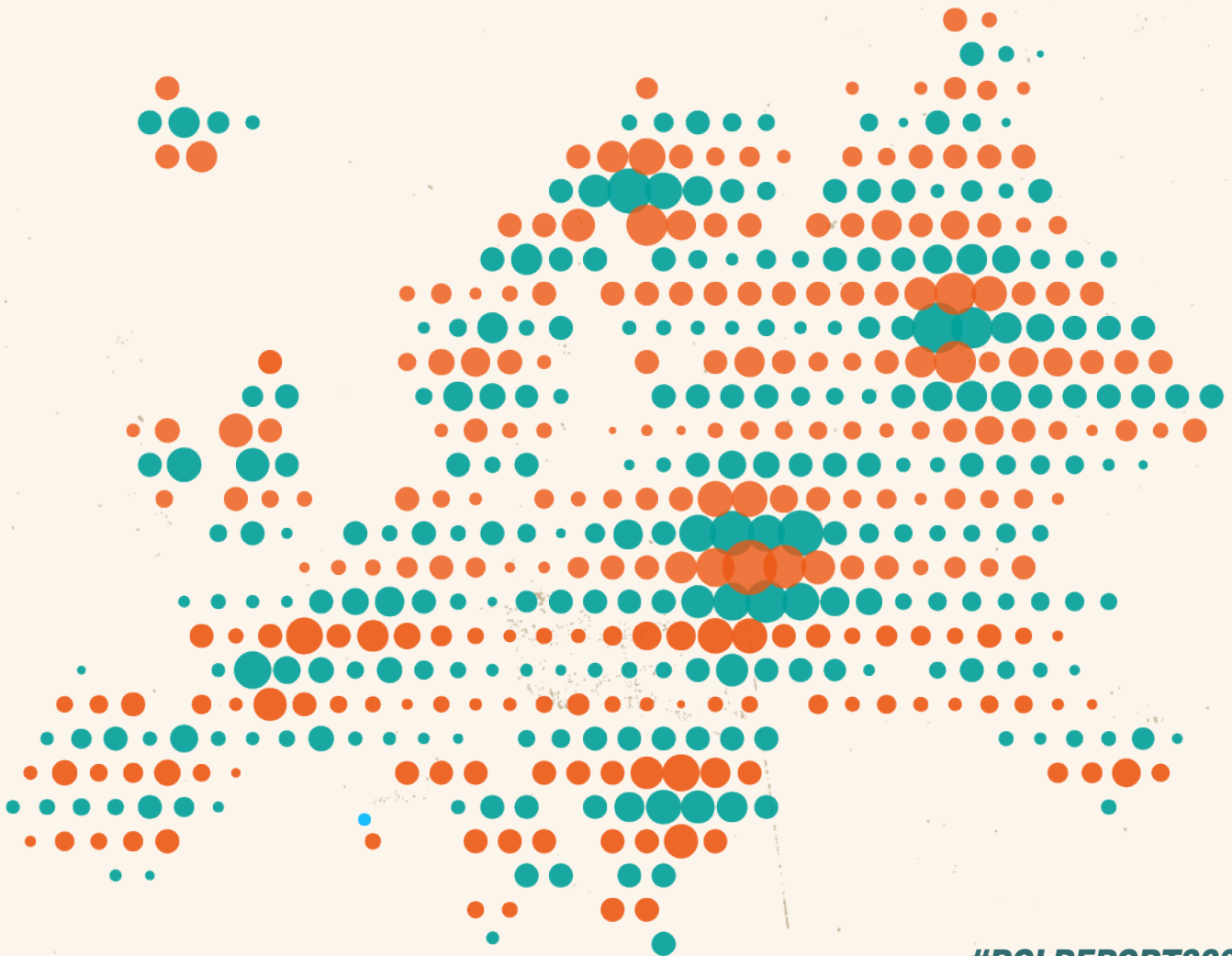


LIBERTIES

RULE OF LAW REPORT

2023

FRANCE



#ROLREPORT2023

FOREWORD

This country report is part of the Liberties Rule of Law Report 2023, which is the fourth annual report on the state of rule of law in the European Union (EU) published by the Civil Liberties Union for Europe (Liberties). Liberties is a non-governmental organisation (NGO) promoting the civil liberties of everyone in the EU, and it is built on a network of national civil liberties NGOs from across the EU. Currently, we have member and partner organisations in Belgium, Bulgaria, the Czech Republic, Croatia, Estonia, France, Germany, Hungary, Ireland, Italy, Lithuania, the Netherlands, Poland, Romania, Slovakia, Slovenia, Spain and Sweden.

Liberties, together with its members and partner organisations, carries out advocacy, campaigning and public education activities to explain what the rule of law is, what the EU and national governments are doing to protect or harm it, and gathers public support to press leaders at EU and national level to fully respect, promote and protect our basic rights and values.

The 2023 Report was drafted by Liberties and its member and partner organisations, it and covers the situation during 2022. It is a ‘shadow report’ to the European Commission’s annual rule of law audit. As such, its purpose is to provide the European Commission with reliable information and analysis from the ground to feed its own rule of law reports, and to provide an independent analysis of the state of the rule of law in the EU in its own right.

Liberties’ report represents the most in-depth reporting exercise carried out to date by an NGO network to map developments in a wide range of areas connected to the rule of law in the EU. The 2023 Report includes 18 country reports that follow a common structure, mirroring and expanding on the priority areas and indicators identified by the European Commission for its annual rule of law monitoring cycle. Forty-five member and partner organisations across the EU contributed to the compilation of these country reports.

[Download the full Liberties Rule of Law Report 2023 here](#)

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FRANCE

About the authors



VoxPublic is a non-profit organisation composed of a permanent team of four advocacy specialists based in Paris. It is governed by a seven-member executive board and receives support from an active community of volunteers, the ‘VoxPublic Agora’ members. The NGO was created in 2016 and ever since has been working on empowering French civil society organisations and citizen initiatives in their advocacy actions. VoxPublic thereby provides support and capacity building to victims of discrimination and social injustices wishing to challenge decision-makers. The team shares its expertise on a voluntary basis and thereby aims to reinforce partners’ capacities in the fields of advocacy strategies and communication skills. VoxPublic also provides partners with operational support in terms of campaign building, networking, strategic document writing, as well as strategic social media use and media.

Key concerns

The French justice system is strained. Its lack of human and financial resources weighs on the working conditions. Slowness of prosecution and a saturation of courts affects the quality of justice.¹ Judicial authorities have organised many protests over the last year to make their voices heard in hope of a change.

France doesn’t invest enough in its justice system compared to other EU countries, even if the budget has been increased for 2023. During the General Estate of Justice, organised by the executive, the French justice system was described as being in a “state of disrepair”. The situation of prosecutors is alarming.

Despite convictions of high-level corruption cases and the strengthening of the legal framework regarding “consultancy agencies”, there are important structural weaknesses in the anti-corruption framework. However, the fight is well led by NGOs such as Sherpa, Transparency International - France and Anticor.

The EU Commission has made recommendations related to the strengthening of preventive frameworks. A bill has been adopted by the Senate (first reading) to frame the intervention

1 [Syndicate of Judicial authorities on Budget and Work Conditions.](#)

of private cabinets in politics. Evaluations by the OECD are mostly positive.

While the legal and regulatory framework is conducive to press freedom and editorial independence, the tools to combat conflicts of interest are insufficient, inadequate and outdated. The strong media ownership concentration in France persists.² A coherent legal framework needs to be implemented in order to fight media concentration.

Even though checks and balances are well applied in France, the weight of the executive power continues to prevail, and has been reinforced by the successive emergency state and accelerated procedures for the adoption of laws. Public consultations look more like communication campaigns in the service to the governing majority's agenda.

Civil society is facing multiple types of attacks by the executive power. They include an oppressive and restrictive legal framework, verbal attacks, SLAPPs, political and judicial harassment against activists and leaders of civil society and the dissolution of organisations.

Even though clear references to human rights are contained in the preamble of the French Constitution, numerous groups of people have seen their rights flouted in practice: exiles, travellers, religious and ethnic minorities. The intensification of government politics has a direct impact on the disregard for human rights.

State of play

- ⊖ Justice system
- ⊖ Anti-corruption framework
- ⊖ Media environment and freedom of expression and of information
- ⊖ Checks and balances
- ⬇ Enabling framework for civil society
- ⬇ Systemic human rights issues

Legend (versus 2022)

- ⬇ Regression
- ⊖ No progress
- ⬆ Progress

Justice system ⊖

Key recommendations

- More resources need to be allocated to the justice system.
- Reform the justice system with a real consultation of judicial authorities (the methodology of the General Estate of Justice in 2021-2022 has been qualified by judicial authorities as a “communication weapon” by the government).
- Respect the legal framework for working conditions.

² <https://rsf.org/fr/pays/france>

Judicial independence

Independence/autonomy of the prosecution service

In general, France has been criticised for the lack of independence of its prosecutors (appointed by the Ministry of Justice). They depend on the Minister of Justice and not on the judicial authorities.

This lack of independence has led to a crisis: Eric Dupond-Moretti, France's Minister of Justice, who is accused of a conflict of interest,³ is in charge of proposing the name of his own prosecutor:⁴ the General Prosecutor. As his superior in hierarchy, he will also have authority on them.⁵ Despite the prosecution and his disavowal by the judiciary, Dupon-Moretti remained in office, creating an unprecedented situation in France.

Significant developments capable of affecting the perception that the general public has of the independence of the judiciary

The Dupond-Moretti case has raised a lot of questions about the independence of the justice system, affecting the public's general level of trust in French institutions.

Quality of justice

Accessibility of courts (e.g. court fees, legal aid, language)

Even if the jurisdictional aid per inhabitant is lower than average in Europe, access to justice in France remains mostly free.

Resources of the judiciary (human/financial/material)

However, human, financial and material resources are still too low.⁶ Even if human resources are going to increase in 2023, the

3 indicted in July 2021 before the Court of Justice of the Republic (CJR)

4 On October 3, 2022, the CJR ordered a trial against E. Dupont-Moretti

5 In 2021, Justice Minister Eric Dupont Moretti was suspected of having taken advantage of his position as Keeper of the Seals to settle scores in cases in which he had been involved as a lawyer, by ordering administrative investigations into four magistrates. Despite this indictment, he was reappointed as a minister in the new government following the 2022 elections in France. In September 2022, the Superior Council of the Judiciary did not retain "any disciplinary breach" against Edouard Levraut, former anti-corruption prosecutor in Monaco, after the Minister of Justice initiated disciplinary proceedings by accusing him of having failed in "his duty of reserve". https://www.lemonde.fr/societe/article/2021/07/16/eric-dupond-moretti-mis-en-examen-par-la-cjr-pour-prise-illegale-d-interets_6088477_3224.html https://www.liberation.fr/societe/police-justice/lex-juge-dinstruction-de-monaco-cible-par-dupond-moretti-finalement-blanchi-20220915_VUNGFCLNTNASDEF3BWCUG5ZHKY/

6 <https://rm.coe.int/cepej-fiche-pays-2020-22-f-web/1680a86277>

profession is more and more deserted because of poor working conditions.⁷ The judicial authorities condemn the lack of resources and the situation it puts them in.⁸

The situation is critical for prosecutors, with only three prosecutors per 100,000 inhabitants.⁹ On top of that, they are overloaded, with 6.1 cases for 100 inhabitants, while the median in Europe is 2.8.

Fairness and efficiency of the justice system

Length of proceedings

*The Syndicat de la Magistrature*¹⁰ regrets the length of proceedings because of the lack of human resources: “with overloaded

hearings, unreasonable delays, and unexplained judgments”.¹¹

Execution of judgments

The Syndicat de la Magistrature also talks about “decisions executed several months – even years – later” which affect the quality of justice.¹²

Corruption of the judiciary

The NGO Transparency International - France¹³ as well as the National Association of Judiciary Police¹⁴ are quite worried about the reform of national police and its implications.¹⁵ Under the hierarchy of prosecutors, the reform tends to bring the judicial police under

7 The new report of the European Commission for the Efficiency of Justice states that human and financial resources are too low in France, compared to our neighbours with similar GDP (79 euros per inhabitant in Europe and 72.53 euros in France). Actu-Juridique, “[Rapport 2022 de la CEPEJ : la France toujours en queue de peloton](#)”, Olivia Dufour, 05th October 2022

8 Professionals are forced to work during their time off, or renounce being paid for their overtime, to complete their work. Tribunals are in bad shape and are using outdated software.

9 The European average is 11 per 100,000 habitants.

10 A magistrate trade union.

11 [Press release of the Syndicat de la Magistrature](#) (Syndicate of judicial Authorities) – November 17, 2022.

12 Ibid.

13 Transparency France is the French section of Transparency International, which fights against corruption.

14 The judicial police mainly deal with terrorism, organised crime, major financial crime and ‘political’ cases.

15 “The establishment of a single command for all police services at the departmental level under the authority of the prefect and the dissolution of the current judicial police into an investigation branch that would bring together all the judiciary police officers, both generalists and specialists, is worrying.” <https://transparency-france.org/actu/note-de-position-a-loccasion-de-lexamen-du-projet-de-loi-dorientation-et-de-programmation-du-ministere-de-linterieur-lopmi-transparency-france-alerte-sur-le-projet-de/>. They raise the alarm on the disastrous consequences of the reform for the security of citizens and the independence of justice. https://www.francetvinfo.fr/societe/manifestation-des-policiers/reforme-de-la-police-judiciaire-on-vous-explique-pourquoi-les-policiers-et-les-magistrats-sont-en-colere_5405122.html

the control of prefects, themselves controlled by the Minister of Interior.

Other

The French National Assembly decided¹⁶ to widen the field of action of police officers with the criminal flat-fee fine. Whistleblowers condemn it, as it will result in a police officer substituting for a judge, with arbitrary decisions and the risk of restriction of freedoms, especially in the case of repression of protests.¹⁷

Anti-corruption framework –

Key recommendations

- Continue the effective investigation, prosecution and sanctioning of high-level corruption offences.
- Ensure that rules on lobbying activities are consistently applied to all relevant actors, including at the top executive level.

Levels of corruption

Corruption and conflicts of interest seem present at every level of the state and within private sectors. But a few cases really had a huge impact:

- Justice: The case of Eric Dupond-Moretti, Minister of Justice, is illustrative of the situation in France. Accused of illegal conflict of interest, he is in charge of nominating the general prosecutor that will try his case.
- Politics:
 - Two investigations against the electoral campaign of President Emmanuel Macron, for using private consulting firms,¹⁸ have been opened in November 2022.
 - In October 2022, Alexis Kohler, current Secretary General of the Elysee and right-hand man of the President, was indicted for “illegal taking of interests”. He is accused of not having reported his family ties with the main shareholder of the maritime freight operator MSC, even though he had been involved in a related case on behalf of the state.¹⁹

16 On 22 November 2022, in order to help the judicial authorities with their overload of work.

17 Libération, « Une nouvelle loi va-t-elle permettre de réprimer les manifestants avec des amendes de 1 600 euros, comme le dénonce LFI ? », Elsa de La Roche Saint-André, 16 November 2022.

18 <https://www.publicsenat.fr/article/parlementaire/derives-sur-le-recours-aux-cabinets-de-conseil-ce-que-contient-la-proposition>

19 https://www.lemonde.fr/les-decodeurs/article/2022/10/04/tout-comprendre-a-l-affaire-kohler-apres-la-mise-en-examen-pour-prise-illegale-d-interets-du-secretaire-general-de-l-elysee_5341355_4355771.html

- Education: Anticor has filed a complaint with the National Financial Prosecutor's Office concerning suspicions of favouritism in the awarding of a public contract to the American company Microsoft.

Framework to prevent corruption

General transparency of public decision-making (including public access to information such as lobbying, asset disclosure rules and transparency of political party financing)

COVID-19 revealed the lack of transparency of public decision-making, especially in the use of private consultants (with the McKinsey firm, for example).²⁰ To fight for more transparency, the Senate has adopted a bill to frame the intervention of counsel private cabinet in politics (the bill still needs to be approved by the National Assembly).

Rules on preventing conflict of interests in the public sector

In order to prevent conflict of interests in the public sector, the Sapin II Law (adopted in 2016), related to transparency, fight the corruption, and the modernisation of economic life has been reinforced in March 2021.²¹ The existence of the High Authority for the Transparency of Public Life (HATVP) allows

for essential monitoring of public officials' integrity.

Measures in place to ensure whistleblower protection and encourage reporting of corruption

On the matter of whistleblowers, a new law was adopted on 21 March 2022 to improve their protection in companies with more than 50 employees. This law implements an EU directive and goes beyond the European requirements.²²

Investigation and prosecution of corruption

NGOs – such as Anticor, Sherpa and Transparency International-France, which are committed to the fight against corruption – are doing a great job in detecting possible cases of corruption and suspected conflicts of interest. Anticor in particular is invested in a large number of cases before the French courts. The French Anti-Corruption Agency – a national department under the joint authority of the Minister of Justice and the Minister of Finance – is also active on the matters of recommendations and control.

20 <https://transparency-france.org/actu/caroline-michel-aguirre-et-matthieu-aron-la-pandemie-nous-a-permis-de-decouvrir-lomnipresence-des-cabinets-de-conseil-au-sein-de-letat/>

21 <https://www.dalloz-actualite.fr/flash/protection-des-lanceurs-d-alerte-et-role-du-defenseur-des-droits-enseignements-des-lois-du-21->

22 <https://www.vie-publique.fr/loi/282472-loi-21-mars-2022-waserman-protection-des-lanceurs-d-alerte>

Media environment and freedom of expression and of information 🟡

Key recommendations

- Repeal Article 36 of the Anti-separatism law or, at least, provide guidance on its application to avoid any disproportionate impact on the exercise of the rights to freedom of expression and information.
- Enhance the transparency of media ownership, in particular regarding complex shareholding structures, building on the existing legal safeguards

Media and telecommunications authorities and bodies

Independence, enforcement powers and adequacy of resources of media and telecommunication authorities and bodies

The media and telecommunication authorities and bodies remain independent from political power.²³

Pluralism and concentration

Levels of market concentration

A strong media ownership concentration continues to raise concerns.²⁴ Intimidation techniques are still used by owners, like Vincent Bolloré, in order to silence the press. The organisation Reporters Without Borders has reported, “The legal framework remains insufficient to combat vertical media concentration in the hands of a handful of owners. While the law provides for obligations of honesty, independence and pluralism of information, it is inadequate to guarantee their respect, and the regulator does not act sufficiently to enforce their application, particularly in the

23 On this matter, Reporters Without Borders explains that “The French media, including the public media, are independent of political power and can hold politicians accountable in the public interest. The grip of public relations and communication is unfortunately becoming more and more intense on French media”. <https://rsf.org/fr/pays/france>

24 A recent study, led by Le Monde Diplomatique and ACRIMED “Média Français : Qui Possède Quoi” (French Media: Who possess what) detailed media “who makes the opinion” in France, who depends on industrial or financial interest, large group of press or State. 37 persons (moral or individuals) hold the majority of French Media (without independent media or alternative press). <https://www.acrimed.org/Medias-francais-qui-possede-quoi>

face of certain channels that tend to become more opinion than information media”.²⁵

Rules governing and safeguarding the pluralistic media market, and their application

The National Assembly Committee on Cultural, Family and Social Affairs voted against a bill to “stop the concentration in media and cultural industry” on 16 November 2022.²⁶

Despite the rejection of this bill, the European Commission gave a positive opinion on France’s legal framework “guaranteeing media freedom and pluralism, mainly due to safeguards stemming both from the Constitution and from legislation. A new independent authority – the French High Authority of Audiovisual Communication²⁷ has been created²⁸ with increased powers over the entire field of audiovisual and digital content. Legal and structural safeguards ensure the independence of the French public service media.”²⁹

Transparency of media ownership

Rules governing transparency of media ownership and public availability of media ownership information, and their application

Even if the European Commission is positive about the legal framework, they are less supportive of France regarding media ownership transparency, highlighting “the persisting issue of horizontal and cross-media concentration. Challenges persist regarding the transparency of complex media ownership structures.”³⁰

Safety and protection of journalists and other media activists

Frequency of verbal and physical attacks

This year, reporters have been subjected to numerous physical attacks by protesters.³¹

Rules and practices guaranteeing journalists’ independence and safety

25 <https://rsf.org/fr/pays/france>

26 <https://www.acrimed.org/La-concentration-des-medias-en-debat-a-l>

27 Autorité de régulation de la communication audiovisuelle et numérique - ARCOM.

28 It has been created from the merger of the Higher Audiovisual Council (Conseil supérieur de l’audiovisuel – CSA) and the online copyright authority (Haute autorité pour la diffusion des oeuvres et la protection des droits sur internet – HADOPI).

29 https://commission.europa.eu/system/files/2022-07/25_1_194023_coun_chap_france_en.pdf

30 This issue has been examined by a Senate Commission of enquiry, which suggested a substantive revision of the existing legislation to preserve freedom of information. https://commission.europa.eu/system/files/2022-07/25_1_194023_coun_chap_france_en.pdf

31 Reporters Without Borders explains that: “The high level of distrust of journalists is reflected in attacks, both verbal and physical, including at rallies against health measures related to the Covid-19 pandemic. In recent

A new policing bill, more respectful of journalists' rights during demonstrations, has been adopted in response to police violence.³²

SLAPPs

Strategic lawsuits against public participation (SLAPPs) continue in France and are damaging the right to freedom of speech, particularly by silencing the press and media.³³

Freedom of expression and of information

Legislation and practices on fighting disinformation

The French National Assembly has passed two bills aimed at reducing electoral misinformation. They would allow parties and candidates to initiate an accelerated legal procedure in case of public dissemination of false information. NGOs such as Ritimo³⁴ continue to underline how the legal framework on disinformation can be used for censorship.³⁵

Checks and balances

Process for preparing and enacting laws

Public consultations

In 2022, the practice of nationwide public consultations was further reinforced and extended to other fields, such as the justice system. If the practice is great to ensure open democratic debate, the General Estates of Justice held in 2021-2022 were deeply criticized by the judicial authorities. They argued that it was “a vast communication operation in the service of the government majority’s orientations”.

Rules and use of fast-track procedures and emergency procedures

The use of accelerated procedures for the adoption of laws (one reading only by each chamber of the Parliament) continued to be regularly used by the government, even for laws that would restrain individual freedoms or laws that are not consensual.

years, journalists have also been the target of physical and online attacks by right-wing, left-wing, and Islamist groups.” <https://rsf.org/fr/pays/france>

32 https://www.assemblee-nationale.fr/dyn/15/textes/l15b4840_proposition-loi#

33 At the end of the year, Mediapart was prevented by the Tribunal of Paris to publish revelations about Gaël Perdriau, the mayor of Saint-Etienne in a case of sextape blackmail. Validated by the Tribunal of Paris, who then overturned their original decision, this measure has been criticized by lots of journalists and rights advocates. This case shows violation of the freedom of expression still occurs in France. <https://www.mediapart.fr/journal/france/dossier/saint-etienne-le-maire-la-sextape-et-le-chantage-politique>

34 A network specialized in documentation and information for international solidarity.

35 <https://www.ritimo.org/Garder-les-fake-news-sous-contrôle-comment-la-législation-sur-la-désinformation>

The emergency regime to address the COVID-19 crisis was extended until 31 July 2022. During that time, the power of the Members of Parliament to monitor and control the state of emergency was reduced.

Regime for constitutional review of laws

The Constitutional Council has been a safeguard of the constitutionality of laws and reviewed many provisions.³⁶ But, in the case of the anti-separatism law, the Constitutional Council only censured a few articles despite the arguments presented by eminent jurists on the liberticidal character of this law.

The State Council has been able to counteract measures taken by the government. For example, the State Council overturned the decision of the government, upon the proposal of the Minister of the Interior, in the case of the abusive dissolution of several NGOs.³⁷

Independent authorities

The Defender of Rights (ombudsman) is an independent institution “responsible for defending individual rights and freedoms”.³⁸ This institution has been really active during the health crisis in France but also on the

matter of racial profiling. It has followed the case of the young men in Epinay-Sur-Senart (suburb of Paris) and in the area of Belleville in Paris, who had unfairly received flat-fee fines by the police during the lockdown: “the accumulation of abusive fines characterizes discriminatory police harassment of young men perceived as Arab or black, and living in working-class neighbourhoods”.³⁹ The human and financial means of this administration remain nevertheless limited, even insufficient, which leads to long delays for its interventions.

Enabling framework for civil society ↓

Key recommendations

- Repealing the law “Strengthening the respect of Republican principles” (also known as the anti-separatism law), which has reduced fundamental freedoms in a disproportionate way compared to its stated goal (to fight against extremist religious groups opposed to the Republic principles).

36 https://commission.europa.eu/system/files/2022-07/25_1_194023_coun_chap_france_en.pdf

37 <https://www.conseil-etat.fr/actualites/le-conseil-d-etat-suspend-en-refere-la-dissolution-du-groupe-antifasciste-lyon-et-environs>

38 This institution “deals with the claims it receives by proposing personalised solutions, and encourages equal access to rights for all members of the public through information, training, developing partnerships and proposing amendments to the law.” <https://www.defenseurdesdroits.fr/en/an-independent-institution>

39 <https://www.voxpublic.org/Amendes-abusives-la-Defenseure-des-Droits-rencontre-la-brigade-des-mamans-et.html>

- Repeal Article 12 and Articles 16-22 of the anti-separatism law, or provide opportunities for legal appeal, and guidance on their application to avoid any disproportionate impact on the exercise of the rights of NGOs.

Regulatory framework

Rules on lobbying

In June 2022, the newspaper *Le Monde* revealed the “Uber files” – how the company Uber led an aggressive lobbying campaign in France to establish itself and obtain the support of the former Minister of Finance of François Hollande – Emmanuel Macron, the current president.

Even if the “Uber files” case highlighted the issues around lobbying, and despite the opportunity to include lobbying in “the intervention of private cabinet in politics” bill, these revelations on the corporate capture of public decisions have not led to any legislative proposal to strengthen the regulation of lobbying.

(Un)safe environment

Criminalisation of activities, including humanitarian or human rights work

During the last year, and as the Observatory of Associative Freedoms analysed, the use of police and judicial means normally reserved for criminals and terrorists has been extended to the criminalisation of movements and activists.⁴⁰ Their actions are diminished and they are characterised as terrorists and troublemakers.⁴¹ In the same way, the Minister of the Interior accused NGOs of solidarity with exiled people, “complicity with the smugglers” and the mafia, and of human trafficking.

Freedom of assembly

The report “A New Witch Hunt” by the Observatory of Associative Freedoms shows that freedom of assembly has been restricted in the name of the fight against “separatism” and “Islamism”. Under cover of this right, “the NGOs and associations defending the rights of Muslims as well as those showing solidarity with these populations, are targeted by sanctions from the public authorities”.⁴²

40 In November 2022, environmental groups and NGOs, as well as national trade unions, called for a demonstration in the Vienne region against plans for huge water reservoirs for agricultural irrigation of cereals. A week before, the prefecture and the national authorities had decreed the banning of the demonstration and the announced rally. The organisers maintained their march despite the presence of more than 1500 riot police. Violent clashes ensued, resulting in numerous injuries on both sides.

41 Following this demonstration, the Minister of the Interior described the participants in this demonstration and the organisations that supported it as “eco-terrorists”.

42 “Since the murder of Samuel Paty (a professor assassinated by a young man in October 2020), this phenomenon is gaining strength, and looks like a real witch hunt. These sanctions are presented as a response to the role of

On a related note, the law “Strengthening the respect of republican principles” as well as the “Contract of republican commitment” continue to raise concerns regarding freedom of association. Assent and respect of the contract become a condition to request public subsidies as well as to be recognised as having a public utility. Whistleblowers condemn the possible drift, narrowing freedom of association but also freedom of expression.⁴³

Attacks and harassment

Verbal attacks and harassment by private parties or public entities

NGOs that help migrants are constantly harassed. Authorities try to intimidate them with harassment and denigration campaigns.⁴⁴

Administrative harassment

The warnings regarding freedom of association are constant in our sector of activity, with threats and intimidating speeches by public authorities. The cases of dissolution of NGOs⁴⁵ by the Minister of Interior shows that

NGOs and NGOs which would influence terrorist trajectories. Those are targeted because they would be a central element of an ‘Islamist ecosystem’. This prism leads to the suspicion of any grouping of Muslims, or people considered as such. However, no serious social science research has demonstrated this phenomenon. The report rather emphasizes that the organisations targeted are in fact vectors of civic integration.” <https://www.lacoalition.fr/Une-nouvelle-chasse-aux-sorcieres-contre-les-associations-l-enquete-de-l>

43 With the case of the local NGO Alternatiba in Poitiers (center-west of France) denied its subsidies by the prefect, civil society is afraid that all the organisations which don’t conform to the directives and political guidelines of the government or local authorities, may not be able to access subsidies or judiciary agreement. NGOs reliant on the subsidies will have no other choice but to assent to this “Contract of republican commitment”, but the authorities will have “a right to examine”, which is against the independence of NGOs as a counter power. With this law and contract, the government hopes to make NGOs and associations as the extension of its will. <https://www.la-croix.com/France/A-Poitiers-financement-public-dateliers-desobeissance-civile-fait-debat-2022-11-07-1201241145>

https://www.lacoalition.fr/IMG/pdf/note_synthese_pjl_separatisme_pour_parlementaires_vf.pdf

44 As we could witness when France finally decided to welcome the Ocean Viking vessel in Toulon’s harbour (11/11/2022). NGOs are accused of playing a part in the “smuggler’s game” or “helping illegal immigration”. <https://www.la-croix.com/France/Migrants-Mediterranee-Calais-associations-pression-2022-11-17-1201242571>

45 On 16 May, the Council of State announced the suspension of the dissolution of the anti-fascist group Lyon et Environs (GALE), pronounced by a decree of the Minister of the Interior, on 30 March, notably for “its virulent incitement to attack” against police. While, according to the collective, it was a question of denouncing police and racist violence. This attempt to dissolve the group was largely based on the new provisions of the “separatism

every opinion the government considers as too activist or radical will result in administrative harassment until compliance or cessation of activities.

Legal harassment, including SLAPPs, prosecutions and convictions of civil society actors

Strategic lawsuits against public participation continue to pose problems in France, as the example of the mayor of Saint-Etienne,⁴⁶ among many others, demonstrates.⁴⁷

In terms of legal harassment, a lot of bills raise concerns about freedom and protection of human rights. The Law on Republican Principles,⁴⁸ as well as the anti-squat bill⁴⁹ and the bill on asylum and immigration⁵⁰ show

that France has been taking a repressive turn in recent years.

Disregard of human rights obligations and other systemic issues affecting the rule of law framework ⬇️

Key recommendations

- Welcome and protect all exiled persons in line with human rights principles. The war in Ukraine has revealed that France has the capacity to welcome exiles in decent conditions.

law”, which broadens the grounds for dissolution. It will now be not only based on act contrary to the law, but also “the incitement” of this act, which leaves a large degree of interpretation to the authorities. In a press release, the Council of State explains that “the elements put forward by the Minister of the Interior do not allow to demonstrate that the GALE incited to commit violent actions and seriously disturbed public order”. In the same way, a collective of support to the Palestinian people have avoided its dissolution thanks to the Council of State which rejected the assimilation of criticism of the State of Israel to incitement to hatred against Jewish people. These positive jurisprudences remain fragile... and will not have prevented the Ministry of the Interior from launching new similar procedures against NGOs, associations and political groups (extreme left or extreme right) in the second half of 2022. The NGO “Le Bloc lorrain” has been dissolved, and its appeals lost, at the end of 2022.

46 SLAPP launched against Mediapart to prevent them from publishing a disclosure on sex-tape blackmail against another elected official of his city.

47 In a decision rendered on 6 October 2022, the Commercial Court of Nanterre condemned the independent investigative media Reflets-info, which specializes in investigations on digital, open source data and leaks, to pay 4,500 euros to the Altice group, headed by Patrick Drahi. Above all, it “orders it not to publish on the website of its online newspaper any new information” about Altice.

48 Passed in August 2021.

49 Adopted by the National Assembly in December 2022.

50 Officially announced by the government in 2022.

France has to adopt measures to ensure that the basic needs of exiles in informal settings can be met, including by halting evictions and confiscations in informal camps. France also needs to initiate a constructive dialogue with NGOs to allow them to distribute basic necessities. France has to put an end to detaining people at the borders in waiting zones and must unconditionally protect unaccompanied minors.

- Put an end to racial profiling by changing the legal framework, creating a transparency obligation with traceability of controls, reinforcing rights of victims, and changing the practices of forces of order. The demands of the Group Action for putting an end to racial profiling against the Prime Minister, the Minister of Justice and the Minister of Interior should be implemented.⁵¹

Systemic human rights violations

Widespread human rights violations and/or persistent protection failures

In a context of intensification of government politics, the disregard of human rights has been continuous and persistent in France.

In 2022, the rights of exiles continued to be violated.⁵² Travellers suffered continuous violations of their fundamental rights. They are still confined to segregated spaces isolated from public services and within places where their health could be compromised because of pollution. They are often harassed by local authorities, deprived of their rights including through forced eviction without housing alternatives. Racial profiling by French police is still a major problem, in which the international community and lawyers have constantly asked France to take actions to remedy this systemic problem.

51 <https://www.amnesty.org/en/latest/press-release/2021/07/france-class-action-lawsuit-against-ethnic-profiling-filed-over-systemic-racial-discrimination/>

52 According to the NGO Anafé, waiting zones (at airports and harbours) create a place where people don't have access to their rights: "Detaining people at the borders means perpetrating suffering and violence". Intensification of a security-based migration politics leads to disregard human rights. NGOs like Anafé condemn governmental practices at the occasion of the arrival of the Ocean Viking in Toulon. Government announced it will send back a large number of the exiles to other countries after a fast-track review of their asylum request. Hopefully, independent judges guarantee their rights. <https://www.actu-juridique.fr/administratif/libertes-publiques-ddh/ocean-viking-associations-et-avocats-contestent-la-zone-dattente-de-toulon/>

Impunity and/or lack of accountability for human rights violations

The police perpetuate violence, especially in working-class areas. The number of deaths following a “refusal to comply with a police order to stop” has been multiplied by five since 2017, when an easing of restrictions on the use of armed force was allowed by the Law on Self-Defence.⁵³ France has also failed to prevent and remedy racial profiling in relation to identity checks. Successive governments have refused to recognise the systemic character of this violation of rights. Six organisations are still part of a class-action suit against the government in order to get concrete action against racial profiling.

Follow-up to recommendations of international and regional human rights monitoring bodies

The ombudsman and the international community, through the United Nations Special Rapporteur on discrimination, continue to ask France to take action to end racial profiling and the violation of rights by police officers against black or Arab persons, or those perceived as such.⁵⁴

Implementation of decisions by supranational courts, such as the Court of Justice of the EU and the European Court of Human Rights

The French National Commission on Human Rights (CNCDH) expressed concerns about the “Global Security Law” (passed in 2021), which includes preventive measures for the fight against terrorism, because their impact on human rights “has not yet been assessed independently.”⁵⁵

On the matter of overcrowded jails in France, the European Court of Human Rights (ECtHR) states that “the occupancy rates of the concerned prisons reveal the existence of a structural problem.” It asked to “adopt general measures aimed at eliminating overcrowding and improving material conditions of detention.” France is rated second among 47 European countries for its prison suicide rate.⁵⁶

Fostering a rule of law culture

Contribution of civil society and other non-governmental actors

In the framework of the energetic and ecological transition, collectives of inhabitants,

53 <https://basta.media/refus-d-obtemperer-quatre-fois-plus-de-personnes-tuees-par-des-policiers-depuis-cinq-ans>

54 https://www.liberation.fr/societe/police-justice/controles-au-facies-pour-tendayi-achiume-nier-l'existence-du-racisme-systemique-ne-fait-que-le-perpetuer-20221218_YAODAOQRNH5JD7BJF3AFE4NMU/

55 https://commission.europa.eu/system/files/2022-07/25_1_194023_coun_chap_france_en.pdf

56 <https://www.trtworld.com/opinion/france-s-rights-violations-in-prisons-continue-amid-a-crushing-heat-wave-59212>

associations and NGOs warned public authorities of the abuses related to urban renewal plans. They pointed out the lack of consultation of the affected population. The NGO APPUII advocates for a democratisation of urban renovation, and asked for a stop in demolishing buildings to recreate housings when it does not meet the needs of the population, as well as being an aberration from both environmental and economic perspectives. Several Parliamentarians agreed to sponsor a bill on this issue.

Contacts

VoxPublic

VoxPublic is a non-profit organisation composed of a permanent team of four advocacy specialists based in Paris. It is governed by a seven-member executive board and receives support from an active community of volunteers and ‘VoxPublic Agora’ members. The association works on empowering French civil society organisations and citizen initiatives in their advocacy actions.

25 Rue du Sergent Bauchat
75012 Paris
France
www.voxpublic.org/?lang=en

The Civil Liberties Union for Europe

The Civil Liberties Union for Europe (Liberties) is a non-governmental organisation promoting the civil liberties of everyone in the European Union. We are headquartered in Berlin and have a presence in Brussels. Liberties is built on a network of 19 national civil liberties NGOs from across the EU.

Ringbahnstrasse 16-18-20
12099 Berlin
Germany
info@liberties.eu
www.liberties.eu



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