⁴¹⁷ the preliminary requirements before enforcing rights against the state; or the inadequate resources of the Labour Inspectorate, which does not investigate all the claims that it receives.⁴¹⁸

As regards access to redress for Travellers, if a municipality fails to put in place specific parking sites for the travelling population, it is barred from seeking the removal of the Travellers' trailers and from prohibiting parking⁴¹⁹ and can be challenged for this failure before the administrative courts. However, these are very technical remedies, which require the assistance of a lawyer and, as observed in practice, Travellers and Roma communities find it difficult to access legal aid, enforced under the control of the president of the court of appeal, due to the complexity of the administrative requirements.⁴²⁰

Absence of a specific means of legal action

There are no specific means of legal actions or sanctions before civil or administrative courts in matters related to education, housing or goods and services in general. For instance, in cases of harassment in education related to internship programmes with a private employer, there are no specific means of legal action available. Claimants must put their claim before the civil courts or, if they wish to challenge the state in cases relating to public housing and state education, they must apply to the administrative court like any other claimant. No study or statistics are available on this issue but year after year, very few cases are initiated.

Shift in the burden of proof

Legal actions relating to discrimination that come before the civil and labour courts benefit from the shift in the burden of proof, as established by explicit statute (Law of 16 November 2001, Law of 17 January 2002 and Law No. 2008-496) (see Section 6.3) but remain difficult to enforce.⁴²¹ In France, the judicial tradition is to go to a civil or labour court with the elements of evidence readily available to the party. In cases of discrimination, the evidence is very often in the hands of the defendant, which explains why claimants often go to the criminal courts to obtain access to evidence. Moreover, in France, making copies of documents belonging to the employer is considered theft. The rules of civil procedure make access to evidence in the hands of the other party or a third party, by way of what is called 'investigative measures' (*mesure d'instruction*), very difficult, as this is considered to be an exceptional measure ordered by the judge and is conditional upon having already provided sufficient evidence to the court. It is not in the

⁴¹⁷ Perelman, J., Mercat-Bruns, M. (2016), *Les juridictions et les instances publiques dans la mise en œuvre du principe de non-discrimination : perspectives pluridisciplinaires et comparées* (Jurisdictions and public bodies and the implementation of non-discrimination: multidisciplinary and compared perspectives), Sciences Po (Ecole de droit/CEVIPOF) et Université Panthéon-Assas-CERSA, 2016, available at: http://www.gip-recherche-justice.fr/wp-content/uploads/2016/11/GIP_RapportFinal_LES-JURIDICTIONS-ET-LES-INSTANCES-PUBLIQUES-LA-NON-DISCRIMINATION-FINAL.pdf.

⁴¹⁸ Auditor General (2016) *Rapport public de la Cour des comptes sur l'inspection du travail* (Public report on the Labour Inspectorate), February 2016, available at: <https://www.ccomptes.fr/sites/default/files/EzPublish/11-inspection-du-travail-RPA2016-Tome-1.pdf>.

⁴¹⁹ High Judicial Court of Montauban, No. 02/00171, 3 May 2002, available at: http://www.rajf.org/article/php3?id_article=1043.

⁴²⁰ National Assembly (2019), *Information report on legal aid* No. 2183 of 29 July 2019, Available at: <http://www.assemblee-nationale.fr/15/pdf/rap-info/i2183.pdf>; Defender of Rights (2019) *Report to the National Assembly legal aid information committee*, Avis No. 19-09, Available at: https://juridique.defenseurdesdroits.fr/index.php?lvl=notice_display&id=28988.

⁴²¹ Havelkova, B., Möschel, M. (2019) *Anti-discrimination Law in Civil Law Jurisdictions*, Oxford University Press, pp. 1 to 27.

legal culture of judicial actors, judges and lawyers to use these procedural means of access to evidence, as the judge in civil matters is seen as not inquisitorial and not part of the process leading to the introduction of evidence before the court.

Complexity of statute of limitations for instituting legal action in employment matters

A major reform of all statutes of limitations was adopted by Law No. 2008-561 of 17 June 2008,⁴²² reducing the time limit for instituting any personal and moveable property actions to five years (Article 2224 Civil Code).

Moreover, further to complaints and lobbying on the part of employers as to the unmanageable scope of their risk, the statute of limitations for instituting an action for discrimination before the Employment Tribunal was lowered to five years, as is the case for claims relating to salaries (Article L1134-5 of the Labour Code). This reform entails a significant regression in the scope of protection against discrimination. Article L1134-5 LC provides:

‘Any action in compensation of damages resulting from discrimination shall lapse after five years from the incidence of discrimination becoming known.’

‘Compensation covers the damages in their entirety resulting from the whole duration of the discrimination.’

The Court of Cassation decided that the statute of limitations had no impact on the relevance of comparative evidence going beyond the prescribed period.⁴²³ It has further decided that the concept of ‘the discrimination becoming known’ in Article 1134-5 of the Labour Code meant that the statute of limitations starts only when the victim has exact knowledge of the necessary comparative elements and their evidence.⁴²⁴ The only time limit therefore results from another rule, provided in Article 2232 of the Civil Code, which limits the suspension of the statute of limitations by ‘ignorance’ of the facts, in all cases, to 20 years. In 2025, the Court of Cassation decided that the principle of ongoing effect of prior events also applies in cases of collective redress that are only accessible regarding facts occurring after 2016.⁴²⁵

Preliminary requirements for enforcing rights against the state

Under all legislation governing civil servants and for claims against the state, the claim to challenge a decision taken by a public employer must be preceded by a written request to have the decision reconsidered. This must be submitted within two months of the decision and followed by a formal administrative legal petition filed no earlier than two months after this written request.

Insufficient resources of the Labour Inspectorate

The limited numbers of labour inspectors, who have the burden of pursuing all violations of the Labour Code, reduces the efficiency of this body, whose members are entirely free to choose the situations they investigate.⁴²⁶ In addition, their investigations lead

⁴²² Law No. 2008-561 of 17 June 2008 reforming the civil statute of limitations (*Loi No. 2008-561 du 17 juin 2008 portant réforme de la prescription en matière civile*), available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000019013696>.

⁴²³ Court of Cassation, social chamber, No. 07-42697, 4 February 2009.

⁴²⁴ Court of Cassation, social chamber, No. 05-45163, 22 July 2007.

⁴²⁵ Court of Cassation, social chamber, [No 24-15.269](#), 5 November 2025, available at: <https://www.legifrance.gouv.fr/juri/id/JURITEXT000052587057/>.

⁴²⁶ Auditor General (2016) *Rapport public de la Cour des comptes sur l'inspection du travail* (Public report on the Labour Inspectorate), February 2016, available at: <https://www.ccomptes.fr/sites/default/files/EzPublish/11-inspection-du-travail-RPA2016-Tome-1.pdf>.

exclusively to criminal claims and they do not communicate the results of their investigations to the parties or to the civil judge.⁴²⁷

The tendency of victims to file criminal complaints

The main reason so many people resort to the criminal courts is that it gives them access to evidence through the judge's investigation. In addition, in the context of criminal claims, they do not have to get involved or need a lawyer; the prosecution takes charge of the investigation and the prosecution. The public prosecutor nevertheless has the choice to investigate and pursue the matter – or not – in the name of the state. For a long period, very few discrimination complaints were prosecuted.

Since 2007, the Ministry of Justice's judicial policy in matters of discrimination has been to put in place a policy of specialisation, instituting a dedicated service to treat discrimination-related criminal complaints at the public prosecutor's office with the objective of increasing the rate of criminal prosecutions. However, the requirements of evidence in criminal matters led to few decisions being issued in favour of the claimant, despite the significant number of complaints.⁴²⁸

Conditions of access to litigation

Representation by a lawyer is not mandatory before the Employment Tribunal, and the criminal courts. It is, however, usual to be represented before such jurisdictions. Representation by a lawyer is mandatory before the judicial courts for demands above EUR 10 000 (Article 762 of the New Code of Civil Procedure (NCCP)), in the commercial courts (Law No. 71-1130 of 31 December 1974),⁴²⁹ the administrative courts (regulation of 4 May 2000), Court of Appeal and the Court of Cassation (Article 974 ff. NCCP), which de facto limits access to action before the courts.

Legal aid is available to individuals on very low incomes (Law No. 91-647 of July 1991 on legal aid).⁴³⁰

Since the equality body cannot initiate judicial proceedings, victims have the burden of instituting action and finding financing for their own litigation costs.

c) Number of discrimination cases brought to justice

In France, statistics on the number of court cases related to discrimination brought to justice are not available.

Quantitative studies involve going to each district and evaluating the archives. In addition, the only statistics available concern convictions based on Article 225-2 PC and relate only to final convictions registered in the individual's criminal records. Therefore, there are no statistics concerning the number of complaints lodged or the treatment they receive. Since 1998, the statistics gathered by the Ministry of Justice show an average of 10 criminal convictions per year for approximately 7 000 complaints made per year.

⁴²⁷ Articles L 8112-2, L 8113-7 and seq. and L 8113-10 of the Labour Code.

⁴²⁸ [Ministerial Instruction from the Minister of Justice on the creation of anti-discrimination units within the prosecutor's office](#), of 11 July 2007; National Consultative Human Rights Commission (Commission nationale consultative des droits de l'homme - CNCDH), (2019) *Rapport 2018 sur la lutte contre le racisme, l'antisémitisme et la xénophobie* (Report 2018 on combating racism, antisemitism and xenophobia), available at: <https://www.cncdh.fr/fr/publications/rapport-2018-sur-la-lutte-contre-le-racisme-lantisemitisme-et-la-xenophobie>.

⁴²⁹ Law No. 71-1130 of 31 December 1971 reforming certain judicial professions (*Loi No. 71-1130 du 31 décembre 1971 portant réforme de certaines professions judiciaires et juridiques*), available at: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006068396>.

⁴³⁰ Law No. 91-647 of 10 July 1991 relating to legal aid (*Loi No. 91-647 du 10 juillet 1991 relative à l'aide juridique*), available at: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006077779>.

d) Registration of national court decisions on discrimination

In France, discrimination cases are not registered as such by national courts except the record of convictions under Articles 225-1 and 225-2 of the Penal Code. Data regarding complaints of and convictions for racism and discrimination on the grounds of origin are published in the annual report on racism by the National Consultative Commission on Human Rights (Commission nationale consultative des droits de l'homme, CNCDH). Its 2024 report published in 2025, indicates that the most recent information communicated by the Ministry of Justice relates to 2023.⁴³¹ It reports that in 2023, prosecutors' offices handled 8 282 cases of a racist nature across all categories of offences, involving 6 558 individuals. This represents a 4 % increase compared to 2022. Of these, 43 % resulted in criminal charges, including 5 convictions for discrimination versus 0 in 2020, 6 in 2021, and 4 in 2022. The penalties are consistently small fines. The few prison sentences handed down were suspended.

6.2 Legal standing and associations (Article 7(2) Directive 2000/43, Article 9(2) Directive 2000/78)

a) Engaging in proceedings on behalf of victims of discrimination (representing them)

In France, associations, organisations and trade unions are entitled to act on behalf of victims of discrimination.

In France, all trade unions are legally constituted as associations. All representative trade unions and NGOs dedicated to the fight against discrimination in their statutes which have been in existence for over five years can act on behalf or in support of victims of discrimination in all domains covered by law (Article R779-9 of the Code of Administrative Justice (CAJ), Articles L1225-3 to 1225-7 of the Code of Penal Procedure, Article 1263-1 of the new Code of Civil Procedure; Articles L1134-2 and L1134-3 of the Labour Code, Article L113-2 of the General Code of Public Service). Trade unions and NGOs can act for the claimant in actions for any apprentice, trainee, job applicant or employee who alleges that they have been a victim of discrimination (L1134-2 and L1134-3 LC, Articles L113-2 of the General Code of Public Service in the public sector, Article 8, paragraphs 1 and 2 of Law No. 2008-496 of 27 May 2008).

However, they have no legal duty to act. Trade unions regularly engage in judicial proceedings on behalf of victims, but seldom in proceedings connected to anti-discrimination law related to TFEU grounds. The Ministry of Justice does not publish statistics in this regard, but in practice, NGOs rarely use judicial proceedings outside criminal complaints.

b) Engaging in proceedings in support of victims of discrimination (joining existing proceedings)

In France, associations, organisations and trade unions are entitled to act in support of victims of discrimination under the same conditions as those mentioned in Section 6.2.a.

c) Submitting observations, e.g. amicus curiae briefs/letters

In France, associations, organisations and trade unions are entitled to submit observations to courts or other adjudicating bodies, such as *amicus curiae* briefs, in discrimination cases under the same conditions as those mentioned in Section 6.2.a. However, they have no duty to act.

⁴³¹ CNCDH (2025), *Rapport 2024 sur la lutte contre le racisme, l'antisémitisme and xenophobia* (2024 Report on the fight against racism, antisemitism and xenophobia), available at: <https://www.cncdh.fr/publications/rapport-2024-sur-la-lutte-contre-le-racisme-lantisemitisme-et-la-xenophobie>, pp. 49 to 63.

In addition, Articles L.600-1-2 and R.632-1 CAJ provide for voluntary interventions by trade unions and NGOs before administrative courts; these provisions allow for NGOs and trade union to act on the sole basis of having an interest in the case.

Article 33 of the Institutional Act (*loi organique*) creating the Defender of Rights also provides that the Defender can file their investigation of a complaint and present observations in any case before any jurisdiction.

d) *Actio popularis*

In France, national law allows associations/organisations/trade unions that have been in existence for more than five years to act in the public interest on their own behalf, without a specific victim to support or represent (*actio popularis*).

Article 31 NCPP, as a general principle, provides that legal action is open to anyone who has a legitimate interest in the success or the dismissal of a legal claim.

R779-9 CAJ provides that trade unions and NGOs that have been registered for at least five years and have an anti-discrimination agenda can institute any action in support of the recognition of rights provided by legislation prohibiting discrimination.

The Labour Code also provides that trade unions can challenge collective agreements that are contrary to public order, provisions on discrimination being part of the list of provisions that are deemed to form part of public order (Articles L2251-1 and L2132-3 LC).

e) Class action

In France, national law allows certified associations active in the defence against discrimination for a consecutive period of at least 12 months and representative trade unions to act unilaterally in the interest of more than one individual victim (class action) for claims arising from the same event or similar facts (Article 16(I)(C)(1), paragraph 1 of Law No 2025-391 of 30 April 2025 and Decree No. 2025-1191 of 10 December 2025).

Article 163 of Law No. 2002-73 allows NGOs to act on behalf of a number of claimants in access to housing.

A class action is instituted to allow trade unions and NGOs to initiate action to put an end to a discriminatory rule, practice or behaviour (*action en cessation de manquement*). The class action must be preceded by a formal letter of demand requesting the correction of the discrimination. It can be initiated to request that the discriminatory measure be stopped and/or to initiate an action for liability with a request for damages to the benefit of all members of the group (Articles 62 to 88 Law No. 2016-1547 on the modernisation of the justice system in the 21st century).⁴³²

While initially only trade unions could bring class action lawsuits in the field of employment, the law was amended in 2025 to put an end to the exclusion of NGOs from employment matters.⁴³³

Article 65 of the law defines remedies obtained by the action to put an end to discrimination as: 'an injunction to take all necessary measures' to put an end to the discriminatory situation or practice, within a specified period under sanction of a fine.'

⁴³² Articles 62 to 88 of Law No. 2016-1547 of 18 November 2016, available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000033418805&categorieLien=id>.

⁴³³ Law No. 2025-391 of 30 April 2025, Article 16 (V), available at: <https://www.legifrance.gouv.fr/loda/id/LEGIARTI000051540827/2025-05-03#LEGIARTI000051540827>.

The procedure does not separate judgment on the merits from the decision determining whether the situation is representative of a collective situation allowing for a class action.

In cases relating to discrimination in employment, however, the legal regime is more restrictive since the procedure has been set up to favour out-of-court discussions to put an end to the discriminatory practice or policy. Thus, compensation can only be sought for damages that arise after introduction of the action before the court (Article L1134-8 CT).

However, initiation of the class action does not interrupt the right of complainants to seek redress before the labour courts in individual cases (Article 71). Victims can always pursue a separate action if they do not wish to be represented by the group (Article 71). They do not have to wait for the final judgment or opt out of the class action. The procedure is one allowing private parties to opt into the group within a period specified by the judge to benefit from the findings of the court's decision (Article 72). At the time of the enforcement of the judgment and determination of damages, members of the group can give a mandate to the association or trade union to represent them.

Article 92 of Law No. 2016-1547 on the modernisation of the justice system in the 21st century has been interpreted to reserve group actions to situations that have an impact on the situation of discriminated persons after 18 November 2016.⁴³⁴

6.3 Burden of proof (Article 8 Directive 2000/43, Article 10 Directive 2000/78)

In France, national law requires a shift of the burden of proof from the complainant to the respondent.

Article 1 of Law No. 2008-496 provides that discrimination includes direct and indirect discrimination as well as harassment, instructions to discriminate and victimisation. The shift in the burden of proof has expressly been transposed in all matters that concern Directives 2000/43/EC and 2000/78/EC by Law No. 2001-1066 of 16 November 2001 at Article 1, Law No. 2008-496 at Article 4 and Article 158 of the Law of 17 January 2002 in matters of housing (modifying Article 1, paragraph 3 of Law No. 89-462 of 6 July 1989).

- The claimant must present facts leading to a presumption of discrimination which can take the form of a direct or indirect discrimination as well as harassment, instructions to discriminate and victimisation.
- The claimant is not required to compare their situation with that of other employees to establish discrimination, whether direct or indirect. The Court of Cassation considers that syllogism of legal reasoning is sufficient to identify rules that necessarily have an adverse impact on certain groups and therefore qualify as discrimination.⁴³⁵
- The Court of Cassation regularly reiterates that the complainant's burden is to establish facts that taken as a whole lead to a presumption of discrimination.⁴³⁶
- Having satisfied this requirement, the defendant must establish in all cases, that their decision was justified by objective elements, which have nothing to do with discrimination.
- This principle applies even in cases related to discrimination on the ground of apparent origin that require the defendant to present data relating to the apparent origin of candidates to employment or its employees.⁴³⁷

⁴³⁴ Court of Cassation, social chamber, [No. 24-15.269](https://www.legifrance.gouv.fr/juri/id/JURITEXT000052587057/), 5 November 2025, available at: <https://www.legifrance.gouv.fr/juri/id/JURITEXT000052587057/>.

⁴³⁵ Court of Cassation, social chamber, [No. 10-20.765](https://www.legifrance.gouv.fr/juri/id/JURITEXT000052587057/), 3 November 2011; Court of Cassation, social chamber, [No. 10-21489](https://www.legifrance.gouv.fr/juri/id/JURITEXT000052587057/), 6 June 2012; Court of Cassation, social chamber, [No. 05-43962](https://www.legifrance.gouv.fr/juri/id/JURITEXT000052587057/), 9 January 2007.

⁴³⁶ Court of Cassation, social chamber, No. 17-18190, 19 December 2018, available at: <https://www.legifrance.gouv.fr/affichJuriJudi.do?oldAction=rechJuriJudi&idTexte=JURITEXT000037851016>.

⁴³⁷ Court of Cassation, 14 December 2022, No. 21-19628, available at: <https://juricaf.org/arret/FRANCE-COURDECASSATION-20221214-2119628>.

- In practice, in order to meet the test refuting apparent discrimination, the objective elements presented to justify the absence of discrimination may be required to meet the requirement of proportionality. For instance, regarding discrimination in access to goods and services, differential tariffs on the ground of age to encourage access to culture will have to be strictly proportionate to targeted groups to meet the test of pursuing non-discriminatory objectives.⁴³⁸
- The definition of indirect discrimination includes the requirement that, in case of a presumption, the defendant must justify proportionality and necessity (Article 1 paragraph 2).⁴³⁹
- The judges form an opinion after having ordered, if necessary, any investigative measures they consider useful.
- In matters of direct discrimination, the claimant never has to establish that he or she is a member of a group targeted by the discrimination ground. Only the behaviour of the defendant who has assumed the existence of a discrimination ground is considered. This applies to all grounds including disability.

This shift in the burden of proof is thus applicable in all non-criminal legal actions (in the case of self-employed workers and the liberal professions, private and public employees, access to goods and services in the private and public sector and claims against services provided by the state).

Most cases of instruction to discriminate are prosecuted under the criminal law regime where the shift in the burden of proof does not apply.

As regards harassment, the Court of Cassation rendered a landmark decision on the evaluation of evidence of discriminatory harassment in October 2024.⁴⁴⁰ It held that pursuant to Article L. 1134-1, which defines the burden of proof in matters of discrimination in employment, when an employee presents several facts, it is for the judge to assess whether these facts taken as a whole suggest the existence of evidence creating an environment affecting his dignity and an intimidating environment related to a discrimination ground and, if so, it is for the employer to prove that his decisions are justified by objective factors unrelated to any discrimination. The Court of Cassation held that a claimant who had established having complained to his superior about racist remarks made about him had met his burden of proof of discriminatory harassment and that in this context the judge had the duty to determine whether the employer could prove that the alleged discrimination was justified by objective factors unrelated to any discrimination.

Traditional civil procedure does not allow the complainant to have access to the defendant's evidence to present their case. However, in discrimination cases, the Court of Cassation has repeatedly recognised a right to evidence considering that to establish the facts that will lead to a presumption of discrimination, the complainant must have access to the documents necessary to compare their situation to that of others.⁴⁴¹

In recent years, lawyers' experience shows that defendant employers have raised the necessity to conform to GDPR and protect the personal information of employees in order to renege on communicating nominative comparative information on employees, asking for the implementation of conditions and challenging communication orders up to the Court of Cassation. This argument has an important impact on labour court judges who are intimidated by the GDPR and not familiar with the specificity of rules relating to access to

⁴³⁸ Defender of Rights, decision No. 2016-279, available at: https://juridique.defenseurdesdroits.fr/index.php?lvl=notice_display&id=20596&opac_view=-1.

⁴³⁹ Court of Cassation, social chamber, 6 September 2023, No. 22-15514, available at: <https://www.courdecassation.fr/decision/64f8231fda737fd9691e6538>.

⁴⁴⁰ Court of Cassation, 14 November 2024, No. 23-17917, available at: <https://www.courdecassation.fr/decision/6735a29f8bdc6c39ccf7991e>.

⁴⁴¹ Court of Cassation, second civil chamber, 3 October 2024 no 21-20979, available at: https://www.courdecassation.fr/decision/66fe33ec91b69e88a370f983?judilibre_juridiction=cc&sort=date-desc&previousdecisionpage=0&previousdecisionindex=8&nextdecisionpage=1&nextdecisionindex=0.

evidence in discrimination cases. Therefore, this defence strategy creates important difficulties of access to evidence for claimants. In this context, in order to facilitate the favourable outcome of claimants' arguments before the judge, the Defender of Rights made an important review of 20 years of jurisprudence and published a Framework decision in 2022 to provide parties with a statement relating to applicable law on issues of access to evidence.⁴⁴² This Framework decision is a landmark source of legal doctrine, even for the Court of Cassation.

In its landmark decisions of 8 March 2023⁴⁴³ and 3 October 2024,⁴⁴⁴ the Court of Cassation affirmed that in conformity with Recital 4 of the GDPR, the right to the protection of personal data is not an absolute right and must be balanced with other rights, including the right to an effective remedy and access to an impartial tribunal. Referring expressly to the GDPR and Articles 6 (Right to a fair trial) and 8 (Right to privacy) of the ECHR, the Court states that the production of evidence violating the right to privacy can be justified if it is indispensable to the exercise of a right and if the request for evidence is proportionate to the purpose for which it is requested. The communication of data must be limited to elements strictly essential to the evidence, and the Court must ensure that the principle of data minimisation is respected, by concealing irrelevant information, and that the data is used exclusively in the context of the discrimination action. The judge's order must include specific injunctions to prevent any misuse of the data communicated. There appears to be a new trend in the defence strategy of employers, in which they fail to execute or restrictively execute orders of communication of documents, thereby creating a new judicial front in order to buy time and increase the burden of the proceedings on claimants who are forced to present successive motions before the procedural chamber for failure to execute.⁴⁴⁵

For claims relating to the public sector that are brought before the administrative court, the administrative procedure is inquisitorial and is covered by the derogation provided in Article 8(5) of Directive 2000/43/EC and Article 10(5) of Directive 2000/78/EC.

Article R411-1 CAJ provides that 'the procedure alleges the facts, arguments and conclusions submitted to the judge'. Thus, the claimant is deemed not to have the burden of proof. However, in a plenary decision, the Conseil d'État has spelled out indications to lower administrative courts as regards the implementation of the burden of proof in discrimination cases:

'While it is for the claimant to submit to the judge elements of facts that could lead the judge to presume a violation of the principle of non-discrimination, the respondent must adduce in evidence any elements that could justify that the decision challenged is based on objective elements devoid of discriminatory objectives. The decision of the judge is based on this exchange of contradictory elements. In case of doubt, the judge must complete the investigation by ordering any investigatory measure (or the filing of any element) that they deem necessary.'⁴⁴⁶

In fact, this definition of the shift in the burden of proof is very close to the definition implemented in Article L1134-1 of the Labour Code.

⁴⁴² Defender of Rights (2022), Framework decision No. 2022-138 of 31 August 2022, available at: https://juridique.defenseurdesdroits.fr/index.php?lvl=notice_display&id=46539&opac_view=-1.

⁴⁴³ Court of Cassation, social chamber, 8 March 2023, No. 21-12492, available at: <https://www.courdecassation.fr/decision/64085bce66b1bafb02f11fb0>.

⁴⁴⁴ Court of Cassation, second civil chamber, 3 October 2024, No. 21-20979 available at: https://www.courdecassation.fr/decision/66fe33ec91b69e88a370f983?judilibre_juridiction=cc&sort=date_desc&previousdecisionpage=0&previousdecisionindex=8&nextdecisionpage=1&nextdecisionindex=0.

⁴⁴⁵ In this regard see for example the judicial guerrilla in the Renault Trucks case: Court of Cassation, social chamber, No. 23-23.471, 18 June 2025, available at: <https://www.legifrance.gouv.fr/affichJuriJudi.do?idTexte=JURITEXT000051823762>.

⁴⁴⁶ Conseil d'État, No. 298348, 30 October 2009.

In its landmark decision on the liability of the state for racial profiling in police checks rendered on 9 November 2016, the first civil chamber of the Court of Cassation explicitly stated the necessity to apply the shift in the burden of proof in order to provide effective remedy in cases of racial profiling, given the absence of records of the checks that do not lead to arrest. In the absence of any record of the police check, the argument for the shift in the burden of proof and a request for the justification of the specific check by the state must rely on research supporting the fact that racial profiling was an established practice, combined with witness statements describing the checks.⁴⁴⁷ Meanwhile in 2025, the ECtHR in *Seydi and Others v. France* revised the Court of Cassation's findings in one case only, concluding, regarding the allegations of absence of access to an effective recourse, that judicial treatment of claims in relation to alleging identity checks based on race and origin by the French judicial courts showed a quality of analysis satisfying the requirements of effective access to judicial recourse.⁴⁴⁸

6.4 Victimisation (Article 9 Directive 2000/43, Article 11 Directive 2000/78)

In France, there are legal measures for protection against victimisation.

Article 3 of Law No. 2008-496 of 27 May 2008 established a specific protection against victimisation applicable to the entire scope of civil legal actions alleging direct or indirect discrimination covered by the directives, which provides that no person, having testified in good faith about discriminatory behaviour, can be treated unfavourably on such a ground. No decision can be taken against a person because they were a victim of discrimination or because of their refusal to submit to discrimination as prohibited in Article 2.

This protection clarifies that it extends to victims and non-victims but does not provide any indication as to the burden of proof applicable to claims of victimisation and does not assimilate victimisation with discrimination.

Finally, the Penal Code protects victims and witnesses. Article 434-15 PC provides sanctions for threats and intimidation towards a witness, and Article 434-5 PC sanctions for threats and intimidation towards a victim, with a maximum penalty of three years' imprisonment.

It is important to note that, in reaction to actions relating to discrimination and sexual harassment, there has been an ever-growing defence strategy leading to the filing of criminal complaints for slanderous complaint (226-10 PC) in order to intimidate complainants. These have sometimes given rise to investigation.

In a landmark case from 2024, the social chamber of the Court of Cassation recognised a fundamental freedom to testify, protecting all employees against dismissal for having testified, with an action in annulment allowing for reinstatement and an increased level of damages.⁴⁴⁹ In a decision of 2025, it also explicitly underlined that an employee who reports in good faith facts that may constitute discrimination cannot be dismissed. Bad faith can only result from evidence that demonstrates the employee's knowledge that the facts reported are false.⁴⁵⁰

⁴⁴⁷ Court of Cassation, civil chamber, Nos. 15-24.207 to 15-25.877, 9 November 2016, available at: https://www.courdecassation.fr/jurisprudence_2/premiere_chambre_civile_568/relatifs_contr_35473.html.

⁴⁴⁸ ECtHR, *Seydi and Others v. France*, 26 June 2025, No. 35844/17, available at: <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%5B%22Seydi%20c%20France%22%5D,%22itemid%22:%5B%2201-243820%22%5D%7D>.

⁴⁴⁹ Court of Cassation, social chamber, 10 July 2024, No. 23-15793.

⁴⁵⁰ Court of Cassation, social chamber, No. 23-15.641, 6 May 2025, available at: https://www.legifrance.gouv.fr/juri/id/JURITEXT000051581937?init=true&page=1&query=23-15.641&searchField=ALL&tab_selection=all.

6.5 Sanctions and remedies (Article 15 Directive 2000/43, Article 17 Directive 2000/78)

a) Applicable sanctions in cases of discrimination – in law and in practice

Discrimination cases are adjudicated according to general rules of procedure.

There are compensatory damages, injunctions in the form of orders issued by the administrative or judicial courts to put an end to discrimination and penal fines in cases of criminal prosecution.

Law No 2025-391 of 30 April 2025 creates at Article 16(XI) a chapter dedicated to the sanctions of civil and contractual intentional faults.⁴⁵¹ Article 1254 of the Civil Code provides for the possibility for the judge to award a civil sanction independent of compensation, which is to be claimed before the judicial and administrative courts against all private and public parties in case of violation of legal or contractual obligations committed in the course of a professional activity. The award is deposited in a fund dedicated to the financing of group actions. This civil sanction is conditional upon a finding of (1) deliberate fault committed to obtain a gain or save on spendings and (2) that the violation has caused damages to a number of physical or legal persons placed in a similar situation. The civil sanction is, however, capped: if the author is a physical person, it cannot be superior to doubling the profit or saving made; if it is a legal persons it can reach five times the profit or savings made. This sanction has not yet been implemented.

Finally, the law provides that a physical or legal person cannot cover the risk of civil sanction through an insurance contract.

The law does not provide for distinct sanctions and compensation depending on discrimination grounds.

In a landmark decision of 15 November 2017,⁴⁵² the social chamber of the Court of Cassation stated for the first time that principles applicable to the calculation of compensation could vary according to the ground of discrimination at issue. The Court, after concluding that a dismissal was null and void as a result of discrimination on the ground of age, decided that the purview of the compensation changed according to whether or not a ground of discrimination constitutes protection against a fundamental right or freedom protected by the French Constitution. In this case, the Court decided that since the ground of age did not constitute a fundamental right and freedom protected by the French Constitution, the compensation awarded would be limited to the loss of salary less the revenue of replacement (unemployment insurance, redundancy allowance or wages) received by the claimant between dismissal and reinstatement.

This creates a situation where the regime of compensation for discrimination before judicial courts can cumulate awards that have the nature of sanction, over and above pecuniary loss, in the application of the legal theory of nullity in labour law. This would be the case for discrimination based on the grounds of race, origin, religion, sex, the right to strike or union activities, health, philosophical and political opinions and harassment.⁴⁵³

By deciding that compensation is dependent upon the legal character of the ground of discrimination that has been violated, the Court creates a hierarchy between grounds and

⁴⁵¹ Law No. 2025-391 of 30 April 2025, Article 16 (XI), available at:

<https://www.legifrance.gouv.fr/loda/id/LEGIARTI000051540827/2025-05-03#LEGIARTI000051540827>.

⁴⁵² Court of Cassation, social chamber, No. 16-14.281, 15 November 2017, available at:

<https://www.legifrance.gouv.fr/affichJuriJudi.do?oldAction=rechJuriJudi&idTexte=JURITEXT000036053048&fastReqId=387503508&fastPos=1>.

⁴⁵³ Court of Cassation, social chamber, No. 14-21.325, 14 December 2016, available at:

https://www.courdecassation.fr/publications_26/arrets_publics_2986/chambre_sociale_3168/2016_7412/decembre_7804/2344_14_35739.html.

takes a stand on the ground of age, defining it as a secondary ground of lesser gravity that is not characterised as a fundamental right or freedom protected by the fundamental law of the state. This position has been seriously criticised by doctrine and may not be followed by the Conseil d'État and the Constitutional Council.

Criminal sanctions incurred in relation to the criminal offence of discrimination amount to a maximum of three years' imprisonment and a EUR 45 000 fine (Article 225-2 PC).⁴⁵⁴

The Penal Code creates an aggravating factor in relation to a discriminatory refusal to sell or allow access to a public place (nightclubs, shops, public services, etc.), sanctioned by a maximum of five years' imprisonment and a EUR 75 000 fine. In addition, the Penal Code allows auxiliary sanctions in Article 225-19 PC: posting or publication of the judgment, closing down of a public place, exclusion from procurement contracts, confiscation of a business, suspension of civil rights and a list of further penalties that are seldom imposed. The same sentence is applicable in cases of discrimination by public services (Article 432-7 PC).

Legal persons, including the state and all public services, can also be convicted by the criminal court, and this liability does not exclude that of the physical person.

Inspection authorities have no power to impose sanctions in discrimination matters. They must transfer their conclusions to penal prosecution authorities.

In non-criminal matters only, compensatory remedies can be sought exclusively before the civil and administrative courts.

In cases involving the public services, legal actions must be brought before an administrative court. Two courses of action are available: a petition for excess of power on the part of the public authority, in order to annul the decision challenged, or a full jurisdiction petition, in order to obtain not only annulment of the decision but damages as well.

In addition to criminal and administrative legal actions, a civil servant can also be subject to disciplinary sanctions in application of Article 66 of Law No. 84-16 of 11 January 1984, Article 89 of Law No. 84-53 of 26 January 1984 and Article 81 of Law No. 86-33 of 9 January 1986.

Before the Employment Tribunal, the claimant may seek compensation and also annulment of the discriminatory measure, thereby requesting reinstatement in case of dismissal (Article L1132-4, Labour Code).

The equality body (see Section 7) can make recommendations to the parties who are given a certain amount of time to comply (Article 25). These recommendations can include a request for disciplinary sanctions (Article 29). The Defender of Rights can also make general recommendations to the parties, Government, public bodies or interest groups and propose legislative and regulatory reforms and the amendment of existing legislation. In cases of non-compliance with recommendations, the Defender of Rights has the power to issue 'injunctions', failing which the body will draw public attention to its recommendations and the failure to comply (Article 25). In addition, it may alert the relevant authorities if disciplinary sanctions against the respondent are required.

⁴⁵⁴ Law No. 2004-204 of 9 March 2004, adapting justice to developments in criminality (*Loi No. 2004-204 du 9 mars 2004 portant adaptation de la justice aux évolutions de la criminalité*), available at: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006068396>.

- i) National legislation only provides for preventive or socio-preventive sanctions by way of injunctive relief in administrative cases against public authorities (Article 521-1 Code of Administrative Justice) and as pre-trial protection measures in employment in case of *prima facie* violation of human rights (Article L2313-2 Labour Code).
 - ii) In national law, there are sanctions specific to collective redress in case of class actions by way of an order to put an end to a discriminatory behaviour (*action en cessation du manquement*) provided by Article 10 of the Law of 27 May 2008.
 - iii) In national law, there are no specific sanctions in place to deal with cases of mass discrimination. However, as regards the illegal use of AI and automated systems, they are implemented by the criminal court and/or by the French data protection agency, CNIL, and sanctioned by Articles 226-16 to 226-24 to a penalty up to EUR 300 000 and 5 years' imprisonment.
- b) Pecuniary sanctions – maximum and average amounts

There is no maximum amount of compensation in matters of discrimination.

However, according to lawyers who specialise in discrimination law,⁴⁵⁵ and the analysis that is confirmed by the review of the jurisprudence, French legal practice is still very reserved in awarding moral damages, and compensation awards remain rather low before all jurisdictions (civil, labour and administrative).

In practice, when the claimant fails to quantify a loss through concrete evidence of its financial impact, in situations such as discrimination in access to employment, or loss of business due to failure to gain access to the court building, the courts award compensation that stands as a substitute in the face of difficulties in establishing damages. The highest non-pecuniary damages awards were ordered in 2010, when the court awarded EUR 20 000 in non-pecuniary damages related to discrimination in hiring practices⁴⁵⁶ and EUR 20 000 for absence of accessibility of the premises of the judicial tribunal.⁴⁵⁷ In 2020, the court awarded EUR 50 000 in pecuniary damages, for discriminatory impact on the claimant's 30-year career.⁴⁵⁸

In a landmark case addressing compensation for redundancy, the Court of Cassation held that the allocation of a bulk non-individualised amount for damages related to lost chances violated the principle of integral compensation.⁴⁵⁹

In addition, the Court of Cassation has decided that the recognition of racial harassment may form the basis of a claim for harassment and a separate claim for racial discrimination causing a distinct prejudice.⁴⁶⁰

⁴⁵⁵ Seminar co-organised by the Court of Cassation, the Conseil d'État at the National Bar Association and the Defender of Rights on 10 years of anti-discrimination litigation on 5 October 2015, Boussard-Verrechia, E. (2015) *L'émergence du contentieux de l'égalité femme/homme dans l'emploi*, p. 102, available at: <https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/colloque-10ans-droits-discri.pdf>.

⁴⁵⁶ Court of Cassation, social chamber, 15 December 2011, No. 10-15873, available at: <https://www.legifrance.gouv.fr/juri/id/JURITEXT000024993730/>.

⁴⁵⁷ Conseil d'État, No. 301572, 22 October 2010, available at: <https://www.legifrance.gouv.fr/affichJuriAdmin.do?oldAction=rechJuriAdmin&idTexte=CETATEXT000022952080&fastReqId=761863097&fastPos=1>.

⁴⁵⁸ Versailles Court of Appeal, 16 December 2020 – No. 18/02758, available at: <https://justice.pappers.fr/decision/82edfc432f5972a646008f68bfd8ed8f23c00aaf>.

⁴⁵⁹ Court of Cassation, social chamber, 28 September 2022 no 21-1039, available at: <https://www.legifrance.gouv.fr/juri/id/JURITEXT000046357279>.

⁴⁶⁰ Court of Cassation, social chamber, No. 23-15.831, 26 February 2025, available at: <https://www.legifrance.gouv.fr/juri/id/JURITEXT000051284050/>.

In practice, the courts rarely award moral damages, often dismissing this claim on the basis of lack of evidence on the part of claimant.⁴⁶¹

In matters related to access to goods and services, cases are so rare and compensation so low that remedies do not cover the costs of the proceedings and they cannot be considered to be effective and dissuasive.

In employment-related cases, however, it can be observed in practice that compensation is more significant and generally compensates the claimant's loss.⁴⁶² Nevertheless, few workers bring their cases to court, enforcement of the non-discrimination rule is not widespread, and cases are isolated. Because of the issue of underreporting, the mere existence of legal remedies does not constitute an effective and dissuasive deterrent to discriminatory practices in the workplace.

Executive Order No. 2017-1387 relating to the predictability and security of labour relations intends to facilitate recruitment and dismissal in the labour market and to standardise the procedure and amount of dismissal awards.⁴⁶³ In order to do so, it provides for scales and ceilings regarding damages awarded in relation to all causes of action in respect of the dismissal of an employee (Article L 1235-3 of the Labour Code). However, Article L 1253-3-1 provides that this mandatory scale is not applicable when the judge finds that the dismissal is null and void because it results from the violation of a fundamental right, harassment or discrimination prohibited by law. In derogation of other labour-related litigation, the victim of discrimination or harassment may request reinstatement and claim damages and all wages owed for the duration of the time elapsed since dismissal until full compensation, without financial ceiling or time limit.

The only study available on compensation, was supported by an NGO,⁴⁶⁴ and analyses the discussion and quantum of damages of a selection of lower court decisions, with a particular focus on awards of moral damages.⁴⁶⁵ For the rest, the expert's analysis is based on practice and jurisprudence.

As regards fines, the Penal Code provides at Article 225-2 that criminal direct discrimination prosecuted before the criminal court is punished by a fine up to EUR 45 000 and 3 years' imprisonment.

c) Assessment of the sanctions

In France, there is no punitive sanction in civil and administrative matters.

⁴⁶¹ Paris Court of Appeal, No. 10/10/2018, No. 15/11617, awarding EUR 2 000 for moral damages in relation to discrimination on the ground of ethnic origin in the complainant's career over the course of 30 years; Paris High Court, 10/12/2013, No. 11087008177, awarding EUR 1.00 symbolic damages for discrimination on the ground of ethnic origin in a case against a real estate agent refusing visits to prospective tenants of North African origin.

⁴⁶² Paris Court of Appeal, 22/09/2016, No. 623, awarded EUR 210 000 in lost remuneration and EUR 400 000 in damages further to harassment leading to dismissal on the ground of sexual orientation; Rouen Court of Appeal, 22/03/2018, No. 17/01333, awarded EUR 30 000 in damages in relation to delay in implementing reasonable accommodation in relation to disability in employment; Court of Appeal of Toulouse, 29/01/2016, No. 14/360, awarded EUR 10 000 in damages for harassment on the ground of origin, EUR 45 000 for damages and EUR 14 000 in leave compensation in relation to dismissal further to discrimination on the ground of origin.

⁴⁶³ Executive Order No. 2017-1387 of 22 September 2017 relating to the predictability and security of labour relations, (*Ordonnance n° 2017-1387 du 22 septembre 2017 relative à la prévisibilité et la sécurisation des relations de travail*), available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000035607388&fastPos=4&fastReqId=1725531780&categorieLien=cid&oldAction=rechTexte>.

⁴⁶⁴ RAJD (Réseau pour agir en justice contre les discriminations - Network for action in justice against discrimination).

⁴⁶⁵ Sereno, S. (2024) 'Les tribulations du juge prud'homal dans la réparation des discriminations', in RAJD, Les enjeux du contentieux de la lutte contre les discriminations, Société de législation comparée, Paris, 2024.

Criminal sanctions represent about 5 to 10 cases a year. Given that they occur in matters related to goods and services with little evidence of pecuniary loss, the review of the cases indicates that criminal fines issued by the courts range from a few hundred to a few thousand euros. They can be accompanied by suspended prison sentences and symbolic damages. In a 2007 decision relating to a denial of access to a hotel for an individual wearing a headscarf, the hotel manager was sentenced to a EUR 120 fine and a two-month suspended prison sentence.⁴⁶⁶ Meanwhile, in a 2014 decision relating to a denial of access to a gym to an individual wearing a headscarf, the sentence was a EUR 250 fine.⁴⁶⁷ Such sanctions are not effective and dissuasive.

However, in the Court of Appeal of Paris criminal chamber decision of 11 February 2014 against EasyJet, after repeated refusal to admit people in wheelchairs aboard their planes, EasyJet was sentenced to a total fine of EUR 50 000 (in relation to many occurrences), lowering a sentence of a fine of EUR 70 000 imposed by the trial court, and EUR 2 500 in damages to the NGO who pursued the case, the *Association des Paralysés de France* (APF).⁴⁶⁸ The criminal chamber of the Court of Cassation upheld this sentence and increased to EUR 4 500 the damages awarded to APF, i.e. nominal civil damages to cover only part of court costs.⁴⁶⁹

Considering that compensation for non-financial loss is very low, the defendants' risk is limited. In this context most scholars find that sanction is not effective and dissuasive.⁴⁷⁰

d) Enforcement and monitoring of the implementation of sanctions

i) Courts and other adjudicating bodies' mechanisms to monitor or enforce their decisions

In France, there is an entire Code of Civil Enforcement Procedures of Judicial Decisions, that is implemented by the enforcement judge (Article L121-1 to L121-4) at the initiative of the parties.⁴⁷¹ Decisions are executed by a bailiff (Article L122-1) who obtains his powers directly from the judge (Article L122-2).

The enforcement of decisions rendered by administrative tribunals is regulated by Articles L911-1 to L911-10 of the Code of Administrative Justice, through orders rendered by the administrative judge at the initiative of the parties (Article L911-1).

The Code of Penal Procedure regulates enforcement of penal sanctions at Articles 707 to 803-10 under the supervision of the public prosecutor.

ii) Possibility for courts and other adjudicating bodies to retain jurisdiction after sanctions have been imposed

Courts and other adjudicating bodies can retain jurisdiction after sanctions have been imposed through the enforcement judge in civil matters (Article L121-1 to L121-4 of the Code of Civil Enforcement Procedures), at the initiative of the party.

⁴⁶⁶ Court of Appeal of Nancy, fourth chamber, 8/10/2008, No. 08/00882.

⁴⁶⁷ Thionville High Court, 17/04/2014 No. 11048000030.

⁴⁶⁸ Paris Court of Appeal, 11 February 2014, No. 12/05062, available at: https://juridique.defenseurdesdroits.fr/doc_num.php?explnum_id=8147.

⁴⁶⁹ Court of Cassation, criminal chamber, No. 13-81586, 15 December 2015, available at: <https://www.legifrance.gouv.fr/affichJuriJudi.do?oldAction=rechJuriJudi&idTexte=JURITEXT000031658282&fastReqId=1575884415&fastPos=4>.

⁴⁷⁰ Sereno, S. (2024) 'Les tribulations du juge prud'homal dans la réparation des discriminations', Lyon-Caen, A. 'Sur la réparation des préjudices consécutifs à une discrimination' and Guiomad, F. 'Les apports du droit européen à la réparation des discriminations subis dans l'emploi' in RAJD, Les enjeux du contentieux de la lutte contre les discriminations, Société de législation comparée, Paris, 2024.

⁴⁷¹ Code of Civil Enforcement Procedures (*Code des procédures civiles d'exécution*), available at: https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000025024948/.

Courts and other adjudicating bodies can retain jurisdiction after sanctions have been imposed, through the administrative judge in administrative matters (Article L911-1 and 911-4 of the Code of Administrative Justice), at the initiative of the party.

In penal matters, they are monitored under the authority of the public prosecutor (Article 707 of the Code of Penal Procedure).

In collective redress to cease discrimination provided by law, the judge retains jurisdiction to monitor the implementation of the ordered measure (Articles 65 of Law No. 2016-1547 on the modernisation of the justice system in the 21st century).

- iii) Further steps/measures courts or adjudicating bodies can take in case of non-compliance with the sanction

When the civil court orders a defendant to execute an action, the claimant can obtain implementation of a special periodic penalty payment called *astreinte* (Articles L131-1 to L131-4 of the Code of Civil Enforcement Procedures), for each day of non-implementation of the decision.

The administrative judge can also enforce a special penalty called *astreinte* (Articles L911-3 of the Code of Administrative Justice), for each day of non-implementation of the decision. In its decision of 17 December 2024, the Appeal Administrative Court of Aix-en-Provence ordered the Marseille Provence Metropolitan urban community (MPM), which had failed to execute its previous decisions to implement the construction of parking sites for Travellers within a certain deadline, to pay penalties of EUR 1 000 per day, which resulted in a EUR 265 500 fine and EUR 29 500 in damages ordered by the decision of 4 November 2025, by the same Court of Appeal.⁴⁷²

In penal matters, in case of non-payment of the penal fine the public prosecutor can request the imposition of a prison sentence and intervention of police forces (Articles 709 and 749 of the Code of Penal Procedure).

- iv) The burden of enforcing sanctions

In civil and administrative matters, the costs of enforcement procedures are borne by the claimant. However implementation of the judge's order per se is executed by a bailiff in civil matters (Article L122-1 of the Code of Civil Enforcement Procedures) and the public accountant under the prefect's authority in administrative matters (Article L911-10 of the Code of Administrative Justice).

The payment of penal fines is monitored under the authority of the public prosecutor (Article 707 of the Code of Penal Procedure).

⁴⁷² Appeal Administrative Court of Aix-en-Provence, 17 December 2024, No. 24MA00189, available at: <https://juricaf.org/arret/FRANCE-COURADMINISTRATIVEDAPPELDEMARSEILLE-20241217-24MA00189>; Administrative Court of Marseille, 4 November 2025 No. 24MA000189, available at: [Administrative Court of Appeal of Marseille, 4 November 2025, no 24MA00189](#).

7 BODY FOR THE PROMOTION OF EQUAL TREATMENT (Article 13 Directive 2000/43)⁴⁷³

France has not, by the cut-off date, made any legislative amendments or proposals to transpose Directive 2024/1499.⁴⁷⁴

To meet the requirements of Directive 2024/1499, the budget of the body (Article 4) should be increased as the Defender of Rights is presently not in a position to dedicate the necessary budget to implement all the duties required by the directive. In addition, the Institutional Act No. 2011-333 of 29 March 2011 would need to be amended to correctly transpose the Directive, as it is not required by law to publish a periodic report on the state of equal treatment and discrimination in France as provided by Article 17(c), or to adopt a work programme setting out priorities and prospective activities as provided by Article 17(a). As regards the forms of intervention by the Defender of Rights before the courts, the Institutional Act would have to be amended to conform to Directive 2024/1499 considering it does not authorise the institution to act as party to proceedings as required by Article 10(4) and 10(3)(c), or to take sides in favour of a victim in application of Article 10(3)(a) and (b).

7.1 National equality body

a) General 'architecture' of equality bodies

A unique specialised body has been designated for the promotion of equal treatment irrespective of racial or ethnic origin according to Article 13 of the Racial Equality Directive and all other grounds protected by French legislation and international conventions ratified by France which covers all TFEU grounds. It is the Defender of Rights (*Défenseur des droits*) established by Institutional Act (*loi organique*) No. 2011-333 of 29 March 2011 pursuant to Article 71-1 of the Constitution.

It is a nominative institution personified by the individual appointed by the Council of Ministers as the Defender of Rights.

It is competent to investigate complaints directly brought by victims, to intervene before the courts, to issue opinions and recommendations, to publish public reports and to present observations to Parliament and Government.

While the Defender of Rights has exclusive competence to deal with complaints of discrimination, other public agencies have legal authority to act in support of equal treatment:

- An interministerial delegate is responsible for developing and implementing the national action plan 2023-2026 to fight racism, antisemitism and discrimination on the ground of origin⁴⁷⁵ and the national action plan against LGBT+ hate and discrimination⁴⁷⁶ (see Section 9.2).
- Under the authority of the Ministry of the Interior and the prefect, the departmental bodies dedicated to combating racial discrimination are the commissions for the promotion of equality and citizenship (*commissions pour la promotion de l'égalité des*

⁴⁷³ Assessments and views concerning compliance with EU law throughout Section 7, notably for Directive 2024/1499 whose transposition deadline is 19 June 2026 after the cut off date for this report, reflect the author's opinion.

⁴⁷⁴ Informal indications give the impression that France might not have any plans to make any such legislative amendments other than adopting a decree regarding the standing before the courts of the Defender of Rights.

⁴⁷⁵ France (2023), [National action plan against racism and antisemitism](#) (*Plan national d'action contre le racisme et l'anti-sémitisme*).

⁴⁷⁶ France (2023), [National action plan for equality, and against LGBT+ hatred and discrimination](#) (*Plan national pour l'égalité, contre la haine et les discriminations anti-LGBT+ 2023-2026*).

- chances et la citoyenneté*, COPEC).⁴⁷⁷ They bring together all local actors under the authority of the national state representative in the department (the prefect). They are intended to generate cooperation and dialogue for the promotion of equality and access to rights addressing all grounds of discrimination.
- In addition, Law No. 2005-102 on Disability structures all the national and local commissions involved in establishing policies concerning persons with disabilities and enforcing their rights, such as the National Consultative Council of Persons with Disabilities (*Conseil National Consultatif des Personnes Handicapées*) and its local counterparts, around the participation of NGOs representing persons with disabilities (Article 1 of the Law creating Article L146-1 A SWC).
 - Since 2012, the Government has given a specific mandate to the Interministerial Delegation on Emergency Accommodation and Access to Housing (*Délégation interministérielle à l'hébergement et à l'accès au logement*, DIHAL) to establish dialogue with NGOs and implement a specific programme on access to rights (including health, education, employment, accommodation and housing) and integration of foreign Roma and Travellers. Since autumn 2013, it has been mandated to coordinate the implementation of integration policies targeting the Roma, focusing mainly on the impact of forced evictions on their housing rights. In March 2022, after 18 months' consultation, it published the National Roma Strategy 2020-2030.⁴⁷⁸
 - The National Consultative Commission on Human Rights (*Commission nationale consultative des droits de l'homme*), which advises the Prime Minister, is the designated French NHRI body to the UN responsible for reporting on the implementation of the International Convention on the Rights of Persons with Disabilities. It is composed of representatives of all the major human rights and anti-racism NGOs, trade unions and branches of the public sector. It is consulted on all legislative reforms affecting human rights and the rights of persons with disability, provides advice and recommendations to the Government and acts as evaluator of the LGBT+ national action plan and the national plan to fight racism, antisemitism and discrimination on the ground of origin. It is organised into six sub-commissions, one of which is responsible for the annual publication of a report on racism and antisemitism and is the designated institution representing France before the Council of Europe and the UN and its disability, human rights and anti-racism committees. Since 2021, it has been the main institution reporting on anti-discrimination issues.
- b) Designated body for the promotion of equal treatment irrespective of racial/ethnic origin according to Article 13 of the Racial Equality Directive

According to annual reports published by the Defender of Rights,⁴⁷⁹ 78 % of all requests and complaints are dealt with by the 650 volunteer delegates disseminated throughout the national territory in public premises accessible to persons with disabilities who are usually retired civil servants, lawyers, judges and so on. Delegates receive complainants in relation to all competences of the Defender of Rights.

In addition, a dedicated national internet platform, Antidiscrimination.fr, was launched in February 2021. The platform is accessible to persons with disabilities and enables people to access information and make requests and complaints. Seven employees answer directly on a chat and rapid response scheme to facilitate access to rights and information, backed

⁴⁷⁷ Ministerial Instruction, New missions for the Departmental commissions on access to citizenship and the commissions for the promotion of equality (*Circulaire COPEC NOR/INT/K/04/00117/C*, 20 September 2004, *Missions nouvelles des commissions départementales d'accès à la citoyenneté (CODAC), commissions pour la promotion de l'égalité des chances et la citoyenneté' (COPEC)*, available at: <http://i.ville.gouv.fr/index.php/reference/3016/circulaire-nor-int-k-04-00117-c-du-20-septembre-2004-relative-aux-missions-nouvelles-des-commissions-departementales-d-acces-a-la>.

⁴⁷⁸ France (2022) *Stratégie française pour l'égalité, l'inclusion et la participation des Roms* (French Strategy for equality, inclusion and participation of Roma).

⁴⁷⁹ Defender of Rights (2026), *Rapport annuel d'activité 2025* (Annual report 2025), March 2026, available at: <https://www.defenseurdesdroits.fr/rapport-annuel-dactivite-2025-1107>; Defender of Rights (2025), *Rapport annuel d'activité 2024* (Annual report 2024), March 2025, available at: https://www.defenseurdesdroits.fr/sites/default/files/2025-03/ddd_rapport-annuel-2024_20250305.pdf.

up by 10 employees dedicated to coordinating the local response to discrimination claims made to the Defender of Rights by the local delegates of the Defender of Rights.

The designated body is accessible without costs on an equal basis for all. Its local delegates receive the public in the premises of various state services that meet the requirements of accessibility, and its online platform, websites and publications are adapted to meet computer accessibility requirements.

Individual reasonable accommodation is provided, where necessary, for persons with disabilities wishing to use the services of the Defender of Rights. All written productions of the Defender of Rights are accessible in easy to read and understand versions and versions that are especially accessible to persons with visual or hearing impairments.

7.2 Political, economic and social context of the designated body

The Defender of Rights is the body that resulted from the merger of pre-existing bodies in May 2011. It integrated the former equality body, HALDE, into a new, multi-mandate, constitutionally independent authority (Article 2 of the Institutional Act).

It has made recommendations and made its voice heard before all public authorities, Parliament and Government, whether in the context of legislative reform, public policies or arguing the requirements of European law before the supreme courts. Since 2011, it has taken a firm stand on many policy issues, such as Roma rights, the rights of undocumented migrants, enforcement of the state of emergency further to the terrorist attacks, reforms of criminal procedure in relation to combating terrorism, protection of personal data, police checks, equal pay, rights of transgender people and access to rights, persons with disabilities, the protection of isolated migrant minor children and children dependant on public child protection and persons experiencing social vulnerability.

One can observe a willingness of respondents, public and private, to cooperate and constant requests for interventions by the Defender of Rights from Members of Parliament, Government and the courts.⁴⁸⁰

Generally, authorities are supportive of equality and the work of the designated body. However, with the rise of the extreme right, the political context is more and more antithetical to policies promoting non-neutral equality, diversity and migrant rights.

Although the Defender of Rights' position on specific subjects might not always receive political support, to date such disagreements have not had an impact on financial support or given rise to interference from public authorities during the nominated Defender of Right's mandate. However, its constantly increasing workload that does not result in corresponding financial support, tends to dilute its investment in anti-discrimination issues in terms of individual claims treatment, interventions before the courts, observations to Parliament and public reports, which are noticeably diminishing in volume.

7.3 Institutional architecture

In France, the designated body forms part of a body with multiple mandates.

- Ombudsman's Office with competence over rights and freedoms in relations with the public service
- Anti-discrimination
- Defender of Children
- Ethics of security forces
- Protection of whistle-blowers.

⁴⁸⁰ Defender of Rights (2019), *Rapport annuel d'activité 2018* (Annual report 2018), available at: <https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/raa-2018-num-19.02.19.pdf>.

The Defender of Rights is assisted by one deputy per mandate and three consultative commissions competent in matters of ethics of security forces, rights of children and discrimination. Thus, one of its five deputies and one of its commissions are exclusively dedicated to issues related to non-discrimination and the promotion of equality.

In this context, it has a mandate to promote the UN CRC and provide independent reports to the UN Committee on the Rights of the Child, and to promote the UN CRPD and report to the UN Committee on the Rights of Persons with Disabilities.

Complaints relating to issues of equality law either concern general public law regarding the application of the principle of equality, or the anti-discrimination legal framework, which in France is a distinct legal framework. They can be investigated at one of two possible levels of intervention.

According to the Defender of Rights' 2024 annual report,⁴⁸¹ in 2024 discrimination claims have decreased for the first time from 6 703 claims in 2023 to 5 679 claims in 2024 (a drop of 15 %), sliding from 4.9 % to 4 % of the activity of the Defender of Rights. According to its 2025 annual report,⁴⁸² while claims reached 6 362 in 2025, following the overall increase of 11 %, there were still 341 fewer than in 2023. At the same time, the number of complaints has increased by more than 20 % in relation to the body's public service ombudsman mandate.

Overall, approximately 20 % of complaints – including equality public law complaints – and 95 % of anti-discrimination complaints are addressed at the head office in one of the nine investigation units, distributed according to areas of competence in public or private law. These units are organised as follows: social protection, access to justice, rights of patients and dependent persons, rights of foreign nationals, rights of children, public and private employment law, access to public services, access to goods and services, and ethics in security. This allows the institution to mobilise integrated legal strategies beyond the strict application of anti-discrimination legislation, and to defend the rights of vulnerable populations and people in matters such as children's access to rights, social protection law and rights of foreign nationals and Roma.

Although all investigation units deal with discrimination cases within their realm of competence, three units receive a higher number of discrimination claims: the unit dealing with complaints regarding employment in the public service, the unit dealing with complaints relating to fundamental rights of foreign nationals and the unit dealing with complaints relating to private law, which essentially deals with discrimination in employment and access to private goods and services. In addition, the unit dealing with the promotion of equality and access to rights (*Promotion de l'égalité et de l'accès aux droits*), responsible for the publication of public reports and good practices, dedicates 30 % of its resources to the anti-discrimination mandate.

Claims are not systematically investigated due to insufficient resources. A discretionary choice of the claims investigated, authorised by Article 24 of the Institutional Act, is made. In fact, there are no guidelines to regulate the Defender of Rights' selection. Its choice is based on social and political context, visibility, and its workload. Often, it limits its interventions to claims that contribute to the determination of new issues. Other claims are dealt with through local mediation, communication of a model framework decision that presents the applicable law and warnings to the perpetrator. An institutional choice to favour mediation and formal warnings is extensively explained in the 2025 report.⁴⁸³ Cases

⁴⁸¹ Defender of Rights (2025), *Rapport annuel d'activité 2024* (Annual report 2024), March 2025, available at: https://www.defenseurdesdroits.fr/sites/default/files/2025-03/ddd_rapport-annuel-2024_20250305.pdf.

⁴⁸² Defender of Rights (2026), *Rapport annuel d'activité 2025* (Annual report 2025), March 2026, available at: <https://www.defenseurdesdroits.fr/rapport-annuel-dactivite-2025-1107>.

⁴⁸³ Defender of Rights (2026), *Rapport annuel d'activité 2025* (Annual report 2025), March 2026, available at: <https://www.defenseurdesdroits.fr/rapport-annuel-dactivite-2025-1107>.

may also be closed if delays are too long given available resources, or the facts do not justify an intervention.

The difficulty the Defender of Rights currently faces in investigating all claims due to insufficient resources does not put the body in a position to provide independent assistance to all the victims who address their claim to the institution.

7.4 Status of the designated body – general independence and resources

a) Status of the body

- Separate or other status or personality

The Defender of Rights (*Défenseur des droits*) was established by Institutional Act (*loi organique*) No. 2011-333 of 29 March 2011 pursuant to Article 71-1 of the Constitution.

The Institutional Act provides for the centralisation of all powers within the control of the person of the Defender of Rights. It is an independent nominative institution holding legal personality that is personified by the individual appointed.

- Selection of governing body

The Defender of Rights is proposed by the President of the Republic and appointed by the Council of Ministers as the Defender of Rights after consultation with both chambers of Parliament. The position cannot be revoked, and the mandate is non-renewable (Article 1). Since its creation, the people nominated to this position have been former politicians and public figures, but never specialists in human rights or anti-discrimination.

The Defender of Rights personally nominates four deputies, one for each of the fields of action (Article 11 of the Institutional Act). In addition, the Defender is assisted by three commissions (one for rights of children, one for ethics in security and one for discrimination). The members of these collegial bodies are designated by Parliament and the supreme courts. When new matters arise, the Defender can consult the collegial body dedicated to discrimination issues (Article 15 of the Institutional Act) comprising eight members nominated by various institutions (three by the Senate, three by the National Assembly, one by the Conseil d'État and one by the Court of Cassation (Articles 11 and 13 of the Institutional Act)). However, the Defender of Rights is not bound by any internal counter power and is not bound to follow the position of the collegial body.

Furthermore, the process of appointment of the members of the collegial body of the Defender of Rights continues to be influenced strongly by political forces (six out of eight members are appointed directly by political authorities).

- Sources of funding

The budget of the Defender of Rights is decided by the Government and voted on by Parliament as part of the Prime Minister's budget. Its budget is global, and does not distribute its resources to specific aspects of its mandate. The Defender of Rights has total control over the execution of its budgetary envelope (Article 10 of the Institutional Act) and attributes funds according to his or her priorities and the respective volume of claims related to each of its mandates. In its 2025 activity report, in the context of a stable budget, it stresses its underfunding in the face of the enlargement of its mandate and the number of claims it receives.⁴⁸⁴ Since the discrimination mandate has progressively lost its priority status within the institution, the volume of activity and resources applied to this mandate has significantly decreased.

⁴⁸⁴ Defender of Rights (2026), *Rapport annuel d'activité 2025* (Annual report 2025), March 2026, available at: <https://www.defenseurdesdroits.fr/rapport-annuel-dactivite-2025-1107>, at page 140.

- Power to recruit and manage the staff

The Defender of Rights has the power to recruit and manage its staff (Article 37 of the Institutional Act).

- Accountability

The Defender of Rights also decides what claims to pursue (Article 24 of the Institutional Act).

The Defender of Rights is accountable to Parliament and the President of France. This accountability takes the form of an annual report on its activity (Article 38(II) of the Institutional Act) in conformity with Article 17(b) of Directive 2024/1499. Parliament and the President can comment but cannot interfere. Its independence prevents all legal means of interference with its activity.

b) Independence of the body

The body can be held to be independent in theory and in practice and to conform to the requirements of Article 3 of Directive 2024/1499.

Article 2 of the Institutional Act expressly provides that the Defender of Rights is independent and takes no instruction. The administrative status of the Defender of Rights is not subject to the hierarchical authority of Government. In addition, Article 1 of the Institutional Act provides that the Defender's mandate cannot be renewed, and that the appointment cannot be revoked except upon his or her request or for reasons related to his or her ability to perform the functions of the role, as defined in Articles 3 to 5 of Decree No. 2011-905 of 29 July 2011.⁴⁸⁵

The Defender of Rights has free management of its budget and staff. However, the body's financial resources are limited. The applicable budgetary legislation provides that they are derived completely from public funds, which are voted on by Parliament every year as part of the Prime Minister's budget⁴⁸⁶ and thereby could be subject to budgetary cuts. In practice, such action by the Government has not occurred.

The Defender of Rights and the deputies must resign from all other positions (elected office, public employment, NGO activity, or any other professional activity) (Article 3 of the Institutional Act).

The current Defender of Rights does not hesitate to take an independent stand before Parliament and jurisdictions, and towards private respondents and public services.

c) Resources

– The annual budget of the body

⁴⁸⁵ Decree No. 2011-905 of 29 July 2011 relating to the organisation of the Defender of Rights (*Décret No. 2011-905 du 29 juillet 2011 relatif à l'organisation et au fonctionnement des services du Défenseur des droits*) available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000024414634&categorieLien=id>.

⁴⁸⁶ Law No. 2001-692 of 1 August 2001 relating to budgetary laws (*Loi organique n° 2001-692 du 1 août 2001 relative aux lois de finances*), at Article 7, available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000394028>; Law No. 2017-55 of 20 January 2017 on the status of public administrative authorities (*Loi n° 2017-55 du 20 janvier 2017 portant statut général des autorités administratives indépendantes et des autorités publiques indépendantes*), at Article 23, available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000033897475&categorieLien=id>.

The annual budget of the body for 2025 is EUR 29 450 798.⁴⁸⁷

Its budget is structured without reference to allocation for each area of competence: 71.4 % of the budget of the institution is dedicated to staff (EUR 21 037 755) and 28.5 % (EUR 8 413 043) is dedicated to expenses; 42 % of this budget is dedicated to the expenses of the delegates (EUR 3 533 478).

In 2024, 5 % of the body's expenses budget for its functions was dedicated to research (EUR 420 652) and 13 % to promotion and communication campaigns (EUR 1 093 695).

- The share of the annual budget dedicated to the equality body mandate

The Defender of Rights does not have a dedicated budget for the anti-discrimination mandate. The allocation of its resources depends on its overall priorities regarding an infinite number of issues that fall within its very wide sphere of competence, on the one hand, and the demands of its different mandates on the other.

The institution is the Ombudsman and has an immense workload. Given that the budget is stable and the number of complaints across all its mandates increases constantly, the allocation of its resources to the anti-discrimination mandate is contingent on the pressure on its other mandates and allocation choices. The present Defender of Rights has given priority to the fight against poverty as a specific issue and questions addressing multiple aspects of its mandate. Therefore, the anti-discrimination mandate per se has progressively lost its priority status within the institution, and the volume of activity and resources related to activities addressing the EU anti-discrimination grounds has significantly diminished.

In its 2025 activity report, the Defender of Rights complains that it has insufficient resources.⁴⁸⁸ However figures from the 2025 activity report do not allow us to identify the share of the budget dedicated to the anti-discrimination mandate. Considering that its activity regarding the anti-discrimination mandate has decreased and the insufficiency of resources, the budget of the Defender of Rights does not meet the requirement of Article 4 of Directive 2024/1499.

- The total number of staff of the body

The body has a staff of 263 full-time agents.

- The number of staff dedicated to the equality body mandate

There are approximately 130 lawyers who may all deal with equality and discrimination cases for 10 % of their time and 30 lawyers who have a case load that particularly concentrates on discrimination cases. Overall, approximately 10 % of the head office's legal work is dedicated to discrimination claims.

In addition, a dedicated national internet platform, Antidiscrimination.fr, to access information and make requests and complaints was launched in February 2021. This platform is staffed by seven employees answering directly on a chat and rapid response scheme to facilitate access to rights and information, backed up by 10 employees dedicated to coordinating the local response to discrimination claims made to the Defender of Rights by the local delegates of the Defender of Rights.

⁴⁸⁷ Defender of Rights (2026), *Rapport annuel d'activité 2025* (Annual report 2025), March 2026, available at: <https://www.defenseurdesdroits.fr/rapport-annuel-dactivite-2025-1107>.

⁴⁸⁸ Defender of Rights (2026), *Rapport annuel d'activité 2025* (Annual report 2025), March 2026, available at: <https://www.defenseurdesdroits.fr/rapport-annuel-dactivite-2025-1107>, at page 140.

Regarding the promotion of rights, a service comprising two units and 20 staff members contributes approximately 30 % of its activity to research in the anti-discrimination field and promoting equality and anti-discrimination.

The global budget is administered by making priorities at the discretion of the Defender of Rights. It is apparent that the public service function relating to difficulties in relations with the public service unrelated to discrimination issues is taking priority over strict anti-discrimination work, if we compare the number of claims dealt with in the different areas of competence, the focus on the work of volunteer delegates who mainly deal with these public claims all over the territory to absorb the load of claims, the number of dedicated staff and the allocated budget (cf. Section 7.4.c).

The budget does not allow the body to investigate thoroughly all the claims it receives in a timely manner in conformity with Article 9(1) of Directive 2024/1499, as the equality body is understaffed. In its activity report for 2025, the Defender of Rights explicitly notes its chronic understaffing.⁴⁸⁹ In addition, claims are managed in such a way as to optimise the budget and the decision has been taken to refer most of them to non-specialised delegates at a lower cost.

The staff currently allocated to the Defender of Rights for discrimination is approximately 50 full-time staff members compared to the 90 staff employed by its predecessor the HALDE in 2010.

The research and promotion activities relating to the equality mandate do not cover monitoring, auditing, data collection or the production of a periodic report on the state of equal treatment and discrimination in France as provided by Article 17(c) of Directive 2024/1499.

7.5 Grounds and fields covered by the designated body

The Defender of Rights is competent for all forms of discrimination prohibited by French law and international conventions which cover all grounds and domains covered by EU law. It is therefore readily adaptable to any future legal developments. It also covers grounds recognised by international law and jurisprudence that are not expressly stated in French legislation, including social origin, birth and language, in all areas regulated by law or covered by international conventions. Its scope goes beyond the requirements of Directives 2000/43/EC and 2002/73/EC.⁴⁹⁰

Overall, the Defender of Rights is vigilant in addressing the seven TFEU grounds, with a particular focus on origin, sexual orientation, gender, the rights of Roma and Travellers, the rights of documented foreign citizens and the rights of undocumented migrants.

It covers all fields addressed by French legislation on all the grounds, i.e. employment, self-employment, working conditions, pay, dismissal and retirement, access to all forms of vocational guidance and training, social advantages, membership and involvement in organisations of workers, private goods and services whether accessible to the public or not, housing, education, all public service including security and police forces, access to health, and social protection. In addition, given its competence with regard to all issues around rights and freedoms relating to the Government and public services, it may address

⁴⁸⁹ Defender of Rights (2026), *Rapport annuel d'activité 2025* (Annual report 2025), March 2026, available at: <https://www.defenseurdesdroits.fr/rapport-annuel-dactivite-2025-1107>.

⁴⁹⁰ Mores (mœurs), sexual orientation, sex, pregnancy, gender identity, belonging, whether real or supposed to an ethnic origin, nation, race or specific religion, physical appearance, last name, family situation, trade union activities, political and philosophical opinions, age, health, disability, genetic characteristics, loss of autonomy, place of residence, capacity to express oneself in a language other than French, economic vulnerability, refusal to be a victim of bullying, banking residence (domiciliation bancaire), undertaking of a local political mandate.

problems of discriminated groups beyond the purview of the legal framework of anti-discrimination.

The designated body generally addresses all grounds and issues within its realm of competence and deals with all the requests and complaints it receives. However, in its strategic orientation, it pays particular attention to the grounds of disability, health, sex, gender identity⁴⁹¹ and vulnerable economic condition.

Discrimination on the ground of race and ethnic origin and intersectional discrimination against Muslims are covered in its complaints and research work, but remain very difficult to enforce with meaningful results due to the fact that they are not strategic priorities, and in the absence of a dedicated approach and resources.

7.6 Competences of the designated body – and their independent exercise

The Defender of Rights executes its mandate first by investigating complaints and secondly by pursuing a broad spectrum of actions relating to the promotion of rights such as the publication of guides, surveys, research, training, consultation with stakeholders and communication campaigns.

a) Independent assistance to victims

In France, the designated body has the competence to provide independent assistance to victims.

The Defender of Rights receives individual requests and complaints and assists each person in formalising their claim and identifying the proper action before the court. This competence conforms to the requirements of Article 6 of Directive 2024/1499.

Throughout the country, 650 delegates directly receive the victim in person and help them to formalise their claim. They can offer amicable resolution services. Complaints that require formal investigation are then addressed to the central head office. Around 9 % of the activity of delegates is devoted to complaints alleging discrimination.

The head office also receives complaints directly. When a complaint is within its area of competence, it can assist the claimant in formalising their complaint and will then seek justification from the respondent. It can investigate individual and collective complaints, whether the investigation is initiated of its own accord or following a written request from the claimant, a trade union or an NGO.

The anti-discrimination platform had a substantial impact on the increase in requests and complaints in 2021, 2022 and 2023.⁴⁹²

Claims are not *systematically* investigated due to insufficient resources. A discretionary choice of the claims to be investigated, as authorised by Article 24 of the Institutional Act, is made. The Defender of Rights selects the claims it investigates and those regarding which it intends to adopt a formal decision. The criteria of selection are not formalised and

⁴⁹¹ The purview of situations covered by gender identity has not yet been interpreted by the courts. However, parliamentary discussions clearly indicate that in France, gender identity is considered to cover gender identity expression and sex characteristics: see Jaunait, A. (2020) 'Génèses du droit de l'identité de genre, approches des configurations socio-juridiques' (Genesis of the law of gender identity: socio-juridical issues), *Droit et Société*, 2020/2, No. 105 pp. 429-451, available at: <https://www.cairn.info/revue-droit-et-societe-2020-2-page-429.htm>.

⁴⁹² Defender of Rights (2022), *Annual report 2021, Report on the first year of activity on the anti-discrimination platform*, July 2022, available at: <https://www.defenseurdesdroits.fr/rapport-annuel-dactivite-2021-263>; Defender of Rights (2023), *Annual report 2022*, available at: <https://www.defenseurdesdroits.fr/rapport-annuel-dactivite-2022-254>; Defender of Rights (2024), *Annual report 2023*, available at: <https://www.defenseurdesdroits.fr/rapport-annuel-dactivite-2023-596>.

remain completely discretionary. In fact, there are no guidelines to regulate the Defender of Rights' selection. Its choice is based on social and political context, visibility, and its workload. Often, it limits its interventions to claims that contribute to the determination of new issues. Other claims are dealt with through local mediation, communication of a model framework decision that presents the applicable law, warnings to the perpetrator, or may be closed if delays are too long given available resources, or the facts do not justify an intervention.

As a matter of fact, considering that the Defender of Rights does not have the means to address all claims due to insufficient resources, it is prevented from providing independent assistance to all the victims who address their claim to the institution.

The Defender of Rights has legal investigative powers that conform to the requirements of Article 8 of Directive 2024/1499. They allow the Defender of Rights, if it so decides, to request explanations from any public or private person, including the communication of documents and the hearing of relevant witnesses (Article 20).

Since the creation of the HALDE, this power of investigation has represented a substantial part of the institution's role in assisting victims.

In cases of non-cooperation with its investigative services, the Defender of Rights can request a court order and can also pursue the respondent for contempt (Article 21). The Defender of Rights may also ask that all required investigations be carried out by any service of the state and conduct visits to any non-private premises after due notice and with the consent of the owner (Article 18). Finally, the law gives the investigators authority to issue a sworn statement concluding that discrimination has taken place, which can only be contradicted by way of substantial evidence before the courts (Article 22).

In the case of a criminal offence, the Defender of Rights may submit the claim to the criminal courts or proceed with a penal settlement (Article 28). This is a kind of negotiated criminal sanction offered to perpetrators of direct discrimination by application of Article 28 of the Institutional Act, enforced exclusively by the Defender of Rights. It means that the Defender of Rights, following the investigation of a complaint resulting in a finding of direct intentional discrimination by the person or entity investigated, is authorised to suggest a specific criminal sanction to the perpetrator, which they can either accept or reject. This could be a fine or publication (for instance in a press release) of the fact that discrimination has taken place and, if relevant, an award of compensation to the victim. If the proposed negotiated criminal sanction is rejected or if there is a subsequent failure to comply with its conditions, the Defender of Rights may initiate a criminal prosecution, in place of the public prosecutor, before a criminal court (Article 33). This system has much in common with the procedures followed by other administrative authorities, which have the power to propose on-the-spot fines for an infringement of the criminal law, such as the tax, customs or water and forest authorities.

Otherwise, the Defender of Rights can deal with any complaint by pursuing an equitable settlement (Articles 26 and 28), which in French law consists of proposing a solution correcting the unfairness of a strict application of the law despite the absence of effective means of legal action (Article 25), and it may recommend mediation to the parties.

When the Defender of Rights completes the investigation, if it finds that a claimant's allegation appears to be well founded, it will, in a second phase, issue conclusions and opinions to the parties who are given a certain amount of time to comply (Article 25). These opinions can include a request for disciplinary sanctions (Article 29). The Defender of Rights can also make general recommendations to the parties, Government, public bodies or interest groups and propose legislative and regulatory reforms and the amendment of existing legislation.

In cases of non-compliance, the Defender has the power to issue 'injunctions', failing which the body will draw public attention to its opinions and recommendations and the failure to comply (Article 25). In addition, it may alert the relevant authorities if disciplinary sanctions against the respondent are required.

The Defender of Rights may also decide not to adopt a formal decision and choose to address to the claimant and defendant a framework decision indicating the applicable law.

In 2024, it undertook 1 233 mediations relating to discrimination claims, 708 of which were successful. It adopted 216 decisions, 92 of which related to discrimination claims and 37 contained opinions, issued 374 formal warnings reiterating the applicable law on all its mandates, and presented 7 opinions to Parliament. The 2025 annual activity report does not detail its activity in the anti-discrimination sphere and no longer includes the rate of compliance with its opinions and recommendations.⁴⁹³

It may also present independent observations before the courts in support of the position of the victim, filing evidence gathered through its investigation in the court record (Article 33). In 2024, there was a total of 109 observations before the courts and 120 in 2025. However, the activity report no longer indicates how many were related to the anti-discrimination mandate or rates of success before the courts.

The 2025 annual activity report asserts the institutional choice of the Defender of Rights to promote the resolution of individual claims through mediation and formal warnings to the perpetrators, leaving observations before the courts and formal recommendations to situations with a jurisprudential stake or structural impact.⁴⁹⁴

Meanwhile, when it decides not to investigate, when it concludes that a claim does not qualify as a discrimination or that its inquiry has not enabled it to establish discrimination, it will close the file with a summary letter informing the claimant of its decision, but it does not have the duty or the means to issue a duly motivated decision in each and every case. The Conseil d'État has decided that such a decision has no legal impact on claimants' rights and cannot be challenged before the courts.⁴⁹⁵

b) Independent surveys and reports

In France, the designated body has the competence to conduct independent surveys and publish independent reports in application of Article 34 of the Institutional Act in conformity with Article 16 of Directive 2024/1499.

The Defender of Rights conducts or participates in some external surveys/studies and finances a number of independent scientific research surveys and studies in the field of discrimination. It employs two staff members to carry out surveys and studies, and it commissions public research groups to engage in surveys and studies regarding the situation of discriminated groups and/or discrimination. Its total budget for all its mandates is EUR 420 652.

⁴⁹³ Defender of Rights (2026), *Rapport annuel d'activité 2025* (Annual report 2025), March 2026, available at: <https://www.defenseurdesdroits.fr/rapport-annuel-dactivite-2025-1107>.

⁴⁹⁴ Defender of Rights (2026), *Rapport annuel d'activité 2025*, pp. 63 to 86.

⁴⁹⁵ Conseil d'État, 14 February 2023, No. 470534; Conseil d'État, 20 April 2023, No. 471477.

In 2021, it published seven reports on discrimination issues,⁴⁹⁶ in 2022, four reports⁴⁹⁷ and four studies⁴⁹⁸ and its annual survey conducted with the International Labour Organization (ILO) on the perception of discrimination in employment.⁴⁹⁹ In 2023,⁵⁰⁰ it published three reports dealing with discrimination. In 2024, it published only two reports: its annual survey conducted with the ILO on the perception of discrimination in employment, focusing on the experience of persons over 50,⁵⁰¹ and a report on discrimination in universities.⁵⁰²

In 2025, it published 10 studies and reports, 5 of which dealt with discrimination often treated as inequality rather than that of prohibited grounds of discrimination.

First, three studies resulting from its 2nd overall survey on access to rights implemented in 2024-2025, conducted with IFOP (Institut français d'opinion publique - French Institute of Public Opinion) through a national survey implemented with the support of a number of research institutions.⁵⁰³ The survey was carried out between 10 October 2024 and 11 January 2025, with a sample of 5 030 persons between 18 and 79 years of age, through interviews of 37 minutes.⁵⁰⁴ There was also its annual survey conducted with the ILO on the perception of discrimination in employment;⁵⁰⁵ its survey on the perception of discrimination on the ground of religion,⁵⁰⁶ and its survey on inequalities implemented by police forces.⁵⁰⁷

⁴⁹⁶ Defender of Rights (2021), all available at: <https://www.defenseurdesdroits.fr/fr/publications?tid=7>.

⁴⁹⁷ Defender of Rights (2022), all available at: <https://www.defenseurdesdroits.fr/fr/publications?tid=1793>.

Defender of Rights (2022), *Accompagnement humain des élèves en situation de handicap* (The human support given to children with disabilities at school), available at:

<https://www.defenseurdesdroits.fr/fr/rapports/2022/08/rapport-accompagnement-humain-des-eleves-en-situation-de-handicap>.

⁴⁹⁸ Defender of Rights (2022), available at: <https://www.defenseurdesdroits.fr/fr/publications?tid=1793>.

⁴⁹⁹ Defender of Rights (2022) *15e Baromètre de la perception des discriminations dans l'emploi*, available at:

<https://www.defenseurdesdroits.fr/fr/etudes-et-recherches/2022/12/enquete-15e-barometre-sur-la-perception-des-discriminations-dans>.

⁵⁰⁰ Defender of Rights (2023), *Éclairages- L'expérience du racisme et des discriminations des personnes originaires d'Asie de l'est et du Sud-est en France (REACTASIE)* (Spotlight- The experience of racism and discrimination by persons originating from Eastern and South Eastern Asia (REACTASIE)), available at:

<https://www.defenseurdesdroits.fr/eclairages-l'experience-du-racisme-et-des-discriminations-des-personnes-originares-dasie-de-lest-et>; *Éclairages- Les discriminations en raison du genre et de l'origine supposée sur deux plateformes collaboratives* (Spotlight – Discrimination on the ground of gender and apparent origin against independent workers hired through online applications) available at:

<https://www.defenseurdesdroits.fr/eclairages-les-discriminations-en-raison-du-genre-et-de-lorigine-supposee-sur-deux-plateformes-284>; ILO France (2023), *Étude- 16e baromètre sur la perception des discriminations dans l'emploi* (Study- 16th barometer on the perception of discrimination in employment) available at: <https://www.defenseurdesdroits.fr/etude-16e-barometre-sur-la-perception-des-discriminations-dans-lemploi-524>.

⁵⁰¹ Defender of Rights (2024), *17th Baromètre sur la perception des discriminations dans l'emploi* (17th barometer on the perception of discrimination in employment), available at:

<https://www.defenseurdesdroits.fr/enquete-17eme-barometre-de-la-perception-des-discriminations-dans-lemploi-758>.

⁵⁰² Defender of Rights (2024), *Dénoncer les discriminations vécues à l'université : entre silence, révélation et signalement* (Denouncing discrimination in university: between silence, revelation and claim), available at:

<https://www.defenseurdesdroits.fr/eclairages-denoncer-les-discriminations-vecues-luniversite-entre-silence-revelation-et-signalement>.

⁵⁰³ Certop/CNRS, Crespip / CNRS, ODEOR and INED.

⁵⁰⁴ Defender of Rights (2025), *Enquête sur l'accès aux droits* (Survey on Access to Rights), 2^e édition, Volume 1, June 2025, available at: [https://www.defenseurdesdroits.fr/sites/default/files/2025-06/ddd_EAD-](https://www.defenseurdesdroits.fr/sites/default/files/2025-06/ddd_EAD-2024_volume-1_relations-police-population.pdf)

[2024_volume-1_relations-police-population.pdf](https://www.defenseurdesdroits.fr/sites/default/files/2025-06/ddd_EAD-2024_volume-1_relations-police-population.pdf).

⁵⁰⁵ Defender of Rights (2025), *Les évolutions des discriminations dans l'emploi entre 2016 et 2024 - 18e baromètre sur la perception des discriminations dans l'emploi*, (The Evolution of discrimination in employment between 2016 and 2024), *Survey on access to rights, 2nd edition*, volume 3, December 2025, available at: <https://www.defenseurdesdroits.fr/etudes-et-rapports-126?page=1>.

⁵⁰⁶ Defender of Rights (2025) *Les discriminations fondées sur la religion* (Discrimination on the ground of religion), available at: <https://www.defenseurdesdroits.fr/etudes-et-rapports-126?page=1>

⁵⁰⁷ Defender of Rights, *Solliciter les forces de l'ordre : Évolutions et inégalités relatives à l'accès au service public policier*, (Evolution and inequalities regarding the public service of police forces, with the support of CNRS and CESDIP), *Éclairages*, March 2025, available at: <https://www.defenseurdesdroits.fr/etudes-et-rapports-126?page=1>.

In addition, it published a study on inequalities in access to healthcare,⁵⁰⁸ and an audit of the enforcement of the right of persons with disabilities 20 years after the adoption of the Law on Disability of 11 February 2005.⁵⁰⁹

Furthermore, the law provides that each year the Defender of Rights will submit a report to the President of France and Parliament on its activity with a specific annex relating to its function as the equality body (Article 3(II)). The activity report for 2024 was published on 25 March 2025.⁵¹⁰

The Defender of Rights is however not required by law, and does not publish one or more reports on the state of equal treatment and discrimination in France as provided for by Article 17(c) of Directive 2024/1499. The Defender of Rights has never published a comprehensive report, been compelled to report on all discrimination grounds and domains, and this is not a mandatory mandate. Since 2011, it has published thematic reports such a report on the state of discrimination on the ground of origin in 2020,⁵¹¹ a report on discrimination on the ground of religion in 2025,⁵¹² and a report on the state of the rights of persons with disability in 2025,⁵¹³ but the choices of reporting themes are discretionary.

- Work programme and strategic planning

The Defender of Rights is not required by law to adopt a work programme setting out priorities and prospective activities as provided by Article 17(a) of Directive 2024/1499.

In 2024, it undertook, for the first time, to produce a multiannual strategic plan setting priorities regarding its overall mandate, which will last until July 2026, the end of the present Defender of Rights' mandate; it states that the institution will pursue the development of all of its mandate while addressing the impact of poverty, AI and environmental issues on the defence of human rights.⁵¹⁴

This strategic plan does not specifically address a work programme in matters of anti-discrimination related to TFEU grounds.

c) Recommendations

In France, the designated body has the competence to issue independent recommendations on discrimination issues to private and public respondents, as well as governmental authorities regarding their policies in conformity with Articles 9 and 15 of the Directive.

⁵⁰⁸ Defender of Rights (2025), *Prévenir les discriminations dans les parcours de soins : un enjeu d'égalité*, (Preventing discrimination in access to healthcare: a question of equality), Report, May 2025, available at: <https://www.defenseurdesdroits.fr/etudes-et-rapports-126?page=1>.

⁵⁰⁹ Defender of Rights (2025), *Handicap: 20 ans après la loi de 2005, et maintenant ?* (Disability: 20 years after the law of 2005, and what now ?), available at: <https://www.defenseurdesdroits.fr/handicap-20-ans-apres-la-loi-de-2005-et-maintenant-811>.

⁵¹⁰ Defender of Rights (2025), *Rapport annuel d'activité 2024* (Annual report 2024), March 2025, available at: https://www.defenseurdesdroits.fr/sites/default/files/2025-03/ddd_rapport-annuel-2024_20250305.pdf.

⁵¹¹ Defender of Rights (2020) *Discriminations et origines: l'urgence d'agir* (Report on the situation of discrimination on the ground of origin in France), June 2020, available at: <https://www.defenseurdesdroits.fr/fr/rapports/2020/06/discriminations-et-origines-lurgence-dagir>.

⁵¹² Defender of Rights (2025) *Les discriminations fondées sur la religion* (Discrimination on the ground of religion), available at: <https://www.defenseurdesdroits.fr/etudes-et-rapports-126?page=1>.

⁵¹³ Defender of Rights (2025), *Handicap: 20 ans après la loi de 2005, et maintenant ?* (Disability: 20 years after the law of 2005, and what now ?), available at: <https://www.defenseurdesdroits.fr/handicap-20-ans-apres-la-loi-de-2005-et-maintenant-811>.

⁵¹⁴ Defender of Rights (2025), *Rapport annuel d'activité 2024* (Annual report 2024), March 2025, p. 95, available at: https://www.defenseurdesdroits.fr/sites/default/files/2025-03/ddd_rapport-annuel-2024_20250305.pdf.

This activity is carried out through recommendations to Parliament and Government when reviewing and discussing public policies and legislation, and further to findings resulting from claims (Articles 25 and 32).

This competence is exercised in an independent manner.

In February 2024, it presented its recommendations on fighting discrimination at the conclusion of the seminar it organised on present stakes in the fight against discrimination in France. It particularly stressed the gravity of the situation of discrimination on the ground of origin and the necessity to find methods to measure and monitor this phenomenon.⁵¹⁵

In 2025, the Defender of Rights submitted nine legislative opinions to Parliament, two of which related to the legal framework for the fight against discrimination: one relating to Bill No. 571 aimed at reinforcing the inclusive framework for children with special educational needs;⁵¹⁶ one regarding the reform of the reception of Travelers.⁵¹⁷ Both of these bills have not yet been voted on.

Recommendations of the Defender of Rights are often expressly sought by Parliament and are taken seriously. They are also very often taken into consideration, particularly as regards the rights of persons with disabilities and access to the public service in general.

As mentioned in Section 7.6(a), one of the possible outcomes of claims investigations is for the body to make general recommendations, for example if the lawyer finds an incoherence or inadequacy in the law or ministerial instructions. The recommendation can take the form of a demand to create policy or to make legislative reforms.

General recommendations and proposals for reform are issued by way of a formal decision whenever the finding of the Defender of Rights in an individual case indicates deficiencies in a law, rule or practice that justifies the issuing of a general recommendation. They are published on its website and the most important ones are presented in its annual report, in conformity with Article 9(3) of the Directive.

The number of recommendations and reform proposals followed were not published in its 2023 and 2024 activity reports.

d) Prevention, promotion and awareness raising

The designated body has competence to engage in the prevention of discrimination, in the promotion of equal treatment, and to adopt a strategy defining how it will engage in public dialogue, communicate with individuals and groups at risk, provide training and guidance and promote equality duties, equality mainstreaming and positive action among public and private entities in conformity with Article 5 of the Directive.

These responsibilities are exercised in an independent manner in practice.⁵¹⁸

⁵¹⁵ Defender of Rights (2024), *Lutter contre les discriminations: les recommandations du Défenseur des droits* (Fighting discriminations: the recommendations of the Defender of Rights), available at: https://www.defenseurdesdroits.fr/sites/default/files/2024-02/DDD_colloque_8-02-2024.pdf.

⁵¹⁶ Defender of Rights, *Avis 25-06 du 5 juin 2025 relatif à la proposition de loi n° 571 visant à renforcer le parcours inclusif des enfants à besoins éducatifs particuliers*, Opinion 25-06 of 5 June 2025 regarding Bill No. 571 aimed at reinforcing the inclusive framework for children with special educational needs: https://juridique.defenseurdesdroits.fr/index.php?lvl=notice_display&id=55126&opac_view=-1.

⁵¹⁷ Defender of Rights, *Avis 25-05 du 21 mars 2025 relatif à la proposition de loi n° 906 pour réformer l'accueil des gens du voyage*, Opinion no 25-05 of 21 March 2025 regarding Bill No. 906 to reform the reception of Travellers, available at: https://juridique.defenseurdesdroits.fr/index.php?lvl=notice_display&id=54194&opac_view=-1.

⁵¹⁸ Defender of Rights, *Tools (Outils)*, available at: <https://www.defenseurdesdroits.fr/fr/outils>.

This competence is exercised through the service that holds the mandate to 'promote equality and access to rights' in all areas of competence of the Defender of Rights. Its activities are planned annually and cover:

- reports (see Section 7.6.b above)
- an observatory analysing the data resulting from the 140 996 claims it received during the year in all its areas of competence;
- Contributing to the production of tools and the engineering of training of professionals.

The Defender of Rights coordinates several consultative committees with NGOs on all grounds of discrimination. These six-monthly meetings provide an opportunity to keep NGOs informed of the Defender of Rights' actions and likewise to keep the Defender of Rights informed of the concerns of NGOs. There are consultative committees on LGBT+ rights, rights of persons with disabilities, health, equality between women and men, discrimination on the grounds of origin and religion, the rights of older people and since 2023, a committee on the rights of economically vulnerable/precarious persons.

In addition, the Defender of Rights and her representatives participate in a significant number of events as well as organising national and international conferences and meetings. In 2022, they organised a conference on collective action in cases of discrimination,⁵¹⁹ and, together with Equinet, a European conference on the theme of the reinforcement of equality bodies across Europe.⁵²⁰ No conference on the topic of discrimination was organised in 2023 but one event was organised in 2024, which gave rise to the body's general recommendations to fight discrimination on all grounds.⁵²¹ No event was held in 2025.

The Defender of Rights has considerably reduced its focus on actions to promote rights in the sphere of anti-discrimination in favour of its commitment to children's rights, the fight against poverty and access to public services.

e) Other competences

The Defender of Rights also has competence in matters related to the promotion and support of good practice, awareness raising, training and communication (Article 34) in conformity with Article 5 of the Directive.

These responsibilities are exercised in an independent manner in practice.

To this end, it has published several terms of reference of good practice in the form of guides and guidelines over the years.⁵²²

In 2023, it published a guide for the protection of whistleblowers⁵²³ and a handbook containing 16 factsheets dedicated to the access to rights of Travellers.⁵²⁴ In 2024, it

⁵¹⁹ Defender of Rights (2022), *Actes de la mobilisation collective à la reconnaissance des discriminations systémiques en droit* (Conference proceedings: From collective action to the recognition of systemic discrimination in law), available at: <https://www.defenseurdesdroits.fr/fr/publications?tid=1794>.

⁵²⁰ Defender of Rights (2022), European conference, available at: <https://www.defenseurdesdroits.fr/fr/a-la-une/2022/05/conference-europeenne-le-defenseur-des-droits-et-le-reseau-equinet-mobilises-pour>.

⁵²¹ Defender of Rights (2024), *Lutter contre les discriminations: les recommandations du Défenseur des droits* (Fighting discriminations: the recommendations of the Defender of Rights), available at: https://www.defenseurdesdroits.fr/sites/default/files/2024-02/DDD_colloque_8-02-2024.pdf.

⁵²² Defender of Rights, *Tools (Outils)*, available at: <https://www.defenseurdesdroits.fr/fr/outils>.

⁵²³ Defender of Rights (2023) 'The guide for whistleblowers' (*Le guide du lanceur d'alerte*), March 2023, available at: <https://www.defenseurdesdroits.fr/guide-du-lanceur-dalerte-314>.

⁵²⁴ Defender of Rights (2023) 'Travellers: Obtain respect for your rights' (*Gens du voyage: faire respecter vos droits*), 16 Factsheets, February 2023, available at: <https://www.defenseurdesdroits.fr/gens-du-voyage>.

published a thematic portfolio on discriminatory police checks.⁵²⁵ In 2025, it published a new edition of its guidelines to real estate professionals to prevent discrimination in access to housing,⁵²⁶ and a framework decision regarding respect of gender identity and the rights of transgender persons.⁵²⁷

The Defender of Rights pursues communications activities through its website, the publication of leaflets, posters in all public services, its network of local delegates and its media strategy.

7.7 Legal standing of the designated body

In France, the designated body:

- does not have legal standing to bring discrimination complaints (on behalf of identified victims) to court;
- does not have legal standing to bring discrimination complaints (on behalf of non-identified victims) to court;
- does not have legal standing to bring discrimination complaints *ex officio* to court;
- has legal standing to intervene in legal cases concerning discrimination, for example, as an *amicus curiae*.

The Defender of Rights has been conceived as a 'judicial official' (Article 33): the law creates the possibility for the criminal, civil and administrative courts to seek its observations in cases already under adjudication. In addition, the Law on Equal Opportunities extended its power to the submission of observations on its own initiative before the criminal, civil and administrative courts.

Constitutional law requires that the position of all public institutions be impartial. Therefore, the Defender of Rights cannot bring a case before the court on its own behalf or on behalf of a victim, except when it acts as public prosecutor as regards direct citations before the criminal courts in the event of a refusal by a respondent to comply with the demands of a penal transaction or settlement (Article 28 of the Institutional Act creating the Defender of Rights).

Until 2022, the Defender of Rights, and previously its predecessor the HALDE, presented observations in discrimination cases in support of claimants in an average of 100 cases per year, substantially contributing to the development of jurisprudence in France. In 2022, this number fell by more than half, as it presented observations in 175 cases of which 42 related to discrimination cases. In 2023, there were 150 observations before the courts in total and no information was published identifying the number of observations in discrimination cases. The 2024 and 2025 annual activity reports do not provide information on the number of observations presented before the courts related to the anti-discrimination mandate.⁵²⁸

⁵²⁵ Defender of Rights (2024), *Contrôles d'identité: que dit le droit et comment mettre fin aux contrôles discriminatoires*, (Police identity checks: what the law says and how to put an end to discriminatory checks), available at: <https://www.defenseurdesdroits.fr/contrôles-didentite-que-dit-le-droit-et-comment-mettre-fin-fo-gender-identity-and-the-respect-aux-controles-discriminatoires-565>.

⁵²⁶ Defender of Rights (2025), *Nouvelle édition du guide à destination des professionnels de l'immobilier contre les discriminations dans l'accès au logement*, (New edition of the Guide to real estate professional against discrimination in access to housing), May 2025, available at: https://www.defenseurdesdroits.fr/sites/default/files/2025-05/ddd_guide_louer-sans-discriminer_2025_20250616_0.pdf.

⁵²⁷ Defender of Rights, *Décision cadre no 2025-112 du 16 juin 2025 relative au respect de l'identité de genre des personnes transgenres*, Decision no 2024-112 of 16 June 2025, defining terms of reference regarding the rights of transgender persons, 17 June 2025, available at: <https://www.defenseurdesdroits.fr/droits-des-personnes-transgenres-la-defenseure-des-droits-publie-une-nouvelle-decision-cadre-891>.

⁵²⁸ Defender of Rights (2026), *Rapport annuel d'activité 2025* (Annual report 2025), March 2026, available at: <https://www.defenseurdesdroits.fr/rapport-annuel-dactivite-2025-1107>.

In practice, the Defender of Rights only intervenes to present its independent view of the case in support of claimants in matters that have already been brought before the court by the claimant. It then files the result of its investigation.

Article 33 of the Institutional Act currently does not authorise the Defender of Rights to act as party to proceedings as required by Article 10(3)(c) and (4) of Directive 2024/1499, or to take sides in favour of a victim in application of Article 10(3)(a) and (b) of the Directive.

7.8 Dispute resolution

a) Quasi-judicial functions

In France, the body is not a quasi-judicial institution.

In France, there is no separate quasi-judicial body/institution competent to decide on discrimination cases.

Although the Defender of Rights pursues investigations and renders 'decisions', they have the status of administrative decisions. It does not hold hearings and its 'decisions' are not binding (Article 33 of the Institutional Act No. 2011-311 of 29 March 2011 creating the Defender of Rights).

The body, Defender of Rights, cannot issue binding enforceable 'decisions'. It can issue non-binding opinions:

- i) The body has no power to impose sanctions.
- ii) Nature and level of sanctions that can be imposed: N/A
- iii) Possibility to appeal:

The Defender of Rights' non-binding opinion after investigation of a claim cannot be appealed on the merits, internally or before the courts.⁵²⁹ Moreover, informal 'decisions' of the Defender of Rights refusing to investigate or dismissing a claim cannot be attacked before the courts either.⁵³⁰

- iv) Enforcement of binding decisions: N/A
- v) Implementation of non-binding opinions:

Article 25 of the Institutional Act No. 2011-311 of 29 March 2011 creating the Defender of Rights provides that the Defender of Rights has a power to follow up on its 'decisions' and require answers from respondents on measures taken to enforce them.

The Defender of Rights can decide in a special report to publicise a 'decision' that has not been enforced and the respondent's failure to implement it.

These 'decisions' are considered by administrative courts to be the only 'decisions' of the Defender of Rights that might have an adverse impact on respondents and therefore be

⁵²⁹ Conseil d'État, 7th Section, No. 414410, 22/05/2019, available at: <https://www.legifrance.gouv.fr/ceta/id/CETATEXT000038498628/>.

⁵³⁰ Conseil d'État, 1st and 4th Sections, No. 411132, 30/01/2019, available at: <https://www.legifrance.gouv.fr/ceta/id/CETATEXT000038077319>, Conseil d'État, 1st and 4th Sections, No. 427806, 10/06/2020, available at: <https://www.conseil-etat.fr/fr/arianeweb/CE/decision/2020-06-10/427806>.

susceptible of being attacked for breach of legality before the administrative courts.⁵³¹ To this day, no action attacking these decisions have been presented before the courts.

Enforcement of 'decisions' is followed by enforcement of each opinion and recommendation. No information was published in the 2023, 2024 and 2025 reports on this subject.

b) Amicable settlements

The Defender of Rights is the 'Mediator of the Republic' (French Ombudsman) and very visible on the agenda of promoting institutional and formal mediation.

It can deal with any case in its area of competence by pursuing an equitable settlement (Articles 26 and 28). Its intervention often consists of proposing a solution correcting the unfairness of a strict application of the law, the law authorising the Defender and its representatives to do so even in the absence of effective means of legal action. This competence conforms to the requirements of Article 7 of the Directive.

Most of the complaints addressed to the Defender of Rights are seen through by the 650 volunteer delegates disseminated throughout the national territory. Some are also dealt with by agents operating at the admissibility stage of the treatment process.

Discrimination claims represented 5 % of the Defender of Rights' activity in 2025. According to information directly communicated by the body, in 2024, it undertook 1 233 mediations relating to discrimination claims, 708 of which were successful. This information is not available for 2025.

The Defender of Rights can also recommend formal mediation to the parties, at any stage of the process (Article 25). It is often recommended when an out-of-court resolution will accelerate the treatment of a clear case and the parties agree. In such cases, the mediation is undertaken by a third party. There are only a few such recommendations each year, considering that they require agreement by all parties in favour of undertaking this process and respecting its outcome.

7.9 Procedural safeguards

The Defender of Rights is entrusted with investigative powers, third party intervention before the courts, recommendation powers and amicable resolution/mediation powers.

There are no legal texts or formal guidelines providing for procedural safeguards or firewalls regarding how these powers are cumulated or alternatively/successively taken on by the Defender's services. However, in practice, their implementation conforms to the requirements of Article 11 of the Directive. When amicable resolution does not lead to any result, the claim is transferred to investigation services, which should not have access to discussions that have been undertaken at the stage of amicable resolution.

7.10 Data collection by the designated body

a) Registration of complaints and decisions

In France, the designated body registers complaints and the number of complaints and decisions (by ground, field, type of discrimination, etc). This data is computed and made

⁵³¹ Conseil d'État, 7th Section, No. 414410, 22/05/2019, available at: <https://www.legifrance.gouv.fr/ceta/id/CETATEXT000038498628/>.

available to the public in the annual report in conformity with Article 16(1) of the Directive.⁵³²

The first year of activity of the anti-discrimination platform led to a 25 % increase in requests relating to discrimination. In 2021, 25 % of complaints were reported to be related to origin, 24 % to disability and 50 % to employment.⁵³³ In 2024, the institution received 5 679 formal complaints (-15 %) relating to discrimination issues,⁵³⁴ and in 2025 6 362, which is 314 fewer than in 2023.⁵³⁵

Complaints are divided between those received by delegates and those received at the head office. All claims that require formal inquiries addressed to a respondent or third party are dealt with by 1 of the 20 dedicated lawyers of the head office.

In 2025, the first ground of discrimination alleged by complainants was disability (27 %). Discrimination based on 'origin', which covers race, nationality and ethnic origin represented 18 % of complaints, followed by the ground of health (10 %). Age accounted for 4 % of complaints, sex and pregnancy for 7 %, religion and religious beliefs for 3 %, and sexual orientation for 2 %.

In 2024, 53 % of complaints relating to the anti-discrimination mandate alleged discrimination in employment (of which 48 % related to the ground of origin), 5 % in access to public services (of which 6 % related to the ground of origin), 11 % in access to education (of which 20 % related to the ground of origin and 20 % disability), and 23 % in access to goods and services including housing (of which 21 % related to the ground of origin, and 20 % to the ground of disability).

Since the activity report relating to 2021, the institution has not published data relating to the outcome of claims per area of competence, means of treatment, outcome, ground or area of discrimination.

b) Equality data collection

In France, the designated body does not collect general equality data.

As mentioned in Section 7.6.b, the equality body has a competence to undertake research and surveys alone or together with institutional partners in application of Article 34 of its Institutional Act. These pieces of research and surveys are made available to the public. They conform to the requirements of Article 16 of Directive 2024/1499.

In the course of the implementation of her powers of investigation in relation to a specific claim (Article 20), the Defender of Rights can question any private or public person or authority, such as public statistics and data authorities to request that existing data be made available to the Defender of Rights. This information is confidential and cannot be made available to the public except when the Defender of Rights publishes its formal decision on the outcome of the case.

⁵³² Defender of Rights (2020), *Rapport annuel d'activité 2019 (Annual report 2019)*, available at: <https://www.defenseurdesdroits.fr/fr/dossier-de-presse/2020/06/rapport-annuel-dactivite-2019>. Defender of Rights (2023), *Rapport annuel d'activité 2022 (Annual report 2022)*, available at: https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/ddd_rapport-annuel-2022_20230328.pdf.

⁵³³ Defender of Rights (2022) Report on the first year of activity on the anti-discrimination platform, February 2022, available at: <https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/dp-1an-antid-08.02.2022.pdf>.

⁵³⁴ Defender of Rights (2025), *Rapport annuel d'activité 2024 (Annual report 2024)*, March 2025, available at: https://www.defenseurdesdroits.fr/sites/default/files/2025-03/ddd_rapport-annuel-2024_20250305.pdf.

⁵³⁵ Defender of Rights (2026), *Rapport annuel d'activité 2025 (Annual report 2025)*, March 2026, available at: <https://www.defenseurdesdroits.fr/rapport-annuel-dactivite-2025-1107>.

7.11 Roma and Travellers

Since its creation, and the publication of a 2013 report on the implementation of the Ministerial Instruction of 26 August 2012 relating to the eviction of occupants of illegal campsites, the Defender of Rights has been at the forefront of the monitoring of Travellers and Roma rights.⁵³⁶

Claims received by the Defender of Rights do not always raise issues of discrimination law, but nevertheless underline problems in relation to public servants and the requirements of the rule of law in relation to migrant and Roma and Traveller communities, which are vulnerable and stigmatised.

It continues to receive a number of claims relating to the refusal of mayors to enrol Roma and migrant children in schools or school cafeterias, preferring to let the public authorities or the prefect and the Ministry of National Education intervene, rather than directly enrolling the children, as is their duty. In practice, some experts and some NGOs observe that this is a means to show their electorate that they are resisting the long-term settlement of these populations in their territory.⁵³⁷

In 2024, the Defender of Rights rendered a decision on the difficulties resulting from management of a community of Travellers during the time that their parking site was closed by city authorities for renovation.⁵³⁸

The Defender of Rights systematically reports to Parliament on bills relating to the rights of Roma, Travellers and foreign nationals.

Since 2015, the Defender has put in place an interdisciplinary task force, which has become a full-service permanent team, to build up expertise and address all the claims and issues relating to any violations of migrants' rights, including Roma, in areas such as access to residence permits, access to social protection, healthcare, education, emergency housing, family rights, employment and so on. To this end, the Defender has published a number of reports drawing attention to the claims in which it has to intervene and all pending legislative, administrative and legal issues regarding the rights of foreign nationals and precarious migrants including Roma.⁵³⁹

In 2021, the Defender published three reports on the effective protection of the rights of Roma persons, on the barriers to access to rights of Travellers and on access to education for Roma, Traveller and migrant children.⁵⁴⁰ These reports were followed by the publication

⁵³⁶ Ministerial Instruction of 26 August 2012 relating to the condition of eviction of occupants of illegal campsites (*Circulaire du 26 août 2012 relative à l'anticipation et à l'accompagnement des opérations d'évacuation des campements illicites*), available at: <https://www.gisti.org/spip.php?article2923>.

⁵³⁷ National Consultative Human Rights Commission (Commission nationale consultative des droits de l'homme - CNCDH) (2019), *Rapport 2018 sur la lutte contre le racisme, l'antisémitisme et la xénophobie* (Report 2018 on the fight against racism, antisemitism and xenophobia), available at: <https://www.cncdh.fr/publications/rapport-2018-sur-la-lutte-contre-le-racisme-lantisemitisme-et-la-xenophobie>; Human Rights League and the ERRC (2018), 'Recensement des évacuations forcées de lieux de vie occupés par des roms (ou des personnes désignées comme telles) en France en 2017' ('Census of forced evictions in living areas occupied by Roma (or people designated as such) in France'), available at: <https://www.ldh-france.org/recensement-evacuations-forcees-lieux-vie-occupes-roms-personnes-designees-telles-en-france-en-2017/>; Defender of Rights (2019), *Rapport annuel d'activité 2018* (Annual Report 2018), available at: <https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/raa-2018-num-19.02.19.pdf>.

⁵³⁸ Defender of Rights, Decision No. 2024-017 of 12 February 2024, available at: https://juridique.defenseurdesdroits.fr/index.php?lvl=notice_display&id=49800&opac_view=-1.

⁵³⁹ Defender of Rights (2016), *Les droits fondamentaux des étrangers en France* (The fundamental rights of foreigners in France), available at: <https://www.defenseurdesdroits.fr/fr/rapports/2016/05/les-droits-fondamentaux-des-etrangers-en-france>, and report section available at: <https://www.defenseurdesdroits.fr/fr/publications?tid=7>.

⁵⁴⁰ Defender of Rights (2021) *Pour une protection effective des droits des personnes Roms* (December 2021) and *Gens du voyage : lever les entraves aux droits* (October 2021), available at: <https://www.defenseurdesdroits.fr/fr/publications?tid=7>; Opinion 21-17 to Parliament on the obstacles to

of a leaflet containing 16 factsheets dedicated to the access to rights of Travellers in 2023⁵⁴¹ brought about by Travellers, in the context of a widespread mobilisation of local representatives for the rapid local treatment of claims. This initiative led to three times as many claims being brought by Travellers, one third of which raise issues related to access to water, access to legal parking sites, illegal parking, relations with police forces and registration in school. The remaining two thirds of claims raised issues related to the Defender of Rights' other mandates in relation to difficulties of access to rights generally. Since 2023, there have been no formal decisions regarding claims or initiatives targeting the rights of Travellers and Roma, except for the above mentioned (Section 7.6.c) Opinion to Parliament No. 25-05 regarding Bill 906 regarding the reform of the reception of Travellers.⁵⁴²

education of Roma, Traveller and migrant children in the context of the consultation conducted by MP Sandrine Mörch, available at:

https://juridique.defenseurdesdroits.fr/index.php?lvl=notice_display&id=41656&opac_view=-1.

⁵⁴¹ Defender of Rights (2023) 'Travellers: Obtain respect for your rights' (*Gens du voyage: faire respecter vos droits*), 16 Factsheets, February 2023, available at: <https://www.defenseurdesdroits.fr/gens-du-voyage>.

⁵⁴² Defender of Rights, *Avis 25-05 du 21 mars 2025 relatif à la proposition de loi n° 906 pour réformer l'accueil des gens du voyage*, (Opinion no 25-05 of 21 March 2025 regarding Bill No. 906 to reform the reception of Travellers), available at: https://juridique.defenseurdesdroits.fr/index.php?lvl=notice_display&id=54194&opac_view=-1.

8 IMPLEMENTATION ISSUES

8.1 Dissemination of information, dialogue with NGOs and between social partners

- a) Dissemination of information about legal protection against discrimination (Article 10 Directive 2000/43 and Article 12 Directive 2000/78)

The interministerial delegation coordinates Government action with regard to racism (*Délégué interministériel à la lutte contre le racisme, l'antisémitisme et la haine anti-LGBT*, DILCRAH) and is responsible for developing and implementing the national action plan 2023-2026 to fight racism, antisemitism and discrimination on the ground of origin⁵⁴³ and the national action plan against LGBT+ hate and discrimination⁵⁴⁴ (see Section 9). It has organised support for local and national initiatives of NGOs to mobilise civil society in relation to the fight against racism and homophobic hatred.

The DILCRAH also puts in place annual financing for continuous ongoing training programmes implemented by NGOs, which to date have reached 50 000 civil servants in contact with the public, in order to train them to offer adequate support and guidance for victims of racism and to respond to situations of overt racism, with a particular interest in antisemitism and the historical-philosophical basis of anti-racism in France.

In 2025, the Ministry for Equality between Women and Men and the Fight against Discrimination (hereafter Ministry for Equality) organised the traditional week of education and action against racism and antisemitism around the International Day for the Elimination of Racial Discrimination. The events were run by NGOs supported by the DILCRAH, which posted a participatory agenda of proposed actions online.⁵⁴⁵ There were nearly a hundred initiatives listed throughout France, including cultural events, conferences, exhibitions, video screenings and round-table discussions, complemented by activities organised by educational teams in schools.

- b) Measures to encourage dialogue with NGOs with a view to promoting the principle of equal treatment (Article 12 Directive 2000/43 and Article 14 Directive 2000/78)

In 2025, the Minister for Equality organised and chaired meetings of the coordination committees bringing together stakeholders in relation to the implementation of both national action plans in collaboration with DILCRAH.

Under the authority of the Ministry of the Interior and the prefect, the departmental bodies dedicated to combating racial discrimination are the commissions for the promotion of equality and citizenship (*Commissions pour la promotion de l'égalité des chances et la citoyenneté*, COPEC).⁵⁴⁶ They bring together all local actors under the authority of the national state representative in the department (the prefect). They are intended to generate cooperation and dialogue for the promotion of equality and access to rights addressing all grounds of discrimination.

⁵⁴³ France (2023), [National action plan against racism and antisemitism](#) (*Plan national d'action contre le racisme et l'anti-sémitisme*).

⁵⁴⁴ France (2023), [National action plan for equality, and against LGBT+ hatred and discrimination](#) (*Plan national pour l'égalité, contre la haine et les discriminations anti-LGBT+ 2023-2026*).

⁵⁴⁵ France, Ministry for Equality between Women and Men and the Fight against Discrimination (2024) 'Semaine d'éducation et d'actions contre le racisme et l'antisémitisme 2024: L'État est pleinement mobilisé' available at: <https://www.egalite-femmes-hommes.gouv.fr/semaine-deducation-et-dactions-contre-le-racisme-et-lantisemitisme-2024-letat-est-pleinement>.

⁵⁴⁶ Ministerial Instruction, New missions for the Departmental Commissions on Access to Citizenship and the Commissions for the Promotion of Equality (*Circulaire COPEC NOR/INT/K/04/00117/C*, 20 September 2004, *Missions nouvelles des commissions départementales d'accès à la citoyenneté (CODAC), commissions pour la promotion de l'égalité des chances et la citoyenneté* (COPEC), available at: <http://i.ville.gouv.fr/index.php/reference/3016/circulaire-nor-int-k-04-00117-c-du-20-septembre-2004-relative-aux-missions-nouvelles-des-commissions-departementales-d-acces-a-la>.

In addition, Law No. 2005-102 on Disability structures all the national and local commissions involved in establishing policies concerning persons with disabilities and enforcing their rights, such as the National Consultative Council of Persons with Disabilities (*Conseil National Consultatif des Personnes Handicapées*) and its local counterparts, around the participation of NGOs representing persons with disabilities (Article 1 of the Law creating Article L146-1 A SWC). It further creates a Departmental Commission for the Rights and the Autonomy of Persons with Disabilities, which is competent for all decisions relating to the orientation of persons with disabilities (see Section 6.1, above). Its members are representatives of public services, NGOs, trade unions and social partners and at least 30 % are persons with disabilities (Article 66 of the Law on Title IV of the Social Welfare Code). NGOs in France have traditionally had the tasks of the public sector delegated to them in terms of support for persons with disabilities and their families.

The Defender of Rights coordinates several consultative committees with NGOs on all grounds of discrimination and regularly organises conferences and events on every ground of discrimination. They meet at least once a year (see Section 7.6.d, above).

In parallel, the CNCDH, composed of representatives of all the major human rights and anti-racism NGOs, trade unions and branches of the public sector monitors the national action plans and DILCRAH, and publishes an annual report on racism and antisemitism.⁵⁴⁷

- c) Measures to promote dialogue between social partners to give effect to the principle of equal treatment within workplace practices, codes of practice, workforce monitoring (Article 11 Directive 2000/43 and Article 13 Directive 2000/78)

Article 4 of the Law of 16 November 2001 integrates anti-discrimination measures as an objective in collective bargaining, in branch (sub-sections of the labour force) negotiations and national negotiations dealt with at the level of the National Commission on Collective Bargaining.

Article L2261-22 LC was modified in order to extend the equality objective not only in terms of access to employment but in terms of training and the employee's career as well. However, it limits this objective to the criteria of race and ethnic origin.

In addition, the commission responsible for monitoring professional equality between men and women in the workplace has seen its competence extended to discrimination based on race and ethnic origin (Article L2271-1, paragraph 8 LC). Elements concerning racial and sex discrimination have become a mandatory provision in all branch collective agreements. However, beyond informal affirmation, these undertakings have not generated any specific negotiation in relation to equality.

Article 25 of Law No. 2005-102 on Disability modifies Articles L2241-1 and L2242-1 LC on mandatory annual negotiations between social partners, to create an obligation to hold annual negotiations on measures for the professional integration of persons with disabilities. In addition, social partners participate in the Departmental Commission for the Rights and Autonomy of Persons with Disabilities.

In the public services, social dialogue is a basic organisational principle, since all levels of human resources management are dealt with in a joint consultation system where representatives of the state and unions are equally represented (Articles L221-1 to L227-4 of the General Code of Public Service).

⁵⁴⁷ CNCDH (2025), *Rapport 2024 sur la lutte contre le racisme, l'antisémitisme and xenophobia* (2024 Report on the fight against racism, antisemitism and xenophobia), available at: <https://www.cncdh.fr/publications/rapport-2024-sur-la-lutte-contre-le-racisme-lantisemitisme-et-la-xenophobie>.

In 2025, the Directorate of Research and Statistics of the Ministry of Employment (DARES) published a study examining the place of the various grounds of discrimination, and ethno-racial issues, in collective bargaining.⁵⁴⁸ It is based on interviews with trade unionists and human resources managers and a documentary analysis of company agreements between 2014 and 2021. During this period, 90 406 workplace agreements on equality issues were reported to the Ministry of Employment, 72 923 relating to equality between women and men, 14 594 on measures to the benefit of senior employees, 10 307 to the benefit of employees with disabilities, and 20 031 addressing issues of 'non-discrimination and diversity'. Most of the 20 031 'non-discrimination and diversity agreements' have simultaneously been registered as senior, disability and equality between women and men agreements. Only 277 agreements addressed 'non-discrimination and diversity' issues: 46 included the term 'racism', the word 'racial' was used in 87 agreements and the word 'minority' in 280. Among them, very few went beyond citing the prohibitions provided by national law. Measures addressed in the agreements and social relations essentially cover awareness raising and training of HR employees, partnership with specialised NGOs for hiring practices and reaching out to excluded populations. In interim agencies they deal with the issue of handling discriminatory requests. Some go so far as proposing audits of HR proceedings to identify 'discriminatory practices' on all grounds, or surveys on employee perceptions. These are not ground-specific measures in the sense that they are general in nature and can apply to all discriminated groups. Only partnerships of employers with specialised NGOs have been found to propose categorical measures. The study concludes that racism in the workplace is a 'non-issue,' or a situation or social condition that attracts little public attention, or attention only from groups directly concerned with its effects or managing this problem. This survey confirms the results of French public policy where the concept of discrimination is always dealt with by targeting all groups. Thus, particularly in the field of employment, while gender and disability inequalities have taken on increasing importance in diversity activism, real action on ethno-racial discrimination has been progressively marginalised.

d) Addressing the situation of Roma and Travellers

There is no specific body appointed on a national level to address Travellers and Roma issues, given that there is no such legal category. Their problems are addressed as problems of precarious migrants, people without proper housing and people in vulnerable situations.

Since 2012, the Government has given a specific mandate to the Interministerial Delegation on Emergency Accommodation and Access to Housing (Délégation interministérielle à l'hébergement et à l'accès au logement, DIHAL) to implement the EU Roma strategic framework for equality, inclusion and participation (COM(2020) 620 final) and the Council recommendation on Roma equality, inclusion and participation. DIHAL is responsible for establishing dialogue with NGOs and implement a specific programme on access to rights (including health, education, employment, accommodation and housing) and integration of foreign Roma and Travellers. A ministerial order of 10 January 2022 published Government directions for the revision of departmental schemes for the accommodation of Travellers, that are coordinated by the DIHAL.⁵⁴⁹

The National Consultative Commission on Travellers (Commission nationale consultative des gens du voyage - CNCGV), was reinstated in 2021 for the period 2021-2025,⁵⁵⁰

⁵⁴⁸ DARES (2025), *Report on the place of ethno-racial issues in collective bargaining in employment*, June 2025, available at: <https://dares.travail-emploi.gouv.fr/publication/la-place-des-questions-ethno-raciales-dans-la-negociation-collective-en-matiere>.

⁵⁴⁹ Minister of the Interior (2022), NOR INTK2200421J of 10 January 2022, available at: <https://www.gouvernement.fr/sites/default/files/contenu/piece-jointe/2022/01/intk2200421j.pdf>.

⁵⁵⁰ On 15 January 2026, the Commission was renewed for the period 2026-2030, Dominique Raimboug remaining its president, see DIHAL Newsletter for January 2026, available at: <https://g7dz7.r.a.d.sendibm1.com/mk/mr/sh/1f8JAEjGcfF85v4JoHsvLRdvwN/Ry6zalhv2VEw>.

increasing the presence of representatives of public authorities.⁵⁵¹ It manages relations between Travellers and the Government with respect to the development of parking sites, infrastructure, education and legislation. It is supported administratively by the DIHAL.⁵⁵² While it meets regularly and offers a forum for informal exchange, it is considered by Travellers' NGOs as being managed under the authority of the state, which hinders its capacity to create effective pressure for the enforcement of Travellers rights. In 2025, it met in February to examine and present recommendations regarding draft legislation to combat illegal parking by Roma and Travellers and to improve their conditions of reception,⁵⁵³ which has not yet been discussed before Parliament. In the spring the Commission met to contribute to the coordination of ministerial instructions relating to the management of the yearly summertime collective travelling. The last meeting of this Commission's mandate for 2025 was held on 15 October 2025. Minutes of these meetings for 2025 are not available online, but a summary is published in the DIHAL Newsletter.⁵⁵⁴

A national event, bringing together Travellers, was organised on 18 and 19 December 2025, regarding the reception and living conditions of Travellers, with the support of the city of Paris, the DIHAL and the CNGVC.⁵⁵⁵ Most associations representing Travellers and concerned public services - from education to public welfare - participated in this all-day consultation where policy developments targeting Travellers coordinated by the DIHAL were presented. The participants' concerns were mainly oriented towards access to rights and accommodation policies for Travellers.

8.2 Measures to ensure compliance with the principle of equal treatment (Article 14 Directive 2000/43, Article 16 Directive 2000/78)

a) Compliance of national legislation (Articles 14(a) and 16(a))

French law does not require that express legislation be introduced in order to ensure the superiority of the principle of equality to other sources of rights. Equal treatment is a constitutional principle and a rule of public order sanctioned by the Penal Code.

Law No. 2008-496 of 27 May 2008 provides for civil and administrative action before the courts relating to all grounds and material scope covered by Directives 2000/78/EC and 2000/43/EC covered by the law.

In addition, all claims related to the application of the principle of equality can be brought before the administrative courts in application of the general public law legal framework based on the legal theory of equality. In addition, Law No. 2021-1109 of 24 August 2021 relating to the respect of the principles of the Republic introduces Article 6 *quater* A to the Law of 13 July 1983 on the rights of public agents (now Article L135-6 of the General Code

⁵⁵¹ Decree No. 2017-921 of 9 May 2017 modifying Decree of 25 June 2001 relating to the composition and functioning of the National Consultative Commission on Travellers (*Décret n° 2017-921 du 9 mai 2017 modifiant le décret n° 2001-540 du 25 juin 2001 relatif à la composition et au fonctionnement de la commission départementale consultative des gens du voyage*), available at: <https://www.legifrance.gouv.fr/eli/decret/2017/5/9/LHAL1703414D/jo/texte>; Decree 2021-230 OF 25 February 2021, available at: <https://www.legifrance.gouv.fr/loda/id/LEGIARTI000043191715/2021-02-28/>; Decree No. NOR/LOG12033806D of 10 March 2021 nominating the President of the National Consultative Commission on Travellers, available at: https://www.legifrance.gouv.fr/download/file/f5SZzlgR-VAZPUVTCGbeCVtsK3EIgmh4cO_14vXjiQI=/JOE_TEXTE.

⁵⁵² France, DIHAL, available at: <https://www.gouvernement.fr/commission-nationale-consultative-des-gens-du-voyage-4906>.

⁵⁵³ National Assembly, *Proposition de loi pour la répression des occupations illégales et l'amélioration de l'accueil des gens du voyage*, Bill to fight Roma and Travellers illegal parking and improve their conditions of reception, available at: https://www.assemblee-nationale.fr/dyn/17/dossiers/pour_repression_occupations_illegales_amelioration_accueil_gens_voyage.

⁵⁵⁴ DIHAL, Newsletters available at: <https://www.info.gouv.fr/organisation/delegation-interministerielle-a-l-hebergement-et-a-l-acces-au-logement/newsletter>.

⁵⁵⁵ DIHAL and City of Paris, *Journée nationale Accueil et Habitat des Gens du Voyage 2025*, National day for the accommodation and conditions of living of travellers 2025, see: <https://www.journee-gensduvoyage.com>.

of Public Service),⁵⁵⁶ and creates an obligation on all public services to create a complaints mechanism to protect public agents against discrimination, violence and harassment.

Articles L131-1 ff. of the General Code of Public Service are rules of general application and public order. They must be respected in all regulatory acts or decisions regarding a public servant.

The general principle of *lex posterior derogat legi priori* applies to human rights and therefore implies the inapplicability of all non-conforming legislation and conventions. Finally, the Conseil d'État held, in its landmark decision of 30 October 2009, that EU Directive 2000/78/EC provided sufficiently precise rules which are of direct application in cases of insufficient transposition to ensure its applicability to all working relationships.⁵⁵⁷

Therefore, any rule contrary to the directives or the general principle of equality can be challenged before the court.

However, there is no process of administrative codification of all laws and regulations in France. Therefore, legislation is not reviewed through an administrative audit and very old laws and regulations that are obsolete and have not been repealed are in force until they are discovered and repealed.

b) Compliance of other rules/clauses (Articles 14(b) and 16(b))

Article 6 of the Civil Code expresses the following general principle: 'One cannot derogate from laws that concern public order by way of a particular agreement', thus rendering this type of agreement null and void.

Articles 1382 ff. and 1146 ff. of the Civil Code implement a general regime of civil and contractual liability which adapts to the evolution of custom and of superior rules of law, thereby adapting to Directives 2000/43/EC and 2000/78/EC.

The Labour Code provides that trade unions can challenge collective agreements that are contrary to public order, provisions on discrimination being part of the list of provisions that are deemed to relate to public order (Articles L2251-1 and L2132-3 LC).

In addition, Article L1134-4 LC expressly states that any action taken against an employee contrary to the prohibition of discrimination is null and void.

⁵⁵⁶ General Code of Public Service, available at: https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000044427582.

⁵⁵⁷ Conseil d'État, No. 298348, 30 October 2009.

9 COORDINATION AT NATIONAL LEVEL

9.1 Coordination at the governmental level

Public policies tackling discrimination on the ground of origin, social situation and the promotion of equality have been handed to the Ministry for Equality between Women and Men and the Fight against Discrimination, taking an interministerial approach and working with the Ministry of the Interior, the Ministry of Employment and the Ministry of Urban Affairs. These missions have been replicated in the Government formed after the national elections in July 2023.⁵⁵⁸

After the national elections in July 2022, a Ministry of Solidarity and Autonomy of Persons with Disability was created and a minister delegate for persons with disability was nominated. This organisation was maintained after the elections of July 2024.

In addition, the ministry in charge of sport has a dedicated mission to fight against discrimination in sport.

The National Solidarity Fund for Independence (*Caisse nationale de solidarité pour l'autonomie* – CNSA) coordinates interministerial policy to plan funding, support and independence for elderly and very elderly people in an ageing society.

Governmental departments

The Women's Rights Service (SdFe) has become a service of the Ministry for Equality between Women and Men and the Fight against Discrimination.

Regarding the transposition of Directive 2024/1499, the Ministry of Europe and International Affairs is directly coordinating all governmental decisions regarding transposition together with the Ministries of Justice and Social Affairs.

The General Directorate for Foreign Nationals in France is responsible, under the auspices of the Ministry of the Interior, for both the reception and integration of foreign nationals and asylum seekers.

Other relevant departments are: the General Directorate of Labour (DGT); the General Directorate for Social Cohesion (DGCS); the General Directorate for Health (DGS); the General Delegation for Employment and Professional Training (DGEFP); the Directorate for the Coordination of Research, Studies and Statistics (DARESS); the Directorate for Research, Evaluation and Statistics (DRESS); the Directorate for Civil Liberties and Legal Affairs; Ministry of the Interior (Roma and Travellers); the General Directorate for the Management of the Public Services (DGAFF); and the Directorate of Youth, Community Education and Community Life (DJEPVA), the Ministry of Sports.

National research institutes

INSEE (National Institute of Statistics)
INED (National Demographics Institute)
CAS (Centre for Strategic Analysis, *Centre d'analyse stratégique*)
France Stratégie

Interministerial delegations

⁵⁵⁸ Decree No. 2022-864 of 8 June 2022 relating to the attributions of the Minister of Equality between Women and Men, Diversity and Equal Opportunities (*Décret no 2022-664 relatif aux attributions de la Ministre de l'égalité entre les femmes et les hommes, la diversité et l'égalité des chances*), available at: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000045886928>.

Interministerial Delegation on Emergency Accommodation and Access to Housing (DIHAL)
Interministerial Delegation for the Housing of Migrant Populations (CILPI)
Interministerial Delegation on Equal Opportunities for French Nationals from the Overseas Territories and their Visibility
Interministerial Delegation on the Prevention of and Fight Against Poverty
General Delegation on the French Language and Languages of France
Interministerial Delegation for the Rights of Persons with Disabilities
Interministerial Delegation for Accessibility for Persons with Disabilities
Interministerial Delegation on Urban Affairs and Development
Interministerial Delegation against Racism, Antisemitism and Anti-LGBT+ Hate (DILCRAH)
Interministerial Delegation on the Support of Victims
Interministerial Delegation for the Orientation and Integration of Refugees (DIAIR)
Interministerial Delegation for a National Strategy for Autism
Interministerial Delegation for a National Strategy for Neurodevelopmental Disorders (DIA-TND)
Interministerial Committee on Disability (CIH)
Interministerial Committee on Secularity

Public bodies

National Agency for Urban Regeneration (*Agence nationale de rénovation urbaine*, ANRU)
French Office of Immigration and Integration (*Office français de l'immigration et de l'intégration*, OFII)
National Agency for Territorial Cohesion (ANCT)
National Solidarity Fund for Independence (*Caisse nationale de solidarité pour l'autonomie*, CNSA)

Consultative bodies

National Consultative Commission on Travellers
National Consultative Commission on Human Rights
National Consultative Commission for the Retired and Older People
National Consultative Commission on Accessibility and Safety
National Consultative Commission of Persons with Disabilities
Commission on the Rights and Autonomy of Persons with Disabilities
High Council for Professional Equality between Men and Women
Commission for Political Equality between Men and Women

Specialised administrative bodies

DDD (Defender of Rights – Défenseur des droits)
CNIL (National Data Protection Authority)
ARCEP (Regulatory authority for telecommunications, postal services and print media distribution, including online, radio and television)
CADA (Commission for Access to Administrative Documents)

Justice

Anti-discrimination division (part of all public prosecution offices)

9.2 National Strategies and action plans

The DILCRAH (Délégué interministériel à la lutte contre le racisme, l'antisémitisme et la haine 'anti-LGBT+') reports to the Prime Minister and the Minister of the Interior, to initiate, coordinate and evaluate Government action in relation to racism, antisemitism, hate and discrimination on the grounds of race and origin, as well as LGBTQI+ hate and

discrimination.⁵⁵⁹ Since 2012 it has been responsible for implementing governmental public policy on racism and antisemitism. Its responsibilities were expanded to include anti-LGBTQI+ acts and discrimination in 2020. In 2023, the Government, with the support of DILCRAH launched two national action plans 2023-2026: one to fight racism, antisemitism and discrimination (30 January 2023);⁵⁶⁰ and one against 'LGBT+' hatred and discrimination (4 July 2023).⁵⁶¹

The national action plan against racism, antisemitism and discrimination on the ground of origin, covers the grounds of origin, race and intersectional discrimination related thereto. The Government proposed to develop public surveys to measure the experience of discrimination and use situation testing in employment as a tool to track, name and shame and implement anti-discrimination measures. The Government also announced its intention to improve repression and sanction of racism and discrimination through improvements in the criminal complaint mechanism and the enforcement of penal actions. Draft legislation developing discrimination testing and on civil punitive sanctions is currently under discussion in Parliament.⁵⁶²

The national action plan against racism, antisemitism and discrimination on the ground of origin does not address intersectional discrimination or adopt an intersectional approach. It proposes measures supporting civil society, access to rights, education, large-scale training of civil servants, and targeted action against hate speech in the media including social media. It has been developed after a consultation with both public sector and civil society stakeholders. The Defender of Rights has been formally consulted and provided a formal opinion but is not otherwise involved in this process.

The action plan against 'LGBT+' hate and discrimination 2023-2026, covering sexual orientation and gender identity,⁵⁶³ has similar content and mainly continues initiatives launched under the previous action plan.⁵⁶⁴ It proposes measures to be implemented under the authority of each competent minister, ranging from education programmes in elementary school, college and high school, the professional training of all economic actors, employers and policemen, to the improvement of enforcement, data collection and the fight against hate speech on the internet. This action plan adopts an intersectional approach. It is worth highlighting its proposal to train personnel caring for LGBTQI+ elderly and persons with disabilities, its awareness-raising campaign with professionals of the justice systems regarding violence in relationships of couples of the same sex and the underreporting of lesbians who represent only 18 % of claimants.

Both plans have been criticised due to insufficient consultation of civil society, absence of dedicated funding and the fact that they are essentially limited to pursuing actions

⁵⁵⁹ Decree No. 2012-221 of February 2012 creating a delegate against racism and antisemitism (*Décret No. 2012-221 du 16 février 2012 instituant un délégué interministériel à la lutte contre le racisme et l'antisémitisme*), available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000025372209&categorieLien=id>.

⁵⁶⁰ France (2023), National action plan against racism, antisemitism and discrimination on the ground of origin 2023-2026 (*Plan national d'actions contre le racisme, l'antisémitisme et les discriminations liées à l'origine 2023-2026*).

⁵⁶¹ France (2023), National Action Plan against Anti-LGBT+ hatred and discrimination 2023-2026 (*Plan national d'actions pour l'égalité, contre la haine et les discriminations anti-LGBT+ 2023-2026*).

⁵⁶² Bill No. 183 to fight discrimination through situation testing, available at: https://www.assemblee-nationale.fr/dyn/16/dossiers/tests_discriminations; Bill in the legal framework of group actions, available at: <https://www.senat.fr/dossier-legislatif/ppl22-420.html>.

⁵⁶³ The purview of situations covered by gender identity has not yet been interpreted by the courts. However, Parliamentary discussions clearly indicate that in France gender identity is considered to cover gender identity expression and sex characteristics: see Jaunait, A. (2020) 'Génèses du droit de l'identité de genre, approches des configurations socio-juridiques' (Genesis of the law of gender identity: socio-juridical issues, *Droit et Société*, 2020/2, No. 105 pp. 429-451, available at: <https://www.cairn.info/revue-droit-et-societe-2020-2-page-429.htm>).

⁵⁶⁴ For a detailed description see: EELN (2023) 'Flash report: France', 039-FR-ND-2023, 20 July 2023, available at: <https://www.equalitylaw.eu/downloads/5903-national-plan-for-equality-against-anti-lgbt-hatred-and-discrimination-2023-2026>.

insufficiently implemented in the previous action plans. In addition, their most ambitious propositions depend upon the decision of Parliament to adopt the proposed legislation on situation testing and punitive civil sanctions, which have so far been rejected by Parliament.⁵⁶⁵

In November 2023, the CNCDH, in its function as evaluator of the national action plan on LGBT+, published after the plan's adoption, a very critical report on the insufficiency of the process of consultation that preceded the publication of the 2023-2026 national action plan, and the insufficiencies of the plan itself.⁵⁶⁶

On 13 February 2025, the Government organised a national conference on combating antisemitism. Identifying the sectors of education and justice as particularly sensitive, two working groups were mandated to interview all experts, researchers and actors in the fields to analyse pedagogical and legal approaches and present structural recommendations.⁵⁶⁷ On 28 April 2025, after two months of discussions and hearings, enriched by contributions from representatives of the educational, judicial, scientific and voluntary sectors, the working groups submitted their report to both the Ministers of Education and Equality, presenting 15 recommendations to structure national policy regarding the fight against antisemitism. The report's recommendations follow the traditional French approach based on education and repression, and aim at improving the effectiveness of the fight against antisemitism. The working group on justice points out that antisemitism as such is not defined in positive law. It invites the Government to take up the definition developed and promoted by the International Holocaust Remembrance Alliance (IHRA) since 2016, which has already been approved by resolution by both the National Assembly in 2019 and the Senate in 2021. On this basis, it could immediately draw up a solid, comprehensive and educational document for public prosecutors' offices in the form of a general criminal policy circular on the judicial handling of antisemitic comments and acts, a flexible document that could be regularly adapted to the changing nature of antisemitic events.

On 13 May 2025, the Minister for Equality held the first follow-up meeting on the national action plan against racism, antisemitism and discrimination on the ground of origin, highlighting the relaunch of the annual conference on the fight against antisemitism with special expert groups on effectiveness regarding education and judicial sanctions, the initiation of new discrimination-testing campaigns and the support of various reporting systems to denounce antisemitic and racist acts.⁵⁶⁸

On 26 May 2025, the Minister for Equality held the first follow-up meeting further to the adoption of the national action plan on LGBTIQ+ equality 2023-2026, highlighting measures to promote access to health, measures targeting the education sector and the

⁵⁶⁵ France, Senate, Bill 22-420 on the legal regime of collective redress (*Proposition de loi 22-420 sur le régime juridique des actions de groupe*) second reading, 6 February 2024, still pending before the National Assembly, available at: <https://www.senat.fr/travaux-parlementaires/textes-legislatifs/la-loi-en-clair/proposition-de-loi-relative-au-regime-juridique-des-actions-de-groupe.html>.

⁵⁶⁶ France, CNCDH (2023) *Report of the CNCDH evaluating the National LGBT+ 2020-2023 Action plan*, November 2023, available at: <https://www.cncdh.fr/publications/evaluation-de-la-mise-en-oeuvre-du-plan-national-daction-pour-legalite-des-droits>: See EELN (2024) 'Flash report: France' No. 007-FR-ND-2024, available at: <https://www.equalitylaw.eu/downloads/6039-france-report-of-the-cncdh-evaluating-the-national-lgbt-2020-2023-action-plan>. The report points to the absence of dedicated financing, the confusion between objectives and concrete measures or targets, the absence of qualitative indicators, the poor quality of training given in the police, the dependency on the means of NGOs and priorities of various levels of Government. It adds that the plan has only been partially implemented, which is reflected in the fact that most measures of the 2023-2026 action plan reiterate former measures without addressing the cause of the insufficient implementation and the deteriorating relations between DILCRAH and civil society in the implementation and preparation of new action plan.

⁵⁶⁷ DILCRAH (2025), *Rapport des groupes de travail issus des Assises de lutte contre l'antisémitisme*, (Report of the working groups initiated at the consultation on antisemitism), available at: <https://www.dilcrah.gouv.fr/ressources/rapport-des-groupes-de-travail-issus-des-assises-de-lutte-contre-lantisemitisme>

⁵⁶⁸ France, DILCRAH (2025), 'Comité de suivi du Plan national de lutte contre le racisme, l'antisémitisme et les discriminations liées à l'origine', 13 May 2025, press release <https://share.google/qIpFPjigHx6s0hmCd>.

protections of victims on social media.⁵⁶⁹ In 2025, no published work has been dedicated to the preparation of the 2026-2030 national action plan.

In 2025, in the face of a worrying rise of antisemitic acts in France after 7 October 2023 (+32 % in 2023 and +11 % in 2024), CNCDH mobilised actors for the preparation of training for educators and public education personnel to favour education on racism, antisemitism and 'anti LGBT+' hatred in education. CNCDH has specifically reported on the rise of antisemitic acts and feelings.⁵⁷⁰

Meanwhile, as mentioned in Section 8.1, the author can highlight as a good practice the week of education and action against racism and antisemitism around the International Day for the Elimination of Racial Discrimination, which is run by NGOs with the support of the DILCRAH.⁵⁷¹

Since 2012, the Government has given a specific mandate to the Interministerial Delegation on Emergency Accommodation and Access to Housing (Délégation interministérielle à l'hébergement et à l'accès au logement, DIHAL) to implement all public policies regarding Travellers and Roma.

The implementation in France of the European strategy for persons with disabilities 2021-2030 is at the centre of public policy and is pursued through a number of actors and measures aiming at improving accessibility, access to rights, to education and employment.

The Interministerial Committee on Disability (*Comité interministériel du handicap* – CIH), is in charge of defining and evaluating state policies, and the National Conference of Disability (*Conférence nationale du handicap* – CNH), which is a tri-annual meeting with all public and civil society stakeholders to set out milestones, fix new goals and create a roadmap for public policy. It met on 20 September 2023⁵⁷² to appoint an interministerial delegate with a budget of EUR 300 million over five years, to enhance the coordination and implementation of Ad'APs in public infrastructure, such as transport, and small spaces accessible to the public. In March 2025, a national Conference on Disability organised with the meeting of the CIH, chaired by the Prime Minister, followed up on the monitoring of the programme set out by the President of the Republic in April 2023, focusing this year on Government public policy in favour of accessibility.⁵⁷³

DIHAL is implementing the French Strategy 2020-2030 for the equality, inclusion and participation of Roma.⁵⁷⁴ The plan aims to fight discrimination, improve living conditions for Roma and Travellers, promote access to rights, health and education, sustain access and promotion of culture, and accelerate the clearing of slums occupied by Roma, Travellers and precarious migrants. It is actively working on this mandate through dialogue with NGOs and the implementation a specific programme on access to rights (including health, education, employment, accommodation and housing) and the integration of foreign Roma and Travellers.

⁵⁶⁹ DILCRAH (2025), 'Comité de suivi du plan national pour l'égalité, contre la haine et les discriminations anti-LGBT+', <https://share.google/q6E89kY3rFml97kfm>.

⁵⁷⁰ CNCDH (2025) *Report for 2024*: <https://www.cncdh.fr/actualite/lutte-contre-le-racisme-lantisemitisme-et-la-xenophobie-la-cncdh-publie-son-rapport-2024>.

⁵⁷¹ France, Ministry for Equality between Women and Men and the Fight against Discrimination (2024) 'Semaine d'éducation et d'actions contre le racisme et l'antisémitisme 2024: L'État est pleinement mobilisé' available at: <https://www.egalite-femmes-hommes.gouv.fr/semaine-deducation-et-dactions-contre-le-racisme-et-lantisemitisme-2024-letat-est-pleinement>.

⁵⁷² Interministerial Committee on Disability (CIH), Meeting of 20 September 2023, available at: <https://handicap.gouv.fr/comite-interministeriel-du-handicap-du-20-septembre-2023>.

⁵⁷³ France, Ministry of Employment (2023) 'Employment and disability: New measures', May 2023, available at: <https://travail-emploi.gouv.fr/actualites/l-actualite-du-ministere/article/emploi-et-handicap-des-mesures-nouvelles>; (2025) National conference on disability, available at: <https://handicap.gouv.fr/comite-interministeriel-du-handicap-06-mars-2025>.

⁵⁷⁴ France (2022) *French Strategy for the Equality, Inclusion and Participation of Roma*, January 2022.

10 CURRENT BEST PRACTICES

- The annual joint barometer of the Defender of Rights and the ILO on discrimination in employment in France (see Section 7(f)(ii)).
- The annual national report of the CNCDH on racism and antisemitism, based on a process of large consultation of public services, civil society and survey (see Section 8.1.b)
- Ongoing collaboration between the French Data Protection Authority (CNIL) and the Defender of Rights in order to propose policies and good practices to correct and limit the impact of AI algorithms by informing the public of their biases and their rights,⁵⁷⁵ and by proposing measures imposing forms of human evaluation, monitoring and correction of self-learning software.⁵⁷⁶ This preparatory work led to the publication of a study published by the Conseil d'État on the use of AI in the public service.⁵⁷⁷ CNIL has created a dedicated service to implement the European regulation on AI and in 2023, published an action plan and a number of position papers.⁵⁷⁸ In 2024, the Defender of Rights published a report underlining points to watch for and recommendations on the preservations of the rights of citizens through impact assessment, human assistance and transparency in the use of AI by public services.⁵⁷⁹ It warns of insufficiencies in the legislative framework regarding sanctions in the event of a lack of transparency in the use of AI by public services. In 2025, CNIL adopted recommendations consisting of three practical fact sheets to guide the parties concerned at all stages of the conception and evaluation of the AI system being developed, including on conducting a data protection impact assessment (DPIA).⁵⁸⁰
- CNIL has renewed a recommendation in June 2025 regarding the methodology to be followed by employers using self-implemented surveys to measure diversity in employment.⁵⁸¹
- Pursuant to initiatives undertaken in the context of the national Roma strategy adopted in March 2022, since 2020 the DIHAL has pursued a scheme of school mediation that has facilitated the conditions of registration in school of children from illegal campsites.⁵⁸²

⁵⁷⁵ Defender of Rights (2021), *Kit pédagogique du citoyen numérique* (Educational Kit for the Digital Citizen), January 2021, available at: <https://www.defenseurdesdroits.fr/fr/guides/kit-pedagogique-du-citoyen-numerique>.

⁵⁷⁶ CNIL, Defender of Rights (2020), 'Joint Recommendations', 2 June 2020, available at: <https://www.cnil.fr/fr/algorithmes-et-discriminations-le-defenseur-des-droits-avec-la-cnil-appelle-une-mobilisation>.

⁵⁷⁷ Conseil d'État, (2022) *S'engager sur l'intelligence artificielle pour un meilleur service public*, (The use of artificial intelligence for a better public service), available at: <https://www.conseil-etat.fr/actualites/s-engager-dans-l-intelligence-artificielle-pour-un-meilleur-service-public>.

⁵⁷⁸ CNIL (2022) 'Caméras dites "intelligentes" ou "augmentées" dans les espaces publics: la CNIL lance une consultation publique' ('Intelligent' or 'augmented' cameras in public spaces: CNIL consultation launch'), press release, 14 January 2022, available at: <https://www.cnil.fr/fr/cameras-dites-intelligentes-ou-augmentees-dans-les-espaces-publics-la-cnil-lance-une-consultation>; (2023) CNIL Action Plan, available at: [Intelligence artificielle : le plan d'action de la CNIL](https://www.cnil.fr/fr/intelligence-artificielle-le-plan-d-action-de-la-cnil); CNIL (2023) 'Premières réponses pour une IA innovante et respectueuse de la vie privée' (First answers for AI respectful of private life).

⁵⁷⁹ Defender of Rights (2024), *Algorithmes, systèmes d'IA et services publics : quels droits pour les usagers? Points de vigilance et recommandations* (Algorithms, AI systems and public services: what rights for users? Points of vigilance and recommendations), November 2024, available at: <https://www.defenseurdesdroits.fr/algorithmes-intelligence-artificielle-et-services-publics-2024>.

⁵⁸⁰ Commission Nationale Informatique et Libertés (CNIL), Deliberation No. 2025-047 of 5 June 2025, adopting a fourth recommendation on the application of the General Data Protection Regulation to the development of artificial intelligence systems (*Délibération n° 2025-047 du 05 juin 2025 portant adoption d'une quatrième recommandation sur l'application du règlement général sur la protection des données au développement des systèmes d'intelligence artificielle*), available at: <https://www.legifrance.gouv.fr/cnil/id/CNILTEXT000051937813/>.

⁵⁸¹ France, CNIL (2025), *Enquêtes de mesure de la diversité au travail : la CNIL publie ses recommandations*, (Surveys measuring diversity in employment: the CNIL publishes its recommendations), available at: <https://www.cnil.fr/fr/recommandation-mesure-diversite-travail>.

⁵⁸² France, DIHAL (2023), *Report on the implementation of schooling mediation*, available at: <https://www.gouvernement.fr/bilan-de-toutes-et-tous-a-l-ecole-un-dispositif-de-mediation-scolaire-pour-les-enfants-vivant-en>.

- Law No 2025-391 of 30 April 2025 creates at Article 16(XI) a chapter dedicated to the sanctions of civil and contractual intentional faults that allows for punitive damages in cases of discrimination. Article 1254 of the Civil Code provides for the possibility for the judge to award a civil sanction independent of compensation, which is to be claimed before the judicial and administrative courts against all private and public parties in case of violation of legal or contractual obligations committed in the course of a professional activity. The award is deposited in a fund dedicated to the financing of group actions. This civil sanction is conditional upon a finding of (1) deliberate fault committed to obtain a gain or save on spendings and (2) that the violation has caused damages to a number of physical or legal persons placed in a similar situation.

11 SENSITIVE OR CONTROVERSIAL ISSUES⁵⁸³

11.1 Potential breaches of the directives at the national level

Even if the courts will not hesitate to proceed by way of direct application of the directives, some discrepancies remain in national legislation and the indications they provide for those who enforce them.

All public servants who hold one of the various statuses that are excluded from the application of the General Code of Public Service at Article L6 are also excluded from all protections provided by the General Code of Public Service against discrimination. The General Code of Public Service regulating employment law in the public services, which was amended to cover discrimination by the transposition legislation, states at Article L6 that, in conformity with Article 64 of the Constitution of 1958, it does not cover the status of magistrates, who are not considered to be civil servants (Ordinance No. 58-1270 of 22 December 1958), the status of public servants dedicated to Parliament and governed by separate in-house rules of Parliament. None of these texts have been amended to implement Directive 2000/78/EC or Directive 2000/43/EC and do not contain any protection against discrimination on any grounds. In a landmark decision, the Conseil d'État decided in 2009 that the anti-discrimination directives are of direct application before administrative courts.⁵⁸⁴ Since then, the Conseil d'État has repeatedly decided that all public agents whatever their status, including agents of Parliament and magistrates, were covered by the Law of 27 May 2008 stating the general regime of protection against discrimination in employment and access to goods and private and public services.⁵⁸⁵

The definition of direct discrimination still does not expressly include the possibility of proceeding by means of hypothetical comparison. This appears not to comply with the directive. There have been no cases arguing the possibility of proceeding by way of such comparison on the basis of a direct application of the directive.

Law 2008-496 completes the framework of protection against victimisation for all Article 19(1) TFEU grounds (Article 3). However, this law provides no indication as to the applicable burden of proof and remains inadequate.

Whereas in former legislation, the French state had not availed itself of the possibility of providing for exceptions based on professional requirements, except on the ground of age, Article 6 of Law 2008-496 adds Article L1133-1 to the Labour Code, which allows the employer to justify as a professional requirement any characteristic based on any of the prohibited grounds as long as its objective is legitimate and the requirement proportionate. This framework allowing any employer to unilaterally create their own professional requirements does not appear to conform to the requirements of the directives.

In France, Travellers' caravans are not recognized as housing. As a result, persons living in caravans are the only ones who are not eligible for housing support or protected by the winter break in the enforcement of eviction orders. ECRI recommended in its 2022 review of the situation in France that the caravans be recognised as housing. The Defender of Rights has adopted many decisions⁵⁸⁶ to formally request that Parliament and the Government proceed with making the necessary legislative reforms with regard to short and long-term occupation of private land and families travelling with their caravans.

⁵⁸³ The assessments and views expressed in both sections 11.1 and 11.2 reflect the author's opinion.

⁵⁸⁴ Conseil d'État, 30 October 2009, [No. 298348](#).

⁵⁸⁵ Conseil d'État, 27 July 2016, No. 393292, Conseil d'État, 25 October 2018, No. 405418.

⁵⁸⁶ Defender of Rights, Decision MLD 2014-152 of 24 November 2014; Defender of Rights (2021) Travellers: Eliminate barriers to rights (*Gens du voyage : lever les entraves aux droits*) (October 2021), available at: <https://www.defenseurdesdroits.fr/fr/publications?tid=7>.

11.2 Other issues of concern

- Cultural resistance to the legal framework

Anti-discrimination law continues to attract resistance from some politicians, commentators and civil servants on what is perceived as the promotion of the rights of communities, whereas French law recognises only one social corpus, the French Nation.⁵⁸⁷ This constitutes the core of very strong ideological objections to the framework of anti-discrimination law within the central state institutions.⁵⁸⁸

- The equality body

Another cause for concern is the capacity of the Defender of Rights to fully pursue this mission, in the context of the institutional reform that led to the merger of the equality body into a larger institution, its increased competence in respect of whistleblowers, ever rising level of claim and constrained resources.

The amount of research, reports, formal decisions and interventions before the courts dedicated to discrimination issues has significantly decreased since 2020, which marks the affirmation of an open strategy to focus on access to rights in the public service and the protection of vulnerable persons generally.

The 2023 and 2024 annual reports and activity reported on its website reflect the fact that the visibility of the institution's anti-discrimination agenda has declined and it is increasingly less active before the courts. In 2024, for the first time, the amount of claims decreased in comparison with the previous year.

At the cut-off date of this report, France had not adopted any transposition legislation to expand the powers of the institution or secure the budget dedicated to the anti-discrimination mandate of the Defender of Rights in application of Directive 2024/1499. The present Institutional Act would have to be amended in order to conform with the Directive.

Article 33 of the Institutional Act does not provide for the possibility of the Defender of Rights to have independent standing, to institute action or to act for victims before the court as required by Article 10 of the Directive.

As regards other requirements of the Directive, the legal framework of the Defender of Rights' activities reveals discrepancies with Directive 2024/1499:

- The Defender of Rights is not required by law, to adopt a work programme setting out priorities and prospective activities as provided by Article 17(a) of the Directive.
- The Defender of Rights does not have a dedicated budget for the anti-discrimination mandate.
- The research and promotion activities relating to the equality mandate do not cover monitoring, auditing, data collection or the production of a periodic report on the state of equal treatment and discrimination in France as provided by Article 17(c) of the Directive. The Defender of Rights has never published a comprehensive report, been compelled to report on all discrimination grounds and domains, and this is not a mandatory mandate.

⁵⁸⁷ Hennette-Vauchez, S. and Fondimare, E. (2019) 'Incompatibility between the French Republican Model and Anti-discrimination law? Deconstructing a familiar trope of narratives of French Law' in Havelkova, B., Möschel, M. (Eds.) *Anti-discrimination Law in Civil Law Jurisdictions*, Oxford University Press, pp. 56 to 75.

⁵⁸⁸ Perelman, J., Mercat-Bruns, M. (2016), [*Les juridictions et les instances publiques dans la mise en œuvre du principe de non-discrimination : perspectives pluridisciplinaires et comparées*](#), Sciences Po (Ecole de droit/CEVIPOF) et Université Panthéon-Assas- CERSA, 2016.

- When it decides not to investigate, when it concludes that a claim does not qualify as discrimination or that its inquiry has not enabled it to establish discrimination, the Defender of Rights will close the file with a summary letter informing the claimant of its decision, but it does not have the duty or the means to issue a duly motivated decision in each and every case. This practice may not conform to the requirements of Article 9(1) of the Directive.
 - It does not publish one or more reports on the state of equal treatment and discrimination in France as provided by Article 17(c) of the Directive and nor is it required to by law.
 - There are no legal texts or formal guidelines providing for procedural safeguards or firewalls regarding how the various powers of mediation and formal investigation of the Defender of Rights are cumulated or alternatively/successively taken on by the Defender's services. However, in practice, their implementation conforms to the requirements of Article 11 of the Directive.
- Difficulties relating to the implementation and training of police and judicial actors

Non-discrimination law is a derogatory legal regime in which the shift in the burden of proof and the concept of indirect discrimination are difficult to apprehend and perceived as means to sanction liability without fault, thus conferring special rights on members of certain groups.

Police and first instance judges often lack proper training to implement the relevant rules of evidence, the latest jurisprudential developments and the particulars of the rhetoric of non-discrimination law. In practice, first instance labour court judges, who receive 99 % of labour cases, are still very reluctant to implement the shift in the burden of proof.⁵⁸⁹ Claimants still have to be ready to face multiple appeals before their cases are properly examined.

There remain many barriers to the systematic implementation of discrimination law in France.

Very few NGOs are knowledgeable in the management of judicial remedies⁵⁹⁰ or have the means to pursue judicial cases.

- Travellers and Roma

Travellers

- Access to education

The French Traveller population's rate of school attendance remains extremely low and illiteracy rates in the community have been systematically growing since compulsory

⁵⁸⁹ Perelman, J., Mercat-Bruns, M. (2016), [*Les juridictions et les instances publiques dans la mise en œuvre du principe de non-discrimination: perspectives pluridisciplinaires et comparées*](#) (Jurisdictions and public bodies and the implementation of non-discrimination: multi-disciplinary and compared perspectives), Sciences Po (Ecole de droit/CEVIPOF) et Université Panthéon-Assas- CERSA; RAJD and Trans Europe Experts, coordinated by Mercat-Bruns, M. and Latraverse, S. (2024), *Les enjeux du contentieux de la lutte contre les discriminations*, Société de Législation Comparée, Paris ; Guiomard, Serverin, Des revendications des salariés en matière de discrimination et d'égalité. Les enseignements d'un échantillon d'arrêts extraits de la base JURICA (2007=2010, 2013, Available at : <https://institutrobertbadinter.fr/fr/publications/des-revendications-des-salaries-en-matiere-de-discrimination-et-degalite-les-enseignements-dun-echantillon-darrets-extraits-de-la-base-jurica-2007-2010/>).

⁵⁹⁰ In the fields covered by the non-discrimination directives, including discrimination based on sex, there are only two NGOs specialised in bringing legal action. The first is active in the sector of sexual and emotional harassment: the Association to Combat Violence against Women (Association contre la violence faite aux femmes, AVFT). The second focuses on the legal rights of foreign nationals: the Migrants' Information and Support Group (Groupe d'information et de soutien des immigrés, GISTI). More generalist NGOs mostly intervene in criminal actions, but do not focus their activity on legal action.

military service was discontinued in 1995, as it had fulfilled the function of providing young men with basic reading and writing skills. Many mayors overtly refuse to register Traveller and Roma children for school on the ground of their illegal occupation of land. This is theoretically opposed by the Government (Ministerial Instruction No. 2012-143 of 2 October 2012), but according to the testimony of organisations working in the field,⁵⁹¹ most mayors, who are also MPs, often refuse to abide by the demands of governmental authorities, even when public education authorities or prefects intervene. In December 2021, a Parliamentary consultation and report was submitted to the Minister of Education, recommending among other measures, that the Government take the necessary steps to precisely measure this population and its geographical location.⁵⁹² In application of its national Roma strategy, DIHAL is responsible for implementing a mediation scheme to facilitate registration with local authorities, which has proved very efficient.⁵⁹³

- Housing

For Travellers, the implementation of legal parking and occupation of private land (*terrains familiaux*) with their caravans, or dedicated parking sites, are realised in very unfavourable conditions and environments with very limited results. The reluctance of mayors and local political forces to accommodate Travellers is a major hindrance to the recognition of their rights. Urban planning regulations are systematically used as a justification for evictions, refusals to enrol children in school and refusals to connect facilities to water and electricity supplies.⁵⁹⁴ This situation criminalises their way of life given the public policy on reinforced application of penal fines for illegal occupation of land provided by Article 322-4-1 of the Penal Code.⁵⁹⁵

- Compensation for World War II persecutions

In addition, the compensation of Travellers for their systematic internment, persecution and disposessions of all their property during World War II has not yet been addressed by the French State and the implementation of places of remembrance continue to face significant difficulties.

Roma

Since the June 2012 national elections and the 2017 elections in France, each Minister of the Interior has intensified the previous policy of evictions for illegal land occupation.

⁵⁹¹ National Consultative Human Rights Commission (Commission nationale consultative des droits de l'homme - CNCDH) (2019), *Rapport 2018 sur la lutte contre le racisme, l'antisémitisme et la xénophobie* (Report 2018 on the fight against racism, antisemitism and xenophobia), available at:

<https://www.cncdh.fr/fr/publications/rapport-2018-sur-la-lutte-contre-le-racisme-lantisemitisme-et-la-xenophobie>;

Human Rights League and the ERRC (2018), 'Recensement des évacuations forcées de lieux de vie occupés par des roms (ou des personnes désignées comme telles) en France en 2017' ('Census of forced evictions in living areas occupied by Roma (or people designated as such) in France'), available at:

<https://www.ldh-france.org/recensement-evacuations-forcees-lieux-vie-occupes-roms-personnes-designees-telles-en-france-en-2017/>;

Defender of Rights (2019), *Annual Report 2018*, available at:

<https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/raa-2018-num-19.02.19.pdf>.

⁵⁹² Mörch, S. (2021), *Access to Education and Great Precariousness (Scolarisation et grande précarité: l'accès à l'éducation pour tous)*, Report to the Minister of Education, December 2021, available at:

<https://www.romeurope.org/acces-a-leducation-pour-tous-rapport-de-la-mission-interministerielle-mene-par-la-deputee-sandrine-morch/>.

⁵⁹³ DIHAL, Bilan 2024-2025 'Toutes et tous à l'école!', Blog de Résorption-bidonvilles, 6 March 2026, available at : <https://blog.resorption-bidonvilles.dihal.gouv.fr/blog-r%C3%A9sorption-bidonvilles/bilan-2024-2025-toutes-et-tous-%C3%A0-l%C3%A9cole-programme-daccompagnement-vers-l%C3%A9cole-dans-le-cadre-de-la-r%C3%A9sorption-des-bidonvilles/>.

⁵⁹⁴ Acker, W. (2021) *Where are the Travellers? (Où sont les gens du voyage)*, Éditions du commun, available at: <https://www.editionsducommun.org/products/ou-sont-les-gens-du-voyage-william-acker>.

⁵⁹⁵ Conseil d'État, No. 359223, 19 November 2014.

As discussed in this report, according to the reports by the Human Rights League and the ERRC and the Observatory of informal campsites⁵⁹⁶ on the number of evictions, the ongoing policy of forced eviction from illegal campsites has resulted in the repeated eviction of a substantial proportion of Roma, precarious migrants and Travellers, which has had a very detrimental impact on the wellbeing and access to all basic social rights of these communities.

NGOs estimate that the number of foreign Roma on French territory is stable, regardless of the Government's eviction policy, since families keep coming back after eviction.⁵⁹⁷

- Racial discrimination

In practice we can observe that more cases reach trial and are successful, but they mainly concern direct discrimination and discriminatory harassment in labour anti-discrimination cases and criminal prosecutions based on Articles 225-1 and 225-2 of the Penal Code.⁵⁹⁸

In its report of June 2020, the Defender of Rights warned of the constant increase in discrimination on the ground of origin,⁵⁹⁹ a finding that is confirmed by all the most recent surveys,⁶⁰⁰ and the difficulty of ensuring progress through litigation.⁶⁰¹ The example of the difficulties of victims in challenging racial profiling by police through litigation is emblematic: both the Court of Cassation and the Conseil d'État have recognised that these practices were established, yet each case was very burdensome for the victims, insufficiently funded.

- Rise of antisemitism after 7 October 2023

More generally, IFOP reports, on the basis of data obtained from the Ministry of the Interior, that following the events of 7 October 2023, reported acts of antisemitic violence in 2024 have increased by 1 000 %.

France has the highest Jewish and Muslim populations in Europe. Islam is the second religion in France. The Jewish community is estimated to represent between 440 000 and

⁵⁹⁶ Romeurope CNDH, (2024) 'Annual report of collective eviction from informal living spaces' (Rapport annuel de l'observatoire des expulsions collectives des lieux de vie informels), December 2024, available at: https://www.romeurope.org/wp-content/uploads/2024/12/Rapport-Observatoire-des-expulsions_2024_version-web.pdf.

⁵⁹⁷ National Consultative Human Rights Commission (Commission nationale consultative des droits de l'homme - CNCDH) (2019), *Rapport 2018 sur la lutte contre le racisme, l'antisémitisme et la xénophobie* (Report 2018 on the fight against racism, antisemitism and xenophobia), available at: <https://www.cncdh.fr/publications/rapport-2018-sur-la-lutte-contre-le-racisme-lantisemitisme-et-la-xenophobie>; Defender of Rights (2019), *Annual Report 2018*, available at: <https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/raa-2018-num-19.02.19.pdf>. Romeurope CNDH, (2024) 'Annual report of collective eviction from informal living spaces' (Rapport annuel de l'observatoire des expulsions collectives des lieux de vie informels), December 2024, available at: https://www.romeurope.org/wp-content/uploads/2024/12/Rapport-Observatoire-des-expulsions_2024_version-web.pdf.

⁵⁹⁸ Lanquetin, M.-T., Grevy, M. (2005) Bilan de la mise en oeuvre de la loi du 16 novembre 2001 (Audit of the impact of the Law of 16 November 2001).

⁵⁹⁹ Defender of Rights (2020) *Discriminations et origines: l'urgence d'agir* (Report on the situation of discrimination on the ground of origin in France), June 2020, available at: <https://www.defenseurdesdroits.fr/fr/rapports/2020/06/discriminations-et-origines-lurgence-dagir>.

⁶⁰⁰ France, DARES, Ministry of Employment (2023) *Discrimination in employment experienced by persons of North African origin (Les discriminations sur le marché du travail subies par les personnes d'origine maghrébine)*, 30 March 2023, available at: <https://dares.travail-emploi.gouv.fr/publication/les-discriminations-sur-le-marche-du-travail-subies-par-les-personnes-dorigine>.

⁶⁰¹ IPSOS- CRAN (2022) *Enquête sur la perception et le vécu des discriminations à l'encontre des personnes noires* (Survey on the perception and experience of discrimination against black persons), December 2022; Defender of Rights (2022) *15e Baromètre de la perception des discriminations dans l'emploi*, available at: <https://www.defenseurdesdroits.fr/fr/etudes-et-recherches/2022/12/enquete-15e-barometre-sur-la-perception-des-discriminations-dans>.

550 000 persons,⁶⁰² and the Muslim community represents approximately 10 % of persons who have declared having a religion (that is, approximately 3.5 million persons).⁶⁰³

- Sanctions

It is observed in practice and in the jurisprudence that while the law provides for integral compensation, the difficulty of establishing pecuniary loss regarding access to goods and services or access to employment often limits the awards from the courts to symbolic moral damages.

In addition, in a context where the judicial system still holds a very conservative conception of damages, which are strictly limited to demonstrated pecuniary losses, and undervalues moral damages, and where employees seldom engage in litigation against their employer, the sanction for discrimination is not dissuasive. It remains more financially advantageous for employers to wait for prosecution than to anticipate and engage in a process of correcting discrimination in the employment and salary framework.

In criminal cases, the law provides for fines, which can theoretically reach EUR 45 000, but in practice are extremely low. Convictions can lead to fines as low as EUR 250 for refusal to admit a person wearing a Muslim headscarf to a gym, and they rarely reach more than a few thousand euros.

Law No. 2025-391 of 30 April 2025 has just created the possibility to claim civil sanctions for intentional fault committed in the course of employment which applies to discrimination cases. It remains to be seen whether this remedy will be implemented to increase the effectiveness of sanctions in discrimination cases.

- Artificial intelligence AI

The use of digital tools based on AI and algorithms is constantly increasing, although often hidden from the general public. They are currently used in the management of access to social security, in police work, case management by the judiciary or for hiring purposes, and while they constitute an element of progress, they also carry significant risks for fundamental rights. Beyond the apparent neutrality of algorithms, the ongoing research of CNIL and the Defender of Rights is showing important biases integrated in their conception and progression resulting from the databases that feed them, their self-analysing stereotyping factors and their deployment regarding sex, origin, age and social condition (a ground covered by French legislation).

⁶⁰² Times of Israel (2024) 'The world Jewish population', 2 October 2024, available at: <https://fr.timesofisrael.com/la-population-juive-mondiale-atteint-158-millions-a-la-veille-de-rosh-hashana/>; Mérat, V. Le Figaro, 22 November 2024, available at: <https://www.lefigaro.fr/actualite-france/antisemitisme-pour-12-des-francais-le-depart-des-juifs-est-plutot-une-bonne-chose-pour-la-france-20241122>.

⁶⁰³ Simon, P. et al. (2023), La diversité religieuse en France, dans Immigrés et descendants d'immigrés (*Religious diversity in France in Immigrants and descendants of immigrants*), INSEE, 2023, available at: <https://www.insee.fr/fr/statistiques/6793308?sommaire=6793391>.

12 LATEST DEVELOPMENTS IN 2025

12.1 Legislative amendments

Law No. 225-269 of 24 March 2025 extending the experimental programme promoting equal opportunities for access to certain public service training schools, which implements a special entry programme for students in a position of social vulnerability supported by scholarships.⁶⁰⁴

Law No. 2025-391 of 30 April 2025 regarding transposition of various EU law provisions, modifying the legal framework of group actions to extend legal standing to trade unions and associations.⁶⁰⁵

Law No. 2025-732 of 31 July 2025 regarding the fight against antisemitism, racism, discrimination, violence and hatred.⁶⁰⁶

12.2 Case law

General principles

Relevant discrimination ground(s): Sex, All grounds

Name of the court: Court of Cassation, social chamber

Date of decision: 9 April 2025

Name of the parties: N/A

Reference number: No. 22-23.639

ECLI reference: FR:CCASS:2025:SO00381

Link:

https://www.legifrance.gouv.fr/juri/id/JURITEXT000051464923?init=true&page=1&query=22-23.639&searchField=ALL&tab_selection=all

Brief summary:

The CGT union filed a class action lawsuit against the Caisse d'épargne Île-de-France (CEIDF) for gender-based wage discrimination. The union requested before the court, information about other employees for comparison purposes, including personal data. The company appealed against the order of the pre-trial judge requiring this disclosure, on the grounds that the purview of the requested data was too wide to ensure compliance with the protection of personal data requirements of the GDPR.

The Court of Cassation held that, when ruling on a request for disclosure of personal data in a discrimination case, the judge must ensure that the disclosure: is necessary for the exercise of the right to evidence; that it is proportionate to the purpose pursued; that it complies with the principle of data minimisation (Article 5(1)(c) GDPR). If necessary, the judge must automatically restrict the scope of the data disclosed and order the redaction of non-essential data, while specifying which information must remain visible to allow for a meaningful comparison between employees. The judge must also order the parties not to use this data for any purpose other than the legal proceedings at issue.

Relevant discrimination ground(s): race, sex, sexual orientation

Name of the court: Court of Cassation, social chamber

Date of decision: 5 November 2025

Name of the parties: N/A

Reference number: NO. 24-11.048

⁶⁰⁴ Loi n° 2025-269 du 24 mars 2025 visant à proroger le dispositif d'expérimentation favorisant l'égalité des chances pour l'accès à certaines écoles de service public, available at :

<https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000051368383>.

⁶⁰⁵ Law No. 2025-391 of 30 April 2025, <https://www.legifrance.gouv.fr/loda/id/LEGIARTI000051540827/2025-05-03#LEGIARTI000051540827>.

⁶⁰⁶ Loi n° 2025-732 du 31 juillet 2025 relative à la lutte contre l'antisémitisme dans l'enseignement supérieur, available at: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000052018661>.

ECLI reference: FR:CCASS:2025:SO01013

Link: <https://www.legifrance.gouv.fr/juri/id/JURITEXT000052587057/>

Brief summary:

The Court of Cassation decided that an employer is well founded in dismissing a commercial director committing discriminatory harassment by making sexual jokes, as well as sexist, racist and homophobic jokes, even if he is liked by his employees. The Court dismissed the employee's defence that he was being humorous, considering that these statements might hurt some employees and should not be tolerated by employers and upheld his dismissal.

Origin

Relevant discrimination ground(s): Ethnic origin, race

Name of the court: Court of Cassation, criminal chamber

Date of decision: 5 February 2025

Name of the parties: N/A

Reference number: No. 23-86.340

ECLI reference: FR:CCASS:2025:23.86.340

Link: <https://juricaf.org/arret/FRANCE-COURDECASSATION-20250121-2386340>

Brief summary:

On October 6, 2020, Mr Dieudonné Mbala Mbala, a French stand-up comic of African origin, was charged with having committed the offence of public insult against a private individual, in this case Ms Rachel Khan, on the grounds of her origin, or her membership or non-membership of a particular ethnic group, nation, race or religion, in his capacity as author of the following remarks: 'You'll remain a poor "*negress*" at the end of history'.

In France, there is no tradition of forbidding per se the N word in common language. This decision of the Court of Cassation is the first one relating to such a statement targeting a specific person. It decides that using the word '*Negress*' was meant to define the claimant by the colour of her skin and the African origins of her father by using an outrageous expression, uttered to diminish her and reduce her to the status of an inferior being. It sets a very important precedent affirming that from now on, qualifying a person of being a "*Nigger*" or '*Negress*' is an insult forbidden by law, that cannot be justified by the identity of its author or allegations relating to the specific context of the statement.

Relevant discrimination ground(s): Ethnic origin, Race

Name of the court: Court of Cassation, social chamber

Date of decision: 26 February 2025

Name of the parties: N/A

Reference number: No. 23-15.831

ECLI reference: FR:CCASS:2025:SO00194

Link: <https://www.legifrance.gouv.fr/juri/id/JURITEXT000051284050/>

Brief summary:

The claimant presented a claim for discriminatory harassment on the ground of his origin, following the hostile, humiliating and offensive treatment of his employer including racist insults. He claimed separate damages for discrimination and harassment. The request to compensate each claim separately was dismissed by the Court of Appeal.

The Court of Cassation holds that harassment and discrimination bring about distinct damages and that the court must seek to verify whether the harassing and discriminatory behaviour have each led to specific damages, thereby concluding that discriminatory harassment can lead to multiple grounds of damages as they constitute distinct violations of rights.

Roma & Travellers:

Relevant discrimination ground(s): Racial and ethnic origin

Name of the court: Administrative Court of Appeal of Marseille

Date of decision: 4 November 2025

Name of the parties: N/A

Reference number: No. 24MA00189

ECLI reference: N/A

Link: [Administrative Court of Appeal of Marseille, 4 November 2025, no 24MA00189](#)

Brief summary:

In a decision of 17 December 2024, No 24MA00189, the Metropole (local authority) of Marseille having failed to implement the parking areas to the benefit of Travellers prescribed by the judgment of the Administrative Court of Appeal of Marseille of 30 September, 2019, 4 years and 7 months after its decision, the very same Court set a delay of execution of 3 months failing which a daily fine starting at EUR 500 up to EUR 1500 would be imposed on the Metropole.

The Metropole of Marseille did not proceed with the works but instead presented an appeal to quash the decision before the Conseil d'État which was dismissed at triage level without a hearing on 23 October 2025 (this decision has not been published).

Further to the decision of the Conseil d'État, the Association La vie du Voyage sought execution of the daily fine against the Metropole of Marseille before the Administrative Court of Appeal of Marseille for non-execution of the decision.

After filing evidence of surveys made to identify sites and preliminary meetings fixed in the autumn of 2025, the Metropole of Marseille presented a request to postpone the deadline to 2030 given difficulties of implementation, and to suppress the fine, or lower its amount. In a decision of 4 November 2025, the Administrative Court of Appeal of Marseille finds that the Metropole did not establish a change of situation since the decision of 17 December 2024 or show that it had taken all the necessary steps to implement its decision within a three month delay as set out by the judgment.

It refused to re-evaluate the amount of the fines it had previously determined and admitted the Association La vie du Voyage's demand to implement the fine against the Metropole of Marseille. The Court further ordered that a fine of EUR 265 500 be paid to the state and EUR 29 500 be paid to the Association La vie du Voyage. However, given that the daily fine is to be paid by the state to the state's budget, it directed the local prefect to execute the decision by directly using this amount for the acquisition of the required land and public contracts procedures to the benefit of Travellers.

Disability

Relevant discrimination ground(s): Health, disability

Name of the court: Court of Cassation, social chamber

Date of decision: 10 December 2025

Name of the parties: N/A

Reference number: No. 24-13.602

ECLI reference: FR:CCASS:2025:SO01031

Link: <https://www.courdecassation.fr/decision/693927b4c988783351cb6634>

Brief summary:

Mr. [V], employed as a security guard, has been on sick leave since 14 March 2015, following an accident at work. The occupational physician's opinion declared him unfit for his statutory employment, with the following details: 'Mr. [V]'s state of health does not allow me to highlight any remaining abilities that would guide the search for a redeployment solution within the company. Indeed, keeping the employee in the company would be seriously detrimental to his health.' The employer dismissed the employee on grounds of incapacity without seeking to redeploy him.

The Court of Cassation ruled that the employer was justified in dismissing the employee on grounds of incapacity. When the occupational physician expressly stated in his opinion that continuing to employ the employee would be seriously detrimental to his health, the employer was not required to invite the employee to request redeployment.

Age

Relevant discrimination ground(s): Age

Name of the court: Court of Cassation, social Chamber

Date of decision: 8 January 2025

Name of the parties: N/A

Reference number: No. 23-15.410

ECLI reference: FR:CCASS:2025:SO00017

Link: <https://www.legifrance.gouv.fr/juri/id/JURITEXT000051012256/>

Brief summary:

The claimant alleges being a victim of discrimination on the ground that the provisions of the national collective agreement provide for a reduction in the amount of redundancy pay from the age of 61, in a context where the full retirement age determined by the collective agreement was set at 60.

The Court took its decision applying Article L. 1133-2 of the French Labour Code, interpreted in the light of Article 6 of Directive 2000/78/EC and the Court of justice's decision of 6 December 2012 in *Baxter* considering the Directive and the law authorise differences in treatment based on the age of employees, provided that they are objectively and reasonably justified by a legitimate aim and that the means implemented to achieve that aim are appropriate and necessary

The Court held that a measure which was aimed at promoting proper management of resources in relation to age groups in the workforce, and was negotiated with social partners constituted a legitimate objective reflecting a balance that was appropriate. In the context of a retirement age fixed by collective agreement at 60 years of age, specific unemployment insurance benefits for persons over 60, providing for a reduction of 5 % for each year after 60, was reasonable and proportionate, taking into consideration professional prospects, financial position and social benefits of various members of the workforce.

Sexual orientation

Relevant discrimination ground(s): gender and sexual orientation

Name of the court: Court of Cassation, social chamber

Date of decision: 15 October 2025

Name of the parties: N/A

Reference number: No. 23-24.002

ECLI reference: FR:CCASS:2025:SO00949

Link: <https://www.legifrance.gouv.fr/affichJuriJudi.do?idTexte=JURITEXT000052484655>

Brief summary:

The employee claimed that photomontages had been circulated within the company that were offensive to human dignity and constituted discriminatory harassment based on prohibited grounds such as gender and sexual orientation. He alleged that 'the exploitation of his image and that of his colleagues in the IT department and other employees of the company in a disparaging, homophobic, abusive, discriminatory, and racist manner', constituted harassment based on sexual orientation.

The Court of Cassation found that such events constituted discriminatory harassment on the ground of sexual orientation.

Religion:

Relevant discrimination ground(s): religion

Name of the court: Court of Cassation, social chamber

Date of decision: 10 September 2025

Name of the parties: N/A

Reference number: N. Y 23-22.722

ECLI reference: FR:CCASS:2025:SO00788

Link: <https://www.courdecassation.fr/decision/68c1330f021d8d629a161214>

Brief summary:

The claimant worked as a cleaner for an association that provides accommodation for children in care. Outside her working hours, she took the initiative to visit a minor in the association's care who had been admitted to hospital, and gave her a bible. The association's internal rules imposed particularly strict obligations of neutrality and discretion on its employees. The applicant had already given bibles to minors in the association's care on several occasions and had been punished with a warning and a suspension. She was dismissed following her visit to the minor in hospital.

The Court of Appeal ruled that the employee's behaviour constituted an abuse of her freedom of expression and manifestation of her religious beliefs, hindering the performance of her employment contract. The applicant asked the Court of Cassation to overturn the Court of Appeal's decision.

The Court of Cassation ruled that distributing bibles during the employee's free time outside the workplace, even to a young resident known to her through her work, did not constitute the performance of professional duties and that dismissal on disciplinary grounds for acts related to the employee's private life and the exercise of her freedom of religion was therefore discriminatory. The Court of Cassation reiterated that facts relating to an employee's private life cannot, in principle, justify disciplinary dismissal. The only exception to this protection is when the behaviour constitutes a breach by the person concerned of an obligation arising directly from their employment contract. The analysis must focus on the link between the alleged facts and the actual performance of the employee's professional duties. In this case, the alleged facts took place outside working hours and outside the workplace, during a personal visit to the hospital. These circumstances were unrelated to the employee's professional duties. The Court emphasised that the behaviour was part of the exercise of religious freedom in the context of private life.

ANNEX I: TABLE OF INTERNATIONAL INSTRUMENTS

Country: France
Date: 1 January 2026

Instrument	Date of signature	Date of ratification	Derogations. reservations relevant to equality and non-discrimination	Right of individual petition accepted?	Can this instrument be directly relied upon in domestic courts by individuals?
European Convention on Human Rights (ECHR)	04.11.1950	03.05.1974	No	Yes	Yes
Protocol 12, ECHR	04.11.2004	No	No	No	No
Revised European Social Charter	03.05.1996	07.05.1999	No	Ratified collective complaints protocol? Yes	No
International Covenant on Civil and Political Rights	16.12.1966	04.11.1980	Yes, Article 13 on rights relating to the expulsion of aliens	No	No
Framework Convention for the Protection of National Minorities	No	No	NA		
International Covenant on Economic, Social and Cultural Rights	16.12.1966	04.11.1980	Yes, Articles 6, 9, 11 and 13 must not be interpreted as limiting sovereignty over access to work and social rights of foreign nationals	No	No
Convention on the Elimination of All Forms of Racial Discrimination	07.03.1966	28.07.1981	No	No	No

Instrument	Date of signature	Date of ratification	Derogations. reservations relevant to equality and non-discrimination	Right of individual petition accepted?	Can this instrument be directly relied upon in domestic courts by individuals?
ILO Convention No.111 on Discrimination	25.06.1958	15.06.1960	No	No	No
Convention on the Rights of the Child	26.01.1990	06.09.1990	Yes, Article 6 cannot be interpreted to limit the application of French law on abortion; Article 30 cannot apply because of Article 2 of the French Constitution ; Article 40 para 2b)V shall be interpreted as a general principle to which limited exception can be opposed by way of legislation, such as for certain criminal offences.	Yes	Yes, some provisions have been interpreted by the Conseil d'État as directly opposable to the state. CE, 22 September 1997, GISTI,
Convention on the Rights of Persons with Disabilities	30.03.2007	18.02.2010	No	Yes	Yes, some provisions could be interpreted as directly opposable to the state.

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