



# Discover the **Conseil d'État** and **administrative** **justice**

**How do they serve you?**



Who ensures your fundamental rights and freedoms are respected? Who checks that the Government and all other administrative authorities—from prefectures to schools—comply with the law? Who ensures Government and legislative bills are clear, well-written and compliant with existing law?

All of these are tasks ensured by those who work at the Conseil d'État and in administrative justice. You might not know it yet, but every day, they work to serve you...

# What you will discover in these pages...

## Settling your disputes with administrative authorities ..... 2

Administrative authorities must comply with the law and your rights.

If you think they have failed to do so, you may appeal to the administrative judges ([pages 2-4](#)). They have been settling your disputes with administrative authorities for 150 years ([page 5](#)) and allow you to live under the rule of law on a daily basis ([pages 6-7](#)).

Read about the personal views of these judges ([page 8, page 11](#)), discover the tribunals and courts near you where they work ([pages 10-11](#)) and learn about how they hand down decisions on your appeals against administrative authorities ([pages 12-13](#)).

## Making the best possible laws ..... 14

The Government, deputies and senators make laws that impact your life.

The members of the Conseil d'État have been ensuring that these comply with your rights and freedoms ([pages 14-16](#)) at the key stage of law-making ([pages 18-19](#)) since the start of the Fifth Republic ([page 17](#)).

Learn about the daily lives of these members ([pages 20-21](#)) and all those who take part in legal opinions ([pages 22-23](#)).

## They work at the Conseil d'État ..... 24

# Settling your disputes with administrative authorities



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Building permits, social benefits, taxes, security... Every day, administrative authorities make decisions that affect you. Did you know that there are judges who check that these decisions comply with the law and with your fundamental freedoms?

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**W**hen in disagreement with a private individual or company, you can turn to the judicial justice system. Its functions are well-known: it handles crimes, offences and disputes between private individuals. But what can you do when a dispute pits you against a town council, a hospital or the Government itself? In these cases, you can rely on the administrative justice system. Administrative tribunals, administrative courts of appeal and the Conseil d'État settle disputes between citizens, companies and organisations on one side, and administrative authorities on the other.

### Protecting your rights and fundamental freedoms

Every day, public administrative authorities implement measures that affect your life, whether in matters of public health, social rights, urban development, education, security, etc. **If you believe these measures are illegal or do not comply with your fundamental freedoms, you may appeal to the administrative judge.** For example, you might believe that the prefecture unfairly banned the organisation of a demonstration, that the département's plan to build a road goes against animal welfare, or that the General Directorate of Public Finance is forcing you to pay excessive levies... By checking that administrative authorities' actions are lawful, the administrative judge protects you from misuses and errors.

### Omnipresent justice, at your disposal

If you would like to appeal to the administrative judge, two options are available:

- If you disagree with a measure introduced by the Government or another national authority, **you may appeal directly to the Conseil d'État.**
- If you disagree with a measure introduced by a local or départemental authority such as a town council or prefecture, **you must first appeal to the administrative tribunal closest to your home.** There are 42 administrative tribunals in France. If you disagree with the decision handed down by the judges of the administrative tribunal, you may appeal to one of the nine administrative courts of appeal (see page 10). The Conseil d'État may intervene as a last resort, as part of an appeal in cassation: the Conseil d'État is the highest administrative court.

Administrative tribunals, administrative courts of appeal and the Conseil d'État are at your disposal to ensure that your rights are respected, and the law is complied with by all administrative authorities.

# Appealing to administrative judges in 5 steps

**Whether for an appeal to the Conseil d'État or to administrative tribunals, the main stages are always the same.**

## 1 The appeal → 2 The preparatory stage



A citizen lodges an appeal. The administrative authority accused presents its defence.



A rapporteur-judge studies the appeal and the arguments put forth by the citizen and the administrative authority.

## 3 The hearing ←

An independent judge (rapporteur public) presents their solution to the administrative judges. The lawyers are given its floor.



## 4 The discussion



The judges discuss the case. Depending on the case, there are 3 to 17 judges. The decision is taken based on a majority. A single judge may hand down a decision in some specific cases.

## 5 The decision ←



The administrative judge hands down a decision within two weeks of the hearing. On average, 7 to 11 months pass between the time the appeal is lodged and the time the decision is rendered.

## What can the Conseil d'État do to ensure the law and your rights are respected?

The administrative judges at the Conseil d'État hand down **legal decisions that are binding**. This means that they can quash measures introduced by administrative authorities, compel them to take specific actions or order them to provide compensation for any harm they have caused you. **When the Conseil d'État orders action, it also ensures this action is effectively carried out by the administrative authority**. Where it believes such is not the case, it can compel the administrative authority, for example, by enforcing penalties.

When organisations appealed to the Conseil d'État in 2021 regarding air pollution thresholds having been exceeded in several major cities such as Paris, Lyon and Marseille, the Conseil d'État sentenced the State to pay 10 million euros in penalties per semester until it complied with the law, to be paid to environmental protection organisations and bodies.



↑ A registry official welcomes applicants during the week and helps them to submit their appeals.

## In practice: How can I appeal to the Conseil d'État?

There are three ways to lodge an appeal:

-  **Online:** using the Télérecours citoyens platform that allows you to lodge your appeal online.
-  **By post.**
-  **By personal delivery to the registry reception desk** of the Conseil d'État's Litigation Section at Palais-Royal in Paris.

Most often, legal representation is required before the Conseil d'État. This is also a requirement to appeal to an administrative court of appeal. However, usually, a lawyer is not needed for cases before an administrative tribunal.

## For urgent cases, you may appeal to the judge for interim relief

Some measures implemented by the Government have immediate consequences on your life and must be challenged as a matter of urgency. For this reason, there is an urgent procedure called an "application for interim relief" (*find out more on page 9*). **When you lodge an appeal with the Conseil d'État's judge hearing applications for interim relief, the procedure is simplified, and the judge may hand down a decision in mere days or just a few hours where necessary.**



*If I think an administrative authority has implemented a measure that infringes my rights and freedoms, I can appeal to the administrative justice system. Administrative judges are present nationwide, but appeals that directly involve the Government are judged by the Conseil d'État in Paris.*

*In practice, what difference does this make to my life?*



# 5 decisions

## that changed your life

Did you know that, since it was created in 1799, the Conseil d'État has handed down decisions that affect you? Below is a selection of 5 decisions that changed the state of the law - and your life.

21 June 1895



### You receive compensation for accidents at work

Mr Cames, a worker injured at work, asks for compensation from the State as his employer. Although the latter had not committed any errors as such, the administrative judge acknowledged that it was liable because the worker had been exposed to a risk. Three years after this decision, the first act on compensation for accidents at work was enacted.

[FIND OUT MORE: DECISION "Cames"](https://bit.ly/decision-cames)  
bit.ly/decision-cames

13 May 1933



### Your fundamental freedoms are protected

Mr Benjamin is set to hold a conference in Nevers but, under pressure from trade unions, the city's mayor bans it. The citizen lodges an appeal with the Conseil d'État, which quashes the ban. Since this decision, the administrative judge must always ensure that infringements on public freedoms, such as the freedom of assembly, are strictly necessary and proportionate.

[FIND OUT MORE: DECISION "Benjamin"](https://bit.ly/decision-benjamin)  
bit.ly/decision-benjamin

8 June 1973



### Your employment cannot be terminated when pregnant

Working as a nurse in the public sector, Ms Peynet is dismissed after informing management of her pregnancy. She appealed to the Conseil d'État. The judge revoked her termination and uncovered a new general principle of law: henceforth, a pregnant woman employed by the public sector cannot be dismissed.

[FIND OUT MORE: DECISION "Ms Peynet"](https://bit.ly/decision-dame-peynet)  
bit.ly/decision-dame-peynet

8 December 1978



### You have the right to a normal family life

A decree banned a legal migrant's family members from coming to France, unless they gave up their work. After an appeal was lodged by organisations and trade unions, the administrative judge revoked this decree that split families apart: the right to a normal family life is now a protected right for all.

[FIND OUT MORE: DECISION "GISTI, CFDT and CGT"](https://bit.ly/decision-gisti-cfdt-cgt)  
bit.ly/decision-gisti-cfdt-cgt

1 July 2021



### You have the right to a safe environment

In 2017, air pollution exceeded the limits set out by European law in several zones across France. When an organisation appealed to the Conseil d'État, it ordered the Government to act. Four years later, pollution was still above required levels: it sentenced the State to pay a historical penalty of 10 million euros to ensure it held its commitments.

[FIND OUT MORE: DECISION "Air pollution"](https://bit.ly/decision-pollution-air)  
bit.ly/decision-pollution-air

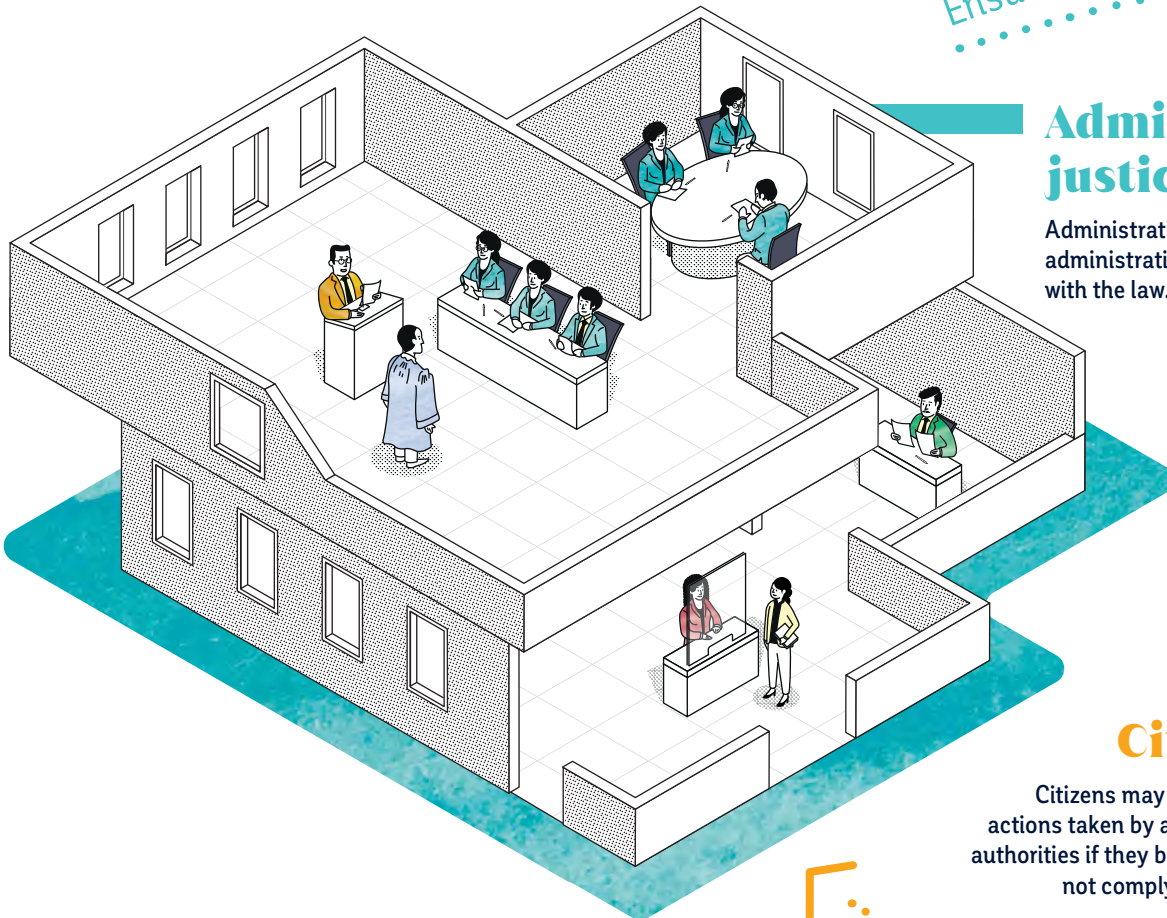
# What is the rule of law?

The law is the set of rules that governs our society. According to the rule of law, everyone must comply with the law, both citizens and administrative authorities. If a citizen thinks an administrative authority has not acted in compliance with this principle, he or she may appeal to the administrative courts.

Ensures compliance with the law

## Administrative justice

Administrative judges ensure that administrative authorities comply with the law.



## Citizens

Citizens may challenge the actions taken by administrative authorities if they believe they do not comply with the law.

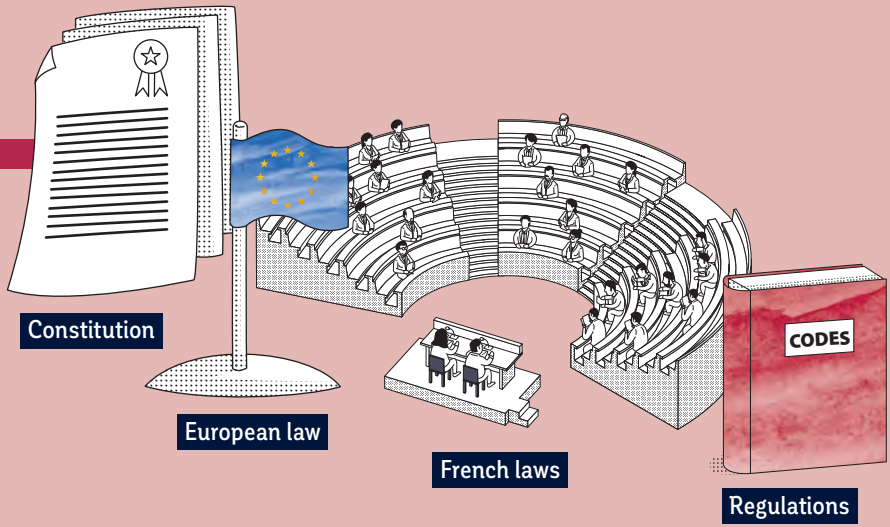


Lodge appeals



# The law

The law applies to all. It is comprised of all international, European and French norms, with a set hierarchy.



**Administrative authorities and citizens must comply with the law**

# Administrative authorities

Administrative authorities implement measures and issue rules that affect the daily lives of all citizens.



• Actions taken by administrative authorities affecting citizens

INTERVIEW



# "The administrative judge ensures compliance with the Rule of Law"

With **MAUD VIALETES**, President of the 4<sup>th</sup> chamber of the Conseil d'État Litigation Section.

Resolving disputes between administrative authorities and citizens: that is the role of administrative judges. How do they use their decisions to ensure compliance with our rights and freedoms? Interview with one such judge: Maud Vialettes.

## What role does the administrative judge play in citizens' lives and in our society?

**Maud Vialettes:** The administrative judge is present in all aspects of citizens' lives: school, health, employment, housing, transport, environment, security, etc. **In all these fields and many more, when a dispute is referred to it, it ensures the decisions made by administrative authorities comply with the law and with public interest.** These disputes may relate to a small circle of citizens: can a given school refuse to enrol a child aged under 3 years in a nursery school? Or they may be disputes with a far broader reach: can the Government require citizens to perform certain

administrative processes online? The administrative judge's involvement protects the rule of law, ensuring that rules are applied to all, including administrative and public authorities.

## How do you come to your decisions?

**M. V. :** Except in exceptional circumstances, our decisions are collegial. They are first the result of a prior analysis carried out by several judges: we study the written arguments submitted by citizens and administrative authorities under the prism of legislation, case law, and sometimes official reports or scientific work. **We might also organise oral hearings to hear from both parties and better understand the**

**stakes of a dispute.** Because the law must always be practised with an understanding of reality.

During a hearing, we listen to the submissions made by the rapporteur public and the lawyers. This is followed by a discussion, usually involving three to nine administrative judges, and we come together to discuss a solution for the dispute. These discussions sometimes result in an entirely different solution to the one initially considered! At the end of the discussion, we hand down our decision.

## What does a day at the Conseil d'État look like?

**M. V.:** It's anything but boring! In the same week, I might work successively on cases on student access to second-year medical studies, on minimum wages for employees in the mass distribution sector and on a sanction imposed on a public servant. **Versatility is one of the administrative judge's specialities: we must be able to jump from one topic to another and understand all technical aspects of them while keeping their concrete implications in mind.** But also, my days are split into time for individual work and time for collective work: when preparing for cases with my chamber's clerks and when preparing cases to be heard with colleagues. Finally, every week is punctuated by hearings. These are always important parts of my week.



↑ During a hearing, judges listen to the rapporteur public and citizens' lawyers.

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Versatility is one of the administrative judge's specialities: we must be able to jump from one topic to another and understand all technical aspects of them while keeping their concrete implications in mind.

## What do you believe are an administrative judge's greatest assets?

**M. V.:** I would struggle to describe the profile of an ideal judge! Because there isn't just one. **The multitude of administrative judge profiles is what identifies and is the greatest strength of the administrative justice system.** But we do share

common requirements: great discipline in analysis and reasoning, acute awareness of the duties that come with our responsibility as a judge and of the limits of our position in respect of the prerogatives of the executive and legislative power and, of course, deeply-rooted integrity.

I think, on a more personal level, that a good administrative judge knows how to listen, discuss and teach with peers and with parties. I also believe they are judges that are capable of doubt, that do not stop at first impressions, are able to accept contradiction and learn from it, but who ultimately are not afraid to rule in the manner they consider most fair. Lastly, I am firmly convinced that a judge must not be detached from reality. He or she must pay special attention to society's balances and developments. Public interest must serve as their guide. ●

## BY THE WAY...

### What is public interest?

Public interest is what is good or necessary for all of our country's inhabitants. It is different from people's individual interests and can either go against or limit these. For example, the individual freedom of enterprise can reasonably be restricted in the name of environmental protection. Public institutions serve the public interest, and administrative judges rely on them to hand down their decisions. Public interest may change with society. For example, it now increasingly includes environmental protection.

# Justice nationwide

Whether in metropolitan France or overseas territories, there is an administrative court near you. In these, hundreds of thousands of cases are ruled on every year.



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PERSONAL VIEW

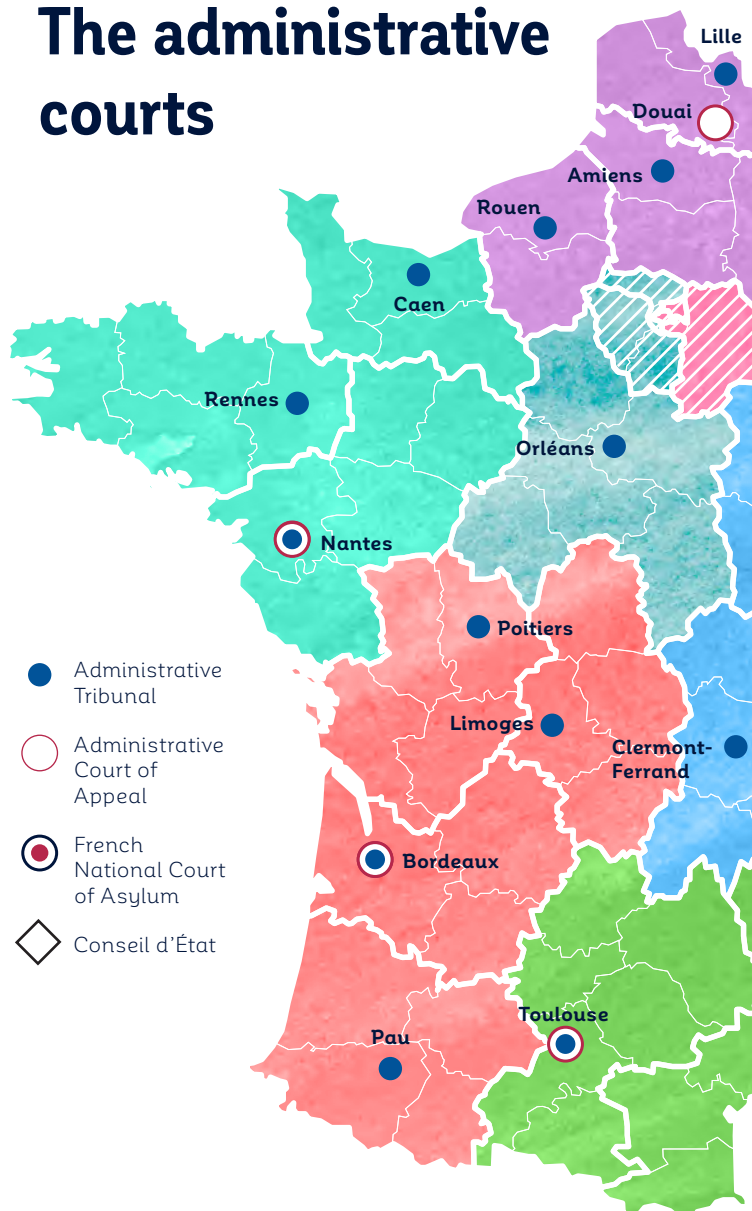
DAVID DUBOST

Head clerk at the administrative tribunal of Caen

*"Supporting citizens at every stage of their appeal"*

The registry's role is to help citizens lodge their appeals from submission, whether at the tribunal's reception or online, to the moment the decision is handed down. At each stage, it ensures the procedure is reliable. We first help citizens to make their applications, including all necessary supporting documents, to ensure their appeals are complete and are not rejected at this level. With our purely formal support, we help everyone to save time: we are not involved in legal matters but enable the discussions to concentrate on the merits. When possible, we suggest mediation, which is quicker and sometimes more suitable than a trial. During the preparatory stages and until the hearing, registry clerks ensure the principle of a right to a fair hearing is respected: they help judges with the exchange of submissions between the citizens and administrative authorities involved. Lastly, we play a key role in informing citizens: after a decision has been rendered, we tell them how to challenge the decision should they deem it unfair.

## The administrative courts





## Administrative justice is:



**4,201** people, including

**239** Conseil d'État members

**1,206** judges in administrative tribunals and administrative courts of appeal

**2,756** employees



**347,296** cases examined in 2021



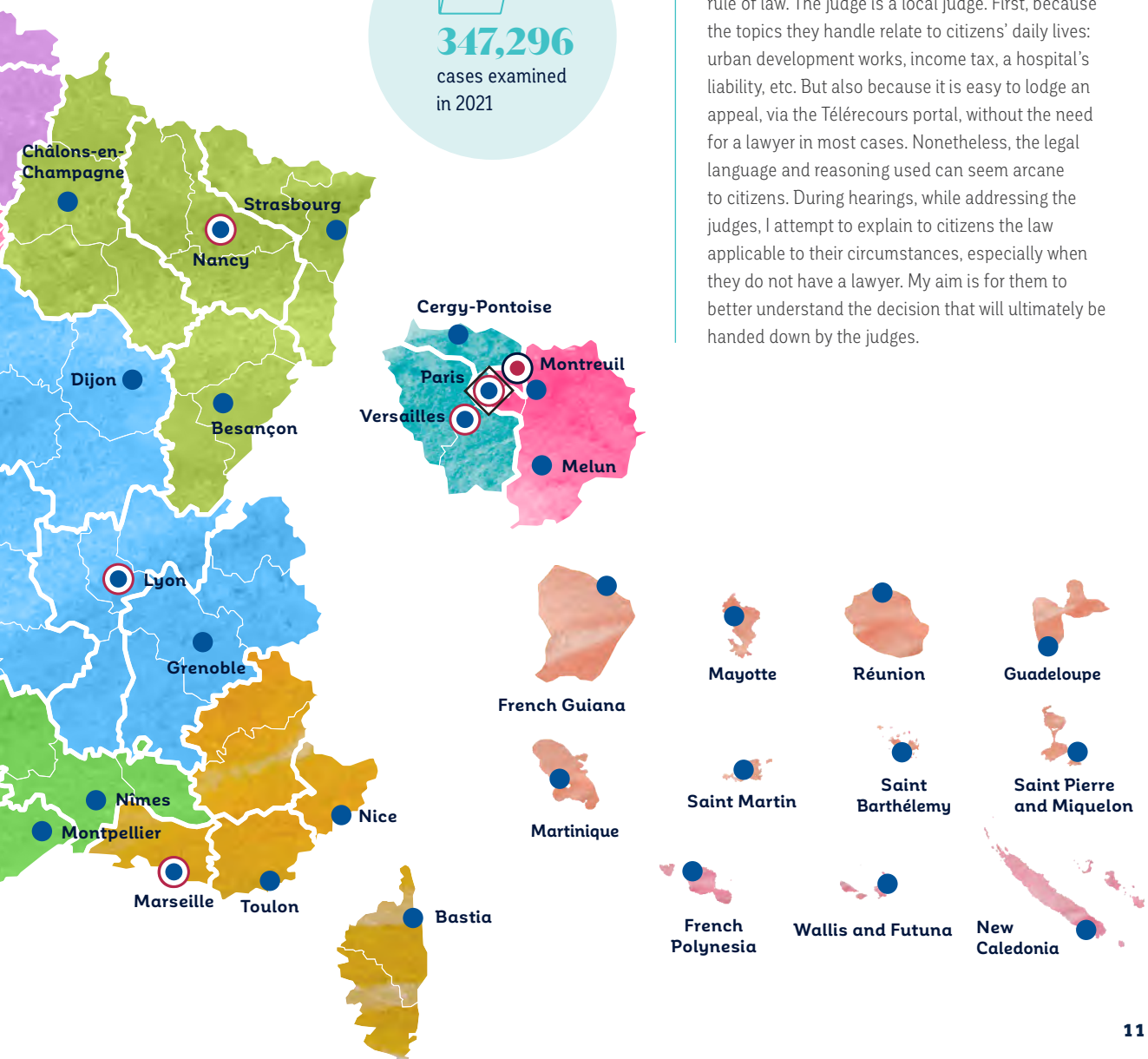
### PERSONAL VIEW

**CHEFFI BRENNER ADANLETE**

Judge within the administrative court of Grenoble

## "The judge is a **local judge**"

As an administrative tribunal judge, my task is to provide justice. We act in the first instance: in practice, we are the ones a citizen turns to for disputes with administrative authorities. Our role is to provide a solution by using the law when the parties can no longer see eye to eye. Not everyone can gain satisfaction, but it is an essential stage in ensuring a peaceful society and guaranteeing the rule of law. The judge is a local judge. First, because the topics they handle relate to citizens' daily lives: urban development works, income tax, a hospital's liability, etc. But also because it is easy to lodge an appeal, via the Télérecours portal, without the need for a lawyer in most cases. Nonetheless, the legal language and reasoning used can seem arcane to citizens. During hearings, while addressing the judges, I attempt to explain to citizens the law applicable to their circumstances, especially when they do not have a lawyer. My aim is for them to better understand the decision that will ultimately be handed down by the judges.



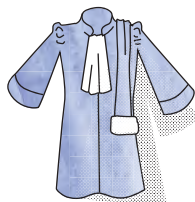
# Professions in administrative justice

At the Conseil d'État, in administrative tribunals and in administrative courts of appeal, they ensure compliance with the law. Discover the many professions in the administrative justice system and the missions entrusted to each.



## The public rapporteur

During the hearing, the role of the public rapporteur is to provide an independent opinion on the dispute between the citizen and the administrative authority. Before the judges, lawyers and the public, he or she gives a legal opinion on the case and offers a solution. This is a personal opinion, and he or she does not take part in the judges' decision.



## The lawyer

This is the person chosen to defend the citizen. He or she helps the citizen to draft their appeal and any arguments demonstrating, for example, that a measure taken by the administrative authority should be quashed. At the hearing, he or she is given the floor to defend the citizen's application.





### The clerk

This is the person who registers the citizen's appeal and who can provide him or her with information on necessary supporting documents. He or she then assists the rapporteur during the application's preparatory stage and any exchanges of written submissions between the citizen and the accused administrative authority.

After the hearing, the clerk is in charge of informing citizens of the judges' final decision.



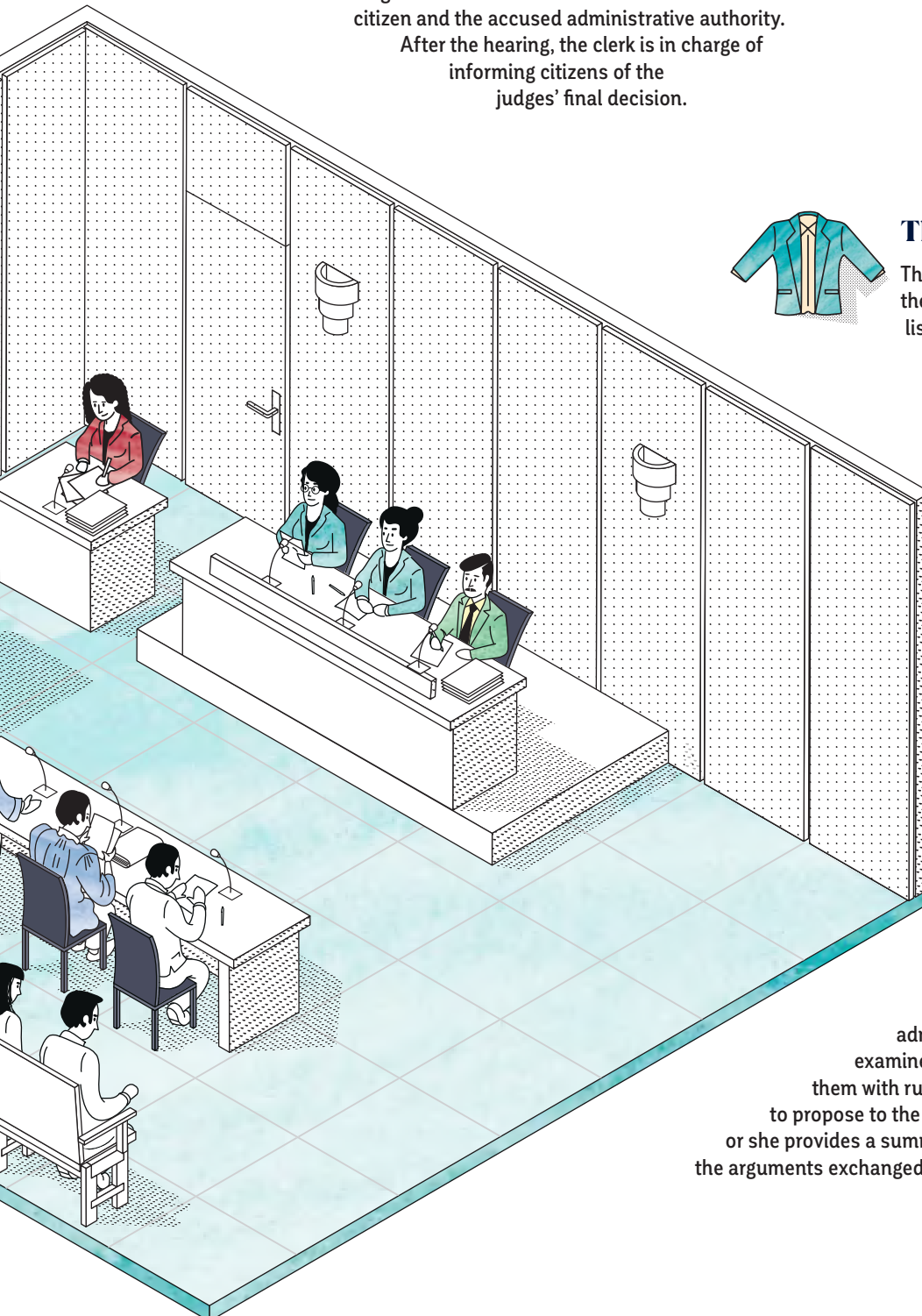
### The judges

Their role is to definitely resolve the case. During the hearing, they listen to the public rapporteur and the citizen's lawyer. After the hearing, they discuss the case and hand down a decision.



### The judge-rapporteur

This is the person that examines the citizen's appeal: he or she studies their application and arguments and asks for written responses from the accused administrative authority. Their aim: to examine each party's arguments and compare them with rules in force to prepare a draft solution to propose to the judges. At the start of the hearing, he or she provides a summary of the citizen's application and of the arguments exchanged in writing.



# Making the best possible laws



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Pension reform, calculation of unemployment benefits, the fight against climate change... Every day, the Government develops bills and drafts decrees that have a direct impact on your life. Did you know that the Conseil d'État also serves as a legal advisor, ensuring that these laws and decrees are effective and comply with the law and your freedoms?

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If life in society were a game, its laws would be the rules. They enable us to live together, to prevent or resolve inequalities, and to define our rights and freedoms. How can we ensure that the new laws developed by the Government or by deputies and senators comply with the rules already in place? How can we anticipate their effectiveness and ensure they will have a concrete impact on your life?

Every day, the members of the Conseil d'État have the task of checking all Government bills. At the request of the President of the National Assembly or the Sénat, they may also study the bills put forward by deputies or senators in advance. Major draft decrees may also be subject to the same examination.

### Towards effective laws that protect you

Their mission: to ensure that any future laws are consistent, comprehensible and applicable on a daily basis. Consistent, so that you do not one day find yourselves confused by two contradictory laws. Comprehensible, because although "*none shall be deemed ignorant of the law*", the law must also be able to be understood by everyone. Lastly, applicable, so that laws have a concrete effect on your life.

By fulfilling this mission as a legal advisor, the Conseil d'État protects your rights and public interest.

### In practice: how do members of the Conseil d'État work?

When the Government or Parliament submits a text for verification by the Conseil d'État, the bill or proposal is sent to the advisory section with jurisdiction on the topic. For example, a proposal to reform how unemployment benefits are calculated is submitted to the social section; a bill on taxes is submitted to the finance section. **This assignment ensures that the members of the Conseil d'État who will review the text are particularly knowledgeable on the topic at hand.** And when a text broaches several topics simultaneously, it can be assigned to several sections working in tandem.

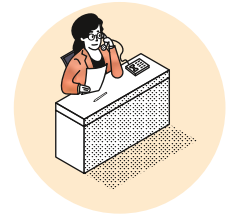
When examining the text in a collegial manner, members of the Conseil d'État ensure that each draft text is redacted in a clear and unambiguous manner. They check that each draft document is consistent with other norms in force: the Constitution, the Declaration of the Rights of Man and the Citizen, the Environmental Charter, European law and any laws already in existence. Lastly, they communicate with the administrative authority or deputies and senators at the origin of the text to gain a good **understanding of the bill or proposal's intentions.** Does it really resolve the issues it intends to?

# Issuing an advisory opinion in 5 stages

## 1 The appeal → 2 Examination



The Government or the president of the National Assembly or Sénat submits a text for an opinion. The text is assigned to one of the five advisory sections within the Conseil d'État.



Within the section, a member of the Conseil d'État, called the rapporteur, analyses the text and discusses it with its authors.

## 3 Section assembly ←

The draft opinion is discussed by all members of the section.



## 4 General assembly

For legislative bills, the opinion is discussed during a general assembly involving all members of the Conseil d'État.



## 5 Opinion ←

The opinion is adopted by the Conseil d'État and returned to the Government or Parliament.



## Legal solutions, not political ones

After examining the text, the members of the Conseil d'État issue an opinion. Reviewing the use of a certain word or phrase full of legal or real-life consequences, conducting a more robust impact assessment, removing a paragraph that does not comply with the Constitution... **In their opinions, members of the Conseil d'État do not make any political comments; this is not their role. Rather, they propose redactional, legal or operational solutions** to ensure the bill or proposal results in a law that is not only compliant with the law but also efficient.

These solutions have an advisory value: the Government or deputies and senators may choose whether to follow them or not. However, in most cases, the Conseil d'État's opinions are heeded.

## Fuelling the democratic debate in Parliament and beyond

Once issued by the section, opinions relating to bills or proposals are discussed during a general assembly involving all members of the Conseil d'État before being returned to the Government or to the deputies and senators.

The Conseil d'État issues over 1,000 opinions every year, and those relating to bills and proposals are made accessible to

the public by the Government or the Parliament. They fuel parliamentary debates when amending and voting laws. In the hands of interested citizens, they can also contribute to democratic debate outside of the Parliament. You can read these opinions on the Conseil d'État's website. ●



*The laws that make up the social pact and affect my life were examined by the Conseil d'État when they were still only in the project stages. With its legal advice, it ensured that they comply with the law, respect my freedoms and are applicable in real-life situations.*

*In practice, how do opinions contribute to the making of laws?*



↑ During a general assembly, members of the Conseil d'État meet to discuss the opinion before its adoption.

# 5 opinions on laws that changed your life

**Did you know that the Conseil d'État has examined laws affecting your life when they were still only in the project stages? Examples of opinions on important laws from the start of the Fifth Republic to today.**

1968



## All employees must benefit from a trade union defence

Following the Grenelle agreements, the Government prepared a bill to strengthen union rights. This bill stated that the mission of unions is to defend the interests of their members. But, to ensure compliance with the law, the Conseil d'État advised correcting this definition: unions must be able to defend all employees and not only members.

Act of 27 December 1968 on exercising union rights

1972



## Equal pay between men and women must be guaranteed in all sectors

In 1972, the Government decided to introduce equal pay between men and women for the same job. But its bill was only applicable to the private sector. To uphold France's international commitments, the Conseil d'État recommended that such equality also be guaranteed in the public sector.

Act of 22 December 1972 on equal pay between men and women

1974



## Access to contraception must be possible without parental consent

The Government planned to make contraception accessible to women on medical prescription and with parental consent for minors. But the Conseil d'État recommended removing the need for parental consent from the bill: a doctor's involvement is sufficient to ensure the absence of misuse, which was the goal pursued by the Government.

Act of 4 December 1974 containing several provisions on birth control

1987



## Joint custody of a child must be agreed upon by the parents

The Government wanted to allow joint custody of children in case of parental separation. But in the bill, the parents' consent was not required. The Conseil d'État suggested changing this to take account of the law: parents must have come to an agreement in order for the judge to assess whether this custodial arrangement is in the children's interest'.

Act of 22 July 1987 on exercising parental authority

2019



## Medically-assisted procreation: donations must not be discouraged

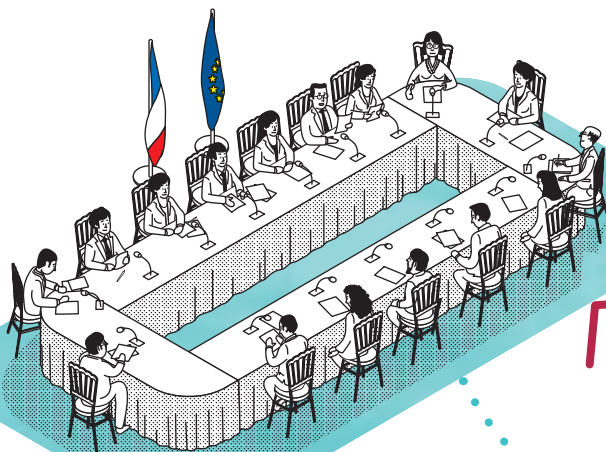
The Government intended to open medically-assisted procreation to female couples and single women. To protect children's rights to access their origins without discouraging gamete donations, the Conseil d'État made a recommendation: to allow donors the choice of providing the child with their identity when the child becomes of age, when requested by the child, rather than at the time of the donation.

Act of 2 August 2021 on bioethics

# How are laws made?

Several players are involved in the process of making laws that define and protect your rights. Who are they? And what do they do?

What role does the Conseil d'État's opinion play in the law-making process?



# 1

## The Government, deputies and senators

The Government drafts Government bills that must necessarily be submitted to the Conseil d'État for its opinion.

Deputies and senators draft legislative bills. The presidents of the assemblies may choose to submit these bills to the Conseil d'État for its opinion.



# 2

## The Conseil d'État

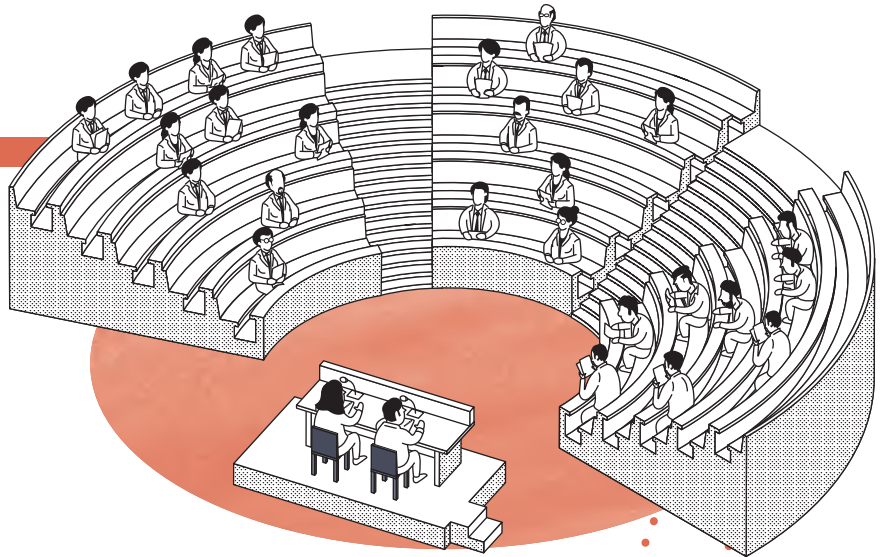
The members of the Conseil d'État study Government and legislative bills and issue opinions. These opinions help the Government and the deputies and senators improve their text before it is debated and voted on by members of Parliament.





# 3 The Parliament

The deputies and senators study and discuss Government and legislative bills during a public session. Amendments may be proposed before the texts are submitted for a vote.



# 4 The Constitutional Council

The President of the Republic, the Prime Minister, the Presidents of the National Assembly and the Sénat, and the 60 deputies and 60 senators may all lodge an appeal with the Constitutional Council to challenge a law that has been voted before it is enacted. The Constitutional Council checks that said law complies with the Constitution.



# 5 The President of the Republic

He or she enacts the law, which is then published in the *Official Journal*.





## INTERVIEW

# "Collegiality is the guarantee of an impartial and robust opinion"

With **JEAN LESSI**, rapporteur within the social section of the Conseil d'État.

As the guardian of an intelligible and applicable law, the Conseil d'État plays a key role in the law-making process. Serving as a legal advisor, the rapporteur holds a central position. Learn more with Jean Lessi, rapporteur within the social section.

## What does a rapporteur's day look like?

**Jean Lessi:** My day is divided into the three stages involved in examining a text. The first consists of speaking with ministries or members of Parliament to understand the goals behind the measures they put forward in their draft texts. For example, if their bill aims to improve how hospitals operate, what is the purpose of proposals to change their governance or financing? **My role is not to give an opinion on political choices but to ensure there are no legal obstacles to the measures proposed and to find solutions where there are.** My task is also to check that the text's redaction actually allows to achieve the goal set out.

Prior to and after any exchanges, I study the texts alone. This step back is vital due to the growing complexity

of the law and the topics addressed. However, it is not a solitary job: I speak with colleagues to better understand the concrete stakes of a bill or draft decree on the ground. I am constantly learning.

The third stage is the collegial examination of the bill by the relevant section or the general assembly for more important bills. I present the text to the assembly along with any responses I intend to propose to the questions raised and a new redaction. This phase is an essential one because **only a collective debate can result in a fair view of the text, not the view of the rapporteur but the view of the institution.**

## What criteria do you use as guides to make an opinion?

**J. L.:** First, I check that the bill complies with any higher norms such

as the Constitution or European treaties. This principle, called the hierarchy of norms, is the basis of the rule of law. For example, when studying a text on the TousAntiCovid app, one must ensure that it complies with the General Data Protection Regulation (GDPR). In addition to this vertical examination, the bill must also be examined horizontally: it must be consistent with other existing rules on the same level, with other laws and decrees... Imagine having two laws that contradict each other: no one would know what to do!

**I must also ensure that legal texts are clear and intelligible.** While this is a constant challenge with the law becoming increasingly complex, it is an essential democratic task: everyone must be able to understand the law.

Finally, I view the bills from an operational angle: can they be applied

in practice? Are the timeframes given to citizens or companies to respond to an administrative authority's demands reasonable?

### In what way is independence essential to your mission?

**J. L.:** A legal advisor's independence, much like that of a judge, is a condition of his or her legitimacy and effectiveness. A useful opinion can neither be accommodating nor systematically critical. Collegiality is the guarantee of an impartial and robust opinion. **Good diagnoses and solutions are born from collective thinking**, and these are also approved collectively by consensus or by vote.

Being independent also means being able to stray from the political calendar and its often frenzied rhythm. We always respond to major emergencies, but the solidity of the opinion is a must. Sometimes, a text needs to be examined for a while longer. **Our role is to view public action in the long term**, which sometimes requires distance, a step back. We can only do this because we are independent.

### What role does the legal advisor play in citizens' lives and in our society?

**J. L.:** For citizens, the legal advisor's existence is first and foremost a guarantee that an impartial set of eyes has examined legal texts. It should be reminded that our mission is set out in the Constitution: **servicing the public interest, we ensure a balance between the requirements of public action and the rights of citizens.**

By way of example, in its bill on compliance with the principles of the Republic, the Government considered banning home-schooling, save for a few exceptions. The Conseil d'État proposed to authorise home-schooling, with the administrative authority's approval, to ensure freedom of education while avoiding any misuse.



↑ During section sessions, discussions start with the rapporteur speaking about the Government or legislative bill. This collegial meeting provides solutions to any issues raised by the texts.

Finally, the publishing of Conseil d'État opinions feeds the democratic debate. By offering solutions, we demonstrate that we can avoid a binary confrontation and that a nuanced perspective does not necessarily equal a lack of action. ●

### BY THE WAY...

#### The Conseil d'État's studies: fuelling public debate and improving your daily life

Are states of emergency effective? How can we ensure social policies actually reach those who need them? How can we democratise access to sport? The Conseil d'État has tackled these issues over the last few years. At its own initiative or at the Prime Minister's request, every year, the Conseil d'État publishes studies on public policy topics that interest you. Their purpose: to provide decision-makers with concrete lines of action that could be pursued to improve public action - and your day-to-day life.



# Legal advisory professions

At the Conseil d'État, they ensure that bills are clear, effective and comply with the law. Discover the multitude of legal advisory professions and the missions entrusted to each.



## The President of the section

Their role is to head the section and coordinate the work carried out by rapporteurs and the secretariat within the section.



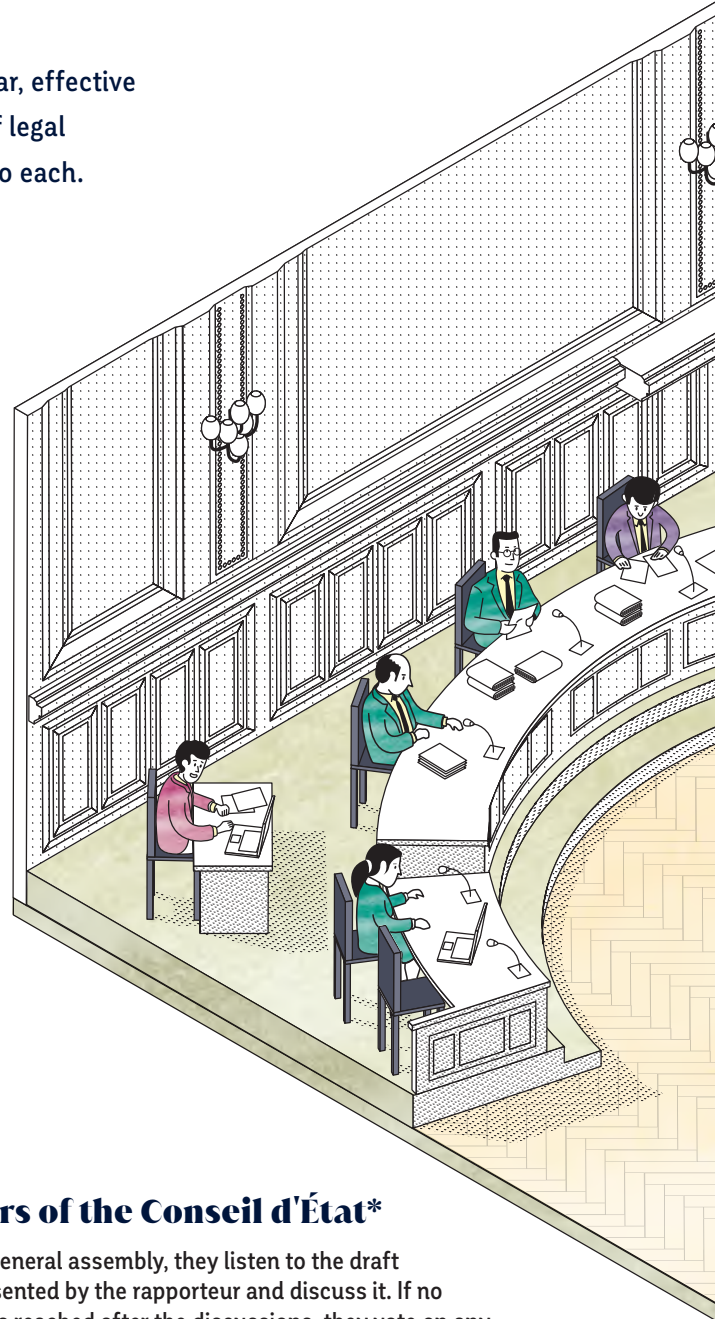
## The Secretary of the section

Their role is to support the rapporteur throughout the process, from the moment of referral to the moment an opinion is voted. He or she acts as liaison between the rapporteur and the administrative authority or deputies and senators. He or she also ensures the case is properly monitored from an administrative point of view.



## Members of the Conseil d'État\*

During the general assembly, they listen to the draft opinion presented by the rapporteur and discuss it. If no consensus is reached after the discussions, they vote on any amendments they wish to make to the draft opinion.



\*Based on their experience, members of the Conseil d'État are granted the grade of auditeur (first level judge), maître des requêtes (master of petitions) or member of the Conseil d'État.





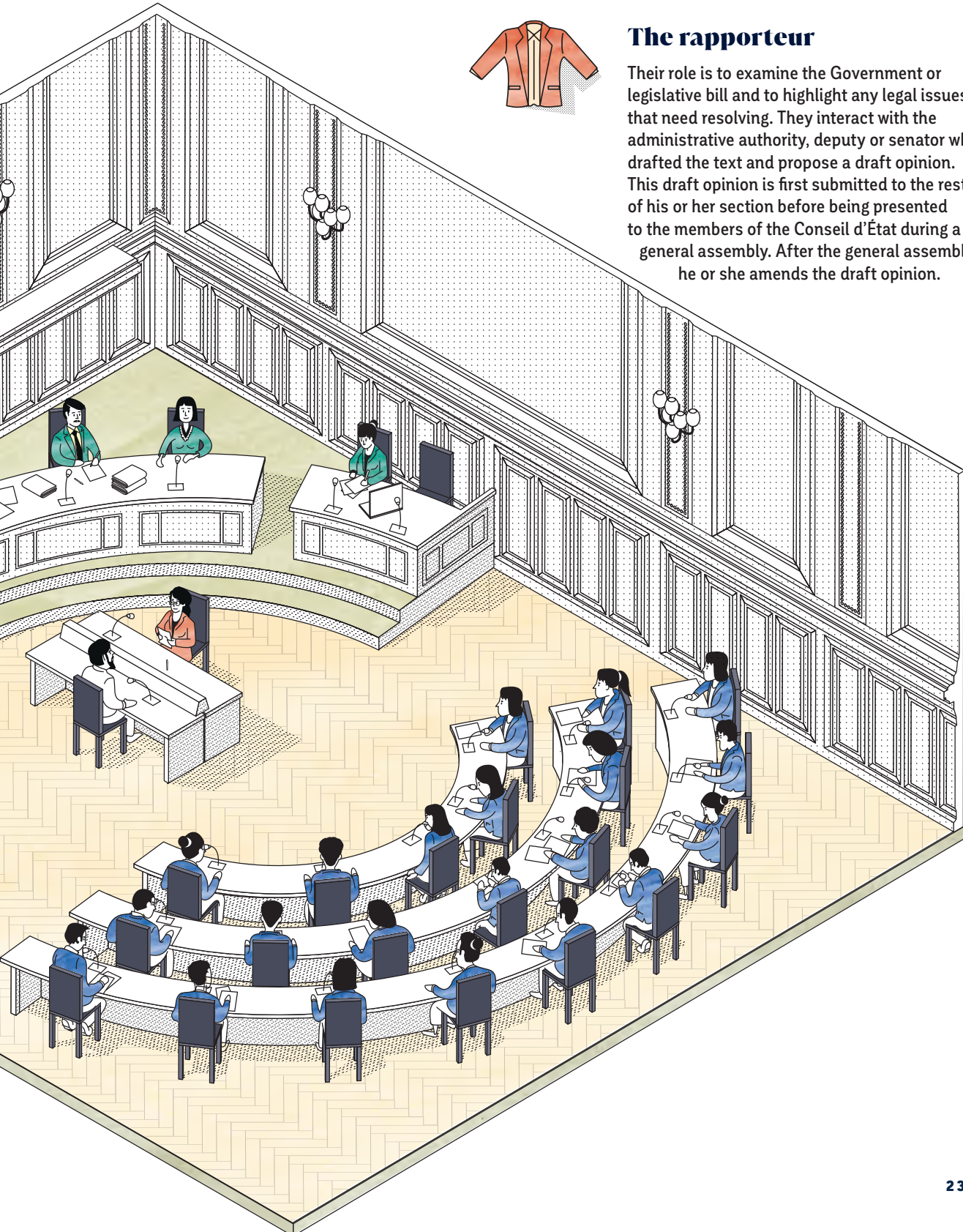
## The Vice President

Their role is to preside over the general assembly. He or she guides discussions on the draft opinion and gives the floor to members of the Conseil d'État. If, after the discussions, the vote does not provide a consensus or a majority, he or she has the final say.



## The rapporteur

Their role is to examine the Government or legislative bill and to highlight any legal issues that need resolving. They interact with the administrative authority, deputy or senator who drafted the text and propose a draft opinion. This draft opinion is first submitted to the rest of his or her section before being presented to the members of the Conseil d'État during a general assembly. After the general assembly, he or she amends the draft opinion.



# They work at the Conseil d'État

Over 600 people work at the Conseil d'État. They ensure the proper day-to-day operation of the institution with their diverse range of profiles and expertise. But what did they do before joining the Conseil d'État?

Far from uniform, the profiles of those that make up the Conseil d'État are distinguished by the diversity of their professional careers. First, because they hold positions that are varied themselves: judges, legal advisors, clerks, justice assistants, IT project managers, documents officers, works engineers, etc. But also because there is no standard career for each of these positions.

## Unique careers serving a joint mission

For the Conseil d'État, the diversity of careers and specialisms is a source of wealth that helps the judge and legal advisor with their missions. The method of recruitment is also a testament to this. To better understand the wide variety of topics handled by the institution on a daily basis, its personnel's in-field experience prior to joining the Conseil d'État is a precious asset, both when handing down decisions and advising: good knowledge of a field, its stakes and players allows to measure the concrete effects of a decision or a legal text. And because the Conseil d'État promotes collegiality, everyone benefits from the knowledge of others: doctors, professors, lawyers, servicemen and women, engineers, etc.



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**MYRIAM BENLOLO CAROBOT**

judge-rapporteur of the 10<sup>th</sup> chamber of the Litigation Section and rapporteur within the administrative section.

Before joining the Conseil d'État in 2019, I led a career as an academic. Today, as an administrative

judge in the litigation section and a legal advisor in the advisory section, I still give a few university lectures. By doing so, I cultivate very different approaches to the law, which are mutually beneficial. My academic practice provides me with precious theoretical knowledge on the litigation we tackle within the Conseil d'État, while my practice as a judge and advisor presents me with specific and concrete issues which later then supplement my lectures.



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**PAUL MARGUERITE**

product manager for the Information Systems Directorate

My job is to optimise a website or app for users. Before joining the Conseil d'État, I did the same in the private sector, notably for Intersport and Europcar. Today, I use my skills to serve Télérecours citoyens and the administrative court's many other portals. The aim is the same, but my job is now to make the lives of citizens, clerks and judges easier, instead of shops and clients. It's a public service task.

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**LIONEL COLLET**

rapporteur within the  
social section



As a trained doctor, I was a professor of medicine, the chair of my university and the director of the Minister of Higher Education and Research's office. Joining the members of the Conseil d'État in 2013 gave me insight into how reforms come into play in the fields that are important to me, such as health and social security, and the opportunity to study their legal repercussions. For my part, I provide practical knowledge of the healthcare system, its operation and administration to the examination of cases.

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**THALIA BRETON**

judge-rapporteur of the  
4<sup>th</sup> chamber of the  
Litigation Section

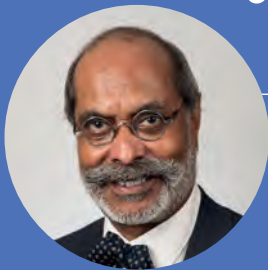


Throughout my career, I have held various positions: most notably, I have been the president of a non-profit organisation and worked within a Ministerial office as well as a prefecture. The common theme of all these positions is the topic of women's rights. Through all of my responsibilities, which have often been performed on the ground, I have experienced various points of view, methods and approaches and acquired a certain degree of knowledge on how administrative authorities operate. Although the law determines which solutions apply to disputes, my operational experience serves me on a daily basis.

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**LAURENT-XAVIER SIMONEL**

judge-rapporteur of the 3<sup>rd</sup> chamber of the Litigation Section



As a lawyer at the Paris bar, my career has been a rich one. It has led me to plead cases before national and foreign courts, to work within or with public administrative authorities in France or West Africa, and to create and steer a team specialising in public law in Paris before joining the Conseil d'État. Having defended clients, I am particularly careful to ensure that the parties and their lawyers clearly and easily understand the decision handed down. This is an approach I continue to see applied at the Conseil d'État: that of a law in action.





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