



Serving citizens,
guardian of the rule of law

CONSEIL D'ÉTAT

A year in review

Conseil d'État
2023 Activity Report

The Conseil d'État is a court that settles disputes between citizens and administrative authorities. It ensures that the rights and freedoms of each citizen are respected by administrative authorities. It also serves as a legal advisor to the Government and Parliament, suggesting improvements to their bills and legislative proposals to ensure the new laws entering into force are clear, effective and comply with the existing body of law. Lastly, through its studies, it performs a forward-looking role in improving public policy.


Serving citizens, the Conseil d'État
safeguards the rule of law.

A year in review

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“The rule of law is one of the prerequisites of our democracy and of our ability to live together”

At a time when the rule of law has become the focus of more social debate than ever before, Didier-Roland Tabuteau looks back at the crucial role of the administrative court in protecting the rights and freedoms of each and every one of us. Interview with the Vice-President of the Conseil d'État.

It was a busy year for the Conseil d'État in 2023. What are your takeaways from it?

As it does every year, the Conseil d'État responded to the growing demand for justice in all areas of our society. It achieved this through the decisions it handed down, through its opinions to the Government and Parliament to ensure that bills and decrees complied with the law and met the intended objectives of the public authorities, and lastly through its study on the "last mile" of public policy, which prompted it to think about practical ways of improving public action for users.

The work of the Conseil d'État has a very direct impact on the lives of our fellow citizens. As a court of law, the Conseil d'État has examined issues relating to air pollution, freedom of association, freedom to demonstrate, law enforcement, housing, access to education and secularism in schools.

As a legal advisor, it has issued opinions on a wide range of issues, including green industry, employment, military planning and the inclusion

→
Interview
continued

in the Constitution of the freedom to terminate a pregnancy voluntarily.

Once again this year, the Conseil d'État has played a pivotal role in the debates affecting French society and 2023 has, I believe, served as a reminder of its key role in protecting the rule of law.

Why is protecting the rule of law more important today than ever before?

The rule of law is one of the prerequisites of our democracy and of our ability to live together. **The aim is simply, if I may say so, to ensure that everyone – each and every one of us – abides by the rules**

of law adopted by the representatives we elect and by the Government that is formed from among them. And these rules

apply in the same way to all administrative bodies, from town halls to the Government, from prefectures to public hospitals, schools, public employment services and social welfare services.

“

The courts apply the law “on behalf of the French people”. They do no more, but neither do they do any less.

The aim is also to protect everyone's rights and freedoms. It is the role of the Conseil d'État and the administrative courts as a whole to ensure that the administrative authorities, which are involved in almost every aspect of French people's daily lives, comply rigorously with this framework.

The rules of law are a valuable asset. These shared rules derived from our Constitution, which brings stability to our society, help to keep it calm by providing answers to public debates. They also help to plan for the future without succumbing to the emotion of the moment. The rule of law is first and foremost a way of guaranteeing that we can live together.

All this means that the law applies to everyone, without exception, all the time, and not just when it suits us. **We cannot praise a judge's decision when it suits us and, at the same time, criticise judges who apply the law, French legislation, EU legislation and the Constitution, when their decision does not suit us.**

We hear it said that administrative tribunals and courts either do too much or are complacent with those in power. What do you think?

These two contradictory criticisms perhaps prove that the administrative courts strike a balance! The courts apply the law “on behalf of the French people”. They do no more, but neither do they do any less. The courts do not rule on cases that have not been referred to them but, when they do, they decide these disputes in compliance with the law, with the public interest as their compass. This is at the heart of their remit and, as I said, at the heart of the rule of law and democracy. In carrying out their duties, **the courts strive to not take the place of public authorities, who are responsible for shaping public policy. They have neither the role nor the power to do so**, as the Conseil d'État pointed out in a decision last October (see page 52).

It is normal in our democracy to debate and question a court decision. It is essential to be able to challenge it through the appeal process. But what is not acceptable are attacks and threats against judges, challenges to their legitimacy and false information.

In recent months, administrative justice has come under attack on social media and in the press. The courts have even been the target of acts of violence at times. These abuses are unacceptable, because **an attack on the courts is an attack on our institutions, which are designed to safeguard our democratic principles.**

These attacks in no way affect our determination. We will continue to carry out our duties unwaveringly, in accordance with the terms of the oath adopted by the legislator in 2023, values that have always been at the core of our work. These include judging with complete independence, probity and impartiality, keeping our deliberations secret, and behaving with honour and dignity in everything we do. **By applying these values in our day-to-day work serving citizens, we are not taking the place of other institutions, nor are we complacent towards them.** We simply and



calmly ensure that the law, which applies to everyone, is upheld.

You say that the Conseil d'État and the administrative courts are “serving citizens”. What kind of commitment does that mean to you?

We often forget, and I am keen to remind people, that the justice system is also a public service. And we are committed to providing the best possible service to the citizens and litigants we serve. We must set an even higher example because, through our work, we check and contribute to the smooth running of the various public services in France. **As a court, we ensure that public services comply with the principles of continuity, adaptability, equality and neutrality, and as advisors to the Government and Parliament, we ensure that these essential cogs in our society are maintained and even strengthened.**

The annual study we carried out in 2023 on the last mile of public action also resulted in us making recommendations to ensure that public services are fully effective and easily accessible to their users (see pages 36 to 39), and we are committed to a number of these recommendations. The study emphasised the need for pragmatism, a local presence – which means listening to people at a grass-roots level – and trust between those involved in public action. This is also a roadmap for the administrative courts.

As part of this, we will be rolling out a platform over the coming weeks to gather the opinions of all those who come into contact with administrative justice and to make practical improvements to our organisation based on the feedback we receive. While administrative justice has historically been very easy to access, without excessive red tape and at a low cost, I hope that listening to people's views and the actions we take as a result will be another step along the road to an even more local and effective service.

What challenges does the Conseil d'État face in today's fast-changing world?

Our first priority is to continue to carry out our duties to the best of our ability by adapting to changes in society. One example of how we have done this is our efforts over the last few years to expand and improve procedures for urgent cases, so that the administrative tribunals and courts can provide a rapid response, sometimes within a few



hours, when litigants' situations warrant it. We have also made it possible for cases to be referred to the administrative tribunals and courts via the internet, in just a few clicks, and we will continue to improve this online tool, without neglecting the telephone helpline and in-person services at courts. We are also working to make our decisions easier to understand for people who are not at all familiar with the law, have a poor command of French or have a learning disability. We have a duty to adapt, which is why we will continue to strive to make the courts ever more accessible and understandable to the public.

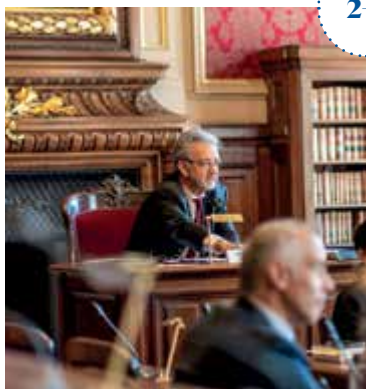
But we certainly need to go further. The lack of trust in public and scientific discourse, disinformation and the widening gap between citizens and their institutions, which are increasingly difficult to understand, all raise questions. How do we win back trust? How do we improve people's understanding of how our democracy works, the balance it strikes and the guarantees it provides for everyone? **It is also our responsibility to be open to listen and understand, to welcome and confront all points of view, to respond to questions, whatever they may be.** This is a major challenge for the future. ●

“
The justice system is also a public service. And we are committed to providing the best possible service to the citizens and litigants we serve.

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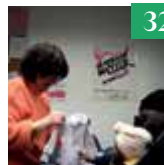
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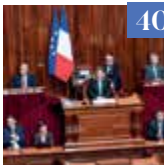
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29 June

The French Football Federation can legally ban conspicuous religious symbols during matches.

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At the Conseil d'État



9,746

cases decided
including 496
urgent applications



921

opinions issued
including 71 on
Government bills



1

study published
*The user from the first to the
last mile of public action*



EVENT

6 September

The Conseil d'État returns to work: presentation of the annual study on the last mile of public action by the Vice-President, Didier-Roland Tabuteau.

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9 November

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11 October

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DECISION

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22 December

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In other administrative courts



32,144

cases decided
by administrative
courts of appeal



243,089

cases decided
by administrative
tribunals



66,358

cases decided
by the National
Court of Asylum

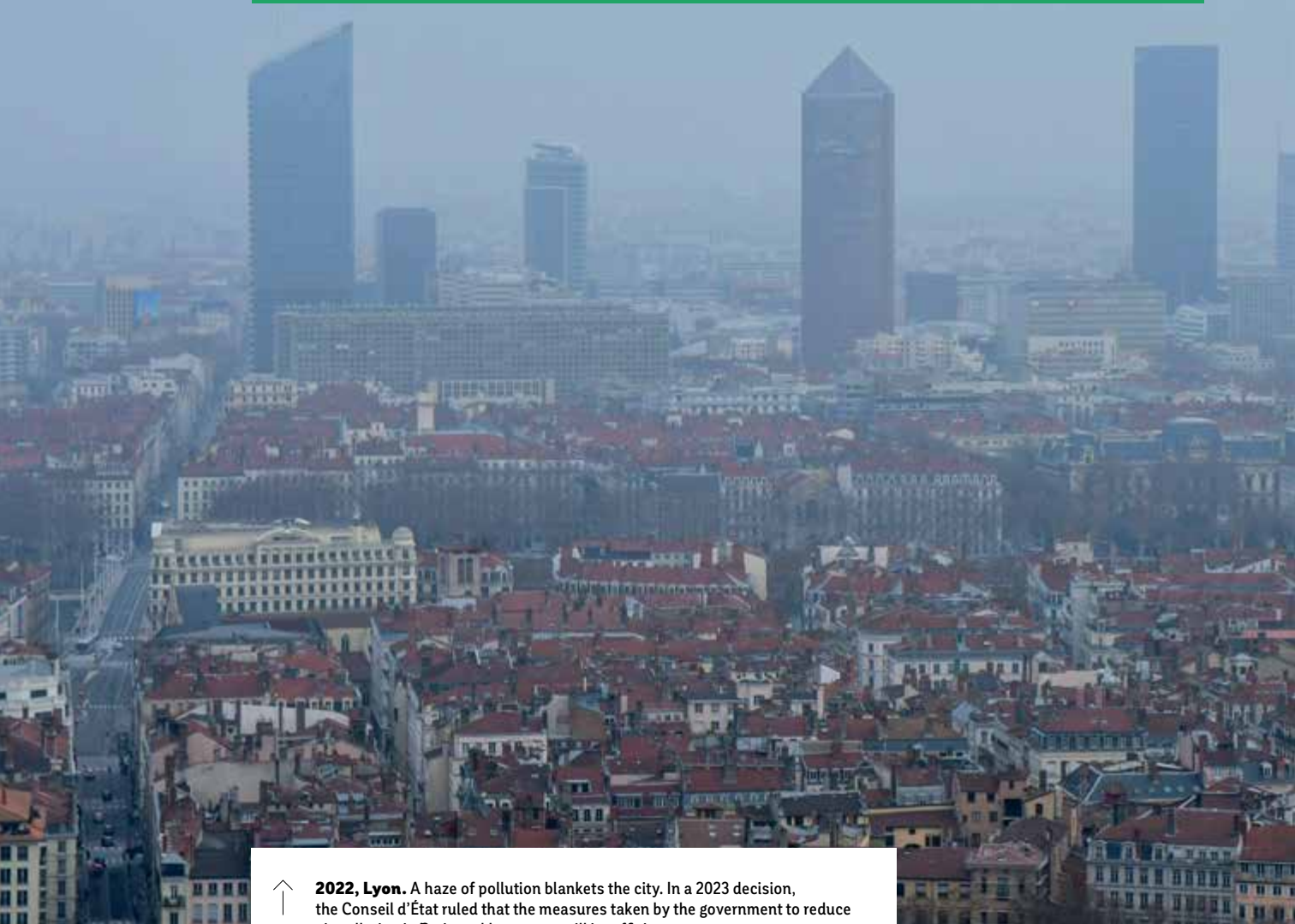


130,686

cases decided
by the Paid Parking Complaints
Commission

Environment: the challenge of the century

When the Conseil d'État is tasked with checking that the State is honouring its environmental commitments, it ensures that public action is up to the demands of the ecological emergency. In so doing, it safeguards everyone's right to live in a balanced, healthy environment, now and in the future.



2022, Lyon. A haze of pollution blankets the city. In a 2023 decision, the Conseil d'État ruled that the measures taken by the government to reduce air pollution in Paris and Lyon were still insufficient.

Air pollution: the State still has work to do

In 2021, exposure to fine particles caused 253,000 premature deaths in Europe, and nitrogen dioxide pollution caused a further 52,000.* Air pollution causes the greatest number of deaths each year.

The State must do more

In 2017, the Conseil d'État heard a case referred to it by Les Amis de la Terre and ruled that the French State was not complying with EU air quality regulations transposed into French law in sixteen areas across the country. In its decision of 10 July 2020, the Conseil d'État ordered the State to act as quickly as possible, subject to a penalty of €10 million for each six-month delay. After it issued three penalties between 2021 and 2022, it was time to review the progress made by the State. The Conseil d'État examined the latest information provided by the French Ministry for Ecological Transition for the second half of 2022 and the first half of 2023. There had been a marked improvement. The fine particle pollution thresholds were no longer exceeded in urban areas, while the situation was still unsatisfactory or poor in four areas in the first half of 2022. The thresholds for nitrogen dioxide, meanwhile, were no longer being exceeded in Aix-Marseille and Toulouse, although they were still being significantly exceeded in Lyon and Paris.

40,000

deaths per year caused by exposure to fine particles in France

Source: French Federation of Approved Air Quality Monitoring Associations

Improvements expected in Lyon and Paris

A number of measures have been taken to limit the pollution caused mainly by road traffic. In Lyon, the Air Protection Plan (PPA) is being overhauled, and the low-emission zone (ZFE-m) – a scheme to restrict the number of polluting vehicles on the roads – is being extended to faster roads and dual carriageways. However, in the Conseil d'État's view, these measures will not lead to a rapid and significant reduction in nitrogen dioxide levels. In Paris, although a review of the PPA is also under way, this will not have an immediate and significant effect on air pollution either. This is especially true now that the Greater Paris metropolitan authority has postponed the ban on the use of polluting vehicles classified as Crit'air 3 until January 2025 and no other measures have been taken. The Conseil d'État therefore ruled that the 2017 decision had still not been fully implemented, and ordered the State to pay two further penalties, one for the last six months of 2022 and another for the first six months of 2023. In view of the reported improvements, the judge reduced the amount of these penalties to €5 million each. At the end of 2024, the Conseil d'État will examine the progress made by the State in the second half of 2023 and the first half of 2024. ●

*Source: "Air Quality in Europe 2023", European Environment Agency



COURT DECISION

no. 428409 of 24 November 2023, "Air pollution: the Conseil d'État orders the State to pay two penalty payments of €5 million"

Reducing greenhouse gas emissions: falling short of targets

→
2022, Pays de la Loire.
 The Cordemais coal-fired power station. In 2023, the Conseil d'État ordered the French government to take measures to reduce greenhouse gas emissions.



In July 2021, the Conseil d'État heard a case referred to it by the municipality of Grande-Synthe and a number of associations and ordered the Government to take all necessary measures, before 21 March 2022, to reduce greenhouse gas emissions. The aim is to reduce emissions by 40% below 1990 levels by 2030, in line with France's commitments under the Paris Agreement, as transposed into French law by Parliament.

Some progress made

In May 2023, the Conseil d'État found that its decision had not been fully implemented. Some measures

had been introduced, including introducing a national low-carbon strategy setting emission reduction targets, adopting four-year "carbon budgets" and allocating funding in the transport, building, industry, energy and waste sectors. But despite undeniable progress, there is still not enough being done, and there is a real risk that targets will not be met. The Conseil d'État took into account the French High Council on Climate's report entitled "Acknowledge the Urgency, Commit the Resources", which in 2022 highlighted the inadequacy of the measures taken to meet the targets set.

Act faster

The Conseil d'État also noted that the fall in emissions over recent years could be explained more by the effects of the Covid-19 lockdowns and the impact of the energy crisis linked to the conflict in Ukraine, than by action by the State. It pointed out that new, more ambitious European targets have been set for a 55% reduction in emissions by 2030, compared with 1990 levels. To speed up the transition under way, the court ordered the Government to introduce new measures by 30 June 2024 and to submit a detailed interim report. ●

COURT DECISIONS

nos. 427301 of 1 July 2021
 and 467982 of 10 May 2023,
 "Greenhouse gas emissions"



TAKING A CLOSER LOOK

How do you ensure that court decisions are enforced?

What good is a court decision if it is not enforced? Although the issue of enforcement of administrative court decisions has long been sidelined, the idea that a dispute does not end with notification of the decision has gradually become accepted. Enforcement means that the decision must be implemented within a reasonable time frame. To ensure this, the role of the administrative tribunals and courts in enforcement has been considerably strengthened. In 1980 and 1995, Parliament provided it with a number of tools, including injunctions to order specific action to be taken and penalties, which must be paid until the decision is enforced. These changes were followed in 2017 and 2019 by two decrees giving the Conseil d'État the power to act on its own initiative when it finds that a decision has not been complied with, and giving all courts the power to issue injunctions of their own motion. On 24 October, the Conseil d'État shared this story at a conference focusing on the enforcement of court decisions by administrative tribunals and courts.

📄 CONFERENCE on 24 October 2023, "60 years of enforcement of administrative court decisions"

IN BRIEF

In French Guiana, gold mining faces up to environmental requirements

In 2016, a consortium applied to extend two mining concessions for a further 20 and 25 years at the Montagne d'Or site in French Guiana, with the aim of mining a deposit of 85 tonnes of gold. In January 2019, the French Ministry for the Economy rejected this extension. It considered that this gold mining venture, unprecedented in scale, was contrary to France's environmental objectives. The consortium appealed to Cayenne Administrative Tribunal, which overturned the Government's decision, a judgment upheld by Bordeaux Administrative Court of Appeal. Why was this? Before it was overhauled in 2021, the French Mining Code authorised the extension of concessions without any consideration of their environmental impact. However, in February 2022, the French Constitutional Council ruled that this part of the old Mining Code was inconsistent with the French Charter for the Environment, which has had constitutional status since 2004. The France Nature Environnement association appealed to the Conseil d'État, which consequently suspended the



2017, Montagne d'Or. The mining site is located 180 kilometres from Cayenne. In 2023, the Conseil d'État suspended the extension of two mining concessions on the site because of their potential impact on the environment.

renewal of the concessions. The case was referred back to Bordeaux Administrative Court of Appeal, which confirmed on 6 February 2024 that the concessions could not be extended. ●



COURT DECISION

no. 456736 of 19 October 2023, "Extension of the Élysée and Montagne d'Or" mining concessions

IN BRIEF

Neonicotinoids: no exemption from the European ban possible

In 2021 and 2022, sugar beet crops were threatened by widespread infestations of disease-carrying aphids. The Government then authorised growers to use two pesticides, imidacloprid and thiamethoxam – neonicotinoids banned by the European Union since 2018. Environmental protection associations referred the matter to the Conseil d'État. The court pointed out that EU law allows the exceptional use of an unregistered pesticide where there is a serious risk to agriculture and no other solution is available. However, in January 2023, the Court of Justice of the European Union clarified that, where the European Commission has expressly banned a pesticide by means of an implementing regulation, no exemptions may be granted by national authorities. The Conseil d'État therefore ruled that the exemptions granted by the French government were illegal. These two neonicotinoids cannot be authorised in France, even on an exceptional basis. ●



2023, Laon. Virus-carrying aphids on a sugar beet plant on a farm in Hauts-de-France.



COURT DECISION

no. 450155 of 3 May 2023, "Exemptions for the use of neonicotinoids on sugar beet crops"

The Government must do more to **protect porpoises and dolphins**



threshold for deaths by accidental capture – above which the conservation of these species is threatened – has been exceeded every year since 2018. The Conseil d'État therefore gave the Government six months to introduce more effective measures. It asked it to close fishing areas for appropriate periods and to implement a more accurate system for estimating the number of small cetaceans caught each year. Following this decision, the Secretary of State for the Sea published a decree on 24 October 2023 banning vessels of eight metres or longer from fishing in the Bay of Biscay from 22 January to 20 February in 2024, 2025 and 2026.

Inadequate measures to preserve biodiversity

However, this was still not enough for the associations. In December, they lodged an urgent appeal with the Conseil d'État, which ruled that the decree permitted too many exemptions to the fishing ban for 2024. The scientific assessments are nevertheless clear: to be effective, the temporary fishing ban must apply to all high-risk fishing activities. However, the decree does not include a ban on certain devices that are responsible for a large number of accidental catches of cetaceans, such as pelagic seines (nets used to encircle schools of fish at the surface). Furthermore, the decree puts an end to the experimentation of acoustic deterrent devices on certain vessels, without proposing any alternative measures. In response to the urgent need to protect the environment while taking economic issues into account, the Conseil d'État's urgent applications judge suspended the exemptions planned for 2024 and extended the ban to pelagic seines. Trials involving acoustic deterrent devices have been reinstated. ●

↑ **2023.** In response to the large number of dolphins and porpoises killed by fishing off the Atlantic coast, Sea Shepherd France launched Operation Dolphin Bycatch. Volunteers monitor the hauling in of nets and trawls to spot accidental catches of cetaceans.

In March 2023, a number of environmental associations brought a case before the Conseil d'État, alerting it to the large number of deaths of dolphins and porpoises accidentally captured by fishing vessels in the Bay of Biscay and asking it to order the Government to comply with EU law on the conservation of these species.

A serious threat to small cetaceans

The Conseil d'État noted that the species in question – the bottlenose dolphin, the common dolphin and the harbour porpoise – have an "unfavourable" conservation status. In fact, the common dolphin and the harbour porpoise are in serious danger of extinction at the regional level. The acoustic deterrents used by fishermen to keep them away have proved inadequate. The maximum



9,000

dolphins killed each year by accidental capture along the Atlantic seaboard



20%

of these deaths are caused by pelagic seines

Source: International Council for the Exploration of the Sea (ICES)

COURT DECISIONS

no. 449788 of 20 March 2023, "Accidental catches of dolphins and porpoises in the Bay of Biscay"

nos. 489926, 489932 and 489949 of 22 December 2023, "Exemptions to the closure of fishing in the Bay of Biscay"

Is public procurement becoming greener?

In April 2023, the Conseil d'État examined a bill on green industry, designed to speed up the reindustrialisation of France and encourage the decarbonisation of its industry. The bill included plans to reform public procurement by introducing stricter environmental criteria for companies.

The bill sought to give public sector buyers the option of refusing to award a contract to companies with more than 500 employees that have not published their carbon footprint, which has been mandatory since 2012. The Conseil d'État considered that this measure complies with EU law. However, it pointed out that, when applying this criterion, all candidates must be treated in the same way, under the principle of equality. The Conseil d'État also noted that the measure allowing buyers to choose the most economically advantageous tender by taking environmental criteria into account is already included in the French Public Procurement Code. It therefore considered that this measure was unnecessary. Despite this reservation, the law came into force with these two measures on 23 October 2023. ●



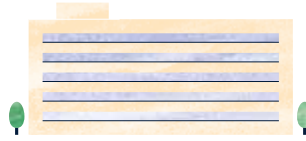
↑ **2023.** The Union des Groupements d'Achats Publics (UGAP), France's main public procurement body.

 **ADVISORY OPINION**
of 3 May 2023 on a green industry bill

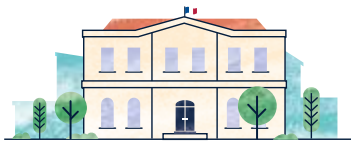
Since 2012, the requirement to publish a greenhouse gas emissions report has applied to:



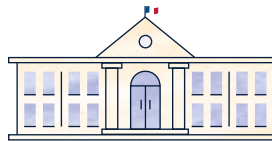
Companies
with more than 500 employees



Public institutions
with more than 250 employees



Local authorities
with more than 50,000 residents



State administrative authorities

In 2021, **65%** of organisations required to publish this report had not done so.

Source: French Agency for Ecological Transition (ADEME)

Housing, the focus of new tensions

Growing problems in our towns and cities – social diversity, the property crisis and substandard housing, for example – can sometimes put a strain on the right to housing. The Conseil d'État keeps a close eye on the realities of urban life, ensuring that this essential right is guaranteed every time it is called upon to give a decision.



2023, Le Plessis-Robinson. Building social housing. In a decision handed down in June 2023, the Conseil d'État reminded local authorities that they may build more social housing than the legal threshold, which is set at 20% or 25% depending on the number of residents.



Social housing: thresholds may be exceeded

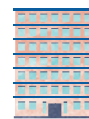
Municipalities or public establishments for cooperation between local authorities may exercise their "urban pre-emptive right", by prioritising the purchase of a property for a reason of general interest. In July 2022, Greater Bordeaux exercised its pre-emptive right to buy a building in the town of Cenon. The aim was to build around 40 homes, half of which would be social housing.

Minimum thresholds, not ceilings

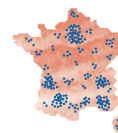
The seller of the property and the private investment company that wanted to buy it objected and brought the matter before Bordeaux Administrative Tribunal. In their view, the Greater Bordeaux project was not of sufficient general interest, because the municipality of Cenon, with over 40% social housing, had already achieved the targets set by the State. Furthermore, the project would contravene the social diversity target of Greater Bordeaux's local urban development plan (PLU), which aims to reduce the proportion of social housing in municipalities that already have a high proportion. After their application was dismissed by Bordeaux Administrative Tribunal, the seller and the potential buyer appealed to the Conseil d'État.

The Conseil d'État confirmed in June 2023 that Greater Bordeaux had legally exercised its pre-emptive right. Firstly, the planned project had been carefully thought through, as required by the French Urban Planning Code, and the feasibility study on building 40 homes, conducted prior to purchase, was proof of this. Secondly, contrary to what the applicants claimed, the project did not contravene the social diversity targets of the PLU. On this point, the Conseil d'État reiterated and clarified the provisions of the French Construction and Housing Code, which states that the targets set for social rental housing are not ceilings that must not be exceeded, but minimum thresholds that must be achieved. ●

37.2 million
homes in France



5.3 million
of which are social
housing



64%

of municipalities required to comply with the SRU* law have not met their 2020-2022 targets

*SRU: law on urban solidarity and renewal

Source: Abbé Pierre Foundation



COURT DECISION

no. 468543 of 30 June 2023, "Greater Bordeaux's urban pre-emptive right"



“Dark stores”: warehouses in the heart of residential areas



→
2022, Paris. A delivery person on a bicycle heads to a “dark store” on the ground floor of a building. In a decision handed down in March 2023, the Conseil d’État ruled that companies could not convert a traditional business into a “dark store” without first notifying the authorities.

Dark stores – warehouses used to deliver shopping and meals ordered over the internet or via mobile apps – are proliferating, to the point of having a lasting impact on residential urban areas. This trend is eroding efforts by local authorities to tackle the housing shortage, foster a balance between housing and employment, and protect residents’ quality of life by limiting noise and visual pollution.

Dark stores are warehouses, not shops

In March 2023, the City of Paris brought an action before the Conseil d’État, claiming that two companies did not have the right to convert traditional shops into dark stores, and requested that the premises be restored to their original use. The urgent applications judge ruled in the municipality’s favour. The Paris local urban development plan (PLU) does allow ground floor shops to be converted into housing or offices, but prohibits them from being converted into warehouses. However, according to the PLU and the French Urban Planning Code, a dark store is a storage warehouse and not a shop for direct sales to customers. The two companies should have submitted a notification in advance, which the City of Paris could then have objected to. The Conseil d’État therefore considered that, as the change had not been authorised, Paris city council was entitled ask the two companies to restore the premises to their original use. ●

BY THE WAY...

What is a local urban development plan (PLU)?

A local urban development plan for a municipality (PLU) or between municipalities (PLU-i) is a document that defines the broad development guidelines for a given area and regulates building in particular. It plans and shapes how a built-up area will be developed over the next ten to fifteen years, describing the areas that are urban, to be developed as urban, natural and agricultural. It provides a framework for urban development projects, their architectural styles and their impact on the environment and sustainable development. As a strategic document, it specifies the rules that underpin urban planning decisions by the public and private sectors. In particular, the PLU is the basis for granting – or refusing – building and works permits.

COURT DECISION

no. 468360 of 23 March 2023, “The conversion of shops into ‘dark stores’ must be approved by the City of Paris”

Tools for tackling substandard housing

How do we strengthen the ability of public authorities to take more effective action against substandard housing? In November 2023, the Conseil d'État examined a bill designed to speed up and simplify the renovation of run-down housing and major development projects.

Striking a balance between emergency measures and homeowners' rights

The Government's plans included introducing a new expropriation procedure to enable the State to take early possession of run-down properties or those unfit for habitation. To guarantee the safety of occupants and the rights of property owners, the Conseil d'État recommended in its opinion that the conditions governing this procedure should be more clearly defined, by requiring proof of landlords' failure to act and a technical report justifying the need to carry out work. Finally, where the condition of the building warrants a temporary ban on occupancy, the public authorities must arrange for residents to be rehoused.

The bill also proposed redefining the criteria for ordering the demolition of unfit or unsafe buildings. As the law currently stands, demolishing a building can only be ordered if the repair work would cost more than rebuilding it, including the cost of demolition. However,



2021, Marseille. Two evacuated buildings unfit for habitation, two years after the fatal collapse of two buildings on Rue d'Aubagne. The Abbé Pierre Foundation estimates that 600,000 homes in France will be potentially unfit for habitation in 2024.

in urban areas, the high cost of demolition is often a barrier to demolishing substandard buildings. To address this problem, the Government proposed revising the calculation so that repair costs no longer included only the cost of the work to make the building fit for habitation, but also the cost of the work required to provide decent housing. The Conseil d'État acknowledged that the measure was necessary, but recommended that the repair work that landlords could be required to carry out should be clearly defined. The bill was passed by both the National Assembly and the Senate and became law on 9 April 2024. ●



ADVISORY OPINION


of 12 December 2023 on a bill designed to speed up and simplify the renovation of run-down housing and major development projects



TAKING A CLOSER LOOK

Are standards holding back housebuilding?

Not enough new homes are being built in France to meet the population's needs. What role do standards play in this? Although regulations are often regarded as an obstacle to construction, slowing down the pace of building work or adding to costs, others are favourable to builders, including those that allow the height of buildings to be raised. By contrast, a lack of standards can have a negative impact on the availability of housing. For example, if there are no regulations keeping the expansion of Airbnb in check, many properties will move from the traditional rental market to the furnished tourist market. The challenge is therefore to ensure that standards meet new or changing needs, and to guarantee greater consistency. The Conseil d'État invited housing sector operators and specialists to a conference on 8 November 2023 to consider the impact and effectiveness of current building and housing standards.

 **CONFERENCE** on 8 November 2023, "Do standards slow down housing or drive it forward?", *Public Economic Law Interviews*

Employment and the changing world of work

Redundancy plans, support for the unemployed, pay inequalities are just some of the major challenges transforming the employment market. As a court and legal advisor, the Conseil d'État ensures that the rules protecting employees and jobseekers are properly applied.



Redundancy plans: clarifying the rules

In France, redundancies are a fact of life, affecting more than 21,000 employees in the third quarter of 2023. In companies with more than 50 employees, employers wishing to cut more than ten jobs on economic grounds must draw up a PSE (Plan de sauvegarde de l'emploi - job protection

plan) and submit it to the Regional Directorate for the Economy, Employment, Labour and Solidarity (DREETS). In two decisions handed down in March 2023, the Conseil d'État clarifies the rules that a company must follow to obtain approval for its PSE.



↑ **2023, Escaudœuvres.** Workers at the Tereos sugar plant in Escaudœuvres protest after learning of the closure of their factory. Under the PSE, around 100 employees will be redeployed to other Tereos plants in the region.

Psychosocial risks must be taken into account

Implementing a PSE often puts employees' mental health to the test, creating feelings of uncertainty, stress and job insecurity. When a public body and a company challenged judgments quashing the approval of their redundancy plans, the Conseil d'État clarified the procedures the DREETS must follow when verifying PSEs. It ruled that the psychosocial risks associated with company reorganisations must be taken into account. In addition



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PSEs validated or approved in 2023



63%

of employees affected by a PSE were made redundant and 27% opted for voluntary redundancy, on average, between 2018 and 2021

Source: Dares

to informing and consulting staff representative bodies, the employer submitting a PSE must include measures to protect employees from these risks.

No collective termination agreement to avoid a PSE

The Conseil d'État was also asked to rule on the case of a company that had implemented a collective termination agreement (RCC). When a company is experiencing economic difficulties, it can use this procedure to protect its business and some of its employees' jobs. The collective termination agreement gives employees the choice of voluntarily terminating their employment contract in exchange for negotiated compensation, or remaining with the company. This was the approach adopted by a printing company in 2020 when one of its sites was closing. In 2023, it challenged the judgment of Versailles Administrative Court of Appeal quashing this agreement. The Conseil d'État upheld the court of appeal's judgment, confirming that a company may not propose a collective termination agreement to avoid implementing a PSE if it plans to cease trading. When the printing company proposed the collective termination agreement, it did not really give its employees a choice. If employees refused the proposed termination agreement, they knew they would be made redundant anyway, as the site was closing down. They were therefore pressured into agreeing to leave under the collective termination agreement, thereby exempting the company from having to implement a PSE with preventive, support and redeployment measures for all its employees. ●



COURT DECISIONS

nos. 450012 and 460660-460924 of 21 March 2023, "Job protection plan and psychosocial risks"

no. 459626 of 21 March 2023, "Collective termination agreement"

New rules for jobseekers



2023. The Full Employment Law converts Pôle Emploi into France Travail.

it would be held liable. It also pointed out that unemployed people would only be penalised if they fail to meet the commitments expressly detailed in their contract. In the specific case of those receiving RSA, France Travail will be able to propose suspending payment of the income supplement to the president of the departmental council, as this council is responsible for managing this benefit. If there is no response from the president, the penalty may be enforced. According to the Conseil d'État, France Travail may act on behalf of the president of the departmental council, but only after giving them sufficient time to respond. However, given the complexity of the system, the Conseil d'État suggested that it should be evaluated once it has been implemented.

In May 2023, the Conseil d'État issued an opinion on the Government's full employment bill. The bill radically overhauled the support and employment schemes designed to achieve the target of reducing unemployment to 5% by 2027. It included the creation of France Travail as a replacement for Pôle Emploi, a new "commitment contract" and measures to strengthen the integration of people with disabilities into the labour market.

A commitment contract with jobseekers

Under this bill, the Government added people who receive France's Revenu de Solidarité Active (RSA), or earned income supplement, to the list of supported jobseekers, with the aim of helping them back into work. A "commitment contract" sets out each party's responsibilities: jobseekers will actively take part in the work integration initiatives proposed, while France Travail – created by this law – will implement appropriate support schemes. In its opinion, the Conseil d'État stated that any failure by France Travail to fulfil its obligations to provide support to jobseekers would be considered misconduct for which

Measures for people with disabilities

The bill also sought to promote the professional inclusion of people with disabilities, in particular by making it easier for disabled jobseekers to meet employers committed to their integration into the labour market. It allows job applicants to indicate on the websites of public employment services that they are beneficiaries of the obligation to employ disabled people and gives companies an opportunity to indicate their commitment. In the Conseil d'État's view, this does amount to processing personal data, but there is no need to enshrine it in law. The data processing in question in no way contravenes any existing law and does not affect the exercise of public freedoms. However, to prevent any form of abuse likely to lead to discriminatory practices, the

Conseil d'État emphasised the need for these schemes to be rigorously monitored and assessed periodically. This is to ensure that information relating to disability is only shared with the consent of those concerned. ●

2.82 million
unemployed people registered with France Travail in the first quarter of 2024

Source: France Travail

ADVISORY OPINION

of 7 June 2023 on the full employment bill

A scheme for value sharing within companies



2021, Villeneuve-de-Rivière. An SME manufacturing electric bicycles in Haute-Garonne. In May 2023, the Conseil d'État issued an opinion on a bill to promote value sharing within companies.

In February 2023, a national interprofessional agreement on value sharing within companies was reached between trade unions and employers. Its aim was to involve employees more closely in the performance of the companies they work for (including SMEs), to boost their purchasing power. In May, the Government submitted to the Conseil d'État the bill transposing the measures set out in this agreement.

Clearer definition of exceptional increases in profit

The bill required companies to open negotiations with their employees on value sharing in the event of an "exceptional increase" in profits. To ensure that the law is enforceable and will be complied with, the Conseil d'État asked the Government to clearly define the situations to which it applies, taking into account, for example, the size of the company, the sector it operates in or the results achieved in previous years.

Unequal tax exemptions

The bill also extended the scheme that exempts from tax any value sharing bonuses paid by companies until the end of 2026. However, in the Conseil d'État's opinion, this scheme, which was introduced in August 2022, was only acceptable provided it was temporary; therefore, it cannot be extended any further. Because it only applies to employees of companies with fewer than 50 employees earning less than three times the minimum wage, it undermines the principle of equal tax treatment for all. Furthermore, with this scheme, a slight difference in salary could result in a big difference in tax between two employees. For example, an employee earning slightly more than the ceiling could ultimately end up taking home less than an employee earning less but benefiting from the exemption. The Government decided to keep the scheme, but extended the tax exemption to all employees. The law came into force on 29 November 2023. ●



Acting on inequalities at their source, such as those found within companies, can be a step towards ensuring greater social justice.

Parliamentary report on value sharing within companies



ADVISORY OPINION
of 24 May 2023 on the bill transposing the national interprofessional agreement on value sharing within the company



Energy: the new rare commodity

Environmental impact, soaring prices and plant safety are just some of the challenges that the energy sector poses for public authorities. Each time it issues a judgment or advice, the Conseil d'État tries to strike a balance between the fundamental interests of France in terms of energy supply and the rules governing environmental protection.



A long-term solution for radioactive waste management

How can highly radioactive waste be stored over the long term while protecting the environment and human health? The Cigéo project, implemented by the French National Agency for Radioactive Waste Management (ANDRA), plans to store this waste 500 metres deep in the clay subsoil of three municipalities on the border between

the departments of Meuse and Haute-Marne. In two decrees in 2022, the Government declared the project to be in the public interest and included it on the list of "operations of national interest". Environmental associations, concerned about the potential repercussions of the project, requested that the Conseil d'État overturn these decisions.



Bure. In this underground laboratory in the department of Meuse, studies on the deep disposal of radioactive waste are being carried out as part of the Cigéo project. In 2023, the Conseil d'État ruled that the government's decision to declare the project in the public interest complied with the law.

Guarantees for the environment and health

Concerning the legality of the project, the Conseil d'État pointed out that France had opted for deep disposal of highly radioactive waste under three laws since 1991, with a view to finding a very long-term solution. However, does the Cigéo project comply with the right of future generations, guaranteed by the French Constitution, to live in a balanced, healthy environment? In October, the French Constitutional Council ruled on this question, referred to it by the Conseil d'État. It ruled that when Parliament adopts measures likely to affect the environment, it must ensure that the choices designed to

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To ensure sustainable development, choices designed to meet the needs of the present generation should not jeopardise the ability of future generations and other peoples to meet their own needs.

Paragraph 7 of the preamble to the Charter for the Environment, incorporated into the French Constitution

meet the needs of the present generation do not jeopardise the ability of future generations and other peoples to meet their own needs, as required by the French Charter for the Environment.

The impact on future generations considered

In the Cigéo case, risks to the environment and human health were identified in the impact study but, in the Constitutional Council's view, sufficient measures have been planned to avoid, reduce and offset any significant negative effects. Based on the decision of the Constitutional Court, the Conseil d'État considered that the project complied with the requirement for the storage facility to be reversible, as required by law, with a period of 100 years for the recovery of radioactive waste and recovery tests planned during the pilot phase. The Conseil d'État also found that the public enquiry conducted prior to the declaration of public interest complied with the procedure laid down by law. It gave members of the public an opportunity not only to learn about the project and the many scientific resources available to them, but also to comment on the proposals. The associations therefore have no grounds for appeal as the government was entitled to declare the project to be in the public interest. However, construction of the storage facility cannot begin until it has been approved by the French Nuclear Safety Authority, a decision expected in 2027. ●



COURT DECISION

no. 467331 of 1 December 2023, "A radioactive waste disposal project in the public interest"

No wind farm in Marcel Proust country



2022, Eure-et-Loir. A wind turbine in a field of rapeseed at Magny, near Illiers-Combray. In 2023, the Conseil d'État ruled that a new wind farm would significantly damage the landscape and heritage interest of Marcel Proust's village.



Can a heritage-listed village be home to wind turbines? In 2020, Combray Énergie applied to the Prefect of Eure-et-Loir for permission to install and operate a wind farm in the department. The Prefect refused on the grounds that the project would blight the landscape of Illiers-Combray, just a few kilometres away. Illiers-Combray is listed as an "outstanding heritage site" and was Marcel Proust's childhood village and the setting for his famous novel *Swann's Way*.

A landscape in need of protection

However, Combray Énergie challenged this decision. The Conseil d'État assessed the situation from all angles and

ruled in favour of the Prefect, upholding a previous decision by Versailles Administrative Tribunal. It noted that the wind turbines would clearly be visible from Illiers-Combray and the surrounding area. It also pointed out that the site was listed specifically to protect and conserve landscapes closely linked to Marcel Proust's life, which visitors can explore along a trail. Two landmarks located in the village are also listed as "historic monuments": the church tower and the Pré Catelan garden, designed by Jules Amiot, Marcel Proust's uncle. Considering the historical, commemorative, cultural and literary aspects of the landscape, the Conseil d'État ruled that the proposed wind farm would significantly damage the landscape and heritage interest of the village. It could not therefore be authorised. ●



The proposed wind farm would likely cause significant damage to an area including not only two historic monuments, but also the outstanding site, landscape and heritage interest of the village of Illiers-Combray.

Decision no. 464855

COURT DECISION

no. 464855 of 4 October 2023, "Proposed wind farm at Illiers-Combray"

IN BRIEF A new legal framework to revitalise nuclear power

Over the past two years, France has committed to revitalising its nuclear industry. In 2022, the government announced the installation of six new European Pressurised Reactors (EPR). How can the nuclear safety framework be adapted to strengthen the industry? In December 2023, the Conseil d'État examined a bill on the organisation of the governance of nuclear safety and radiation protection. The bill included plans to merge the French Nuclear Safety Authority (ASN) and the French Institute for Radiological Protection and

Nuclear Safety (IRSN) into a single body: the French Nuclear Safety and Radiological Protection Authority (ASNR). It also sought to make public procurement procedures more secure to reflect the specific characteristics of building nuclear facilities and to protect France's fundamental interests in this area. In the Conseil d'État's view, there were no legal obstacles to the main measures, which comply with both the French Constitution and EU law. The bill was passed by the French Parliament on 9 April 2024. ●

ADVISORY OPINION

of 22 December 2023 on a bill on the organisation of the governance of nuclear safety and radiation protection to meet the challenge of revitalising the nuclear industry

An exceptional measure to limit **the rise in electricity prices**

How can consumers be protected from rising energy prices? The Regulated Access to Incumbent Nuclear Electricity (ARENH) mechanism, introduced by the law of 7 December 2010, requires Électricité de France (EDF) to sell a quarter of its annual nuclear output to competing electricity suppliers at a fixed price. In 2022, as the war in Ukraine caused prices to rise, the government decided to increase the volume of electricity that EDF had to sell under the ARENH mechanism. The aim was to prevent bills skyrocketing for customers of competing suppliers. EDF, supported in its action by employee and shareholder organisations, felt that this decision undermined its freedom of enterprise and referred the matter to the Conseil d'État.

Exceptional circumstances call for exceptional measures

However, in the Conseil d'État's view, this measure complied with both French and EU law. Firstly, this was not "State aid" aimed at customers of competing suppliers. The European Commission would have to be notified of any aid of this kind. This measure only went as far as was



necessary to offset the advantage that EDF gains from its nuclear power plants. Secondly, given the exceptional circumstances of soaring prices, the Conseil d'État considered that the measure was not excessive but necessary to achieve the twofold objectives set by the law in 2010: guaranteed price stability and freedom of choice of supplier. It also considered that the measure did not disproportionately affect EDF's freedom of enterprise. The appeal was dismissed. ●

↑ **2023, Nogent-sur-Seine.** A nuclear power plant in Aube. In 2023, the Conseil d'État ruled that the Government's decision to increase the volume of nuclear electricity that EDF had to sell to its competitors was legal.



COURT DECISION

no. 462840 of 3 February 2023, "Rising energy prices"

The French and rising energy prices in 2023

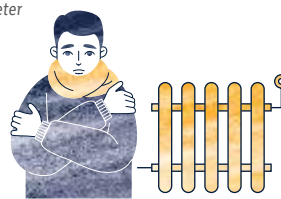
Source: *Énergie-info* barometer



31%

of French households have difficulty paying their energy bills

46% of tradespeople and **55%** of under-35s



79%

of French households say they have turned down the heating in their home to save money

Education: equal access for all

The French Constitution guarantees equal access to education for all. But how do we ensure that this right is upheld from nursery school through to university? The Conseil d'État's decisions ensure that the rules designed to make the education system equal and inclusive are complied with throughout the country and at all ages.



↑ **Paris, September 2015.** A makeshift school in the middle of a Roma camp on Boulevard Ney. In 2023, the Conseil d'État ruled that a municipality in Essonne had acted illegally by sending Roma children to a different school from other children.

A municipality cannot teach children in isolation

In 2012, Romanian families of Roma origin settled on a plot of land in Ris-Orangis in the department of Essonne. The mayor refused to allow 12 children aged between five and 12 to attend the local nursery and primary schools.

Children taught separately from other pupils

In early 2013, the situation changed. The French Ministry of Education's departmental services, in consultation with the mayor, provided the families with a teacher specialising in pupils with "special educational needs". The children were taught in a room adjoining a municipal gymnasium, outside the school grounds.

In this poorly equipped space, they had no access to school meals or to the extra-curricular activities organised by the schools. Supported by human rights associations, the families brought an action before Versailles Administrative Tribunal, which ruled that the decision to teach them in isolation was illegal.

An illegal decision

However, the municipality appealed against this decision, then appealed to the Conseil d'État. The court found that the children had been provided with only a rudimentary form of schooling, in an inappropriate setting and away from other pupils, even though places were available in local schools. Educating children under these conditions went against the principle of equal treatment of users of public services, regardless of their background. The court also emphasised that there is a constitutional right to education, which guarantees equal access to education for all children.

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Education is compulsory for every child from the ages of three to sixteen.

Article L. 131-1 of the French Education Code

Families compensated

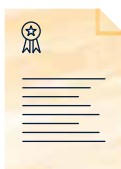
The Conseil d'État found that this illegal decision had been taken jointly by the municipality of Ris-Orangis and the Ministry of Education's departmental services. It ordered the municipality and the State to compensate the families for the psychological harm they had suffered. ●



COURT DECISION

nos. 441979, 438287, 438288, 438289 and 438290 of 8 December 2023, "Schooling for children of Romanian nationality outside school premises"

Access to education is a right guaranteed by the:



French Constitution

"The Nation guarantees equal access to education for children and adults."

Paragraph 13 of the Preamble to the 1946 Constitution



European Convention for the Protection of Human Rights (ECHR)

"No person shall be denied the right to education."

Article 2 of Protocol No. 1



French Education Code

"The right to education is guaranteed to everyone."

Article L. 111

Legal measures for the inclusion of transgender pupils



Paris, 2023. A Pride March placard calling for the protection of transgender and intersex children.

Eight out of ten young transgender people say that their school experience has been "impaired" or "very impaired".* The French Ministry of Education published a circular for schools in 2021 to help them tackle transphobia in education. Its aim was to provide schools with a better understanding of the situation of transgender pupils, to help support them, protect them and provide them with an environment conducive to academic success.

Transgender minors allowed to change their first name at school

In December 2023, two associations – SOS Éducation and Juristes Pour l'Enfance – requested that the circular be annulled. In particular, they criticised the circular for allowing transgender pupils to use a first name different from their registered name. In the

Conseil d'État's view, the circular was legal, since it did not infringe the requirement to protect the best interests of children or the freedom of conscience of teachers, pupils or parents.

Rights of other pupils and parents respected

With regard to the use of private areas (such as changing rooms, dormitories and toilets) by transgender pupils, the court emphasised that the circular leaves schools free to choose between several options. This allows them to address the concerns raised by all pupils, whether transgender or not. In this respect, it does not compromise the rights of other pupils to their privacy and intimacy, or the duty of parents to protect their children. The associations' request was dismissed and the validity of the circular was upheld. ●

“
The public education system [...] shall ensure inclusive schooling for all children, without discrimination of any kind.

Article L. 111-1 of the French Education Code

*Source: Santé LGBT. Les minorités de genre et de sexualité face aux soins, Lormont, Le Bord de l'eau, "Documents" coll., 2020

COURT DECISION

no. 463697 of 29 December 2023, "Considering gender identity issues in schools"

University selection: master's degree admission process clarified



2023. A student applies via the “Mon Master” platform. In 2023, the Conseil d’État ruled that it was legal to require students to use this platform to apply for a master’s degree.

Launched in February 2023 by the French government, the “Mon Master” platform centralises all student applications to help students find a place on a university master’s degree course. In 2023, more than 173,000 students applied online via this platform. Master’s degree selection is a source of concern for students and is often the subject of appeals to the administrative courts. Two decisions handed down by the Conseil d’État clarify the admission process for these courses.

Merit is the only criterion for admission to a master’s degree at university

On 13 October 2023, the Conseil d’État examined an appeal by a student whose application for admission to the first year of a master’s degree at the University of Reims Champagne-Ardenne had been rejected. The student claimed that the university had not provided applicants with sufficient information about the number of places available or the selection criteria. In the Conseil d’État’s view, the law requires universities with limited places on their master’s degree courses to select applicants solely on the basis of merit. However, universities are under no obligation to explain how they assess this criterion, although they may choose to do so. The Conseil d’État also noted that the university had clearly stated the number of places available publicly on its website to inform potential applicants.

Mandatory use of an online application platform is legal

On 31 October, the Conseil d’État ruled on another student’s appeal, challenging the Government’s decree requiring students to use the online “Mon Master” platform to apply for the first year of a master’s degree at university. The student believed that this process undermined the principle of equal access to education.

As the Conseil d’État clarified in a decision in June 2022, the administrative authorities may make the use of an online system mandatory, provided that they guarantee access to the public service and ensure that users can exercise their rights effectively. To achieve this, they must consider any difficulties in accessing or using the online service, taking into account the particular characteristics of the target audience, the complexity of the administrative procedure in question and the specific features of the online tool. If necessary, the authorities must offer an alternative solution to the online service or provide support. In the view of the Conseil d’État, the “Mon Master” platform is primarily aimed at young people who are familiar with using online services. Consequently, the Government did not need to provide any specific support measures. Furthermore, this online service had not suffered any major failures that warranted the introduction of alternative solutions. The student’s appeal was dismissed. ●



COURT DECISIONS

no. 467671 of 13 October 2023, “Access to master’s degree courses at university”

no. 471537 of 31 October 2023, “Online master’s degree application procedure”

Associations, an essential part of democratic life

Freedom of association is a fundamental right, and the associations that use it play a key role in our democracy. The Conseil d'État ensures that the rights and duties of these organisations are respected.



2022, Paris. Clothing distribution organised by the Restos du Cœur association. Since 2021, associations have had to sign a "contract to respect the values of the Republic" to receive public subsidies.

The French voluntary sector

1.5 million active associations in 2023



+60%
focused on sport, culture
or leisure activities

15%
involved in defending
causes, rights and interests



10%
involved in social action

12 million
volunteers



Sources: Recherches et Solidarités and French National Institute for Youth and Non-formal Education (INJEP)

A contract with the Republic **for subsidies**

The Law of 24 August 2021 to strengthen respect for the principles of the Republic requires associations wishing to obtain public subsidies or State accreditation to undertake to comply with a “contract to respect the values of the Republic”. The contract, which was detailed by the Government in a decree at the end of 2021, includes seven commitments, including compliance with the laws of the Republic, prevention of violence, non-discrimination and respect for human dignity. Associations that fail to comply with these obligations may have their funding or accreditation withdrawn.

A legitimate aim: respect for the principles of the Republic

Several associations brought actions before the Conseil d'État, claiming that the new contract infringed the freedoms of association and expression. However, the Conseil d'État ruled that the obligations imposed by the contract had a legitimate aim: respect for the fundamental principles of the Republic. Furthermore, the measures to withdraw subsidies or accreditation were not disproportionate to this aim. The Conseil d'État also found that these measures did not in themselves limit the freedom of expression of associations. ●



COURT DECISION

no. 461962 of 30 June 2023,
“Contract to respect the
values of the Republic”

A strict framework for the dissolution of associations by the State



2023, Nantes. A placard emblazoned with the symbol of Les Soulèvements de la Terre at a demonstration. In February 2024, the dissolution of this association was overturned by the Conseil d'État.



Since 1901, all French citizens have had the right to form associations without prior authorisation. This right is recognised and protected by the French Constitution. However, the law allows the Government to dissolve an association if it poses a threat to security and, since 2021, if it incites or encourages violence against people or property in particular. But where do you draw the line between protecting law and order and freedom of association? The Conseil d'État, hearing cases brought by four associations or groups dissolved between 2021 and 2023, clarified the criteria that may warrant dissolution.

Definition of “incitement to violence” clarified

The Conseil d'État pointed out that the French Internal Security Code allows an association to be dissolved when it incites or encourages its members or sympathisers to engage in violent acts against

people or property through its words or actions, whether explicitly or implicitly. Two specific examples are publicly condoning acts of a serious nature or failing to moderate comments that explicitly incite people to commit acts of violence, including on social media.

Three dissolutions upheld

Accordingly, the Conseil d'État ruled that the dissolution of the Lyon and Environs Antifascist Group (known as the Groupe antifasciste Lyon et environs or GALE in French) was justified. The group had published images of violence against police officers, complete with hateful and insulting texts, and had not moderated the accompanying calls for violence against far-right activists. The dissolution of the groups Alvarium and Coordination Against Racism and Islamophobia (Coordination contre le racismisme et l'islamophobie, or CRI) was also legal according to the Conseil d'État, but for a different reason. These two associations had used social media to promote discrimination and hatred against people based on their race or religion.

Dissolution of Les Soulèvements de la Terre overturned

The Conseil d'État ruled that no incitement to violence against individuals could be attributed to Les Soulèvements de la Terre. The somewhat complacent passing on of images of clashes between demonstrators and the police does not constitute incitement or justification of violent acts against individuals. The Conseil d'État did, however, consider that Les Soulèvements de la Terre had incited violent acts against property. Despite this, it considered that dissolving the association was not appropriate, necessary or proportionate in view of the seriousness of the likely disturbance to law and order, given the actual effects that these incitements may have had. ●

33

associations dissolved between 2017 and 2023

Source: *Official Journal of the French Republic*



COURT DECISIONS

nos. 476384, 464412, 459704 and 460457 of 9 November 2023, “Criteria justifying the dissolution of an association or group”

Collective actions: associations on the front line



In February 2023, a bill was tabled to increase the number of associations that can bring collective actions before the courts.

Since 2014, people who have suffered the same harm have been able to join forces with an accredited association to take their case to court and defend their rights more effectively. However, ten years after this “collective action” procedure was introduced in France, only 32 such actions have been brought, with less than 20% positive outcomes.

New ways for associations to bring actions

In February 2023, a bill tabled by two MPs was referred to the Conseil d’État for an opinion. Its aim was to simplify collective actions, improve compensation for victims and reduce the time taken to deliver judgments. In particular, the bill increased the number of associations that can join forces to bring a collective action.

The Conseil d’État shared the MPs’ concerns about the lack of openness of the procedure. However, it

made it clear that, while associations are essential for defending people in court who would otherwise find it difficult to do so on their own, it is important to ensure that they are well thought through, independent and have adequate resources. This ensures that litigants are not taken advantage of and that they are properly represented before the courts.

In November, another bill was referred to the Conseil d’État, seeking to broaden the categories of associations that could institute legal proceedings on behalf of victims. The Government envisaged that only associations recognised as being in the public interest would be able to act as civil

parties in cases of sectarian influence. This would require them to obtain ministerial approval. In the Conseil d’État’s view, this measure did not raise any legal difficulties, provided that the conditions for obtaining this approval are specified at a later date by decree and that the commitment of the associations is taken seriously. ●

Collective action is a procedure that allows people who have suffered the same harm to join forces and take legal action.



ADVISORY OPINIONS

of 9 February 2023 on a bill on the legal regime for collective actions and of 9 November 2023 on a bill aimed at strengthening efforts to combat sectarian aberrations and punish severely damaging mental influence

The user from the first to the last mile of public action:

a question of efficiency and a democratic requirement

As a court and legal advisor, the Conseil d'État assesses the strengths and weaknesses of public action on a daily basis. While this leads to high expectations among members of the French public, it is now increasingly being challenged and often finds itself at odds with the aspirations of its users. With this in mind, the Conseil d'État's 2023 annual study looks at the ability of public action to reach its "last mile". Based on fieldwork with public officials, members of the public and representatives of civil society, it presents an analysis and puts forward twelve practical proposals for renewed public action and a successful "last mile".



2023, Nice. A France Services bus waiting for users to drop in. Launched in 2019, the France Services programme aims to make it easier for users to access public services by providing a range of services and help with administrative procedures in a single place.



France was built around strong public action and public services available to all. But while its citizens have high expectations of public services, does public action always manage to go the “last mile” and actually reach its intended users?

Public action challenged

Despite the commitment of public-sector stakeholders and the undeniable progress made in bringing public services closer to users – simplifying procedures, involving citizens in decision-making, introducing the right to make mistakes, and so on – a gap has opened up between public action and the people it is intended to serve. The hearings and meetings that the Conseil d’État held as part of its annual study highlight users’ perceptions of complex public action and public services that do not fully meet their expectations. The growing trend towards digitalising administrative procedures – positive in many respects, but problematic for the most digitally illiterate – along with the continuing proliferation of standards and the increasing complexity of the administrative machinery are fuelling the perception that public action is out of touch with grass-roots issues and that French people are losing confidence in their public services. This crisis of confidence is compounded by the difficulties facing three emblematic institutions that French people hold dear: schools, which guarantee education and equal opportunities; hospitals, which protect health; and the justice system, upholds the rule of law.

→
Article
continued



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TESTIMONIAL

MARIE-FRANÇOISE FOURNIER,
Mayor of Guéret

Adapting public policies to local areas

The difficulty with the “last mile” often lies in the one-size-fits-all approach of government policies. They are designed for both large metropolitan areas and smaller towns, such as Guéret. It is essential to adapt public policies to the people and areas they are intended to serve. For example, we cannot expect a town hall like ours to invest heavily in housing or business. This would be very easy for a metropolitan area, but for us, it would be a real obstacle course.

INTERVIEW



MÉLANIE VILLIERS,

Deputy General Rapporteur of the Conseil d'État's Studies, Research and Cooperation Section

Why did the Conseil d'État choose to "put itself in the shoes of users" to conduct its annual study? How does this perspective provide a new understanding of public action, its strengths and weaknesses?

Putting ourselves in the shoes of users means adopting their view of the effectiveness of public services. With this study, we sought to understand how public action is perceived and experienced in everyday life by those it is supposed to serve. By listening not only to users, but also to public officials and those working at grass-roots level, we have a better chance of identifying the problems they face and, consequently, of finding solutions to them. It is not a question of meeting every individual expectation, but of putting forward practical solutions that make public action more effective in reaching its target audience. We need to strive to absorb the complexity of systems to make life easier for users, move away from the usual vertical approach to give more room for manoeuvre to those working on the ground, work as a team, capitalise on the creativity of both public officials and private sector stakeholders, and develop a management style that is firmly focused on improving public service. These solutions may sound simple, but in fact they are extremely ambitious and will take time to implement effectively.

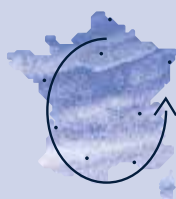
The Conseil d'État's 2023 annual study involved:



320

interviews with

users, associations, public and private sector stakeholders, etc.



4

field trips



5

public meetings

with discussions



12

proposals

to improve public action

In the shoes of grass-roots users

In response to this crisis of confidence, the Conseil d'État, borrowing a logistics term, decided to explore the "last mile" of public action. The aim was to check that public action actually reaches its intended target audience. By focusing its study on the "last mile", the Conseil d'État has shifted the perspective, looking at things from the user's point of view. As part of its study, the Conseil d'État spoke to public service employees, travelled around the country to meet users, and spent time in the community to experience first-hand the procedures that users have to deal with. These interactions have helped not only to paint a true picture of the problems people face in accessing public services in France, but also to identify the practices that improve public action in everyday life.

One key finding to emerge from this work is that there are more users today, they are more diverse, and their expectations have changed dramatically over the last few decades. The Conseil d'État has pinpointed two priority areas for the coming years. The first is to revive the culture of public service, which is based on usability, continuity, accessibility and adaptability. The second is to give both users and those working at grass-roots level – elected representatives, public officials, associations, and so on – the opportunity to play an active role in the "last mile". To kick-start this work as soon as possible, the Conseil d'État has put forward twelve proposals that are ambitious yet modest, structured around three main themes: local presence, pragmatism and trust.

Local presence, pragmatism, trust: putting citizens at the heart of public action

Local presence is the need to embed public action closer in the everyday lives of users in a more tangible way. For the Conseil d'État, this means bringing public services closer to citizens, by prioritising approaches that involve outreach to users, and reintroducing human contact into the "user experience", by moving away from a purely digital approach and delivering messages that everyone can understand. For example, as part of this "outreach" approach, the French gendarmerie has adapted its practices to the needs of local communities. Using the Ubiquity system, it has deployed mobile computer workstations to record complaints from users anywhere in the country, including town halls, hospitals and people's homes.

Pragmatism is about aligning public action with the needs of citizens. Users and grass-roots stakeholders – particularly local authorities – need to be listened to and more closely involved in decision-making so that

they can play a more active role in public policy. The study also stresses that public policies must be given the resources they need to achieve their objectives, whether financial, human, IT or logistical. Lastly, the administrative authorities must always endeavour to absorb complexity themselves, rather than passing it on to users, which unfortunately still happens far too often. At Saint-Antoine Hospital in Paris, for example, a brainstorming session with users led to the introduction of a "room of ten errors". Designed as a role-playing exercise based on real-life complaints, it helps health-care workers gain a better understanding of the practical difficulties patients face.

Lastly, trust is about rebuilding the relationship between citizens and public services. This means giving greater freedom of action to civil society stakeholders in the delivery of public action. It also means letting stakeholders test the responses and adapt them to the local situation, and encouraging cooperation between locally elected representatives, prefects, associations and users. In Sète, a "learning city" has been set up to encourage collaboration between stakeholders in the local education community. The initiative has received widespread support, leading to a series of very practical measures to improve educational support, including the creation of bridging classes for children from the age of two, and a new option at secondary school to raise teenagers' awareness of how to deal with news stories.

While the public authorities need to begin this work straight away, tackling the challenge of the "last mile" will require time – time for dialogue, for building capabilities, and for continuous improvement. This challenge does not require major reforms, but its ultimate goal is essential: to build public action that serves everyone, and to rebuild a genuine relationship of trust between French people and their public services. ●



↑ **2023, Paris.** Interprofessional training on the governance of a learning city.



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TESTIMONIAL

COMLAN AZANNÉ,

Principal of Anne Frank Secondary School in Roubaix, former leader of the learning city project

Encouraging cooperation between local stakeholders

Tackling the "last mile" means understanding the need to give local areas the freedom to work together to build solutions to their problems. Our experience with the learning city in Roubaix has highlighted the importance of this approach. By bringing together those involved in education, we have managed to roll out initiatives that help improve educational provision. For example, we have set up a welfare fund to provide financial support for schoolchildren, along with an emergency procedure to help families in urgent need. The idea is not to provide alternatives, but to bolster existing initiatives and make up for the shortcomings of public policy.



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TESTIMONIAL

CLAUDE RAMBAUD,

Vice-President of France Assos Santé

Aligning public action with the needs of users

The "last mile" in healthcare is a major challenge. Adapting healthcare provision to the realities in local communities, often far removed from centralised decision making, is far from easy. This "last mile" cannot be built without taking on board the opinions of patients, who are the main beneficiaries. Today, users are keen to play an active part in shaping healthcare provision. Involving them more in public health policies is essential if we are to reduce the gap between actual needs and the services available to them.



ANNUAL STUDY

"The user from the first to the last mile of public action: a question of efficiency and a democratic requirement"

Fundamental freedoms in need of protection

The freedom of conscience and expression, the right to dignity and a fair trial, and the freedom to have an abortion are just some of our fundamental freedoms that have been enshrined in legislation and court decisions since 1789. As a court upholding freedoms, the Conseil d'État ensures that they are fully respected, with due regard for the general interest.



2024, Versailles. On 4 March, Members of Parliament and Senators meeting in joint session passed the law enshrining abortion in the French Constitution. France is the first country to enshrine this right in its Constitution.

The right to abortion enshrined in the Constitution

Voluntary termination of pregnancy (abortion) has been permitted in France since the law of 17 January 1975. However, the right of women to control their own bodies was never definitively established. In the United States, the *Roe v. Wade* decision, which made the right to abortion a constitutional right since 1973, was overturned in 2022. Since then, six federal states have restricted this right and fourteen others have abolished it altogether. Inspired by proposals from French MPs, the Government tabled a constitutional bill to enshrine the freedom to have an abortion in the Constitution. Submitted to the Conseil d'État for its opinion at the end of 2023, the bill was passed by MPs and Senators meeting in joint session on 4 March 2024 before becoming law four days later.

A guaranteed freedom

The single article in the bill proposed adding the following sentence to Article 34 of the Constitution: "The law shall determine the conditions under which a woman's freedom, which is guaranteed to her, to have recourse to a voluntary interruption of pregnancy shall be exercised". The aim of this new framework was to prevent Parliament from one day abolishing abortion through ordinary legislation or restricting the conditions under which it can be exercised to the point of voiding this freedom of its substance. It was also designed to give parliamentarians the option of changing the way in which this freedom is exercised, to reflect medical or scientific advances. The Conseil d'État analysed the legal issues raised by the bill, while taking into account the social, ethical and public health implications. While there was no reason why this sentence should not be included in the Constitution, the Conseil d'État did suggest that the Government clarify the wording slightly, replacing "a woman's freedom, which is guaranteed to her" with "the freedom guaranteed to a woman". This clearer, more direct wording would ensure that this freedom is guaranteed by the Constitution, while at the same time emphasising the legislator's powers.

Compliance with French and EU law

In the Conseil d'État's view, including this sentence did not undermine the other rights and freedoms guaranteed by the French Constitution. In particular, freedom of conscience remained protected, as doctors and midwives would still be free to choose not to perform abortions if they informed their patients and referred them to another professional who could help them. The Conseil d'État also confirmed that the bill complied with France's international commitments. Neither the European Convention for the Protection of Human Rights and Fundamental Freedoms nor EU law enshrines freedom to have an abortion as such, but the case law of the European Court of Human Rights leaves it up to each State to strike the right balance between the mother's right to privacy and the protection of the unborn child. ●

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The law shall determine the conditions under which the freedom guaranteed to a woman to have recourse to a voluntary interruption of pregnancy shall be exercised.

Constitutional law of 8 March 2024



ADVISORY OPINION

of 7 December 2023 on a constitutional bill on the freedom to have recourse to voluntary termination of pregnancy

Unacceptable prison conditions: the State must take action at Saint-Étienne prison



2024, La Talaudière. An exercise yard at Saint-Étienne-La Talaudière prison littered with rubbish. In May 2023, the Conseil d'État ordered the State to implement seven measures to improve prison conditions without delay.



Water ingress, risk of electrocution, unpartitioned toilets, dirty showers and substandard exercise yards were just some of the unacceptable prison conditions reported on several occasions at the Saint-Étienne-La Talaudière prison. The issues were first raised by the Inspector-General of Places of Deprivation of Liberty, in 2012 and 2019, and more recently by an MP from the Loire region, in 2022 and 2023. In May 2023, the French section of the International Prison Observatory and the Lawyers for the Defence of Prisoners' Rights association brought the case before Lyon Administrative Tribunal, and subsequently lodged an urgent appeal with the Conseil d'État. They requested that the urgent applications judge order the prison authorities to take action to improve conditions at this prison.

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In view of the vulnerability of prisoners and their [...] complete dependence on the administrative authorities, it is incumbent upon these authorities [...] to take appropriate measures to protect their lives and to prevent them being subjected to any inhuman or degrading treatment to ensure effective respect [...] for human rights and fundamental freedoms.

Decision no. 472994

Some progress made, but not enough

When the hearing began at the Conseil d'État, the judge noted that some progress had been made. The prison authorities had provided prisoners with maintenance kits for their cells and had begun to repair the surge protection system, as the urgent applications judge at Lyon Administrative Tribunal had ordered a few weeks earlier. It had also taken steps to reduce the risk of flooding and electrocution, and to improve hygiene, sanitation and the day-to-day living conditions of inmates. The prison had even undertaken substantial work to repair the roof and gradually renovate the cells. However, in the judge's opinion, this was still not enough to ensure that prisoners were provided with acceptable detention facilities as swiftly as possible, and were no longer subjected to inhuman or degrading treatment. The urgent applications judge ordered the prison to implement seven additional measures. In particular, the prison would have to clean the communal showers and exercise yard without delay, partition off the toilets and check the electrical systems. ●

COURT DECISION

no. 472994 of 15 May 2023
"Prison conditions at the Saint-Étienne-La Talaudière prison"

Reforming the rights of asylum seekers

In February 2023, the Government submitted to the Conseil d'État its bill to control immigration and improve integration. The bill included a reform to the way the French National Court of Asylum (CNDA) operates. The CNDA is the court that asylum seekers may appeal to when the authorities reject their application. One of the aims of the bill was to speed up the processing of appeals by making it standard for decisions to be handed down by a single judge, rather than three. But does this measure guarantee everyone's right to a fair trial?

Greater flexibility for three-judge hearings

In the Conseil d'État's view, this reform did not contravene either EU law or the French Constitution. EU legislation does not require an appeal to be heard by several judges, and the Constitutional Council has made it clear that French law may lay down different rules for different cases. However, the Conseil d'État recommended



2019, Montreuil. A hearing at the French National Court of Asylum.

amending the bill to provide greater scope for referral to a panel of judges. It proposed giving the CNDA the option of a three-judge review when an appeal "raises a question that justifies it" rather than limiting this to "cases of serious difficulty" as stipulated in the initial version. This amendment was included in the law that came into force on 26 January 2024. ●



ADVISORY OPINION
of 26 January 2023 on a bill to control immigration and improve integration

BY THE WAY...

What is a **fundamental right or freedom**?

The Preamble to the 1958 Constitution defines the fundamental freedoms of French citizens. The Preamble brings together the 1789 Declaration of the Rights of Man and of the Citizen, the 1946 Constitution and the Charter for the Environment. These freedoms are also taken from the European Convention on Human Rights.

There are four types of fundamental rights:

- Rights inherent in the human person, such as freedom, equality, security and resistance to oppression
- Rights that derive from these, such as universal suffrage, gender equality, freedom of expression or religion, and the presumption of innocence
- Social and economic rights, such as employment, health protection and free state education
- "Third generation" rights, such as the right to live in a balanced, healthy environment and the rights of future generations.

Demonstrations: risks assessed on a case-by-case basis



2024, Lyon.
Demonstration
in support of the
Palestinian people. In
2023, the Conseil d'État
ruled that the mere
fact of supporting the
Palestinian people does
not justify banning a
demonstration.



On 12 October 2023, five days after the Hamas terrorist attack in Israel, the French Minister of the Interior sent a telegram to all prefects. It stated that “*pro-Palestinian demonstrations, because they are likely to cause public order disturbances, must be banned*”. The Comité Action Palestine association brought an action before the Conseil d'État, claiming that freedom of demonstration and freedom of expression had not been respected. This provided an opportunity for the court to reiterate the rule on banning demonstrations.

The minister's telegram did not constitute a ban

At the judgment hearing, the French Minister of the Interior explained that the purpose of his telegram was to remind prefects that it was incumbent upon them to ban demonstrations in support of the Palestinian cause where they publicly justified or glorified, directly or indirectly, terrorist acts such as those committed in Israel on 7 October. The Conseil d'État pointed out that only prefects can ban a local demonstration if they consider

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Respect for freedom of demonstration and freedom of expression, which are fundamental freedoms [...], must be balanced against the constitutional requirement to safeguard law and order.

Decision no. 488860

it likely to disturb public order. This telegram alone could not have been the basis for any ban.

Supporting the Palestinian people is not grounds for a ban

The Conseil d'État recognised that, against a backdrop of high international tensions and an upsurge in anti-Semitic acts in France, certain demonstrations are more likely to cause public order disturbances. This was true of demonstrations in support of Hamas, classified as a terrorist organisation by the European Union, or those that glorify or justify terrorist attacks. However, it also pointed out that a demonstration could not be banned for the sole reason that it supported the Palestinian people. Each situation would need to be examined on its own merits. The role of the administrative courts was to verify, as a matter of urgency, that a ban imposed by a prefect was necessary, appropriate and proportionate. The Conseil d'État criticised the “vague wording” of the challenged telegram, but ruled that it did not infringe the freedoms of demonstration and expression. ●



COURT DECISION

no. 488860 of 18 October 2023, “Demonstrations in support of the Palestinian cause”

Creative freedom and **respect for human dignity**



Paris, May 2023. The entrance to the Palais de Tokyo where the Miriam Cahn exhibition took place. In April, the Conseil d'État ruled that the controversial painting could remain on display.

In March 2023, a handful of associations requested that the Conseil d'État order the urgent removal of the painting *Fuck abstraction!* by Miriam Cahn, exhibited at the Palais de Tokyo in Paris. They argued that the work depicted the rape of a child and should not be viewed by minors. The Conseil d'État's urgent applications judge noted that the intention of the work was to condemn a crime, as the artist had pointed out. Notices along the route leading to the work explain the context to visitors, stating that the painting depicts an adult victim and alludes to the crimes perpetrated

by Russian armed forces in Butcha, Ukraine, in 2022. The Palais de Tokyo also took precautions to discourage minors and visitors with children from viewing the painting, with security guards and a member of the exhibition team on duty at all times. In light of these factors, the Conseil d'État considered that hanging the painting did not constitute a serious and clearly unlawful infringement of the best interests of children and human dignity. The painting did not have to be removed. ●



COURT DECISION


no. 472611 of 14 April 2023, "Exhibition of Miriam Cahn's painting *Fuck abstraction!* at the Palais de Tokyo"



TAKING A CLOSER LOOK

Striking a balance between **fundamental freedoms** and the **general interest**

The concept of general interest guides public action. Yet today, the general interest seems less understood and less prominent in public debate. It is central to the role of the administrative courts, which ensure that the administrative authorities pursue the general interest and endeavour to balance it with protecting individual freedoms. Because the general interest can also limit how we exercise our rights, the courts have to strike a complex balance. For example, the freedom to demonstrate may sometimes be limited in order to maintain law and order. How is this quest for balance reflected in the administrative courts? The 2023 Litigation Interviews explored this question by bringing together representatives of the Conseil d'État and legal professionals to discuss where the general interest fits in today.

 **CONFERENCE** on 28 November 2023, "The General Interest", *Litigation Interviews*

Secularism, a foundation for living together

The principle of secularism has been a cornerstone of the French Republic, guaranteeing the neutrality of public services and the separation of Church and State since 1905. The Conseil d'État ensures that the right balance is struck between this principle and freedom of religious expression and practice.



Paris, 2022. Members of the “Les Hijabeuses” collective playing football under the windows of the French Senate to protest against the vote by Senators in January on an amendment banning the wearing of headscarves during sports competitions.



Religious symbols may be banned from football grounds

Since 2006, the statutes of the French Football Federation (FFF) have banned players from “wearing any symbol or clothing ostensibly expressing a political, philosophical, religious or trade union affiliation” during competitions and events organised by the Federation. However, several associations – the Human Rights League of France, Alliance Citoyenne and Contre-Attaque – requested that the Conseil d’État overturn this ban. In their view, the ban infringes the religious freedom and freedom of conscience of players taking part in sporting competitions. In particular, the associations would like female football players to be allowed to wear the hijab during their matches.

Federations entrusted with public service duties

The Conseil d’État pointed out that, like other sports federations, the FFF performs public service duties delegated to it by the State. It must therefore comply with the principle of public service neutrality, with its employees refraining from expressing their personal beliefs or opinions in any way. The Conseil d’État ruled that this obligation also applies to players selected for one of France’s national teams.

Rules to protect rights and freedoms

But what about licensed players not selected for the French national team? As users, they are not legally obliged to comply with the principle of public service neutrality. However, their freedom to express their opinions and beliefs may be limited to ensure that the public service operates smoothly and protect the rights and freedoms of everyone, in line with the fundamental values of the French Republic. One of the FFF’s responsibilities is to set the rules for competitions and sports events, including those relating to clothing and equipment. This is why, in the Conseil d’État’s view, it was legally entitled to impose such a ban to ensure that matches ran smoothly and avoid any clash or confrontation unrelated to sport. ●

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The Federation and its decentralised bodies, as bodies entrusted with public service duties delegated by the State, defend the fundamental values of the French Republic.

Article 1 of the French Football Federation’s statutes



COURT DECISIONS

nos. 458088, 459547 and 463408 of 29 June 2023, “Ban by the FFF on the wearing during matches of any symbol or clothing ostensibly expressing a political, philosophical, religious or trade union affiliation”

No new religious monuments in public spaces



2023, La Flotte-en-Ré. A statue of the Virgin Mary erected in a village on the Île de Ré. The Conseil d'État clarified in its decision that the ban on erecting or affixing religious symbols also applies to public entities' private property.



Since the 1905 law enshrining the separation of Church and State, no new religious symbols – crosses, religious statues and so on – may be erected in any public space other than places of worship, cemeteries, funerary monuments or museums. The administrative courts have been regularly called upon to rule on this issue. For example, in January 2023, Bordeaux Administrative Court of Appeal upheld the obligation of the mayor of the municipality of La Flotte in the department of Charente to move a statue of the Virgin Mary. The municipality had replaced the previous statue, which had been located there since 1986 and had been damaged in a traffic accident, with a copy. However, the court ruled that the statue was undeniably religious in nature, since it depicted the Virgin Mary, a major figure in the Christian religion. The matter was referred to the Conseil d'État by the municipality, which dismissed its appeal in October.

The 1905 law applies to public entities' private property

The Conseil d'État had also clarified this rule a few months earlier, stating that the law of 1905 applied to public property as well as to "public entities' private property" – in other words, plots, sites or premises belonging to the State and other public entities but which are

not assigned to public use or a public service. In this case, the mayor of the municipality of Saint-Pierre-d'Alvey in Savoie had refused to move a statue of the Virgin Mary from a plot of land owned privately by the municipality, on the grounds that the plot had been a place of procession since the 17th century. The Conseil d'État ruled that it had to remove the statue, as the site did not qualify under any of the exceptions provided for in the 1905 law. It was not a building used for worship, a burial ground, a funerary monument or an exhibition space. ●



It is forbidden, in future, to erect or affix any religious symbol or emblem on public monuments or in any public place whatsoever, with the exception of buildings used for worship, [...] cemeteries, funerary monuments, and museums or exhibitions.

French Law of 9 December 1905 on the Separation of Churches and the State



COURT DECISIONS

no. 454076 of 11 March 2022, "Applying secularism to public entities' private property"

no. 22BX01113 of Bordeaux Administrative Court of Appeal of 12 January 2023 "Statue of the Virgin Mary in La Flotte"

The law does not ban the burkini on beaches

In the summer of 2023, the mayor of Mandelieu-la-Napoule, near Nice, banned access to beaches for people wearing clothing ostensibly expressing a religious affiliation, such as the burkini. The Human Rights League of France challenged this decision before the Conseil d'État. Users of public services are sometimes required to comply with certain neutrality rules when using them. However, in public spaces, every citizen is fully entitled to the freedoms guaranteed by law, in particular freedom of conscience, personal freedom and freedom of movement.

No current and proven risk to law and order

According to case law, religious clothing can only be banned if there is a "current and proven" risk to law and order. However, the municipality had failed to prove the existence of such a risk. The only incidents mentioned took place eleven and seven years ago respectively, in a specific context marked by the Nice attacks of 2016 and 2020. The Conseil d'État ruled that the ban was illegal and suspended it. ●



↑ **2022, Port-Vendres.** A woman goes swimming in a burkini on a beach in the Pyrénées-Orientales. In July 2023, the Conseil d'État ruled that, since there was no current and proven risk to law and order, this type of clothing could not be banned.

“A measure restricting a freedom guaranteed by law must be appropriate, necessary, proportionate [...] and justified by proven risks to law and order.

Decision no. 475636

COURT DECISION
no. 475636 of 17 July 2023,
"Ban on clothing expressing a religious affiliation"

IN BRIEF **Abaya:** the issue of conspicuous symbols in schools

In August 2023, the French Minister for Education and Youth prohibited pupils from wearing abayas and qamis in state schools. These garments cover the entire body, except for the face and hands. The Minister considered that these garments ostensibly expressed a religious affiliation, contrary to the French Education Code and the 2004 law banning the wearing of religious symbols in schools. Several associations and a trade union brought a case before the urgent applications judge of the Conseil d'État, who dismissed two appeals lodged against the ban. Discussions held by schools with their pupils show

that these garments are part of a process of religious affirmation. However, the law bans pupils from wearing any symbol or clothing that ostensibly expresses, either on its own or because of the pupil's behaviour, that they belong to a particular religion. In the first decision, the court ruled that the ban imposed by the Minister did not constitute a clearly serious and illegal infringement of fundamental freedoms. In the second, the court ruled that there was no evidence to cast serious doubt on its legality. Following this latest urgent decision, the Conseil d'État will rule again on the merits of the case in 2024. ●

COURT DECISIONS
no. 487891 of 7 September 2023 and no. 487896 of 25 September 2023, "Ban on wearing the abaya to school"



Security: striking the right balance with freedoms

Striking the right balance between security and the preservation of freedoms is essential to the rule of law. Through its decisions and opinions, the Conseil d'État ensures that freedoms are respected and that any infringements are always justified and proportionate.



2024, Ramonville. Identity checks in the Toulouse suburbs. The Conseil d'État reminds police officers that they must always display their identification number prominently.



Police officers and gendarmes must be clearly identifiable

Since a Government decree in December 2013, law enforcement officers must display their individual identification number prominently on their uniform. Should any problems arise, people can use this number to identify police officers or gendarmes when they are carrying out duties such as identity checks or supervising demonstrations. This transparency measure is designed to foster a relationship of trust between the police and the public.

Identification numbers not worn enough

The Human Rights League of France, Action by Christians for the Abolition of Torture, the Syndicat de la Magistrature (a judges and magistrates' union) and the Syndicat des Avocats de France (the French lawyers' union) argued that the requirement to wear an identification number was rarely complied with in practice. They called on the French Ministry of the Interior to make the number more prominent. When the Minister failed to respond, they referred the matter to the Conseil d'État. The Conseil d'État found that failing to display the identification number prominently was a widespread practice and was not simply the result of one-off failings linked to individual behaviour. Evidence of this came from testimonies, photographs and videos collected by the applicant associations, along with reports by the French Office of the Defender of Rights, the French National Consultative Commission on Human Rights, and police and gendarmerie inspectorates. Sometimes, the detachable strip displaying the number is obscured by protective equipment, and other times officers simply do not wear it.

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The identification of officers is designed to foster a relationship of trust between the internal security forces and the public [...], in the interests of both the public and individuals who may be questioned.

Decision no. 467771

Minister must enforce the wearing of identification numbers

The Minister had reminded law enforcement agencies of the rule on several occasions, but these efforts were clearly insufficient. The Conseil d'État ordered him to take all necessary measures to ensure that police officers and gendarmes comply with this obligation. However, guaranteeing that the number is always worn was not enough. Each of the seven digits is less than a centimetre high, so they are not always easy to read, especially when there are gatherings or assemblies. For this reason, the Conseil d'État ruled that the digits should be enlarged so that all citizens can clearly read the identification number in all circumstances. ●



COURT DECISION

no. 467771 of 11 October 2023, "Correct wearing of the individual identification number"

Balancing policing and the freedom to demonstrate and provide information



2023, Paris. A journalist films a confrontation between police and demonstrators. In 2023, the Conseil d'État pointed out that independent observers could not be forced to leave the area in response to an order to disperse a demonstration.



In 2020, France's National Policing Plan set out the rules for how the police and gendarmes would intervene to ensure that demonstrations ran smoothly. However, in 2021, the Conseil d'État ruled that some of these measures were illegal and ordered the French Minister of the Interior to revise the plan. The Minister had to strike a better balance between policing and the freedoms to demonstrate and provide information. He needed to specify the exact conditions under which encircling (or "kettling") demonstrators was authorised, but also guarantee journalists the freedom to exercise their profession. For example, reporters should not be forced to leave the area if the demonstration has been dispersed by law enforcement officers. At the end of 2021, the Minister published a new version of the National Policing Plan.

Observers' rights guaranteed, "kettling" technique regulated

In 2023, the Human Rights League of France, the Union Syndicale Solidaires and other associations called for some of the measures amended in this new version to be annulled. They continued to criticise the plan for undermining freedom of movement by authorising the use of the "kettling" technique. In the Conseil d'État's view, the updated plan contained sufficient detail to ensure that the use of kettling was appropriate and proportionate to the circumstances. This practice is explicitly restricted to situations where there is serious and imminent risk of violence, for a limited period of time, and solely to protect property or people. Demonstrators must be able to leave the "kettle" and rejoin the demonstration through a path left open, without having their identity checked if they are not suspected of having committed an offence.

The new version of the national plan also lifted the various bans imposed on journalists, in accordance with the Conseil d'État's 2021 decision. However, the associations criticised the fact that independent observers were still required to leave the area if a crowd had dispersed. The Conseil d'État annulled this measure, stating that independent observers should benefit from the same guarantee. ●

COURT DECISION

no. 461513 of 29 December 2023, "National Policing Plan"

IN BRIEF Identity checks: the role of the administrative courts is never to define public policy

In October 2023, several NGOs and associations requested that the Conseil d'État put an end to the practice of discriminatory identity checks. They called for the French Code of Criminal Procedure to be amended, for a special arrangement for minors and an independent supervisory authority to be set up, and for the relationship between the police and the public to be redefined. The Conseil d'État pointed out that discrimination does occur when people are checked based on physical characteristics associated with their actual or assumed race. It noted that the evidence submitted to it proved that

discriminatory checks did take place. Furthermore, while the practice was not widespread or systemic, neither were the cases isolated. However, the Conseil d'État considered that the associations' request would in fact require public policies to be redefined, a decision that only the Government or Parliament could make. In this case, the Conseil d'État ruled that this was not the role of the administrative court, which does not have the power to act. Its sole purpose was to ensure compliance with the law. It therefore dismissed the associations' appeal. ●

COURT DECISION

no. 454836 of 11 October 2023, "Discriminatory identity checks"

National security: attacks on freedoms must be regulated



2022, Paris. An ANSSI employee at work. In 2023, the Conseil d'État ruled that the collection of data by ANSSI, as set out in a bill to deal with threats of cyberattack, was justified and sufficiently limited.

In February 2023, the Government referred to the Conseil d'État a military programming bill for 2024 to 2030, which included new measures to strengthen national defence. In particular, the bill allows France's anti-terrorist public prosecutor to provide intelligence services with information collected as part of investigations into war crimes and crimes against humanity. In the Conseil d'État's view, while the aim pursued was legitimate, this sharing of information undermined the secrecy of the investigation, the protection of privacy and the presumption of innocence. For this reason, it recommended limiting this sharing to data that was strictly necessary for the protection of national defence.

Another measure included in the bill allowed the French national cybersecurity agency (ANSSI) to collect data from telephone and internet operators if there was a threat of a cyber attack against public institutions or essential services. The Conseil d'État considered that collecting this data infringed the right to privacy, but that it was justified by the need to safeguard the fundamental interests of France. It also considered that the collection of this data was sufficiently limited and proportionate, as it was subject to the approval of an independent authority and was limited to data that would be useful in preventing the threat. Furthermore, the data is kept for a limited period and can only be accessed by authorised staff. ●



ADVISORY OPINION
of 30 March 2023 on a military programming bill for 2024 to 2030

IN BRIEF

Investigations: the end does not justify all the means

In May 2023, the Conseil d'État issued an opinion on an orientation and programming bill for the Ministry of Justice for 2023 to 2027. This bill sought to modernise the judicial system, in particular by strengthening the investigative resources available to it. For example, it gave custodial judges the power to authorise searches of homes at night, if requested by the public prosecutor. In the Conseil d'État's view, these searches were managed in a sufficiently restrictive way so as not to infringe freedoms excessively. They could only take place when a criminal offence was about to be committed or had just been committed,

to apprehend the perpetrator or prevent evidence from being destroyed. The bill also gave investigators the ability to remotely activate connected devices to capture sounds and images and geolocate people suspected of committing serious offences. The Conseil d'État acknowledged that this method was useful, but recommended that it be more tightly controlled to protect the right to privacy. Six months later, after the law had been passed, the Constitutional Council went even further and censured this method of capturing sound and images, as neither the Government nor Parliament had introduced any further controls. ●



ADVISORY OPINION
on 2 May 2023 on an orientation and programming bill for the Ministry of Justice for 2023 to 2027

Pluralism of information, a democratic necessity

One of the prerequisites of our democracy and an objective enshrined in our Constitution is to guarantee the expression of all opinions and schools of thought in the media. In a media landscape transformed by the crisis in the print media, the emergence of 24-hour news and the many different social media, the Conseil d'État is called upon to rule on compliance with pluralism obligations whenever such matters are referred to it.



January 2023. The Conseil d'État upheld the formal notices served on a TV channel by ARCOM for failing to comply with its pluralism obligations. A few months later, it requested that ARCOM review its criteria for assessing pluralism in TV news programmes.



TV channels must comply with their obligations

Since the law of 30 September 1986 on freedom of communication, radio and TV channels have been required to comply with the “pluralist expression of schools of thought and opinion” in their programmes, particularly in their political and general news broadcasts. If any imbalance is found, the French Audiovisual and Digital Communications Regulatory Authority (ARCOM) may issue a formal notice to the channels.

Two legal formal notices

In 2021, this is what happened on two occasions to a digital terrestrial TV (DTT) news channel because it had failed to comply with its obligations to provide a balanced portrayal of the political debate in France. In the first case, ARCOM found that during the campaign for the 2021 regional elections, one candidate was given a disproportionate amount of airtime. The channel argued that the unequal airtime allotted reflected the fact that the candidate was speaking on topics other than the elections. However, in ARCOM's view, security, criminal policy and health policy are part and parcel of the electoral debate. The channel's production company challenged this formal notice before the Conseil d'État, which dismissed its appeal in 2023. In the second case, ARCOM found that in autumn 2021, on the same channel, 82% of speeches by the President of the Republic, his aides and members of the Government, and 53% of speeches by representatives of a particular political party were broadcast at night. During the day, these political groups were under-represented. In the Conseil d'État's view, ARCOM was legally entitled to issue a formal notice to the channel for failing to comply with its pluralism obligation.

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Compliance [with the pluralism of socio-cultural schools of thought] is one of the prerequisites of democracy.

Decision no. 86-217 DC of 18 September 1986 of the Constitutional Council

→
Article
continued

Representing the diversity of schools of thought

However, is counting the airtime given to political candidates and elected representatives enough to guarantee pluralism of opinion on TV? In 2022, the Conseil d'État had already ruled on an ARCOM decision requiring channels to count the airtime given to five people who were neither elected representatives, nor candidates in an election, nor members of a political party at the time. Following a referral from the TV channels, the Conseil d'État ruled that the regulatory authority had not committed an error in considering that the airtime given to these individuals should be counted, particularly as they belonged or had recently belonged to political parties or movements, had recently held or aspired to hold political office, and took an active part in the political debate in France.

In 2024, the Conseil d'État examined a new appeal. An association requested that ARCOM issue a formal

notice to a DTT channel, claiming that it was failing to ensure that its programmes represented a diversity of viewpoints and was not complying with its duty to provide independent information, due to interference from its main shareholder. After ARCOM turned down its request, the association referred the matter to the Conseil d'État. The Conseil d'État pointed out that the law of 30 September 1986, as amended by the law of 14 November 2016, does not limit the pluralism of information on TV channels solely to the airtime of politicians. ARCOM must take into account the diversity of schools of thought and opinion expressed. The purpose is not to record the ideas expressed by speakers or count their contributions in the same way as those of politicians, but to carry out an overall assessment of the pluralism of opinions expressed on air. Furthermore, with regard to the independence of information, ARCOM cannot simply examine a single programme to check whether it complies with this obligation. It must also take into account all those factors affecting the way the channel operates and the characteristics of its programming. ●

COURT DECISIONS

nos. 462663 of 13 January 2023 and 455263 of 27 January 2023, "ARCOM issues a formal notice to a TV channel"

no. 452212 of 22 September 2022, "Counting the airtime given to politicians"

no. 463162 of 13 February 2024, "Pluralism and independence of information"

BY THE WAY...

Which pluralism rules must the media comply with?

Pluralism is a fundamental principle of democracy, recognising and reflecting the diversity of ideas, political opinions and cultural trends. In France, the "free communication of thoughts and opinions" is a right enshrined in the 1789 Declaration of the Rights of Man and of the Citizen. The law of 30 September 1986 establishes the rules for guaranteeing pluralism in the media. The aim of this law was to allow everyone to form their own opinion and act as an informed citizen.

In the print media, press publications are not required to reflect all schools of opinion in their pages. Press pluralism is instead guaranteed by the wide range of newspapers available to readers. This is why newspapers of all shades of opinion can exist. The State safeguards this diversity by providing financial support to newspapers. **This is known as "external pluralism"**.



By contrast, in television, because of the limited number of frequencies available, each channel must, by law, represent the full diversity of opinions in its programming. In France, Parliament has not authorised the creation of DTT opinion channels. DTT frequencies are allocated by the State to TV channels provided that they undertake to reflect the diversity of schools of thought that exist within society. **This is known as "internal pluralism"**.

Professional journalists, essential to editorial teams

In France, a press subsidy scheme helps to ensure that a wide range of press publications are available. By allowing newspapers and magazines with a variety of opinions and schools of thought to express themselves, these subsidies help to guarantee pluralism in the print media. A decree issued in December 2021 makes access to this financial support for the press conditional on "journalistic" content requirements. A print or online media outlet must have professional journalists on its editorial team to qualify as a press publication and receive the subsidy that comes with this status.

Subsidies to guarantee pluralism

The French magazine publishers' association (SEPM) and RL Mags Limited requested that the Conseil d'État quash this decree. However, the Conseil d'État dismissed their appeal in November 2023. It noted that these measures were not criteria for authorising or banning publications. They were simply intended to allow them to take advantage of financial subsidies that help guarantee press pluralism. In the Conseil d'État's view, these measures



↑ **Montaigu, 2023.** A newsstand. Since 2021, it has been compulsory for newspapers to have journalists on their editorial teams if they want to receive financial subsidies. In 2023, the Conseil d'État ruled that this requirement was legal.

pursued a legitimate and essential goal in a democratic society. They therefore comply with Article 10 on freedom of expression of the European Convention for the Protection of Human Rights and Fundamental Freedoms. ●



COURT DECISION

no. 461835 of 13 November 2023, "Importance of professional journalists on editorial teams"



TAKING A CLOSER LOOK

Information in the age of the internet and social media

Nearly seven out of ten French people (69%) now get their information from the internet. The 15-24 age group are particularly reliant on social media and messaging services for their information. According to Médiamétrie, they spent an average of 2 hours 24 minutes on these platforms every day in 2023. Are these platforms a risk or an opportunity for democracy? Do they encourage informed, pluralistic debate? Social media platforms deliver an infinite range of content and are increasingly a breeding ground for fake news, driven by algorithms that mainly serve up content that reflects users' ideas. But they are also tools that civil society can use to exchange ideas, join forces and form alliances. For the 2023 Night of Law, the Conseil d'État brought together leading figures from the world of law and civil society to discuss digital technology and its effects on democracy, education, consumerism and the exercise of rights.



NIGHT OF LAW LECTURE on 4 October 2023, "Law and digital technology: a virtuous relationship?"

Health: from prevention to care

There are many different health needs, from prevention and care to support for vulnerable people. Through its decisions and opinions, the Conseil d'État ensures that the responses provided to users always comply with the law and respect the rights of each individual.



2016, Paris. France's first low-risk drug consumption room opens its doors in Paris's 10th arrondissement. In 2021, these facilities were renamed "addiction care centres".



“Shooting rooms” rolled out in compliance with the law

The law of 26 January 2016 on the modernisation of the healthcare system introduced “low-risk consumption rooms” for use by drug users. These facilities are now called “addiction care centres” or, more colloquially, “shooting rooms”. In these centres, people over the age of 18 can use drugs they have in their possession under the supervision of health professionals. They can also obtain advice on limiting the risks associated with drug use and have access to care and prevention services. National specifications published by the French Health Minister in 2022 provide oversight of these facilities, which were first trialled in Strasbourg and Paris.

Promoting access to healthcare

In early 2023, local residents' associations requested that the Conseil d'État overturn these specifications, claiming that they encouraged drug use without providing sufficient support to help users kick their habit. They argued that drug consumption rooms infringed the right to life guaranteed by the European Convention on Human Rights. However, in the Conseil d'État's view, these facilities cannot be seen as encouraging addiction. It pointed out that the aim of addiction care centres was not only to reduce the health risks associated with drug use, but also to encourage drug users to adopt lower-risk consumption methods and steer them towards substitution or withdrawal treatment programmes. The specifications were not required to include additional measures to monitor users' admittance to treatment programmes or to check the quality of the substances consumed. Furthermore, contrary to the applicants' submissions, the Conseil d'État pointed out that the law does not require public consultation or the agreement of the Police prefect before opening a consumption room. On this point, the decision to locate additional care centres as close as possible to areas of heavy drug use to minimise nuisance is entirely consistent with the objectives set out by Parliament in the 2016 law. The associations' appeal was dismissed. ●

2
addiction
care centres
trialled in Paris
and Strasbourg

COURT DECISION

no. 463428 of 2 October 2023, “Addiction care centres”

Prenatal testing: it is up to pregnant women to decide



2022. Image of a foetus revealed during prenatal testing (PNT). In 2023, the Conseil d'État issued its opinion on a draft decree on prenatal testing, implementing the changes set out in the Bioethics Law of 2 August 2021.



ADVISORY OPINION

of 24 October 2023 on a draft decree on prenatal testing

In 2023, the Government submitted to the Conseil d'État for its opinion a draft decree on prenatal testing, implementing the changes set out in the Bioethics Law of 2 August 2021. The decree sets out, among other things, the procedures for carrying out these tests and informing the pregnant woman and any other parent of the results. Prenatal testing (PNT) refers

to tests carried out during pregnancy to detect various conditions *in utero* that may require special monitoring or, in the case of a particularly serious and incurable condition, medical termination of pregnancy (MTP).

Pregnant women's right to choose must be protected

The Conseil d'État pointed out that all decisions relating to the pregnancy must be made by the pregnant woman herself. It therefore suggested amending the wording of the draft decree to ensure that the pregnant woman and the healthcare professional decide "together" on how the second parent is informed – or not – of a PNT procedure and its results. The Conseil d'État also wondered about the possibility of informing the woman first and then, if she agrees, the second parent at a later stage. It noted that this was the intention of the MPs who had amended the 2021 law, with the aim of preventing the other parent from putting pressure on the pregnant woman to either have a termination or not have a termination. Furthermore, the Conseil d'État recommended removing the option of informing the second parent in writing to avoid any misunderstanding of the results and ensure that these results are shared during a face-to-face medical consultation. ●



TAKING A CLOSER LOOK

How do we get patients to take control of their own health?

The social and technological advances of the last two decades have radically transformed the conventional image of healthcare users. Traditionally seen as just recipients of healthcare services, patients are now more often viewed as stakeholders, whose experience is vital in guaranteeing the quality of care and support. Improved access to medical information, thanks in particular to digital technology, and the advent of the expert patient mean that healthcare users now expect to take full responsibility for their own health. But what role can they play in shaping public policy? To what extent can they become more than just end users, and how can their experience be used to improve existing systems? More specifically, how can people who are ill have a say in how their care is managed, and how can people with disabilities help to implement the public policies that affect them? On 24 March 2023, the Conseil d'État discussed these issues at a conference exploring four "life situations" experienced by people: illness, disability, old age and poverty.

CONFERENCE on 24 March 2023, "For users to play their part in the health and social care sector", *Conseil d'État Social Law Interviews*

Gambling: radio warning justified

The number of online gambling and sports betting sites has increased considerably in recent years, particularly during the string of Covid-19 lockdowns. By 2023, over 1.3 million people in France were thought to be excessive or at-risk gamblers. What can be done to protect them from the risk of addiction and its consequences? In a decree issued on 29 July 2022, the French Health Minister required all advertisements for gambling or games of chance to include a message warning against excessive or pathological gambling.

Compulsory warning message

The Bureau de la Radio, the French association of private commercial radio broadcasters, challenged the legality of this decree and referred the matter to the Conseil d'État. The warning message can be displayed on screen for TV and cinema advertisements, but must be read out at the end of radio commercials. The association argued that radio broadcasters were being treated unfairly compared with other media. In their view, the ten-second message could discourage some advertisers in the gambling sector from airing their ads, especially as the length



of the spot determines its price. In the Conseil d'État's view, the requirement was justified by its purpose – to protect public health – and by its impact in terms of the number of people targeted: in 2019, almost one in two French adults had gambled or played a game of chance at least once during the year. The court also ruled that this measure did not result in inequality of treatment between the media. While the message's content has to be the same, its form must be adapted to the specific characteristics of each medium. For visual media, the message must be visible so that it can be read by the public, while for radio, the message must be spoken for obvious reasons. ●



2023, France. The Conseil d'État ruled that the requirement to include a warning against excessive gambling in advertisements for gambling and games of chance was lawful.



COURT DECISION

no. 467991 of 1 December 2023, "Warning message against excessive or pathological gambling"

IN BRIEF Refunds for condoms in pharmacies for the under-26s

What can be done to make it easier for young people to access contraception and prevent sexually transmitted infections? In September 2023, the Conseil d'État issued an opinion on the Social Security Financing Bill for 2024, which included a provision for the French health insurance system to refund the cost of condoms sold in pharmacies to the under-26s. However, one particular question arises. Can the scheme really be restricted to pharmacies when they are not the sole distributors of condoms and these products do not require a doctor's prescription? Does such a scheme not create inequality between pharmacies and other outlets that also sell condoms? In the Conseil d'État's view, pharmacies have a unique position in that they are an integral part of the prevention and public health strategy to which this refund scheme applies. Health



professionals working in pharmacies will be able to give prevention advice to young people and check their social security status. ●



2023, Lyon. A pharmacy window. The law has guaranteed free condoms for under-26s since 16 September 2023.



ADVISORY OPINION

of 25 September 2023 on the 2024 Social Security Financing Bill



Behind PORTFOLIO the scenes of the Conseil d'État



From general assembly sessions to readings of judgments, and from the Night of Law to the hackathon to make court decisions easier to understand. A look back at some of the highlights of 2023.



6 September 2023. When the Conseil d'État returned to work, Didier-Roland Tabuteau presented its annual study on the last mile of public action (see pp. 36-39) to Prime Minister Elisabeth Borne, several members of the Government and representatives of major public institutions. It was an opportunity for the Vice-Chairman to remind the audience of the institution's role in the rule of law.



16 May 2023. In the courtyard of the Conseil d'État, journalists interview applicants as they leave an emergency hearing.



↑ **12 June 2023.** Equal opportunities. Pupils from Maurice Utrillo secondary school (Paris 18th arrondissement), which is part of a priority education network, take on the roles of judges and lawyers during a mock hearing in the courtroom to understand how the administrative courts work.



↑ **15 September 2023.** During the European Heritage Days, primary school pupils learn about the Conseil d'État, its duties and its history.



11 October 2023. The Litigation Chamber, made up of the Conseil d'État's seventeen most experienced judges, is examining the appeals lodged by several associations and NGOs against law enforcement officers' individual identification numbers (see p. 51) and discriminatory identity checks (see p. 52).



4 October 2023. Night of Law: a special programme on the topic of “Law and digital technology: a virtuous relationship?”, live from the General Assembly Hall. Leading figures from the world of law and civil society discuss digital technology in schools, democracy in the age of social media and the potential impact of artificial intelligence on the practice of law (see p. 57).



24 November 2023. During the Conseil d'État's first hackathon, five teams were challenged to design a tool aimed at simplifying administrative court decisions for three types of people: a person with cognitive disabilities, another with no legal background and a person who has only recently learned French.





↑ **7 December 2023.** General Assembly session. The Vice-President of the Conseil d'État, the seven Section Presidents and the Councillors of State examine the Government's bill to enshrine the freedom to have recourse to voluntary termination of pregnancy in the French Constitution (see p. 41).


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