

LIBERTIES

RULE OF LAW REPORT

2024

FRANCE

#ROLREPORT2024



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FOREWORD

This country report is part of the Liberties Rule of Law Report 2024, which is the fifth 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 organisations in Belgium, Bulgaria, the Czech Republic, Croatia, Estonia, France, Germany, Hungary, Ireland, Italy, Lithuania, the Netherlands, Poland, Romania, Slovakia, Slovenia, Spain and Sweden, as well as a contributing partner organisation in Latvia.

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 2024 report was drafted by Liberties and its member and partner organizations, and it covers the situation during 2023. 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 2024 report includes 19 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. Thirty-seven member and partner organisations and one independent human rights expert contributed to the compilation of these country reports.

[Download the full Liberties Rule of Law Report 2024 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 association 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. VoxPublic also works with issues regarding the rule of law, respect for fundamental freedoms, and the protection of the democratic space, which are essential for civil society actors to defend their causes. VoxPublic provides partners with operational support in terms of campaign building, networking, strategic document writing, as well as strategic use of social media and media.

Key concerns

There has been no progress on the recommendations of the European Commission in their annual Rule of Law Report. A reform has allocated more financial resources to the justice system. However, at the same time, judicial police now fall under the control of prefects (representatives of the State at the department level) and the Ministry of the Interior, limiting the autonomy of the judiciary in investigations. The Court of Justice of the Republic has once again demonstrated its lack of impartiality.

Anti-Corruption Framework

Regarding the anti-corruption framework, during Emmanuel Macron’s presidency, ministers and advisors implicated in corruption or moral offence cases did not step down. Simultaneously, civil society organisations fighting against impunity, like Anticor, have experienced constraints on their legal advocacy power.

Media Environment and Media Freedom

As it concerns the media environment and media freedom, France fell from 34th to 26th place in the press freedom index of Reporters

Without Borders. The NGO warned about the risks posed by the concentration of media in the hands of a few major leaders in the economic and financial world.

Checks and Balances

In the area of checks and balances, due to a relative majority in the National Assembly, the government extensively employs a legislative procedure known as ‘49.3’, allowing it to impose legislative texts without a vote in the Assembly. This article has been used 23 times in 2023.







Civic Space

Regarding civic space, the government disproportionately employs the ‘separatism law’ to request the dissolution of associations and prohibit numerous demonstrations. The environmental movement is also subjected to extensive surveillance measures by anti-terrorism intelligence services.




Disregard of Human Rights Obligations and Other Systemic Issues Affecting the Rule of Law Environment

In relation to the disregard of human rights obligations and other systemic issues affecting the rule of law environment, the overpopulation in prisons, excessive use of force, police violence, racial profiling, and deportations to countries where the risk of torture exists are major concerns raised by civil society and international institutions. Despite these warnings, the government appears indifferent, even admitting a willingness to disregard the judgments of the European Court of Human Rights (ECtHR).

State of play (versus 2023)

-  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

- | | | |
|---|---|---|
| Regression | No progress | Progress |
|  |  |  |

Justice system

Key recommendations

- *Abolish the Court of Justice of the Republic.*
- *Restore judicial police independence and provide the means for its follow-through.*

Judicial independence

Appointment and selection of judges, prosecutors and court presidents

The Court of Justice of the Republic is tasked with judging government members for criminal or delinquent acts committed in the course of their duties. The Court of Justice of the Republic (CJR) consists of fifteen judges: twelve parliamentarians (including six deputies and six senators) and three judges of the Court of Cassation, the highest court in the French judiciary. Despite promises from several Presidents of the Republic to abolish it, including Emmanuel Macron, the CJR in 2023 raises major concerns regarding its impartiality and independence.

The recent trial of Eric Dupond-Moretti, the sitting Minister of Justice accused of conflict of

interest,¹ highlights these concerns. He faced accusations of leveraging his ministerial position to settle personal scores with judges, whom he had previously criticized during his tenure as a lawyer. Notably, following his appointment, he instigated two administrative investigations.² Although the Court acknowledged an objective conflict of interest, it concluded the absence of intent from the minister. The result of this procedure followed a well-known formula in France, according to which the minister is found ‘liable but not guilty’. This decision has fuelled the criticisms about the Court as symbolizing a two-tier justice system, delivering unconvincing convictions and inconsistent judgments. The impartiality of the Court, composed not of judges but of politicians, is also questioned: on one hand, political allies may be inclined towards leniency; on the other hand, opponents may lean towards severity. This kind of justice must be biased, or suspected of being

1 HATVP, or ‘Haute Autorité pour la Transparence de la Vie Publique’ (High Authority for Transparency in Public Life), defines a conflict of interest as a situation where public and private interests intersect, potentially influencing or appearing to influence the independent, impartial, and objective execution of a function. For further details, you can refer to the official legal text on the Légifrance website: <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000028056315/>.

2 https://www.francetvinfo.fr/politique/eric-dupond-moretti/eric-dupond-moretti-juge-pour-conflit-d-interets-le-guide-pour-tout-comprendre-au-proces-inedit-d-un-ministre-de-la-justice-en-exercice_6145950.html

so. Regardless of the decision rendered, its authority is bound to be contested.³

Promotion of judges and prosecutors

In the French judicial system, prosecutors remain under the authority of the Minister of Justice. Even if the Minister of Justice commits not to give specific instructions to prosecutors, they still receive general political recommendations. Moreover, their promotion still depends on the minister. Therefore, the institutional arrangement cannot guarantee their independence.

Quality of justice

Resources of the judiciary (human/financial/material)

The recent justice reform by Eric Dupont-Moretti foresees an increase in the budget, rising from €9.6 billion in 2023 to nearly €11 billion by 2027. The reform also includes new hires. The Magistrates' Union considers "these additional resources as significant and beneficial for the French judiciary. However, it expresses some reservations about the ambition of the law, emphasizing the lack of an overall vision."⁴ More specifically, the reform does not include measures to address the issue of prison

overcrowding in France despite the increase in budget. On the contrary, it strengthens the expedited trial procedures,⁵ known to lead to a significant increase in the prison population. The lack of structural responses to this problem casts doubt on the sufficiency of the additional resources.

Other

The reform of the judicial police, which refers to the whole criminal investigation system, has sparked strong opposition and brought together, in an unprecedented manner, magistrates, police officers, and lawyers. This reform is built on the departmentalisation of police services and aims to centralize their command under the authority of a Departmental Director of National Police (DDPN), placed under the jurisdiction of the prefect.

Presented as a mere reorganisation of these services, the reform in reality embodies a new philosophy of police action, particularly focused on public security at the expense of prolonged investigations (such as combating organized crime or corruption, for example). A consequence of the reform is that many investigators from the judicial police have been diverted from their mission and instead, mobilized for other tasks.

3 https://www.lemonde.fr/idees/article/2023/12/14/la-cour-de-justice-de-la-republique-n-etant-pas-adaptee-a-sa-fonction-il-reste-a-en-tirer-les-consequences_6205768_3232.html

4 https://www.francetvinfo.fr/societe/justice/plan-d-action-de-la-justice-une-reaction-mitigee-de-la-part-du-syndicat-de-la-magistrature_5582556.html

5 The expedited trial procedures known in France as 'immediate appearance' is a procedure bringing the defendant directly before the court at the conclusion of a police custody period. Consequently, the defendant is left with minimal time to prepare their defence, and no additional investigations are initiated.

The reform also raises concerns among magistrates regarding the independence of investigators and the preservation of the confidentiality of investigations. According to criminal lawyer Sarra Dajeau, “Entrusting the management of the judicial police to the departmental director of national police, rather than solely under the authority of the prosecutor or examining magistrate, dangerously affirms the executive power’s right to have a say over the progress of judicial investigations. By strengthening executive control over the judicial police, this reform mechanically weakens the connection with judicial authority.”⁶ This represents a genuine political takeover of the judicial police, a service that was previously little criticized but overall had proven its ability to reach the executive power, particularly when investigating corruption cases.⁷

Fairness and efficiency of the justice system

Respect for fair trial standards including in the context of pre-trial detention

France was condemned in December 2023, in an emblematic case in front of the ECtHR: *Syndicat des Journalistes de France and others v.*

France. The ECtHR recognized a breach to the journalist’s rights to fair trial. The Syndicat des Journalistes de France highlights in their press release:

“To our knowledge, this is the first time that judges of the Cour de Cassation [highest judicial court in France] have been officially criticized for their lack of impartiality. The French government, which has lost out in this case, has three months in which to refer the case to the Grand Chamber of the ECtHR.”⁸

During the urban unrest following the death of Nahel Merzouk (17 years old), who was killed by a police officer, over 3,600 individuals were placed in police custody. These arrests resulted in numerous swift court appearances and harsh convictions. On Wednesday, 19 July on RTL, Justice Minister Eric Dupond-Moretti announced that 1,056 people had been sentenced and 600 were currently imprisoned. Among those sentenced, 742 received a custodial sentence with an average duration of 8.2 months of incarceration.⁹

Following the Minister of Justice’s statement, which called for a “quick, firm, and systematic” judicial response,¹⁰ many lawyers have expressed

6 <https://www.dalloz-actualite.fr/node/reforme-organique-de-police-judiciaire-non-dits-et-perspectives>

7 https://actu.fr/societe/politique-un-tres-grave-recul-de-l-etat-de-droit-une-reforme-de-la-police-qui-inquite_52971431.html

8 <https://www.snj.fr/article/magistrats-pris-en-flagrant-d%C3%A9lit-de-conflit-d%E2%80%99int%C3%A9r%C3%AAt-la-france-condamn%C3%A9e-par-la-cedh-1796464432>.

9 https://www.lemonde.fr/societe/article/2023/07/19/emeutes-plus-de-1-000-personnes-ont-ete-condamnees-et-600-personnes-incarcerees-selon-eric-dupond-moretti_6182603_3224.html

10 https://www.francetvinfo.fr/faits-divers/adolescent-tue-par-un-policier-a-nanterre/violences-apres-la-mort-de-nahel-eric-dupond-moretti-appelle-a-une-reponse-judiciaire-ferme-y-compris-pour-les-parents_5922761.html

concerns regarding the nature of these convictions. This apprehension is notably rooted in the fact that a significant number of these convictions were obtained through simplified and expedited investigations, since 905 individuals were judged through the procedure of immediate appearance.

The widespread use of immediate appearances, which does not afford the accused the opportunity to adequately prepare their defence, the

lack of personalized sentencing, and the severity of the convictions have all faced substantial criticism.¹¹ According to the Magistrates' Union, this wave of arrests is perceived as a display of authority to convey a message of strictness. "In such a context, and under political and media pressure, judges are unable to maintain the necessary impartiality to adjudicate individuals with complete equanimity", asserts the Magistrates' Union.¹²

Anti-corruption framework

Key recommendations

- *The authorization of an association to take legal action in corruption cases should not belong to the jurisdiction of the government (Minister of Justice), but rather to an independent authority, such as the Defender of Rights.*
- *Establishing a unified platform to publish all documents submitted by lobbyists to public decision-makers (parliamentarians, government members and their teams, local authorities), along with the interactions between them, would enable citizens to be informed. In case of need, citizens could propose counter-expertise and arguments in support of the public interest.*
- *Strengthen judicial independence by entrusting all investigations related to the integrity of public officials solely to independent examining magistrates, rather than prosecutors under the supervision of the Minister of Justice.*

11 https://www.francetvinfo.fr/faits-divers/adolescent-tue-par-un-policier-a-nanterre/on-a-sacrifie-l-individu-au-profit-de-la-collectivite-apres-les-emeutes-la-severite-des-condamnations-en-justice-pose-question_5934383.html

12 <https://information.tv5monde.com/societe/incarcerations-suite-la-mort-de-nahel-ce-quon-pu-cri-tiquer-cest-labsence-dindividualisation>

Levels of corruption

The 2022 edition of Transparency International’s ‘Together Against Corruption’ annual report was released at the beginning of 2023. With a score of 72 out of 100 and securing the 21st position in the rankings, France reaffirms its position in the leading group of the Corruption Perceptions Index in the public sector for 2022. Despite gaining one point and one place in the rankings since the previous year, the country has only made modest progress, with a total of two points and two places gained since 2017, indicating a relatively low-intensity effort in the fight against corruption.¹³

The National Financial Prosecutor’s Office has initiated a judicial investigation into suspicions of ‘misappropriation of public funds’, ‘breach of trust’, and ‘conflict of interest’ in the management of the Marianne Fund, established in 2021 by former Secretary of State Marlène Schiappa to combat ‘religious separatism’. Out of the 17 funded associations, two of them have come under particular scrutiny because they yielded insufficient results in comparison to the resources they received through the granted subsidies. These two organisations appear to have fallen short of implementing what they initially presented to defend the values of the Republic on social media.

The first organisation produced limited content that failed to generate significant engagement.¹⁴ The second organisation created content that did not align with the project’s specifications or requirements.¹⁵ This criticism raises concerns about the effective utilization of the allocated funds and the organisations’ ability to fulfil their intended objectives. In July 2023, the Senate’s inquiry committee delivered highly critical conclusions regarding the minister’s decisions, describing it as a “fiasco” and citing a selection of “friendly associations” led by acquaintances of the Secretary of State.¹⁶ The committee also highlighted a “hasty, opaque, and fragmented” selection process.

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)

It is unacceptable that the arguments put forth by lobbyists are communicated in complete opacity. Measures of transparency should be implemented, as being adequately informed is crucial to civil society’s capacity to respond effectively to the arguments presented by

13 https://transparency-france.org/wp-content/uploads/2023/06/Rapport-dactivite-2022_WEB-1.pdf

14 <https://www.publicsenat.fr/actualites/societe/luseppm-principale-beneficiaire-du-fonds-marianne-peine-a-justifier-lutilisation-des-subventions>

15 <https://www.publicsenat.fr/actualites/societe/fonds-marianne-on-ne-nous-a-jamais-interdit-de-faire-des-contenus-politiques-assure-la-presidente-de-reconstruire-le-commun>

16 https://www.lemonde.fr/politique/article/2023/07/06/fonds-marianne-la-commission-d-enquete-du-senat-fustige-un-fiasco-fait-d-opacite-et-de-desinvolture_6180819_823448.html

lobbying groups. Since the enactment of the ‘Loi Sapin’¹⁷ in 2016, the High Authority for Transparency in Public Life, an independent administrative entity, has been tasked with the responsibility of maintaining the public register of interest representatives and overseeing their activities. However, a significant number of influencing activities go unrecognized, prompting the need to broaden the definition of interest representatives.

Presently, activities that fall outside the scope of lobbying or being identified as a lobbyist include:

- A company whose employees collectively spend less than 50% of their time on lobbying and engage in fewer than 10 lobbying actions per year.
- Special interest activities solicited by public actors or communication not initiated by interest representatives.
- Interest representation that does not constitute the main activity of the individual or is not done regularly.
- Special interest activities conducted by religious associations.

According to Anticor, an anti-corruption organisation, all these conditions serve to

bypass the transparency obligations of the interest representatives’ register. It is imperative to broaden the definition of interest representatives for greater accountability.¹⁸

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

The transposition of the European directive on whistleblower protection into French law, known as the ‘Waserman’ law,¹⁹ alongside its implementing decree dated 3 October 2022,²⁰ brings about significant changes to the existing rules. Noteworthy modifications encompass:

- An expanded definition of whistleblowing;
- A broader range of individuals eligible to report or enjoy protection related to whistleblowing;
- Introduction of new procedural rules, which aim at minimizing the risks of experiencing pressure.

While the substantive alterations primarily pertain to general whistleblowing, designated as ‘internal professional alerts’, the new framework also encompasses what are termed ‘sectoral’ alerts falling under specific regulations. In brief, different authorities are in charge of providing protection to whistleblowers depending on the

17 <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000033558528>

18 <https://www.anticor.org/2022/04/07/les-15-propositions-danticor-pour-une-presidence-ethique/>

19 <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000045388745>

20 <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000046357368>

sector that the information concerns. However, the legislation aims at establishing a ‘common foundation’ of minimum safeguards applicable to all whistleblowers, regardless of whether the report falls under the general or specific regime. Moreover, the Defender of Rights has to protect and defend all whistleblowers’ rights, directing, informing and advising them during the procedure. Finally, in October 2023, the Competition Authority instituted a dedicated system for collecting and processing all whistleblower reports, accessible through its website.²¹ These provisions have been integrated and put into practice by administrative authorities in 2023.

Any other relevant measures to prevent corruption in the public and private sector

According to Transparency International, France has demonstrated positive steps by establishing key institutions such as the National Financial Prosecutor’s Office (PNF – founded in 2013), the High Authority for Transparency in Public Life (established in 2013), and the French Anti-Corruption Agency (AFA - established in 2016). However, these institutions currently face a critical shortage of resources, administrative staff, and a lack of political will to effectively combat corruption.²²

In a potentially positive development, Bruno Le Maire, the Minister of the Economy, Finance, and Industrial and Digital Sovereignty, has revealed plans for a future initiative aimed at combating corruption and improving the 2016 law in early 2024. However, specific details regarding the content of this plan were not provided.²³

Investigation and prosecution of corruption

Effectiveness of investigation and application of sanctions for corruption offences (including for legal persons and high level and complex corruption cases) and their transparency, including as regards to the implementation of EU funds

Nicolas Sarkozy Case:

Former President of the Republic from 2007 to 2012, Nicolas Sarkozy, received on 17 May 2023, a three-year prison sentence, with one year served, for corruption and influence peddling. This reaffirmed the conviction, an unprecedented consequence for a former head of state.²⁴ Additionally, Nicolas Sarkozy has been deprived of his civil rights for three years,

21 https://transparency-france.org/wp-content/uploads/2023/06/Rapport-dactivite-2022_WEB-1.pdf

22 https://www.francetvinfo.fr/replay-radio/le-brief-eco/loi-anti-corruption-bruno-le-maire-annonce-un-futur-plan-pour-lutter-contre-ce-ver-qui-peut-pourrir-la-democratie_6207963.html

23 https://www.francetvinfo.fr/politique/nicolas-sarkozy/affaire-des-ecoutes-nicolas-sarkozy-condamne-en-appel-a-trois-ans-d-emprisonnement-dont-un-an-ferme-pour-corruption-et-traffic-d-influence_5828717.html

24 https://www.lemonde.fr/societe/article/2023/11/16/la-confirmation-de-l-annulation-de-l-agrement-d-anticor-une-decision-revoltante-qui-ebroule-le-combat-contre-la-corruption-pour-l-avocat-de-l-association_6200510_3224.html

rendering him ineligible for running for public office.

His legal team promptly announced their intention to appeal to the Court of Cassation. As the Paris Court of Appeal did not include a request for the provisional execution of the sentence in its decision, the execution of this conviction is suspended pending the outcome of this appeal. Consequently, the former head of state is not currently subject to electronic monitoring, and his civil rights remain intact during this appeal.

Sarkozy's two co-defendants, his longstanding lawyer Thierry Herzog and former senior magistrate Gilbert Azibert, were also convicted for corruption and influence peddling, as well as sentenced to the same terms. Legal expert Thierry Herzog is additionally prohibited from practising his profession for three years. These convictions stem from a 'sub-case' discovered during investigations into the financing of Nicolas Sarkozy's 2007 presidential campaign by Libya, another ongoing legal matter.

Potential obstacles to investigation and prosecution of high-level and complex corruption cases (e.g. political immunity regulation)

Anticor Case:

Following a complaint filed by two former members and a lawyer close to the President of the Republic, the Administrative Court of Appeal of Paris confirmed in November 2023

the withdrawal of Anticor's anti-corruption approval for 2021-2023 due to a drafting error in the granting decree by former Prime Minister Jean Castex. This government approval allowed the association to take legal action and act as a civil party in corruption cases, particularly in the absence of action by the public prosecutor.

According to the association's lawyer, "This is a revolting political decision that undermines the fight against corruption, proving that the approval process serves only to silence those mobilized against breaches of integrity just as they increasingly affect those in power."²⁵

While the association had requested the renewal of its approval for the period 2024 to 2026 from the current Prime Minister, Elisabeth Borne, it received no official response before the 26 December 2023 deadline, effectively amounting to an implicit refusal.

Other

Eric Dupont-Moretti Case:

The Minister of Justice, Eric Dupont-Moretti, underwent investigation and trial for illegal conflicts of interest in his ministerial duties, with no subsequent resignation or a call for it from the President of the Republic. In an unprecedented trial under the Fifth Republic, Justice Minister Eric Dupont-Moretti was acquitted on 29 November 2023 by the CJR. He was suspected of using his position to settle scores with magistrates with whom he had conflicts during

25 <https://www.kantarpublic.com/fr/barometres/barometre-de-la-confiance-des-francais-dans-les-media/barometre-2023-de-la-confiance-des-francais-dans-les-media>

his time as a lawyer. During the trial from 6-16 November 2023, the prosecutor had requested a one-year suspended prison sentence.

The CJR, predominantly composed of parliamentarians rather than magistrates, stated in its

reasoning that the ‘material element’ of illegal conflict of interest was established but not the intentional element. Many political and judicial figures are calling for the abolition of this court, deemed biased.

Media environment and media freedom

Key recommendations

- *Eliminate from the Law on protecting the confidentiality of journalists’ sources introduced on January 4 2010,²⁶ the overly vague concept of ‘preponderant imperative of public interest,’ which allows for exceptions to the protection of journalistic sources and authorises the arrest and search of journalists.*

Pluralism and concentration

Levels of market concentration

Kantar Group, an expert in comprehensive public policy surveys and government consulting, conducts an annual barometer assessing the trust of the French population in the media. For the year 2023, the survey was conducted with a sample of 1,500 individuals, carefully chosen to be representative of the French population aged 18 and above. On the subject of levels of market concentration, 45% of the French population considers the ownership of several major press or media groups by large industrial

conglomerates as a ‘negative development’ while only 15% perceive it positively.²⁷

In 2022, a Senate investigative commission on ‘Media Concentration in France’²⁸ aiming to illuminate the processes contributing to, or potentially resulting in, media concentration in the country. It also sought to evaluate the impact of this concentration on democracy. The commission proposed 32 recommendations that advocate for regulations adapted to the digital era, create a framework to restore trust, and fortify cultural sovereignty. The key recommendations emphasise the enhancement of collective assurances for journalists, with a

26 <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000021601325/>

27 <https://www.kantarpublic.com/fr/barometres/barometre-de-la-confiance-des-francais-dans-les-media/barometre-2023-de-la-confiance-des-francais-dans-les-media>

28 <https://www.senat.fr/travaux-parlementaires/structures-temporaires/commissions-denquete/commissions-denquete/commission-denquete-concentration-des-medias-en-france.html>

particular focus on improving the economic status of producers through the establishment of a guaranteed minimum salary and the assurance of equal rights for journalists in press agencies. Furthermore, there is a need for a more nuanced consideration of the distinctive nature of television news in response to the growing influence of digital media. Lastly, it is underscored that reinforcing the independence and ethical standards of the media, along with expanding the role of the ARCOM (Communication Regulatory Authority), is crucial.²⁹ However, as of 2023, there has been no assessment of the implementation of these recommendations.

Rules governing ownership in different segments of the media market, and their application (print, television, radio, online media)

After acquiring *Le Journal du Dimanche*, a prominent and widely-followed weekly newspaper, from the Lagardère group, neoconservative billionaire Vincent Bolloré appointed far-right-leaning editor-in-chief Geoffroy Lejeune.³⁰ Lejeune, known for his extreme right-wing views, had been ousted a few weeks earlier from the ultra-conservative magazine *Valeurs actuelles* due to his perceived radical positions. Following forty days of strikes, protesting the appointment of G. Lejeune and resulting in the

departure of numerous journalists as a sign of protest, the newspaper resumed its weekly publication with a new editorial direction strongly influenced by the far-right parties' agenda.

Senator David Assouline, rapporteur of the Senate Investigative Commission on Media Concentration, sees this appointment as “a provocation” and, more significantly, a “danger” to democracy and pluralism.³¹ According to Assouline, “*Vincent Bolloré is determined to create a propaganda empire serving extremist ideas.*”³²

Public service media

Financing (including transparency of financing)

As promised by President Emmanuel Macron during his presidential campaign, the government abolished the TV licence³³ in 2022. One of the reasons for abolition would be to lower taxes and stop relying on the middle class for the funding of this public service. However, considered as a key funding source for public media, without presenting a sustainable alternative this decision reflects an improvised approach that could undermine the independence and diversity of information, as noted by Reporters Without Borders.³⁴ The tax originally contributed €4 million in funding. Despite the

29 <https://www.senat.fr/rap/r21-593-1/r21-593-1-syn.pdf>

30 https://www.francetvinfo.fr/economie/medias/geoffroy-lejeune-a-la-tete-du-jdd-le-gouvernement-doit-etre-un-protecteur-de-l-independance-des-medias-selon-le-senateur-david-assouline_5983586.htm

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

32 [Grève au JDD : devant le Sénat, Vincent Bolloré se défendait de tout intérêt idéologique dans le rachat de médias - Public Sénat \(publicsenat.fr\)](#)

33 <https://www.thelocal.fr/20220704/explained-what-frances-tv-licence-pays-for-and-what-might-replace-it>

34 <https://lvsl.fr/qui-veut-la-peau-de-laudiovisuel-public/>

government's assurance of its commitment to uphold this financial support, there are growing concerns that the essential €4 billion for broadcasting and creative content will face gradual reductions.³⁵ Furthermore, public broadcasting is subjected to numerous criticisms, especially from different leaders of the right-wing parties and extreme right-wing parties. Both the National Rally and Reconquest, both of which agreed with the abolition of the TV licence, have expressed their intent to privatize the public broadcasting company should they come to power.

Ultimately, despite the 2023 finance law confirming an awaited increase in the budget for the public broadcasting service in 2024, concerns persist, particularly regarding the unresolved issue of funding methods for public service channels and radio stations following the abolition of the TV licence fee.³⁶

Online media

Competence and powers of bodies or authorities supervising the online ecosystem

Created in 2021, ARCOM is the national agency responsible for regulating audiovisual

and digital communication. It directly influences the regulation of online platforms, social networks, search engines, and citizen participation platforms. At the European level, ARCOM is a member of the European Regulators Group for Audiovisual Media Services (ERGA). In 2023, ARCOM coordinated the work of ERGA regarding the evolution of the European regulatory framework, including legislation on digital services (Digital Services Act - DSA).

As part of the bill aimed at securing and regulating the digital space ('sécuriser et réguler l'espace numérique' - SREN law), currently under discussion in the French Parliament, ARCOM is expected to be designated as the coordinator for digital services. The agency is anticipated to assume new responsibilities, notably, the protection of minors concerning their use of social networks.

The authority also has disciplinary powers. For instance, in 2023, it repeatedly fined the French television channel C8, compelling it to pay fines of up to €3.5 million.³⁷ Convictions have occurred for reasons such as infringing upon the rights of interviewees and violating their honour and reputation,³⁸ as well as failing to

35 <https://www.lesechos.fr/tech-medias/medias/marine-le-pen-et-laudiovisuel-public-une-privatisation-a-hauts-risques-1401242>

36 <https://www.telerama.fr/television/audiovisuel-public-malgre-un-budget-2024-en-hausse-les-inquietudes-persistentes-7017362.php>

37 <https://www.arcom.fr/nos-ressources/espace-juridique/decisions/decision-du-9-fevrier-2023-portant-sanction-pencuniaire-lencontre-de-la-societe-c8>

38 <https://www.radiofrance.fr/franceinter/insultes-de-hanouna-a-un-depute-l-arcom-inflige-une-amende-record-de-3-5-millions-d-euros-a-c8-7522002>

uphold the obligation of honesty and rigour in the presentation and handling of information.³⁹

Public trust in media

The public's confidence in the media remains low, according to the 2023 annual report from the Kantar Public Institute. The findings indicate that 54% of French citizens believe that 'most of the time, one should approach the media's coverage of major current issues with caution', while 37% express a general trust in them.⁴⁰ Among the causes of this mistrust, doubts about the impartiality and independence of journalists are significant, particularly as French citizens fear political influence.

Safety and protection of journalists and other media actors

Frequency of verbal and physical attacks

Several French journalists, particularly those specialised in monitoring far-right activities such as *Libération*⁴¹ and *StreetPress*,⁴² as well as

journalists from regional daily newspapers like *Le Pober* and *France 3 Bretagne*, are facing serious threats from far-right groups. Most of these threats were cyberattacks and verbal violence. At the moment, there is no initiative on the part of the authorities to investigate the threats made against these journalists.

Lawsuits and prosecutions against journalists (including SLAPPs) and safeguards against abuse

Since 2019, the French government has increased intimidation against media outlets investigating state secrets. In late 2022, four members of the investigative media outlet Disclose were subjected to investigations led by French domestic intelligence services. On September 19 2023, one of the journalists, Ariane Lavrilleux, was arrested at her home, which was searched, and her professional equipment was seized. She was held in custody for 39 hours with the aim of identifying her sources that allowed her to reveal several state scandals, particularly in the areas of military affairs, intelligence, and arms sales to foreign countries.⁴³ This procedure was done contrary

39 https://www.lemonde.fr/televvisions-radio/article/2024/01/23/c8-a-nouveau-sanctionnee-par-l-arcom-pour-une-sequence-de-touche-pas-a-mon-poste_6212493_1655027.html#:~:text=La%20cha%C3%A9ne%20C8%2C%20propri%C3%A9t%C3%A9%20du,%C3%A9mission%20%C2%AB%20Touche%20pas%20%C3%A0%20mon

40 <https://www.kantarpublic.com/fr/barometres/barometre-de-la-confiance-des-francais-dans-les-media/barometre-2023-de-la-confiance-des-francais-dans-les-media>

41 https://www.liberation.fr/politique/solidarite-avec-pierre-plottu-journaliste-menace-par-lextreme-droite-20220621_CO3KCK44OJAFDHOVTUIRH5N4VQ/

42 <https://www.radiofrance.fr/mouv/le-site-d-information-streetpress-victime-d-intimidations-de-la-part-de-l-extreme-droite-4155405>

43 https://www.lemonde.fr/en/politics/article/2023/09/22/detention-of-french-journalist-sparks-outrage-among-press-freedom-advocates-silence-from-government_6138561_5.html

to the law on Press Freedom (also known as the ‘1881 law’), explicitly stating that no journalist can be forced to reveal their sources.⁴⁴

Confidentiality and protection of journalistic sources (including whistleblower protection)

Since 2022 and throughout 2023, France has been exerting pressure on its European counterparts to legalise the surveillance of journalists in cases involving a threat to ‘national security’ or exhibiting a link to a range of roughly thirty offences (such as terrorism, sabotage, scams, or counterfeiting)⁴⁵ in the negotiation for the European Media Freedom Act. This would mean that calls, emails, and secure exchanges between journalists and their sources could be intercepted - entirely within the bounds of the law - by intelligence services. In this lobbying effort, France finds itself in alignment with Italy, Finland, Greece, Cyprus, Malta, and Sweden. Even though Member States’ EU ambassadors endorsed a provisional agreement, ongoing negotiations between the European Parliament and the Council of Europe will determine the outcome of this bill.⁴⁶

44 <https://rsf.org/en/rsf-demands-overhaul-frances-law-confidentiality-journalists-sources#:~:text=Under%20France's%20Law%20on%20Press,judge%20of%20freedoms%20and%20detention%22>

45 <https://disclose.ngo/fr/article/espionnage-des-journalistes-la-france-fait-bloc-aux-cotes-de-six-etats-europeens>

46 <https://www.europarl.europa.eu/news/pt/press-room/20231207IPR15742/deal-on-the-eu-media-freedom-act>

Checks and balances

Key recommendations

- *The abolition of Article 49.3 of the Constitution, which allows the imposition of legislative texts without a vote in the Assembly, is crucial. The frequent use of this procedure⁴⁷ undermines power balances of the French democratic system.*

Process for preparing and enacting laws

Rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions)

The legislative power is currently undermined in its ability to debate and build consensus through the excessive use of Article 49.3 of the Constitution. This article allows the government pass a law through the National Assembly without a vote, forcing the deputies to choose between either outvoting the government or tacitly approving the controversial bill without actually casting a vote. Used to impose pension reform, Article 49.3 was activated 23 times by Prime Minister Elisabeth Borne in 2023.⁴⁸ The

Constitutional Council, seized regarding the use of Article 49.3 on pension reform, deemed that the government was justified in resorting to Article 49.3 since “the exercise of this prerogative conferred upon the prime minister is not subject to any other condition.”⁴⁹

In an opinion, the Venice Commission, an advisory group of the Council of Europe providing legal opinions on draft laws or existing texts to states, argues that this mechanism “raises questions regarding the principles of pluralism, the separation of powers, and legislative sovereignty”. According to the advisory group the article constitutes a “significant interference by the executive in the powers and role of the legislative power”.⁵⁰

Ecologist deputy Jérémie Jordanoff attempted to present a bill to remove Article 49.3 from

47 https://www.lemonde.fr/les-decodeurs/article/2023/11/23/avec-dix-huit-recours-en-dix-huit-mois-le-gouvernement-borne-banalise-l-article-49-3_6199896_4355771.html

48 https://www.francetvinfo.fr/monde/europe/l-article-49-3-souleve-des-interrogations-au-regard-de-la-separation-des-pouvoirs-estime-le-conseil-de-l-europe_5887815.html

49 https://www.lemonde.fr/les-decodeurs/article/2023/04/14/retraites-ce-que-le-conseil-constitutionnel-a-garde-ou-ecarte-des-differentes-saisines_6169591_4355770.html

50 [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2023\)024-f](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2023)024-f)

the Constitution, but his proposal was quickly rejected.⁵¹

Independent authorities

Opinions from independent authorities such as the Defender of Rights (DDD) or the National Consultative Commission on Human Rights (CNCDH) are not legally binding. Despite being intended to influence public policy development, their recommendations appear to have little impact on the decision-making process under President Emmanuel Macron's administration. Despite numerous recommendations from CNCDH and DDD regarding means to restore trust between the police and the population,⁵² incidents of police violence, identity checks,⁵³ and the risks associated with immigration legislation,⁵⁴ the government seems impervious to the advice of these independent institutions, significantly diminishing their influence in the decision-making process.

The General Inspectorate of the National Police (IGPN) - often presented as 'independent' by the Ministry of the Interior to which it is subordinate - faces criticism for its structural lack of independence. Comprising 285 agents, with nearly 75% being police officers, the IGPN is

responsible for overseeing the actions of the National Police and the Paris Police Prefecture. However, its lack of transparency and direct affiliation with the General Directorate of the National Police raise significant concerns about its legitimacy. Recent periods of social unrest against pension reform (spring 2023), marked by police violence, have heightened criticism, highlighting the need for true independence and appropriate sanctions against law enforcement involved in violent acts.

A study conducted by three researchers, an international comparison in about twenty countries of 'police oversight agencies' (ACP) - bodies responsible for overseeing the ethics of law enforcement - concludes that the French Defender of Rights is among the most independent. However, it is also the least endowed of these agencies, both in terms of personnel and resources, relative to the number of police officers and gendarmes it oversees.⁵⁵

51 https://www.cncdh.fr/sites/default/files/2023-10/A%20-%202023%20-%202020-%20Avis%20Rapport%20entre%20police%20et%20population%2C%20octobre%202023_3.pdf

52 <https://www.cncdh.fr/publications/avis-sur-la-prevention-des-pratiques-de-controles-didentite-abusives-etou>

53 <https://www.defenseurdesdroits.fr/projet-de-loi-immigration-la-defenseure-des-droits-maintient-ses-alertes-avant-le-passage-en-510>

54 https://www.liberation.fr/societe/police-justice/le-defenseur-des-droits-agence-de-controle-de-la-police-la-plus-pauvre-deurope-selon-une-etude-20230120_NEXLX4VERZFTRAA2AAIDMWKB2I/

55 https://amnestyfr.cdn.prismic.io/amnestyfr/6a3cbef6-bbe8-45dc-ae01-622f8a114d31_french-2022_2023-03-22a+%281%29.pdf

Civic space

Key recommendations

- *Strengthening the rights of associations and their activists against administrative and legal hindrances, which may be similar to SLAPP suits.*
- *Abolition of the so-called ‘separatism law’, which aims at strengthening the respect of the ‘principles of the Republic’.*
- *Transparency and assurance of pluralism in the allocation of public subsidies.*

Freedom of association

Involuntary dissolution

According to the latest annual report from Amnesty International (2022-23),⁵⁶ France has garnered attention in recent years for its attempts to curtail freedom of association, primarily through the controversial use of the ‘separatism law’.⁵⁷ The broadening of the dissolution criteria outlined in the separatism law was originally aimed to target associations displaying radical religious activities and sectarian tendencies. However, in 2023, only one association linked to radical Islam and conspiratorial discourse underwent investigation, along with a Catholic association holding antisemitic views. Throughout the year, five dissolution decrees were approved in the Council of Ministers (Bordeaux Nationalist, Les Alerteurs, Les

Soulèvements de la Terre, Civitas, and Division Martel). Most of the dissolved associations are primarily targeted for their political engagements. This includes those advocating hatred and racism, such as identity-based extreme right or neo-fascist associations. However, it also encompasses anti-racist or anti-fascist associations, those combating discrimination against Muslims, and even an environmentalist association. Despite the broad scope of the ‘separatism law’, the Council of State, on November 9 2023, overturned the dissolution of the national environmental movement ‘Les Soulèvements de la Terre’. The Council deemed that the dissolution was not “adapted, necessary, and proportionate to the seriousness of the disturbances likely to be brought to public order.”⁵⁸

56 <https://www.conseil-etat.fr/fr/arianeweb/CE/decision/2023-11-09/476384>

57 <https://www.legifrance.gouv.fr/dossierlegislatif/JORFDOLE000042635616/>

58 https://www.lemonde.fr/politique/article/2023/04/05/gerald-darmanin-menace-de-remettre-en-question-les-subsventions-publiques-accordees-a-la-ldh_6168412_823448.html

On the same day, the Council of State nevertheless validated the dissolution of three other associations requested by the government between 2021 and 2022. This legal case against the environmental movement, labelled ‘ecoterrorist’ by the Minister of the Interior, brought attention to the surveillance mechanisms implemented to monitor activists, involving methods to fight against terrorism.

Financing framework for CSOs, including availability of and access to public funding, rules on fundraising, rules on foreign funding, tax regulations (e.g. tax advantages for organisations with charitable or public benefit status, eligibility to receive donations via citizens’ allocation of income tax to charitable causes, eligibility to use public amenities at low or no cost, etc)

In 2023, the Nouvelle-Aquitaine region in southwestern France became a focal point for protests against large-scale water reservoirs known as mega-basins. The demonstrations, opposing these projects designed for agricultural irrigation, escalated into clashes between law enforcement and protesters, resulting in numerous injuries. Following these events, the prefecture services in several regional departments initiated measures to cut subsidies for various associations linked, directly or indirectly, to the ecological movement.

Additionally, pressure was applied against elected officials who supported these associations. For example, the prefect of the department of Vienne initiated a procedure aiming at terminating subsidies for the non-profit organisation Alternatiba in Poitiers, a municipality governed by the ecological party.⁵⁹ The procedure had no reasonable cause and was against this association, known for its advocacy of civil disobedience. It is important to note that the administrative court has rejected the Prefect of Vienne’s request for the return of subsidies granted to the association.⁶⁰

Other

In April 2023, the Parliament passed a law related to the Olympic and Paralympic games, raising concerns primarily centred around Article 7. This article introduces a legal framework for algorithmic video surveillance (AVS) in France, marking it as the first EU Member State to do so. AVS entails the use of artificial intelligence to process images and audio from surveillance cameras, enabling the identification of individuals, objects, or specific situations.⁶¹

The contentious aspect of the law is its potential to normalize biometric mass surveillance. Critics, including Amnesty International, argue that this decision undermines the ongoing efforts within the EU to regulate artificial

59 <https://france3-regions.francetvinfo.fr/nouvelle-aquitaine/vienne/poitiers/desobeissance-civile-suite-au-main-tien-des-subsventions-le-prefet-de-la-vienne-porte-l-affaire-devant-le-tribunal-administratif-2645188.html>

60 <https://www.ldh-france.org/alternatiba-poitiers-le-tribunal-administratif-rejette-la-demande-du-prefet-de-la-vienne-de-restitution-des-subsventions-accordees-a-lassociation/>

61 <https://verfassungsblog.de/big-brother-is-watching-the-olympic-games-and-everything-else-in-public-spaces/>

intelligence and protect fundamental rights through the AI Act. The allowance of mass surveillance measures during the 2024 Olympics in France is seen as a threat to privacy and a departure from the principles of responsible AI governance and human rights protection.⁶²

Criminalisation of activities, including humanitarian or human rights work

During the prohibited demonstration on March 25 2023, in Sainte-Soline (Deux-Sèvres), some demonstrators declared that the emergency medical services (SAMU) had difficulties reaching injured individuals. The League of Human Rights, a long-standing association dedicated to defending rights and liberties, raised concerns about potential obstruction of these services by the police.⁶³

As a response, the Minister of the Interior threatened to reconsider public subsidies allocated to the association during a Senate hearing. He suggested that these subsidies “merited scrutiny in light of the actions that the LDH [League of Human Rights] has undertaken.”⁶⁴ In response, the LDH emphasized the importance of these subsidies in a democracy, allowing for the contestation of abuses of power and arbitrariness. On April 6 2023, the association

declared, “Removing or reducing these subsidies is one of the traditional means used by authoritarian regimes to weaken the balance between power and counterpowers, without which a democracy is annihilated.”⁶⁵ As the Minister of the Interior’s statements sparked controversy, Prime Minister Elisabeth Borne joined the attack against the LDH by accusing it of proximity to radical Islam. This tactic represents a common method of damaging the reputation of associations advocating for individual rights and combating discrimination, especially those denouncing Islamophobia, as the LDH has done.⁶⁶

Access to justice, including rules on legal standing, capacity to represent collective interest at court, and access to legal aid

The anti-corruption association Anticor has had its accreditation revoked. The accreditation, granted on April 2 2021, allowed it to take legal action and to act as a civil party in cases, in particular cases concerning corruption and breaches of probity in criminal court proceedings. Currently, only two organisations have this accreditation in France: Transparency International, which does not pursue legal actions in France, and the Sherpa association,

62 <https://www.amnesty.org/en/latest/news/2023/03/france-allowing-mass-surveillance-at-olympics-undermines-eu-efforts-to-regulate-ai/>

63 https://www.lemonde.fr/planete/article/2023/03/28/sainte-soline-l-enregistrement-qui-prouve-que-le-samu-n-a-pas-eu-le-droit-d-intervenir_6167340_3244.html

64 <https://www.ldh-france.org/wp-content/uploads/2023/04/CP-LDH-subventions-Darmanin-6-04-2023-1.pdf>

65 [La Ligue des droits de l’Homme appelle au combat pour les libertés et la démocratie - LDH \(ldh-france.org\)](https://www.ldh-france.org/)

66 https://www.lemonde.fr/politique/article/2023/04/13/elisabeth-borne-s-en-prend-a-son-tour-a-la-ligue-des-droits-de-l-homme_6169279_823448.html

which focuses on cases of transnational corruption and money laundering in France.

Freedom of peaceful assembly

Bans on protests

After the October 7 2023 attacks carried out by Hamas against Israel, fearing tensions in France related to the conflict, Interior Minister Gérald Darmanin called for the prohibition of all pro-Palestinian demonstrations. However, the Council of State opposed a systematic ban, asserting that the decision should be within the purview of prefects, who must locally assess whether such demonstrations pose a risk of disturbances to public order.⁶⁷ The Ministry of the Interior's intent to ban demonstrations stirred strong reactions, and was perceived as an infringement on the freedom to demonstrate in a democratic nation, especially in the absence of confirmed instances of violence. None of the subsequent demonstrations led to public disorder.

Bans on the use of symbols/slogans in protests

The pro-Palestinian demonstrations were closely monitored for signs of anti-Semitic slogans; however, neither the police nor the media reported any such reprehensible slogans during these protests.

Policing practices, including dispersion of protests, use of force

During the social movement against the pension reform, there were extensive violations of the freedom to demonstrate, aimed at discouraging protesters: police violence, humiliations, preventive arrests, arbitrary detentions, identity checks, abusive searches or checkpoints, and more. Some of the violence and deprivation of rights were attributed to the motorized intervention units called BRAV-M in Paris, which are directly under the prefecture of police and have significant autonomy in the field. This unit was established during the yellow vests crisis to intensify law enforcement. Additionally, there has been a toughening of authorities' responses to civil disobedience actions, leading to disproportionate curtailment of freedoms, judicial prosecutions, physical violence by police officers, and the criminalization of environmental activists labelled 'ecoterrorists'. These hindrances are now under increased scrutiny by the Defender of Rights, who raises concerns about ethical breaches.⁶⁸

Criminalisation of protesters

Since the Yellow Vests protests in 2019, authorities have utilized the criminal offence of 'participation in a group with a view to preparing violence' as a basis to arrest and prosecute demonstrators, even without evidence of their

67 https://www.lemonde.fr/les-decodeurs/article/2023/10/18/les-questions-que-pose-l-interdiction-des-manifestations-propalestiniennes_6195198_4355770.html

68 <https://www.defenseurdesdroits.fr/manifestations-la-defenseure-des-droits-rappelle-ses-recommandations-sur-le-respect-des-regles-de>

direct involvement in violent acts. This provision allows mass arrests during kettling operations, which involve encircling and impeding the movement of protesters. The vague legal wording of this provision hampers the right to peacefully demonstrate, sometimes using the mere possession of suspicious objects (such as swimming goggles) or being ‘in the wrong place at the wrong time’ during protests as grounds for arrest.⁶⁹ It also enables arrests and prosecutions against protesters attending banned demonstrations.

Surveillance of protests

In April 2023, a decree authorised the use of drones by law enforcement agencies during law enforcement operations.⁷⁰ The text permits the use of drones by police officers, gendarmes, customs officers, or military personnel in certain cases, including “the prevention of threats to the security of persons and property in particularly exposed locations”, ensuring “the security of gatherings” in public spaces, and providing “support” to ground agents “to maintain or restore public order.”⁷¹ In May 2023, the Council of State, approached by civil liberties defence associations, affirmed the legality of

the decree allowing drones for monitoring protests.⁷²

Freedom of expression and of information

Restrictions on access to information

The tragic death of Nahel, a 17-year-old killed by a police officer during a routine traffic stop, sparked a wave of intense protests across France. In response, President Emmanuel Macron initially suggested the possibility of implementing measures to restrict social media access during potential future riots. However, the government later reconsidered, clarifying that the option of blocking social media was not actively being considered.⁷³

Attacks and harassment

Intimidation / negative narratives / smear campaigns / disinformation campaigns

For several years now, associations advocating for the rights of displaced individuals have been consistently targeted with vehement criticism from certain political and media figures. This onslaught has developed into a fully fledged

69 <https://www.syndicat-magistrature.fr/qui-sommes-nous/nos-combats/2633-pour-lutter-contre-les-privations-de-liberte-arbitraires-de-manifestant-e-s-pacifiques-le-delit-de-groupement-doit-etre-abroge.html>

70 <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000047464659>

71 <https://miniurl.be/r-4z4c>

72 <https://www.conseil-etat.fr/actualites/emploi-de-drones-a-des-fins-de-maintien-de-l-ordre-le-conseil-d-etat-rejette-la-demande-de-suspension-du-decret-du-gouvernement>

73 https://www.lemonde.fr/pixels/article/2023/07/05/emmanuel-macron-suggere-de-bloquer-les-reseaux-sociaux-pendant-les-emeutes_6180622_4408996.html; https://www.lemonde.fr/politique/article/2023/10/13/marine-le-pen-condamnee-pour-diffamation-envers-la-cimade_6194210_823448.html

hate campaign involving intimidation, threats, and acts of vandalism. These organisations are unfairly labelled as ‘accomplices of smugglers’,⁷⁴ ‘accomplices of terrorists’,⁷⁵ and, as of October 2023, even deemed ‘co-responsible’⁷⁶ for a terrorist’s knife attack in Arras. The reason behind this baseless accusation is that some of these associations had mobilized, over a decade ago, against the expulsion of the family of the person who committed the terrorist attack. This exaggerated criticism poses a threat to the safety of thousands of volunteers and employees working in these associations, and the state’s response has been insufficient, if not a contributory factor, to this ongoing persecution.

Physical attacks on people and property

Volunteer activists dedicated to combating discrimination are grappling with a surge in far-right violence in France. Acts of vandalism, the proliferation of neo-Nazi graffiti, and instances of intimidation are directed at various associative sectors, including those championing the rights of Muslim, foreign, LGBTQIA+, and women, as well as organisations focused on culture and trade unions. These incidents of violence are at times exacerbated by media

campaigns and statements from elected officials or ministers.⁷⁷ In 2023, violence against mayors surged by 15%, reaching over 2,300 attacks since the beginning of the year, according to the Ministry of the Interior.⁷⁸ Certain mayors, like those in Callac, Saint-Brevin, and Grabels (three municipalities in the West and South of France), are facing violent intimidation campaigns orchestrated by far-right groups due to their progressive ideas or initiatives aimed at welcoming and integrating refugees. The targeted elected officials underscore the lack of support from the state and prefectures in addressing these cases, despite incidents such as arson, cyberbullying, threats and more.⁷⁹

Online civic space

Data protection and privacy issues

The bill concerning the security and regulation of the digital space (SREN) passed through its initial readings in both the Senate and the National Assembly in October. That same month, the bill was scheduled for examination by a CMP, a committee composed of deputies and senators of the two chambers of the Parliament. However, a specific date has not

74 <https://atlantico.fr/article/pepite/pascal-bruckner-juge-pour-avoir-qualifie-deux-associations-de-complices-ideologiques-des-terroristes>

75 <https://ccfd-terresolidaire.org/tribune-nous-assistons-a-des-attaques-repetees-contre-les-associations-qui-defendent-les-exiles/>

76 <https://www.voxpublic.org/Menaces-d-extreme-droite-un-guide-pour-anticiper-et-riposter.html>

77 https://www.lemonde.fr/politique/article/2023/11/19/les-violences-contre-les-maires-continuent-de-progresser-en-2023_6201049_823448.html

78 <https://www.voxpublic.org/Menaces-d-extreme-droite-un-guide-pour-anticiper-et-riposter.html>

79 https://www.lemonde.fr/politique/article/2023/10/17/regulation-de-l-espace-numerique-l-assemblee-nationale-adopte-le-projet-de-loi-promettant-de-lutter-contre-le-cyberharcèlement_6195068_823448.html

yet been determined and no progress has been observed at the beginning of the year 2024. Presently, the bill is expected to undergo further joint committee review, with a specific date yet to be determined. A contentious aspect of the proposed law is found in Article 6, which introduces a novel justification for potential administrative censorship. This article, aimed at countering online scams, makes it a requirement for Internet browser providers to actively engage in this censorship. Essentially, it would empower the police to request the censorship of sites deemed ‘scams’ without the need for judicial oversight. The term ‘scam’ here covers content that involves identity impersonation, unauthorized collection of personal data, exploitation of security vulnerabilities, or attempts to deceive users through fraudulent payment or login pages (phishing). Digital rights advocacy groups strongly oppose this article, expressing concerns that it could grant excessive power to the police and compromise the fundamental principle of online anonymity.^{80,81}

Public participation

Rules and practices on dialogue with civil society

Despite the strong opposition of more than 70% of the French population to the retirement reform and the increase of the legal retirement age to 64,⁸² the government pushed through the law by circumventing the vote of the

National Assembly, utilizing Article 49.3 of the Constitution.

Rules on access to and participation in consultations and decision-making processes

The functioning of the French political system revealed an increasingly top-down approach to executive power, consistently criticised by intermediary bodies such as trade unions and associations. This approach, known for undermining the formulation of compromises and the practice of negotiations between the government and trade unions, was notably evident during the recent conflict over the retirement reform in the spring of 2023, leading to the establishment of a cross-union coalition and a historic social mobilization.

Impact of civic space of emergency and crisis situations

In recent years, numerous social mobilization movements have unfolded in France, with the protest against the pension reform in spring 2023 standing out as one of the largest. This movement was propelled by an inter-union alliance, bringing together all trade unions. Civil society and various associations also actively joined forces to participate in the multitude of protests. Significant strikes in strategic sectors took place, disrupting the normal functioning of the country. The population widely engaged in solidarity with the strikers and participated

80 <https://www.legifrance.gouv.fr/dossierlegislatif/JORFDOLE000047533100/>

81 <https://www.cncdh.fr/sites/default/files/2023-07/Les%20Essentiels%20Rapport%20Racisme%202022.pdf>

82 <https://www.publicsenat.fr/actualites/politique/7-francais-sur-10-sont-contre-la-part-des-francais-opposes-a-la-reforme-des>

in demonstrations across France. Despite these unified efforts and widespread momentum, the reform was ultimately adopted. The setback experienced by the social movement triggered an internal crisis within the French left-wing political parties, affecting all its components and fuelling a sense of powerlessness. This, in

turn, led to both a demobilization of activists and an increase in internal conflicts within organisations, notably political parties. Starting from October 2023, the Israel-Hamas conflict, inherently divisive, further fractured the left and various French organisations.

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



Key recommendations

- *Recommendations from the Defender of Rights and the National Consultative Commission on Human Rights on the action plan against racism and anti-Semitism (July 2023): a more in-depth training for police officers and magistrates in cases of racist offences.*⁸³
- *Respect the convictions and implement the decisions of the European Court of Human Rights that bind the French authorities.*
- *Implement measures recommended by independent agencies such as the Defender of Rights and the National Consultative Commission on Human Rights (CNCDH).*

Systemic human rights violations

Widespread human rights violations and/or persistent protection failures

On October 11 2023, the Council of State issued a landmark decision in the first-ever class-action lawsuit addressing discrimination

related to the French state's negligent handling of discriminatory police checks, commonly known as 'racial profiling' or 'identity checks based on appearance'. The Council of State acknowledged the existence of "a practice of discriminatory identity checks constituting a blatant violation of the prohibition of discriminatory practices".⁸⁴ It also recognized "the existence of a practice of identity checks motivated

83 <https://maruemesdroits.org/communique-de-presse-des-associations/>

84 https://www.legifrance.gouv.fr/ceta/id/CETATEXT000048197376?init=true&page=1&query=454836%2C+Amnesty+International+France+%&searchField=ALL&tab_selection=all

by physical characteristics associated with the real or presumed origin of the individuals checked” and emphasized that this practice is not limited to “isolated cases”. According to the six associations involved in this unprecedented legal action against racial profiling in France, “The highest French administrative court however chose not to utilize its authority to compel the State to take necessary measures to halt this practice.”⁸⁵ Moreover, the associations lamented the Council of State’s decision to declare itself powerless in compelling the State to address this unlawful practice.⁸⁶ This decision is particularly disheartening for the numerous individuals subjected to unwarranted identity checks daily, often accompanied by violence and humiliation. Those affected had hoped for justice and the law to compel the State to fulfil its obligation under international human rights law, ensuring compliance with the principle of non-discrimination.

The French government, including Interior Minister Gérald Darmanin, has neither commented on nor acknowledged this decision of the Council of State, and no measures have been announced. In August 2023, Gabriel Attal, then Minister of National Education, implemented a ban on wearing religious attire, including abayas and kameez, in all public

educational institutions across France.⁸⁷ The Council of State, responding to a plea from an organisation advocating for the rights of Muslims in France, upheld the prohibition, reasoning that it does not constitute a severe and blatantly illegal infringement on a fundamental freedom.⁸⁸ Amnesty International strongly criticised this decision, contending that it not only reinforces but exacerbates racial and religious discrimination, particularly against Muslim women and young girls in France, within the broader context of rising racist rhetoric against these communities. Additionally, the NGO contrasts this decision with the principles of the right to education and the right to freedom of expression and religion.⁸⁹

Impunity and/or lack of accountability for human rights violations

France regularly faces criticism for its use of public force and instances of police violence in the context of maintaining public order. As declared by the Commissioner for Human Rights of the Council of Europe in March 2023, “The conditions under which freedom of expression and assembly are exercised in France, particularly during the social mobilization against pension reform, are troubling.”⁹⁰ During protests following the death of young

85 <https://www.coe.int/fr/web/commissioner/-/manifestations-en-france-les-libert%C3%A9s-d-expression-et-de-r%C3%A9union-doivent-%C3%AAtre-prot%C3%A9g%C3%A9es-contre-toute-forme-de-violence>

86 <https://www.hrw.org/news/2023/10/12/france-council-state-admits-racial-profiling-orders-no-action>

87 <https://www.politico.eu/article/france-emmanuel-macron-abaya-muslim-dress-ban-schools-secularism/>

88 <https://www.conseil-etat.fr/actualites/laicite-le-conseil-d-etat-rejette-le-refere-contre-l-interdiction-du-port-de-l-abaya-a-l-ecole>

89 <https://www.amnesty.org/fr/documents/eur21/7280/2023/fr/>

90 <https://news.un.org/fr/story/2023/06/1136572>

Nahel Merzouk (June 26 2023), two major police unions issued a press release, labelling the rioters as “nuisances” and calling for action “against these hordes of savages” using racist rhetoric.⁹¹ Simultaneously, an extreme-right figure initiated a support fund for the police officer indicted for the voluntary manslaughter of Nahel Merzouk, raising almost €2 million. On June 30 2023, the UN High Commissioner for Human Rights urged France to “seriously address the deep-seated problems of racism and discrimination among law enforcement”.⁹² Following the uprising in many working-class neighbourhoods (June 27 - July 4 2023), the government accused the parents of the rioters of lacking authority.

Minister of Solidarity and Families Aurore Bergé announced her intention to sanction “negligent parents”⁹³ by implementing community service and imposing fines on parents of children guilty of damages and parents who do not attend their children’s hearings. These statements shocked many political figures who

denounced an attempt to blame and hold parents responsible, particularly stigmatizing the poor populations living in the areas affected by the riots.

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

Interior Minister Gérald Darmanin announced his intention to expel nationals deemed “dangerous” to their home countries, such as Chechnya⁹⁴ or Uzbekistan.⁹⁵ This decision was implemented on November 15 with the expulsion of an Uzbek citizen, even though this person faces serious risks of persecution or torture in their home country.

While France has been repeatedly condemned by the European Court of Human Rights for prison overcrowding,⁹⁶ a new ECtHR judgment issued on July 6 2023⁹⁷ once again condemned the degrading conditions of detention. The government also ignores these decisions of

91 https://www.lemonde.fr/societe/article/2023/09/11/syndicats-de-police-les-signalements-denoncant-le-tract-d-alliance-et-de-unsapolice-apres-la-mort-de-nahel-m-classes-sans-suite_6188917_3224.html

92 <https://www.ouest-france.fr/politique/aurore-berge/parents-defaillants-ce-que-lon-sait-de-la-commission-controversee-lancee-par-aurore-berge-230d6ddc-9816-11ee-b5ab-4c9dbbc4ce19>

93 <https://www.mediapart.fr/journal/france/011223/expulsions-d-etrangers-dangereux-la-france-pietine-le-droit-europeen>

94 <https://www.mediapart.fr/journal/france/011223/expulsions-d-etrangers-dangereux-la-france-pietine-le-droit-europeen>

95 <https://oip.org/communiqué/surpopulation-carcerale-seul-contre-tous-le-gouvernement-soppose-a-une-solution-durgence/>

96 <https://oip.org/communiqué/surpopulation-carcerale-et-conditions-de-detention-indignes-la-france-condamnee-par-la-cedh-cour-europeenne-droits-de-homme/>

97 <https://www.egalite-femmes-hommes.gouv.fr/le-gouvernement-elargit-et-protege-laces-livg-constitutionnalisation-ouverture-aux-sages-femmes>

the European court and explicitly rejected the proposal of 34 associations, unions, and institutions to establish a binding mechanism for regulating the prison population to urgently relieve overcrowding. “France does not wish to establish a legislative mechanism for regulating prisons, linked to a critical threshold, which could undermine the principle of individualization of sentences and weaken public safety”, it stated in a document addressed on September 1 to the United Nations Human Rights Council.⁹⁸

Other systemic issues

In 2023, among the notable advances in human rights, it is noteworthy that President Emmanuel Macron presented a bill to include Voluntary Interruption of Pregnancy (VIP or abortion) in the Constitution.⁹⁹ While the symbolic act of constitutionalizing abortion was widely welcomed, the wording was deemed insufficient by some feminist organisations, regretting that the law refers to a ‘freedom’ rather than a ‘right’.

The new plan, ‘Fight against racism, anti-Semitism, and discrimination at its source 2023-2026’ was presented in January 2023 by Elisabeth Borne around five axes: naming the reality of racism, anti-Semitism, and discrimination, measuring this phenomenon, better

educating and training, punishing perpetrators, and supporting victims. It was criticised by NGO Human Rights Watch France: “While this new action plan against racism is welcome, it nevertheless has enormous gaps.”¹⁰⁰ The NGO emphasizes that Elisabeth Borne declared wanting to “better measure” discrimination in areas such as employment, but “the plan does not provide for collecting detailed data on equality, which is necessary for the implementation of targeted government measures to combat institutional racism”. The absence of such data had been raised by the UN Committee on the Elimination of Racial Discrimination in December 2022. Additionally, “the plan ignores the need to end well-documented systemic practices of ethnic profiling by the police, especially during identity checks.”¹⁰¹

In June 2022, the European Commission against Racism and Intolerance of the Council of Europe published its sixth report on France,¹⁰² highlighting the “little progress” made to end ethnic profiling or ‘racial profiling’ by law enforcement.

98 <https://www.ldh-france.org/surpopulation-carcerale-seul-contre-tous-le-gouvernement-soppose-a-une-solution-durgence/>

99 <https://www.hrw.org/fr/news/2020/06/18/france-des-enfants-subissent-des-contrôles-de-police-abusifs-et-racistes>

100 <https://www.hrw.org/news/2023/02/06/frances-anti-racism-action-plan-ignores-institutional-racism>

101 <https://rm.coe.int/sixieme-rapport-de-l-ecri-sur-la-france-adopte-le-28-juin-2022-publie-/1680a81884>

102 Institution Haute Autorité pour la transparence de la vie publique (hatvp.fr)

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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.

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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.

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