

Franet National contribution to the Fundamental Rights Report 2021

FRANCE

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Policy and legal highlights 2020

Please submit the 1-pager in a separate document on 2 December 2020 and on 7 January 2021.

Franet country study: policy and legal highlights 2020 FRANCE

New Ombudsman: The holder of the office of Public Defender of Rights [changed in 2020](#). Having reached the end of his mandate in July 2020, Jacques Toubon made way for Claire Hédon, who is a journalist and president of the ATD Quart Monde NGO, which works with the most underprivileged groups.

No developments in 2020.

National Action Plan on Equal Rights, Against Hate and LGBT+ Discrimination 2020-2023: In October, the [government launched a new action plan](#) to combat discrimination against LGBTI people. All government departments will support the implementation of this Plan, also relying on local and regional authorities and associations.

COVID-19 and elderly people: Several articles in the press reported [discrimination in healthcare for the elderly](#) at the height of the health crisis in April and May 2020.

Racial discrimination: The reporting of racial discrimination in France has strongly marked 2020. [The Public Defender of Rights revisited the shortcomings of public policies](#) on combating discrimination on the grounds of origin. [NGOs carried out racial profiling checks during the lockdown](#). The Adama Traoré case continues to rally a number of people against racially motivated police violence.

Extension of deadlines (COVID): the deadlines for acquiring a residence permit, as well as for applying for asylum, [have been extended due to the health crisis](#) and measures to curb the epidemic.

Health figures: The Health Data Hub, the French health data system, has entered into a contract with Microsoft to host data. In putting itself in the hands of the American authorities, this public body has drawn a great deal of criticism, particularly from the [French DPA \(CNIL\)](#), leading to challenges before the courts. The government is currently considering how to remedy the data protection risks posed by this type of data hosting.

Contact tracing app: against the background of the COVID health crisis, the authorities have developed a contact tracing application. After the failure of the Stopcovid application, people had downloaded the new version [7 million times](#) by early November.

Children and COVID: Acknowledging the impact of the policy aimed at tackling the epidemic, and the impact of lockdown in particular, the French authorities have allocated [additional resources to help families in difficulty](#).

In view of the increased risk of ill-treatment exacerbated by lockdown, the government has reinforced a number of measures to [prevent violence against children](#).

Victims' rights: as part of a new national crime prevention strategy, the authorities aim to [improve the protection of victims](#), in particular by identifying 'hidden' victims such as people with disabilities, women and children.

Victims of domestic violence: Parliament passed a new law in July to [protect victims of domestic violence better](#). In particular, this allows for the suspension of access and accommodation rights for the violent parent of a child under the age of 18. Bullying within the couple is considered an aggravating factor. The new law also allows for the suspension of medical confidentiality in cases of immediate danger.

National Disability Conference: At the National Disability Conference in February 2020, the President of the Republic announced [several measures to ensure the effective inclusion of people with disabilities](#).

Chapter 1. Equality and non-discrimination

1. Legal and policy developments or measures relevant to fostering equality and combating discrimination against elderly people and against LGBTI people.

Young LGBTI and COVID

In response to the COVID health crisis, the government ordered a national lockdown from 17 March to 11 May 2020. This naturally led to an increase in domestic violence, particularly against young LGBT people.

Both associations and members of parliament alerted the government to this issue, calling for increased emergency care and accommodation. The MPs suggested using the system currently in place for domestic violence: making telephone services and reporting violence in pharmacies accessible to young LGBT victims of violence. They also asked for the requisitioning of hotel rooms.

Members of the majority party tabled an amendment in view of this to the amending finance bill for 2020.¹

The rapporteur of the draft law and the representative of the Government said they were opposed to the amendment without forwarding any further arguments.² The amendment was rejected.

National Action Plan 2020-2023 on Equal Rights, Hate and LGBT+ Discrimination

¹ National Assembly (*Assemblée nationale*), Amendment No. 453, Bill amending the Finance Law 2020 (*Amendement n°453, Projet de loi de finances rectificative pour 2020*), available at: www.assemblee-nationale.fr/dyn/15/amendements/2820/AN/453.

² National Assembly (*Assemblée nationale*), Full Record (*Compte-rendu intégral*), 17 April 2020, available at: www.assemblee-nationale.fr/15/cr/2019-2020/20200195.asp#P2072239.

On 14 October 2020, the government launched the National Action Plan on Equal Rights, Hate and LGBT+ Discrimination for 2020-2023.³

It is based on four themes:

Recognition of the rights of LGBT+ persons;

Improving their access to rights;

The fight against LGBT+ hatred;

The improvement of daily life.

The implementation of this plan will draw on the assistance of all State services with the support of local authorities, associations and private sector.

From March 2021, and every 6 months thereafter, a monitoring committee, including LGBT+ associations, will meet to ensure that measures are properly implemented.

Elderly people

Recognising the impact of lockdown on the elderly, the Minister for Solidarity and Health commissioned a report on 23 March 2020 to *'identify the levers that are today in the hands of the public authorities, actors on the ground and civil society*

³ France, Government, National Action Plan on Equal Rights, Hate and LGBT+ Discrimination 2020-2023, (*Plan national d'actions pour l'égalité des droits, contre la haine et les discriminations anti-LGBT+ 2020-2023*), available at: www.egalite-femmes-hommes.gouv.fr/wp-content/uploads/2020/10/DILCRAH-Plan-LGBT-2020-2023.pdf.

*to combat the isolation of vulnerable people – that is, our elderly and people with disabilities – during the crisis but also for the period that will follow’.*⁴

The mission group in charge of this report was composed of a team of thirty experts and actors in the field. On 6 April 2020, it submitted a report to the Minister of Solidarity and Health containing forty-two proposals and a first set of operational recommendations. The Minister immediately identified five of the recommendations and suggestions in the report in order to implement a ‘*national mobilization plan against isolation*’:⁵

- Improving the Red Cross national helpline with special attention to the elderly, frail and isolated (since 1988, the Red Cross has had a free, anonymous number that allows any person with social, psychological, relational or material difficulties to have someone to speak to and be supported by specially trained volunteers from the French Red Cross).

- Provide resources for the municipal and Departmental services to contact particularly vulnerable and isolated people by telephone on a regular basis.

- Setting up regional action plans based on the ten daily needs of the elderly; the setting up of a local cooperation unit for isolation in each region and a telephone-based vulnerability assessment system.

- Identify resources arising from new technologies.

- Share and capitalise on best practices and local initiatives to tackle isolation, through a gateway hosted on the Ministry of Solidarity and Health website.

⁴ France, Ministry of Solidarity and Health (*Ministère des Solidarités et de la Santé*), ‘Fighting the isolation of elderly and vulnerable people during lockdown’ (« *Lutter contre l’isolement des personnes âgées et fragiles isolées en période de confinement* »), Report, 5 April 2020, available at: https://solidarites-sante.gouv.fr/IMG/pdf/rapport_no1_j._quedj_-_05042020.pdf.

⁵ France, Ministry of Solidarity and Health (*Ministère des Solidarités et de la Santé*), Press Release, 8 April 2020, available at: <https://solidarites-sante.gouv.fr/actualites/presse/communiqués-de-presse/article/olivier-veran-annonce-retenir-les-premiermes-mesures-du-plan-de-mobilisation>.

2. Findings and research methodology, studies or surveys on experiences of discrimination against elderly people and LGBTI people.

Public Defender of Rights Annual report

In its latest annual report,⁶ the DDD records the proportion of discrimination complaints according to the grounds cited by complainants (5448 complaints), among which are the following:

Disability, 22.7% of claims;

Age, 5.7% (of which 2.2% concern private employment);

Sexual orientation, 1.9%;

Gender identity, 1.7%.

The report reviews the ongoing work of the 'advanced age' liaison committee, which was launched at the end of 2018, and which includes some 15 associations. It met twice in 2019 to discuss the difficulties encountered by elderly people and their families with the ageing of the French population. For the moment, these meetings have made it possible to identify a need to highlight discrimination to which people who are advancing in age could be subjected (access to credit, care, housing, leisure activities, etc.).

Recommendations about transgender people

⁵ France, Public Defender of Rights (*Défenseur des droits*)(2020), Annual report 2019 (*Rapport annuel d'activité 2019*) available at: www.defenseurdesdroits.fr/fr/dossier-de-presse/2020/06/rapport-annuel-dactivite-2019.

Noting that discrimination against transgender people is still widespread, the Public Defender of Rights (DDD) issued a decision in June on the respect of the gender identity of transgender people, addressing recommendations to public authorities and individuals.⁷

In addition to recommendations on the gender reassignment procedure, the DDD recommends that schools and universities respect the gender identity of students and promote their inclusion. This should include the use of the first name and pronoun chosen by the pupil, the choice of clothing, the consideration of gender identity for access to certain areas (changing rooms, toilets and dormitories), the creation of a guide of good practices and training for educational teams, and prevention campaigns to combat transphobia.

In the area of work, the DDD recommends that employers create an inclusive climate (raising staff awareness, warning and disciplinary mechanisms for transphobic acts) and support the transition of transgender people (use of the chosen first name and title on all administrative documents or media, and consideration of gender identity for access to single-sex changing rooms or toilets).

The DDD also receives many complaints about access to goods and services. It therefore recommends that institutions respect the identity of transgender persons by agreeing to change their first name, gender or title and by expanding the list of identity documents required for the signing of any contract, in particular to cover cases of transgender persons whose physical appearance and identity documents may be discordant.

Asylum applications and sexual orientation

With the support of the Public defender of rights, a study was published in April 2020 concerning 'proof of sexual orientation in asylum applications'.⁸

⁷ France, Public Defender of Rights (*Défenseur des droits*), Decision n° 2020-136, 18 June 2020, available at: www.defenseurdesdroits.fr/sites/default/files/atoms/files/decision_cadre_ndeg2020-136_1.pdf.

⁸ France, Borrillo D. (ed.), 'Proof of sexual orientation in asylum applications' (« *La preuve dans les demandes d'asile en raison de l'orientation sexuelle* »), April 2020, available at: https://cersa.cnrs.fr/wp-content/uploads/2020/05/rapport_cersa-complet-19-mai.pdf.

This study analyses the means for providing proof of sexual orientation and gender identity in asylum matters. It focuses specifically on the establishing of evidence, from the creation of the probationary file to its examination, and documents the way in which evidence is produced and investigated, as well as its compliance with the principles of national, European, and international law.

The study was carried out between March 2018 and March 2020 on the basis of semi-structured interviews with various actors in the asylum system: people working in emergency accommodation centres for foreigners; volunteers in LGBTI asylum seeker support associations; lawyers; judges of the National Court of Asylum (CNDA) (magistrates, assessors or UNHCR); rapporteurs; staff of the National Court of Asylum documentation centre; researchers specialising in asylum on grounds of sexual orientation or gender identity; and leaders on gender and sexuality issues from the OFPRA. An analysis of official documentation concerning countries of origin was also carried out.

It should be noted that, despite numerous written and verbal requests, the OFPRA authorities refused access to the interviews for protection officers. The research team therefore only had access to the transcription of certain interviews, through lawyers' files in cases of appeals to the CNDA.

In France, there are no official figures on the number of requests made on grounds of sexual orientation or gender identity, as the OFPRA is not allowed to reveal the reasons for an asylum application. As an indication, in 2017, the Association for the Recognition of the Rights of Homosexual and Trans Persons to Immigration and Residence (*Association pour la reconnaissance des droits des personnes homosexuelles et trans à l'immigration et au séjour* - ARDHIS) supported nearly 700 persons seeking asylum on grounds of sexual orientation or gender identity. The majority of applicants are men, except for those from Mongolia, Nigeria, the Democratic Republic of Congo, Tanzania, Kenya and Djibouti, where women are represented more. The average age has changed little and remains at around 30 for applicants whom the association supports. Gender identity and intersex remain very much in the minority of cases in the 'sexual orientation' category. The files analysed show that the vast majority of applications based on sexual orientation and gender identity concern people of Islamic faith.

In general, LGBTI people firstly express fear of persecutors living in their vicinity, family, neighbours, or their community who are the main drivers of a culture of rejection towards them, and secondly, they report the impossibility of effectively obtaining protection from the authorities. Fears may also be expressed about local or national civil or religious authorities, particularly where homosexuality is punished.

A personal account is often the only piece of evidence provided by the applicant in support of their asylum application. This is especially the case when the asylum application is based on persecution related to sexual orientation, for which the production of material evidence is particularly difficult, if not impossible.

Although the personal account of life appears at first sight to be eminently subjective, it is in fact the fruit of collective work: it is the actors who assist the asylum seeker (associations, lawyers, compatriots, social workers, etc.) to whom it is addressed who will effectively give it shape, develop it and give it substance.

Experience shows that the sooner the applicant makes use of associations, whose framework is conducive to the expression of the difficult situations experienced by the applicant because of their sexual orientation, the more likely it is that they will be able to present a credible personal account of their life story.

The testimonies of LGBTI associations in the countries of origin are also important clues. The applicants' engagement with these associations can be a useful addition to a personal account of their lives and can convince a judge of the validity of their claims.

The study identifies two key difficulties that undermine the credibility of the risks of persecution faced based on sexual orientation, as alleged by the applicants. These are the late declaration of sexual orientation in the proceedings, and the lack of self-determination. On the one hand, a late declaration of homosexuality or bisexuality tends to affect the credibility of the applicant negatively. On the other hand, if the asylum applicant does not identify themselves as LGBTI people, they will most often struggle to be recognised as a refugee on this basis: in asylum hearings, the issue of the veracity of claims regarding sexual orientation is the focus of the majority of questions from judges.

SOS Homophobia (*SOS Homophobies*) (NGO): Report on LGBTI phobias

Since 1997, the NGO SOS Homophobia has published an annual report on LGBTIphobia - verbal or written abuse, mockery, humiliation, harassment, denial of services, damage to property and discrimination.

The LGBTIphobia Report 2020 is based on four sources:

- The accounts received by SOS homophobia from 1 January 2019 to 31 December 2019 (on the SOS homophobia helpline, by email through an online form, or by chat): 1899 cases in France;

- The work and expertise of the association's various groups and commissions;
- The monitoring of current events, in particular political events;
- Media analysis.

With regard to discrimination in access to employment, career development, access to healthcare or access to goods and services, the report presents a number of accounts of discrimination, although it does not give any quantitative data on these forms of discrimination.

COVID and elderly people

Several press articles reported on discrimination in medical care for elderly people at the height of the health crisis in April and May 2020.⁹

According to the newspaper *Le Monde*, at the peak of the epidemic the over 75s had limited access to intensive care beds.¹⁰ According to the same article, doctors working in residential institutions for dependent elderly people (EHPAD) *'were told that no one over 68 years of age could be admitted to saturated'* hospitals. Emergency and intensive care doctors, however, countered these remarks by pointing out that the ability to withstand intensive care is a determining factor in the decision to admit a patient. Therefore, when faced with an illness capable of putting patients in intensive care for several weeks, some doctors consider that *'to impose this on a 75- or 80-year-old patient is completely unreasonable'*.

A number of associations applied to the Council of State for summary proceedings, asking it to enjoin the State to take general measures to ensure equal access to hospital care and palliative care for residents in EHPAD with symptoms of Covid-19. They also requested that the State take measures to allow

⁹ See: J. Champion, G. Jeannot, 'Condemned even before they were infected: Ehpads residents who were deprived of hospital care at the height of the Covid-19 epidemic' (*"On les a condamnés avant même qu'ils ne soient contaminés" : ces résidents d'Ehpads qui ont été privés d'hôpital au plus fort de l'épidémie de Covid-19*), France Info, 28 July 2020, available at: www.francetvinfo.fr/sante/maladie/coronavirus/on-les-a-condamnes-avant-meme-qu-ils-ne-soient-contamines-ces-residents-d-ehpad-qui-ont-ete-privés-d-hopital-au-plus-fort-de-l-epidemie-de-covid-19_4047037.html.

¹⁰ C. Hecksweiler, S. de Royer, 'Coronavirus: elderly people kept away from hospitals during the health crisis in France' (*'Coronavirus : des personnes âgées écartées des hôpitaux pendant la crise sanitaire en France'*), *Le Monde*, 29 July 2020, available at: www.lemonde.fr/politique/article/2020/07/29/covid-19-des-personnes-agees-ont-ete-ecartees-des-hopitaux_6047605_823448.html.

people reaching the end of their life to have their relatives present and to order systematic tests to identify the cause of death.

The Council of State rejected their request, noting that it had not been established that the hospitals were refusing admission to their services to persons residing in EHPAD.¹¹ It relied on the figures produced by the Ministry of Solidarity and Health, according to which people residing in EHPADs continued to be effectively admitted to the various health establishments to receive care. It also noted that recommendations by learned societies for health professionals had pointed out that admission to intensive care could not be based solely on age or on any other factor taken in isolation.

In order to ensure as dignified and peaceful an end of life as possible, the Council of State noted the introduction of measures to facilitate palliative care provision both for people at home and for people living in EHPAD.

With regard to the right of residents to receive a visit from one of their relatives, the Council of State noted that establishment directors could grant special authorisations for visits, if measures were taken to protect the health of everyone concerned.

Although the Council of State rejected the application, it should be noted, however, that it was ruling in summary proceedings: as such, does not conduct a detailed examination of the situation but rather examines whether the public authorities, by their action or omission, have breached a fundamental right in a 'serious and manifestly unlawful' manner.

¹¹ Council of State (*Conseil d'Etat*), Order No. 439910, 15 April 2020, available at: www.conseil-etat.fr/ressources/decisions-contentieuses/dernieres-decisions-importantes/conseil-d-etat-15-avril-2020-acces-aux-soins-des-personnes-residant-en-ehpad.

Chapter 2. Racism, xenophobia and related intolerance

1. Legal and policy developments relating to the application of the Racial Equality Directive

Public Defender of Rights report: Discrimination and origins, the urgency to act (*Discriminations et origines : l'urgence d'agir*)

In June 2020, the Public Defender of Rights (DDD) published a report on discrimination against people of foreign origin or perceived foreign origin.¹²

It begins with an assessment of the current situation of these people, based on the individual cases, and it deals with academic work: all other things being equal, the people concerned are at a disadvantage in terms of access to employment, housing and education. They are also disproportionately subjected to police checks. The DDD pays particular attention to crosscutting discrimination. It reveals that some people who find themselves at a crossroads of different forms of discrimination are particularly exposed to processes of stigmatisation and exclusion. For example, women between the ages of 18 and 44 who are considered to be black, North African, or Asian experience an overall rate of discrimination (all criteria combined) in the employment sector that is significantly higher than that of women who are considered to be white (65% compared to 42%). All other things being equal, they are 2.5 times more likely to experience discrimination in employment than women who are considered white.

Secondly, it observes that despite the enactment of European directives in 2000, such discrimination is not the subject of a dedicated public policy, even though the legal process is an inadequate means of combating systemic discrimination. Relying essentially on the use of the law as a conceptual tool and means of action, it considers that public initiatives to combat discrimination have not tackled the

¹² France, Public Defender of Rights (*Défenseur des droits*), 'Discriminations and origins: the urgency to act' (« *Discriminations et origines : l'urgence d'agir* »), Report, June 2020, available at: www.defenseurdesdroits.fr/sites/default/files/atoms/files/rap-origine-num-15.06.20.pdf.

systemic dimension of discrimination based on origin and are struggling to develop appropriate courses of action. Finally, it laments the fact that the rare successes before the courts remain symbolic and do not have a deterrent effect or any transformational impact.

Finally, the DDD recommends making the fight against discrimination based on origin a political priority, in the same way as the work undertaken in recent years in the promotion of gender equality.

Discrimination in recruitment by large companies: a multi-channel approach

At the request of the government, a team of researchers carried out an extensive testing campaign between October 2018 and January 2019: 40 companies from among the largest in France were tested.¹³ Two criteria were used, origin (in one case with a North African name, in the other a name of French origin) and place of residence. Several testing methods were used, combining applications and requests for information, both in response to published job offers and speculative applications.

For all the companies tested, the study highlights significant and important discrimination based on origin against the presumed French candidate from North Africa, in all the test area. Less significant discrimination emerges according to place of residence for some tests. They identified between six and seven statistically discriminatory companies out of the 40 companies tested, based on origin.

Opting for the practice of 'name and shame', the government decided to make this study public on 6 February 2020, pointing the finger at the 7 'allegedly discriminatory' companies.

¹³ France, D. Anne et al., 'Discrimination in recruitment by large companies: a multi-channel approach' (*Discrimination dans le recrutement des grandes entreprises: une approche multicanal*), Final report for the Commissariat général à l'égalité des territoires (CGET), March 2019, available at: www.cohesion-territoires.gouv.fr/sites/default/files/2020-02/2020.02.07_rapport_dream.pdf.

Police Racial Profiling

Following racist behaviour by police officers, as well as numerous accounts of abusive and discriminatory police checks in the context of measures to respect lockdown, on 13 May 2020 some twenty associations (including Human Rights Watch, Open Society Justice Initiative) sent an open letter to public authorities asking them to take concrete measures to remedy this problem.¹⁴

This letter was also based on official figures indicating a considerable concentration of checks and fines in working-class neighbourhoods, particularly in the Seine-Saint-Denis Department, the poorest in mainland France. Similarly, in Marseilles, two-thirds of the fines were issued in working-class neighbourhoods.

On 28 October, the Paris Judicial Court condemned the State for '*gross misconduct*' due to police violence, unjustified identity checks and irregular arrests of minors in the 12th arrondissement of Paris between July 2014 and January 2016.¹⁵

As a reminder, in July 2019, seventeen young adults of North African or African origin, minors at the time of the events, had started a legal procedure against the State for repeated discrimination and both physical and verbal violence by a group of police officers from the police station in this neighbourhood.

¹⁴ France, Human Rights Watch et al., 'Letter to the Prime Minister, Minister of Justice, Minister of the Interior to stop discriminatory checks' ('*Lettre au Premier ministre, Ministre de la Justice, Ministre de l'Intérieur pour faire cesser les contrôles discriminatoires*'), 13 May 2020, available at: https://enfiniraveclescontrolesaufacies.org/IMG/pdf/lo_amendes_discrim_covid_finale.pdf.

¹⁵ France, 'French State condemned for gross misconduct after police violence and discriminatory identity checks' (« *L'État français condamné pour « faute lourde » après des violences policières et des contrôles d'identité discriminatoire* »), *Le Monde*, 28 October 2020, available at: www.lemonde.fr/police-justice/article/2020/10/28/l-etat-condamne-pour-faute-lourde-apres-des-violences-policieres-et-des-controles-d-identite-discriminatoires-a-paris_6057705_1653578.html.

Nevertheless, the offence of discrimination was not upheld, as the judges considered that '*no presumption of discrimination is demonstrated by the claimants on the occasion of the 44 offences*'. On the contrary, the Public Defender of Rights, who had made observations before the court, considered that these events constituted 'systemic discrimination'.

The Zecler case

On Thursday 29 November, the Loopsider media outlet published a video, which quickly went viral, showing the beating of a man by police officers.¹⁶ On 21 November, Michel Zecler entered his studio when three police officers spotted him in the street not wearing a mask. They rushed behind him into the room without authorisation. The camera in the studio captures images of the blows delivered for no reason by the police officers. Mr. Zecler further asserted that he had heard racist insults, which the officers denied. A grenade was thrown in front of young people working in the studio who had been alerted by the shouting. Violence continued outside on the pavement while a neighbour filmed the scene. When Mr Zecler arrived at the police station, he was accused of 'rebellion' and 'insult'. The police officers filled out reports that distorted the reality, not knowing that the entire scene had been recorded by CCTV and by neighbours. The publication of these images by Loopsider turned the affair into a national scandal.

Among these four police officers indicted during the night of Sunday to Monday by an investigation magistrate, three of them, in accordance with the requisitions of the Paris public prosecutor's office, charged with 'voluntary violence by a person in public authority (PDAP)', falsifying reports with several aggravating circumstances including '*racist remarks*', and two of them were placed in pre-trial detention. The grenade thrower was also charged with violence and placed under judicial supervision.

¹⁶ France, Chapuis N. and Piel S., Michel Zecler in "Le Monde": 'These three policemen must have felt confident to go so far in their actions' (« *Michel Zecler au « Monde » : « Il fallait que ces trois policiers se sentent en confiance pour aller aussi loin dans leurs actes »* »), *Le Monde*, 12 December 2020, available at: www.lemonde.fr/societe/article/2020/12/12/je-me-pose-toujours-cette-question-pourquoi-trois-semaines-apres-michel-zecler-ressasse-les-images-de-son-agression_6063122_3224.html.

2. Legal and policy developments relating to the application of the Framework Decision on Racism and Xenophobia relevant to combating hate speech and hate crime

CNCDH: Annual report on the fight against racism

On 18 June 2020, the National Consultative Commission for Human Rights (*Commission nationale consultative des droits de l'homme* – CNCDH) presented its annual report on the fight against racism, anti-Semitism and xenophobia in France¹⁷.

In this latest report, the CNCDH paid particular attention to racism towards black people. Although according to surveys black people are one of the most widely accepted minorities by people in France, they are also undoubtedly among the most discriminated against in practice. They are over-represented in the lower-skilled occupations and are obstructed in their access to the more prominent occupations.

In order to tackle prejudice against black people, the report makes a series of recommendations. In schools, *'the history of 'great men and women' should also include people of different colours in order to break down prejudices against black people'*. In the media, communication campaigns against stereotypes of black people should be circulated, and the Higher Audio-visual Council (*Conseil Supérieur de l'Audiovisuel* - CSA) should encourage the representation of black people, especially in specialist positions.

Law to tackle hate content on the internet

¹⁷ France, National Consultative Commission for Human Rights (*Commission nationale consultative des droits de l'homme* – CNCDH), 'Combating racism, anti-Semitism and xenophobia, Annual Report 2019' (*La lutte contre le racisme, l'antisémitisme et la xénophobie*), 2020, available at: www.cncdh.fr/fr/publications/rapport-2019-sur-la-lutte-contre-le-racisme-lantisemitisme-et-la-xenophobie.

This law, promulgated on 24 June 2020,¹⁸ was stripped of its substance by the Constitutional Council, which considered that it disproportionately breached the freedom of expression.

The Constitutional Council has censured the provision requiring online operators to remove or make inaccessible within twenty-four hours, under penalty of criminal sanctions, content that is manifestly illegal because of its hateful or sexual nature.¹⁹

The Constitutional Council notes first the legitimate objective of the legislator: to stop the dissemination and propagation of such content.

However, it considers, first, that the obligation to remove content falls on the operator once a person has reported illegal content to it. It is, therefore, not subject to the prior intervention of a judge or to any other condition. It is, therefore, up to the operator to examine all the content reported to it, however numerous it may be, so as not to run the risk of being penalised.

Secondly, the Council points out that, while it is for online platform operators to remove only manifestly illegal content, the legislature has adopted numerous criminal offences which justify the removal of such content. It is up to the operator to examine the content reported in the light of all these offences, even though the constituent elements of some of them may present a certain legal technicality (in particular the examination of the context in which the content in question was formulated or disseminated).

Thirdly, the Council notes that the legislator has obliged online platform operators to fulfil their removal obligation within 24 hours. However, given the difficulties in assessing the manifest unlawfulness of the content reported and the risk of numerous, possibly unfounded, reports, such a period is particularly short.

Finally, the Council notes that failure to comply with the obligation to remove or make inaccessible manifestly illegal content is punishable by a fine of €250,000. Moreover, the criminal penalty is incurred for each failure to withdraw and not for the content being repeated.

For all these reasons, the Constitutional Council infers that, given the difficulties in assessing the manifestly illegal nature of the content reported within the time limit, the penalty incurred from the first breach and the absence of a specific cause for exoneration from liability, the contested

¹⁸ France, Law No. 2020-766 of 24 June 2020 aimed at combating hate content on the internet (*Loi n° 2020-766 du 24 juin 2020 visant à lutter contre les contenus haineux sur internet*), available at: www.legifrance.gouv.fr/jorf/id/JORFTEXT000042031970.

¹⁹ France, Constitutional Council (*Conseil constitutionnel*), Decision n° 2020-801 DC, 18 June 2020, available at: www.conseil-constitutionnel.fr/decision/2020/2020801DC.htm.

provisions can only encourage online platform operators to remove the content reported to them, whether or not it is manifestly illegal. They, therefore, in his view, infringe the exercise of freedom of expression and communication, which is not necessary, appropriate and proportionate.

One provision has not been censored, the one on Online Hate Observatory.

It sets up the Online Hate Observatory, which has three missions:

- analysing and quantifying hate content online;
- monitoring online hate to better understand how it works;
- sharing information from the various public and private actors involved.

It has about fifty members, including:

- representatives of major online operators such as Dailymotion, Facebook, Google, Twitter, Snapchat and TikTok;
- associations such as Civic Fab, the Representative Council of Jewish Institutions in France (*Conseil représentatif des institutions juives de France* - CRIF), e-Enfance, la Quadrature du net, the League of Human Rights (*Ligue des droits de l'homme* - LDH), the International League Against Racism and Antisemitism (*Ligue internationale contre le racisme et l'antisémitisme* - LICRA), and SOS homophobie;
- administrations with the inter-ministerial delegate for the fight against racism, antisemitism and anti-LGBT hatred, the Public Defender of Rights, the High Council for Gender Equality (*Haut Conseil à l'égalité entre les femmes et les hommes* - HCEfh), the ministries responsible for information technology, national education, the interior, justice, and other administrations;
- researchers.

The observatory was set up on 8 July 2020 and met for the second time on Thursday 15 October 2020. During this meeting, the 45 participants agreed to set up thematic working groups, which will soon begin operational exchanges.²⁰ The working groups are:

- Reflection on the notion of hate content;
- Improving knowledge of hate content;
- Analysis of dissemination mechanisms and means of control;
- Prevention, education and support for the public.

They also produced a document setting out the operating rules for the Observatory.

The Adama Traoré case

Adama Traoré died in 2016, at the age of 24, when the gendarmes stopped him.

He died in the gendarmes' station, nearly two hours after his arrest in his home town of Beaumont-sur-Oise (Val-d'Oise) after a chase after having initially avoided being stopped.

Following the recent hearings of two witnesses in the case, new investigations will soon be launched. These investigations will include the search for new witnesses who may have witnessed the first arrest of Adama Traoré.

In so doing, the request to close the investigation filed by the gendarmes' lawyers was rejected.

Although seven experts commissioned by the justice system have so far put forward his medical history - in particular cardiac and genetic reasons - to explain this death, as such clearing the gendarmes, the medical reports of four doctors chosen by the family differed from these conclusions and pointed to the gendarmes' technique of arrest.

²⁰ France, Higher Audiovisual Council (*Conseil supérieur de l'audiovisuel*), Online Hate Observatory: setting up working groups and rules of procedure (« *Observatoire de la haine en ligne : mise en place des groupes de travail et du règlement intérieur* »), Press release, 15 October 2020, available at: www.csa.fr/Informer/Espace-presse/Communiqués-de-presse/Observatoire-de-la-haine-en-ligne-mise-en-place-des-groupes-de-travail-et-du-reglement-interieur

The investigating magistrates decided, by an order of 10 July 2020, to proceed with a new medical assessment measure to be carried out by Belgian doctors.²¹

Terrorist attacks

A few days after the killing of a college teacher, on 16 October 2020, the anti-terrorist prosecutor held a press conference to update on the latest developments in the investigation. An investigating judge was charged with investigating for 'complicity in a terrorist assassination', and targets in particular the father of student Brahim C. and a radical Islamist militant.²²

A young man of Chechen origin murdered the teacher. According to the initial elements of the investigation, he wanted to kill the teacher because of a video posted on social networks, showing the student's father complaining about a course on freedom of expression in which the teacher showed students cartoons of Mohammed.

On the evening of the knife attack in Nice, which cost the lives of three people on Thursday, 29 October, the anti-terrorist prosecutor held a press conference.²³ The perpetrator, who was severely injured, was between life and death at this time. He came from Tunisia and entered Italy on 20 September, before arriving in Paris on 9 October. An investigation was opened for 'assassinations in connection with a terrorist undertaking'.

²¹ France, 'In the Adama Traoré case, the judges have ordered a new medical opinion' (« *Dans l'affaire Adama Traoré, les juges ordonnent une nouvelle expertise médicale* »), Huffpost, 10 July 2020, available at: www.huffingtonpost.fr/entry/adama-traore-juges-nouvelle-expertise-medicale_fr_5f0854c0c5b63a72c3405a0a.

²² France, « Terrorist attack in Conflans : Seven people indicted in the investigation into the assassination of Samuel P » (« *Attentat de Conflans : sept personnes mises en examen dans le cadre de l'enquête sur l'assassinat de Samuel P* »), *Le Monde*, 21 October 2021, available at : www.lemonde.fr/societe/article/2020/10/21/attentat-de-conflans-lors-de-son-audition-samuel-paty-a-nie-avoir-voulu-stigmatiser-les-musulmans_6056814_3224.html

²³ France, « Knife attack in Nice: the main part of the press conference of the national anti-terrorist prosecutor » (« *Attentat au couteau à Nice : l'essentiel de la conférence de presse du procureur national antiterroriste* »), *Midi Libre*, 29 October 2020, available at : www.midilibre.fr/2020/10/29/attentat-au-couteau-a-nice-suivez-en-direct-la-conference-de-presse-du-parquet-national-antiterroriste-9171560.php

Chapter 3. Roma equality and inclusion

1. Measures and developments addressing Roma/Travellers

In 2019, the slum clearance policy was integrated into the National Strategy for the Prevention and Fight against Poverty, presented on 12 September 2018 by the President of the Republic. As a result, financial support, which is distributed to local councils and consists of a national fund of financial credits dedicated to the reduction in number of slums and illegal settlements, was doubled from €4m in 2019 to €8m in 2020.²⁴

This new move has made it possible to cement Act II on the reduction of slums, with a new objective for 2022: to reduce the population living in slums by 50%. This represents 6,044 fewer people (excluding inflows), with the number of European nationals in slums estimated at 12,088 people in June 2019 on 254 sites, by the end of 2022.

In 2019, more than 8,600 people will have benefited from the actions supported by the slum clearance fund: more than 1,000 people have been rehoused, 1,350 children have been enrolled in school, 615 employment contracts have been signed, and more than 2,040 people have benefited from healthcare support.

In total, over the years 2018 and 2019, almost 3,000 people gained access to housing, almost 2,900 children went to school and 5,900 people received healthcare support.

Within the framework of the inclusion schemes set up locally and financed by the Interministerial Delegation for Housing and Access to Housing (DIHAL), the actions carried out to support people in slums led to the signing of more than 615 employment contracts in 2019.²⁵

The Ministry of Health, through its Regional Health Agencies, has set up a health mediation programme for vulnerable groups.

Initially, this programme was in an experimental phase in 2011-2012, which only concerned migrant populations living in camps (*campements*). It was then extended to Travellers and people living in slums. Health mediation for these

²⁴ Information provided by the DIHAL, November 2020.

²⁵ Data provided by the DIHAL, November 2020.

groups has been included in the multi-year plan against poverty and for social inclusion officially passed by the French government on 21 January 2013.²⁶

In practice, several health mediators, supervised within the framework of the programme, are mobilised to intervene in several French Departments.

As such, at the beginning of 2020, six associations were working with people living in slums in eight Departments: Bouches-du-Rhône, Hérault, Loire-Atlantique, Nord, Rhône, Seine-Saint-Denis, Val-de-Marne, and Val-d'Oise.

In six Departments (including five not mentioned above), six other associations have worked with vulnerable French Travellers: in Calvados, Charente, Loire-Atlantique, Sarthe, Seine-Maritime and Vienne.

2. Policy and legal measures and developments directly or indirectly addressing inclusion of Roma/Travellers

Easier access to school

In June 2020, the Prime Minister issued a decree specifying the supporting documents required for school enrolment (for 3-16-year-olds), which is beneficial to Roma children.²⁷ Up until that time, they had been prevented from going to school by certain municipalities, which required supporting documents that were

²⁶ France, Prime Minister (*Premier ministre*)(2013), Multi-annual plan against poverty and for social inclusion (*Plan pluriannuel contre la pauvreté et pour l'inclusion sociale*), available at: https://travail-emploi.gouv.fr/IMG/pdf/Plan_pluriannuel_contre_la_pauvrete_et_pour_l_inclusion_sociale.pdf

²⁷ France, Decree No. 2020-811 specifying the documents that may be requested in support of an application for enrolment on the list provided for in Article L. 131-6 of the Education Code (*Décret n° 2020-811 précisant les pièces pouvant être demandées à l'appui d'une demande d'inscription sur la liste prévue à l'article L. 131-6 du code de l'éducation*), 29 June 2020, available at: www.legifrance.gouv.fr/jorf/id/JORFTEXT000042056558/.

impossible to provide. For example, some mayors asked families living in informal settlements to provide an electricity bill in order to enrol in school.

The introduction of this decree should enable a large number of children to have access to school in 2020. The new provisions provide that a mayor may require persons responsible for a child, who is subject to compulsory education, to produce a document proving their identity and that of the child, and a document proving the child's place of residence. However, from now on, these details may be proven by any means, including a sworn statement. This decree is in application of a law enacted in July 2019.²⁸

²⁸ France, Law No. 2019-791 for a school of trust, Article 16 (*Loi n° 2019-791 pour une école de la confiance, art. 16*), 26 July 2019, available at: www.legifrance.gouv.fr/jorf/id/JORFTEXT000038829065/.

Chapter 4. Asylum, visas, migration, borders and integration

Extension of residence permits and other authorisations to stay that expired during COVID-19 pandemic measures.

EUMS/ Republic of North Macedonia, Republic of Serbia	Category of TCN	Brief description of the measure	Legal source (legislation or case law as relevant) with hyperlink	Comments
	Complete this row if measures concern all/most of the TCN listed below whose (national or EU law based) permission to stay expired during COVID-19 related travel restrictions. In this case indicate in the next rows the categories to which the measure applies			

	<p>Holders of visas issued based on the Visa Code No. 810/2009 (as last amended by Regulation (EU) No. 2019/1155) (Schengen visas)</p>	<p>A senator questioned the Minister of the Interior on the situation of foreigners holding a short-stay Schengen visa, or nationals of a country benefiting from a short-stay visa waiver, who found themselves stuck in the Schengen area during the health crisis, which led to the closure of borders and the cancellation of flights within the European Union. The Minister's response is expected in October.</p> <p>In its response published on 1 October 2020, the Ministry of the Interior recalls that measures were taken to guarantee the rights of foreigners during the COVID-19 health crisis. In particular, a specific mechanism for extending <u>short-stay visas</u> in order to resolve the situation of nationals unable to return to</p>	<p>www.senat.fr/questions/base/2020/qSEQ200414978.html</p> <p>Law No. 2020-734 of 17 June 2020 relating to various provisions linked to the health crisis, other urgent measures and the withdrawal of the United Kingdom from the European Union (<i>Loi n° 2020-734 du 17 juin 2020 relative à diverses dispositions liées à la crise sanitaire, à d'autres mesures urgentes ainsi qu'au retrait du Royaume-Uni de l'Union européenne</i>), art. 15, II, available at: www.legifrance.gouv.fr/jorf/id/JORFTEXT000042007059/</p>	
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		<p>their countries of origin, either because their country prohibits entry from France for health reasons, or because their country is subject to the same health difficulties, or because air links in particular have been interrupted. The aim of this specific extension is to avoid penalising the user at the consulate when applying again for a visa. In practice, the aim is to extend the duration of short-stay visas to a maximum of 90 days and, if this period is reached, to give priority to the issue of a temporary residence permit. Specific procedures for collecting these applications have been put in place in the prefectures. In order to reconcile the need to deal with these situations with the difficulties inherent during the current epidemic, the prefectures have been advised to simplify the issuing of a</p>		
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		<p>paperless document to certify, in exceptional circumstances, the extension of the validity of the stay of the users concerned. The aim is to limit the number of visits to prefectures (when this is for the sole purpose of issuing the temporary residence permit), or even to stop them altogether (sending the provisional residence permit by e-mail together with a certificate from the prefecture stating that, due to exceptional circumstances, the document could not be issued to the user other than in a paperless form).</p>		
	<p>Visa-free TCN who reached the maximum of 90 days in any 180-day period under Article 4 of the Visa List Regulation</p>	<p>-</p>		

	<p>(Regulation (EU) 2018/1806)</p> <p> Holders of long-term visas issued by the EUMS (under Regulation (EU) No. 265/2010 and beyond, under national law)</p>	<p>Long-stay visa holders have benefited from an extension of their period of validity: for visas expiring between 16 March and 15 May 2020, the validity period was extended by 6 months (22 April 2020), after first being extended by 3 months (25 March 2020).</p> <p>For long-term visas expiring between 16 May 2020 and 15 June 2020, a law of 17 June 2020 extended their validity by 180 days.</p>	<p>Order No. 2020-460 of 22 April 2020 laying down various measures taken to deal with the COVID-19 epidemic, Article 24 (<i>Ordonnance n° 2020-460 du 22 avril 2020 portant diverses mesures prises pour faire face à l'épidémie de covid-19, art. 24</i>), available at: www.legifrance.gouv.fr/jorf/id/JORFTEXT000041814597.</p> <p>Law No. 2020-734 of 17 June 2020 relating to various provisions linked to the health crisis, other urgent measures and the withdrawal of the United Kingdom from the</p>	
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			<p>European Union (<i>Loi n° 2020-734 du 17 juin 2020 relative à diverses dispositions liées à la crise sanitaire, à d'autres mesures urgentes ainsi qu'au retrait du Royaume-Uni de l'Union européenne</i>), Article 15, I, available at:</p> <p>www.legifrance.gouv.fr/jorf/id/JORFTEXT000042007059/</p>	
	<p>Holders of residence permits issued under Regulation (EC) No. 1030/2002 (as last amended by Regulation (EU) 2017/1954)</p>	<p>The law of 17 June 2020 provides for an automatic 180-day extension of the validity of residence permits expiring between 16 March and 15 June 2020.</p> <p>A person with a residence permit that expired after 15 June does not benefit from this extension.</p>	<p>Order No. 2020-460 of 22 April 2020 laying down various measures taken to deal with the COVID-19 epidemic, Article 24 (<i>Ordonnance n° 2020-460 du 22 avril 2020 portant diverses mesures prises pour faire face à l'épidémie de covid-19, art. 24</i>),</p>	

			<p>available at: www.legifrance.gouv.fr/jorf/id/JORFTEXT000041814597.</p> <p>Law No. 2020-734 of 17 June 2020 relating to various provisions linked to the health crisis, other urgent measures and the withdrawal of the United Kingdom from the European Union (<i>Loi n° 2020-734 du 17 juin 2020 relative à diverses dispositions liées à la crise sanitaire, à d'autres mesures urgentes ainsi qu'au retrait du Royaume-Uni de l'Union européenne</i>), Article 15, I, available at:</p>	
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			www.legifrance.gouv.fr/jorf/id/JORFTEXT000042007059/	
	<p> Holders of local border traffic permit under Regulation (EC) No. 1931/2006</p>	—		
	<p> Any other category of TCN not listed above.</p>	<p> The validity of receipts for registration of asylum applications, which expired between 16 March and 15 May 2020, is extended by 90 days.</p> <p> According to a law of June 2020, the period of validity of asylum application certificates that expired between 16 May 2020 and 15 June 2020 is extended by ninety days.</p> <p> Please note: The system for registering asylum applications in the Ile-de-France region was suspended at the end of March,</p>	<p> Order No. 2020-460 of 22 April 2020 laying down various measures taken to deal with the COVID-19 epidemic, Article 24 (<i>Ordonnance n° 2020-460 du 22 avril 2020 portant diverses mesures prises pour faire face à l'épidémie de covid-19, art. 24</i>), available at: www.legifrance.gouv.fr/jorf/id/JORFTEXT000041814597/.</p> <p> Law No. 2020-734 of 17 June 2020 relating to various provisions</p>	

		<p>due to the lockdown and health strategy put in place by the government.</p> <p>On 30 April, the Council of State, on behalf of NGOs, enjoined the Minister of the Interior to restore the registration of asylum applications in the Ile-de-France region, with priority given to vulnerable people.²⁹</p>	<p>linked to the health crisis, other urgent measures and the withdrawal of the United Kingdom from the European Union (<i>Loi n° 2020-734 du 17 juin 2020 relative à diverses dispositions liées à la crise sanitaire, à d'autres mesures urgentes ainsi qu'au retrait du Royaume-Uni de l'Union européenne</i>), Article 15, I, available at:</p> <p>www.legifrance.gouv.fr/jorf/id/JORFTEXT000042007059/</p>	
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Notes:

TCN = third-country nationals

EUMS = EU Member State

²⁹ France, Council of State (*Conseil d'Etat*), Decision n° 440250, 30 April 2020, available at : www.legifrance.gouv.fr/ceta/id/CETATEXT000041849465/

Chapter 5. Information society, privacy and data protection

1. Legal and political initiatives that have been implemented to support access to, and use of, personal data.

Health figures

A new system, the 'Health Data Hub', which centralises French health data, was set up at the end of 2019.³⁰ The aim is *'to promote the use of and increase the possibilities for data usage, both in clinical research and in terms of new uses, particularly those related to the development of artificial intelligence'*.

The host chosen was Microsoft, which has led to fears of a possible stranglehold by one of the big five American companies (known as GAFAM) on this personal data. The French Data Protection authority (National Commission for Information

³⁰ France, Order approving an endorsement of the Convention constituting the Public Interest Grouping 'National Institute of Health Data' establishing the Public Interest Grouping 'Health Data Hub' (*Arrêté portant approbation d'un avenant à la convention constitutive du groupement d'intérêt public « Institut national des données de santé » portant création du groupement d'intérêt public « Plateforme des données de santé »*), 29 November 2019, available at: www.legifrance.gouv.fr/jorf/id/JORFTEXT000039433105/.

Technology and Freedoms - CNIL) also stated in its communication of 11 June 2020³¹ that, in view of the sensitivity of the data in question, it would like the hosting and services related to the management of the Health Data Hub to be reserved for entities exclusively within European Union jurisdictions.

In June 2020, a draft resolution was submitted to the Senate for the creation of a commission of enquiry *'to examine the conditions for signing an agreement entrusting the management of France's health data to Microsoft and to submit proposals to reinforce the protection of this same data.'*³²

After an initial interim order, issued on 19 June 2020,³³ which did not question the decision to entrust Microsoft with health data, but enjoined the Hub to provide a certain amount of information, the Council of State issued a new order on 14 October 2020, which was more demanding on the Hub.³⁴

Several associations, trade unions and individual claimants asked the judge in charge of summary proceedings at the Council of State, ruling as a matter of urgency, to suspend the processing of data related to the COVID-19 epidemic on the Health Data Hub, because of the risks that this situation entails with regard to the right to privacy, given the possible transfers of data to the United States. This request follows the 'Schrems II' ruling of the European Court of Justice (ECJ),

³¹ France, CNIL, Deliberation No. 2020-044 giving its opinion on a draft Order supplementing the Order of 23 March 2020 prescribing the measures for the organisation and operation of the healthcare system necessary to deal with the Covid-19 epidemic within the framework of the state of health emergency (*Délibération n° 2020-044 portant avis sur un projet d'arrêté complétant l'arrêté du 23 mars 2020 prescrivant les mesures d'organisation et de fonctionnement du système de santé nécessaires pour faire face à l'épidémie de covid-19 dans le cadre de l'état d'urgence sanitaire*), 20 April 2020, available at: www.cnil.fr/sites/default/files/atoms/files/deliberation_du_20_avril_2020_portant_avis_sur_projet_darrete_relatif_a_lorganisation_du_systeme_de_sant_e.pdf.

³² France, Senate (*Sénat*), Motion for a Resolution on the establishing of a Commission of Inquiry on the Protection of Health Data (*Proposition de résolution tendant à la création d'une commission d'enquête sur la protection des données de santé*), 26 June 2020, available at: www.senat.fr/leg/ppr19-576.html.

³³ Cf case law annex

³⁴ France, Council of State (*Conseil d'Etat*), Ord. 13 October 2020, n° 444937.

which ruled that the protection of data transferred to the United States by the 'Privacy Shield' was inadequate under European law.

The interim relief judge observes that the processing of data by Microsoft in the European Union is not in itself seriously and manifestly unlawful, and therefore does not justify suspension of the hub, but cannot be entirely ruled out that the United States authorities, in the context of surveillance and intelligence programmes, may request Microsoft and its Irish subsidiary to have access to certain data.

It therefore asks the Health Data Hub, under the supervision of the CNIL, to continue to work with Microsoft to strengthen the protection of the rights of data subjects with regard to their personal data. These precautions will have to be taken pending a solution that will remove any risk of access to personal data by the American authorities.

Health data with regard to the fight against COVID

The law of 11 May 2020 extending the state of health emergency authorises the creation of a new information system to combat the spread of Covid-19.³⁵ This information system, created by decree, is intended for the processing and sharing of health data of people with the virus and people who have been in contact with these, and, if necessary, without their consent. This data is available to a number of stakeholders, including non-medical professionals. In addition, the Minister of Health, the National Public Health Agency, health insurance organisations and regional health agencies are authorised to adapt existing systems for the same purpose.

³⁵ France, Law No. 2020-546 extending the state of health emergency and supplementing these provisions, Article 11 (*Loi n° 2020-546 prorogant l'état d'urgence sanitaire et complétant ses dispositions, art. 11*), 11 May 2020, available at: www.legifrance.gouv.fr/jorf/id/JORFTEXT000041865244/.

The aim is to enable confirmed COVID cases to be recorded for a tracing system and to implement the tracing itself. The information system shall be based on two tools:

- the SI-DEP file (integrated screening and prevention service) which will centralise information on COVID-19 tests in order to share it with health care services;
- the health system's 'COVID Contact' file, to track patients and identify contact cases.

The data collected is limited to including a person's virus or antibody status in relation to COVID-19. Data may not be held for more than three months.

STOPCOVID application

As part of the overall strategy for easing lockdown, the government has made available a mobile application (StopCovid) to break contamination chains.³⁶ More specifically, this application aims to alert people who have downloaded it that they have been near people who have tested positive for COVID and who have downloaded the same application. The application is based

³⁶ France, Decree no. 2020-650 relating to data processing known as 'StopCovid' (*Décret n° 2020-650 relatif au traitement de données dénommé « StopCovid »*), 29 May 2020, available at: www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041936881&categorieLien=id.

on voluntary use and allows contact tracing using Bluetooth technology, without the need for individuals to be physically located. It is, therefore, a matter of alerting people who are using the application and are exposed to a risk of contamination.

The CNIL, which was asked for its opinion on two occasions, considered that the application could be legally deployed as long as it is a complementary tool to the existing system of individual health checks and provides quicker alerts in the event of contact with a contaminated person, including unknown persons.³⁷ It nevertheless insisted on the fact that the real usefulness of the application will have to be more thoroughly studied after its launch, adding that the implementation period for the system should be determined by the results of this regular evaluation.

The National Consultative Commission on Human Rights, for its part, has issued an opinion criticising the excesses associated with the use of contact tracing as part of the management of a health crisis.³⁸

Due to the failure of the StopCovid application (downloaded 2.4 million times in three months, uninstalled 700,000 times and which sent only 800 notifications to people who might have been in contact with infected people), the government made a new application available to the public in October, called 'TousAntiCovid'.³⁹ As well as being a new application, it is an update of

³⁷ France, CNIL, Deliberation No. 2020-046 giving an opinion on a planned mobile application called 'StopCovid' (*Délibération n° 2020-046 portant avis sur un projet d'application mobile dénommée « StopCovid »*), 24 April 2020 available at: www.cnil.fr/sites/default/files/atoms/files/deliberation_du_24_avril_2020_portant_avis_sur_un_projet_dapplication_mobile_stopcovid.pdf

Deliberation No. 2020-056 giving an opinion on a draft decree relating to the mobile application known as 'StopCovid' (*Délibération n° 2020-056 portant avis sur un projet de décret relatif à l'application mobile dénommée « StopCovid »*), 25 May 2020, available at: www.cnil.fr/sites/default/files/atoms/files/deliberation-2020-056-25-mai-2020-avis-projet-decret-application-stopcovid.pdf.

³⁸ France, CNCDH, Opinion on the electronic tracking of individuals (*Avis sur le suivi numérique des personnes*), 28 April 2020, available at: www.cncdh.fr/sites/default/files/avis_2020_-_3_-_200424_avis_suivi_numerique_des_personnes.pdf.

³⁹ France, Government, 'TousAntiCovid', available at: www.gouvernement.fr/info-coronavirus/tousanticovid.

StopCovid: it is an application based on a centralised system (and not decentralised like most neighbouring countries). In order for a 'contact' to be recorded, two people must have activated the application, switched on Bluetooth, and be at a distance of one metre or less for five minutes, or between one and two metres for fifteen minutes. In addition, this new application provides simple information on the epidemiological situation in France as well as news related to the fight against the epidemic (e.g. the measures put in place by national and local authorities).

Regulation of Cookies

In June 2020, the Council of State validated the majority of the guidelines on cookies adopted by the CNIL in July 2019.⁴⁰ However, the judge considered that, in the context of its mission to define best practices, the CNIL could not make the validity of users' consent subject to the condition that they do not suffer 'a *major inconvenience in the event of the absence or withdrawal of their consent, such a major inconvenience consisting, according to the CNIL, in the impossibility of accessing a website due to the practice of 'cookie walls'*'. By deducting such a general and absolute ban only from the requirement of obtaining free consent (laid down by the GDPR), the Council of State considers that the CNIL has gone beyond what it could legally do.

⁴⁰ France, Council of State (*Conseil d'Etat*), 19 June 2020, n° 434684, available at: www.legifrance.gouv.fr/ceta/id/CETATEXT000042040556.

In order to consider this decision, on 17 September 2020, the CNIL introduced two documents on cookies: **guidelines**⁴¹ and a **recommendation**.⁴² These were published on 1 October 2020.

Through these new deliberations published on 1 October 2020, the CNIL confirms certain important principles:

Concerning user consent:

- Simply continuing to use a site can no longer be considered as a valid expression of consenting to cookies
- Individuals must consent to the placing of cookies in a clear action (clicking on '*I accept*' in a cookie banner, for example). If they do not do so, no cookies that are not essential to the operation of the site can be placed on their device

⁴¹ France, CNIL, Deliberation No. 2020-091 of 17 September 2020 adopting guidelines relating to the application of Article 82 of the Law of 6 January 1978 as amended on reading and writing operations in a user device (in particular 'cookies and other trackers' (*Délibération n° 2020-091 du 17 septembre 2020 portant adoption de lignes directrices relatives à l'application de l'article 82 de la loi du 6 janvier 1978 modifiée aux opérations de lecture et écriture dans le terminal d'un utilisateur (notamment aux « cookies et autres traceurs »*), available at: www.cnil.fr/sites/default/files/atoms/files/ligne-directrice-cookies-et-autres-traceurs.pdf.

⁴² France, CNIL, Deliberation No. 2020-092 of 17 September 2020 adopting a recommendation proposing practical compliance procedures in the event of the use of 'cookies and other trackers' (*Délibération n°2020-092 du 17 septembre 2020 portant adoption d'une recommandation proposant des modalités pratiques de mise en conformité en cas de recours aux « cookies et autres traceurs »*), available at: www.cnil.fr/sites/default/files/atoms/files/recommandation-cookies-et-autres-traceurs.pdf.

- Users must be able to withdraw their consent easily and at any time
- Refusing cookies should be as easy as accepting them

Concerning information for users:

- Users must be clearly informed of the purpose of the cookies before consenting, as well as the consequences of accepting or refusing cookies
- Users must also be informed of the identity of all partners using cookies, which are subject to consent
- The organisations using cookies must be able to provide, at any time, proof of the valid provision of the free, informed, specific, and unambiguous consent of the user

Certain cookies are nevertheless exempt from the consent requirement. This is the case in particular for cookies intended for authentication with a service, those intended to store the contents of a shopping basket on a site, certain cookies intended to generate visiting statistics, or those enabling paying sites to limit free access to a sample of content requested by users.

In addition, the CNIL makes a number of recommendations to those concerned:

- Two buttons, '*Accept all*' and '*Refuse all*' must be provided

- Websites, which usually keep the consent to cookies for a certain period, should also keep a refusal of consent from users for a certain period. In this respect, the CNIL considers that it is good practice for websites to keep the choice (refusal or consent) for a period of 6 months

- When the cookies allow tracking on other sites, consent must be obtained on each of the sites concerned by this tracking.

The time allowed for those concerned to comply with the new rules should not exceed 6 months, i.e. by the end of March 2021 at the latest.

Sanction against Google

In a decision of 19 June 2020, the Council of State confirms the power of the CNIL to sanction Google's failure to comply with articles 6 and 7 of the GDPR, which require free, specific and informed consent of users to the processing of personal data by digital operators.⁴³ Google claimed the relevant authorities were the Irish authorities. The Council of State then considered that the €50 million penalty imposed on the American giant was not disproportionate because of the lack of prior information for users regarding the processing of their data for so-called advertising purposes. The consequence of this is that their consent 'collected globally for all purposes' pursued by Google cannot be considered 'informed' or valid.

Notice on the use of drones for airborne imaging by public authorities

⁴³ France, Council of State (*Conseil d'Etat*), 19 June 2020, n° 430810, available at: www.legifrance.gouv.fr/ceta/id/CETATEXT000042040546/.

The Council of State was consulted in September 2020 by the Prime Minister to define a legal framework for the use of drones for imaging by public authorities for surveillance or judicial purposes⁴⁴. The opinion, adopted in October, was made public on 13 November 2020, almost four weeks after the submission of a bill introducing the use of drones for administrative or judicial police purposes.

The Council of State considers first, as in its Ordinance of 18 May 2020 on the use of drones to monitor compliance with lockdown restrictions, that the capture of images by airborne cameras can be regarded as processing of personal data. Consequently, the GRDP applies.

It then reminds the public authorities of the legal requirements to be respected if they wish to implement such a system: impact analysis, data retention period, consultation of the CNIL, and so forth.

However, the Council considers that, in view of the interference that these airborne cameras may cause with the respect for privacy guaranteed by the Constitution, an administrative action would not suffice. A law is needed to ensure that respect for privacy is reconciled with the protection of public order, and to define the safeguards required to ensure that such action is proportionate and appropriate in view of the purposes sought.

⁴⁴ France, Council of State (*Conseil d'Etat*), Notice on the use of drones for airborne imaging by public authorities (*Avis relatif à l'usage de dispositifs aéroportés de captation d'images par les autorités publique*), 13 November 2020, available at: www.conseil-etat.fr/ressources/avis-aux-pouvoirs-publics/derniers-avis-publies/avis-relatif-a-l-usage-de-dispositifs-aeroportes-de-captation-d-images-par-les-autorites-publiques.

Proposal for a law on global security (currently under discussion)

This proposal, registered on 20 October 2020 at the office of the National Assembly, and currently under discussion in Parliament, establishes a legal framework for the use of airborne cameras, and in particular drones⁴⁵.

The government has initiated the fast-track procedure for this bill, which covers many sensitive subjects (drones, extension of the powers of the municipal police, ban on the dissemination of images of police officers in action, etc.), even though it is not accompanied by an impact assessment study.

There are many reasons why the police may use these drone cameras, sometimes stated in very vague terms: prevention of terrorism, supervision of events, management of transport flows, combating crime, etc.

The safeguards provided by the bill are residual: the public must be informed, except 'where circumstances prevent this or where such information would obstruct the purposes sought'.

The images are transmitted directly to the command post.

⁴⁵ France, Draft Law about global security (Proposition de loi relative à la sécurité globale), adopted by the National Assembly on 24 November 2020 and transmitted to the Senate, available at : www.senat.fr/leg/ppl20-150.html.

The draft law does not expressly rule out the possibility of processing these images by means of facial recognition.

CNIL 2019 Activity Report (French DPA)

Due to the reduction in formalities and the principle of the responsibility of organisations, the National Commission for Information Technology and Civil Liberties (CNIL) has fully engaged in punitive actions, which have taken on a new dimension with the GDPR.⁴⁶ To this end, the CNIL has a complete law enforcement chain enabling it to receive reports through various channels and to carry out checks, the number of which is stable compared with 2018. These checks may result in action ranging from closure to formal notice or financial penalties. In some cases, naming and shaming of organisations may be used depending on the seriousness of the breaches.

In 2019, the CNIL carried out 300 inspections, of which:

169 on-the-spot inspections;

53 online inspections;

45 documentation/declaration inspections (*contrôles sur pièce*);

18 audits.

⁴⁶ France, CNIL, Annual activity report (*Rapport annuel d'activité*) 2019, 2020, available at: www.cnil.fr/sites/default/files/atoms/files/cnil-40e_rapport_annuel_2019.pdf.

Eight penalties were handed out in 2019, of which:

7 fines totalling €51,370,000, including the highest fine ever imposed by a data protection authority in Europe;

5 injunctions under penalty.

These penalties mainly concerned breaches of personal data security, breaches of the obligation to inform individuals, breaches relating to the length of time data are kept, and in one case, failure to respect the right of access provided for in the GDPR.

Forty-two formal notices were issued in 2019, 2 of which were public, as well as two reminders and two warnings. The formal notices issued were made public because of the significant shortcomings observed. Half of the formal notices concerned the right to delisting, the right of opposition or the right of access.

2. Artificial intelligence and big data

Please fill in the table below with any initiatives you may identify in your country:

MS	Actor*	Type* *	Description	Are Ethical concerns mentioned? (yes/no)	Are Human Rights issues mentioned? (yes/no)	Reference
F	National Pilot Committee on Digital Ethics (<i>Comité national pilote d'éthique du numérique - CNPEN</i>)	Survey	The CNPEN has launched a public survey designed to allow stakeholders and the public to express their views on the ethical issues related to chatbots. The closing-date for the survey is 30 September 2020.	Yes (Chatbots are compared to a human being, whether or not the person they are talking to is aware of their nature.	Yes (right to privacy, data protection)	www.ccne-ethique.fr/sites/default/files/agents-conversationnels-appel_a_contributions-cnpn.pdf

				This natural aspect of the dialogue is likely to influence the human)		
F	CNPEN	Report	This first monitoring bulletin from the National Pilot Committee for Digital Ethics, dated 7 April 2020, presents the background to the project and discusses two specific points. On the one hand, the ethical questions related to the use of digital tools as part of community initiatives; and on the other hand, the ethical issues related to digital monitoring for the management of the pandemic. Two other monitoring bulletins on the health crisis followed in	Yes (risk of social discrimination, or even stigmatisation, towards people reported by the monitoring applications, also for	Yes (right to privacy, data protection , the guarantee of free and informed consent)	No. 1: www.ccne-ethique.fr/sites/default/files/publications/bulletin-1-ethique-du-numerique-covid19-2020-04-07.pdf No. 2 : www.ccne-ethique.fr/sites/default/files/cnpen-desinformation-2020-07-21-2.pdf No. 3: www.ccne-ethique.fr/fr/actualites/comite-national-pilote-dethique-du-numerique-bulletin-de-veille-ndeg3

		<p>July: No. 2, on ethical issues in the fight against disinformation and misinformation during the health crisis, and No. 3, on ethical issues related to digital tools in providing online healthcare and medicine against the background of COVID-19.</p> <p>Clarifications about ethical concerns:</p> <p>After recalling the purpose of individual monitoring of individuals as part of the fight against the spread of the virus, the CNPEN points out that mandatory or voluntary monitoring could be envisaged. However, it warns against the first option, which could be counter-productive in generating disagreement and dissimulation.</p> <p>In the case of voluntary monitoring, there should be free adherence, guaranteed by public information on the usefulness of</p>	<p>people who did not adhere to the monitoring measures.</p> <p>Risk of medical consumerism with the development of online healthcare and medicine.</p>		
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			<p>monitoring. However, the CNPEN emphasises that this individual choice can be guided, or even influenced, in various ways, for example through persuasion ('nudging') or manipulation techniques, social pressure, or imitation of the actions of relatives, etc. The CNPEN also stresses that a number of factors can influence the choice of the individual. In this case, the lack of free and informed consent, the possibility of it being used as an instrument, the impact of consent on the relatives and other contacts of the person concerned, or the attribution of responsibility to the individual rather than to the community, are important ethical concerns.</p> <p>The timeframe is also a fundamental issue for the CNPEN: digital surveillance measures could be applied during the period of lockdown or</p>			
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			<p>after its lifting, or even be applied in the future in anticipation of similar situations. In view of experiences of standardisation of exceptional measures, the temptation of governments to perpetuate certain forms of monitoring would constitute a major ethical problem.</p> <p>The collection and processing of data for monitoring purposes could also, according to the CNPEN, present a significant risk of arbitrariness, in particular the misuse, extension of access or broadening of purposes, whether by public authorities or private actors (police use leading to excessive checks, checks by an employer, use by insurers, etc.). The CNPEN also refers to the risk, in return, of public mistrust of follow-up measures.</p> <p>The CNPEN also points out the risk of social discrimination, or</p>			
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			even stigmatisation that may emerge towards people reported by the monitoring applications. This risk also applies to people who have not adhered to the follow-up measures.			
F	Public Defender of Rights (<i>Défenseur des droits</i>) with the National Commission for Information Technology and Civil Liberties (CNIL)	Report	At the end of a seminar bringing together experts in the field, organised in partnership with the CNIL on 28 and 29 May 2020, the Public Defender of Rights published recommendations to prevent and tackle discriminatory bias in algorithms.	Yes	Yes (the right not to be discriminated against and data protection)	www.defenseurdesdroits.fr/sites/default/files/atoms/files/synth-algos-num-05.06.20.pdf
F	Government	Adopted law	By decree of 27 March 2020, the government, in the midst of the health crisis, authorised the implementation of automated	No	No (though this algorithmic 'decision	www.legifrance.gouv.fr/loda/id/JORFTEXT000041763205/2020-04-06/

			<p>data processing called 'DataJust'.</p> <p>The aim is to develop a tool to establish an indicative scale for the financial assessment of personal injury based on judicial decisions.</p>		<p>aid' raises questions due to the risks of discriminatory bias)</p>	

*For the actors, please pick from the following suggestions:

Government/ Parliamentary

DPA

NGO/Other Non-Profit

Academia

National Courts

Business

Independent State Institution

Other

** for the type, please pick from the following suggestions:

National Draft Acts / Adopted Acts

report/study

other projects

Chapter 6. Rights of the child

1. Measures taken during the COVID-19 crisis to ensure the well-being of children living in poverty and child protection.

Measures to address the specific vulnerabilities of children living in poverty	<p>The lockdown put in place in response to the COVID-19 pandemic has exacerbated vulnerabilities and social inequalities, worsening the situation of children in poverty.</p> <p>Faced with these observations, and in order to support the most vulnerable families and individuals, the President of the Republic announced in his speech of 13 April 2020, the payment of special aid to the neediest households. This aid was detailed after the Council of Ministers meeting of 15 April 2020:⁴⁷</p> <p>Households receiving the RSA social benefit (<i>revenu de solidarité active</i>) or the ASS social benefit (<i>allocation de solidarité spécifique</i>) will receive €150, plus an additional €100 per dependent child. In addition, all families in receipt of Individual Housing Assistance (<i>aides personnalisées au logement</i> - APL) who do not receive the RSA or ASS, will receive €100 per dependent child. This aid will be in addition to the social benefits paid monthly throughout the year and will be paid automatically to those who are entitled to it. Initially provided in May,⁴⁸ this special aid was renewed in November⁴⁹ under the same terms and conditions.</p>
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⁴⁷ France, Government, 'COVID-19: the Government announces the payment of special aid to help the most needy households' ('COVID-19 : le Gouvernement annonce le versement d'une aide exceptionnelle de solidarité aux foyers les plus modestes'), Press release, 15 April 2020, available at: https://solidarites-sante.gouv.fr/IMG/pdf/200415_cp_covid-19_aide_exceptionnelle_solidaire.pdf.

⁴⁸ France, Decree n° 2020-519 of 5 May 2020 granting exceptional solidarity aid linked to the health emergency to the most precarious households (*Décret n° 2020-519 du 5 mai 2020 portant attribution d'une aide exceptionnelle de solidarité liée à l'urgence sanitaire aux ménages les plus précaires*), available at : www.legifrance.gouv.fr/jorf/id/JORFTEXT000041849630/.

⁴⁹ France, Decree n° 2020-1453 of 27 November 2020 granting exceptional solidarity aid related to the health crisis to the most precarious households and young people under twenty-five years old (*Décret n° 2020-1453 du 27 novembre 2020 portant attribution d'une aide exceptionnelle de solidarité liée à la crise sanitaire aux ménages et aux jeunes de moins de vingt-cinq ans les plus précaires*), available at : www.legifrance.gouv.fr/jorf/id/JORFTEXT000042574431?r=x4Sauv2xQC.

	<p>4.1 million households, including nearly 5 million children, will benefit from this special social benefit, which will be paid out automatically in a single instalment on 15 May 2020 by the family allowance funds (<i>caisses d'allocations familiales</i> - CAF), the agricultural social mutual insurance funds (<i>caisses de la mutualité sociale agricole</i> - MSA) and the employment office (<i>Pôle emploi</i>). This social support scheme, which is necessary to support low-income households that are suffering more severely from the consequences of the epidemic crisis, has a budget of €900 million.</p> <p>This special aid is designed to support low-income families, while at the same time reinforcing the support given to the most vulnerable in this period of crisis: maintaining food aid, providing shelter for homeless people, extending entitlement to social assistance and making use of the social security reserve.</p>
<p>Measures to protect children from violence</p>	<p>The lockdown has led to increased risks of maltreatment, due to situations that are more likely to lead to acts of abuse committed in the home, and to additional difficulties in identifying this.</p> <p>For this reason, the government has reinforced a number of measures to prevent violence against children in domestic settings.⁵⁰</p> <p>The 119-Child in Danger telephone service (<i>Allo Enfance en Danger</i>) has activated its action continuity plan to ensure that the work of the counsellors is maintained, which is essential for the identification of situations of danger or risk of danger to children. The entire team of the Public Interest Group for Children at Risk (<i>Groupement d'intérêt public enfance en danger</i> - GIPED) will continue to work closely with the Information of Concern Collection</p>

⁵⁰ Ministry of Solidarity and Health (*Ministère des Solidarités et de la Santé*), 'Lockdown: violence against children in the home' (« *Période de confinement : violences faites aux enfants à leur domicile* »), Press Release, 18 March 2020, available at: <https://solidarites-sante.gouv.fr/actualites/presse/communiqués-de-presse/article/periode-de-confinement-violences-faites-aux-enfants-a-leur-domicile>.

	<p>Units (<i>Cellules de recueil d'informations préoccupantes</i> - CRIP) of the Departmental councils.</p> <p>The Minister of Health called on everyone to redouble their vigilance during this period, and to call 119 if they witness, hear, or suspect any violence against a child.</p> <p>Upon the decision of Nicole Belloubet, Minister of Justice, Keeper of the Seals, the courts are closed to the public to prevent the spread of the virus. Activity continuity plans, drawn up in each judicial court according to the guidelines given, ensure that urgent cases are dealt with and that all children are protected.</p> <p>Duty hours are ensured in juvenile courts in order to take appropriate protective measures for children exposed to a situation of danger. In case of emergency, magistrates will grant temporary placement orders to ensure their safety. Child protection professionals, whose mobilisation is to be commended at this time of an unprecedented health crisis, will care for these children.</p> <p>The Minister of Health also called on all broadcasters - television channels, radios, internet and social networks, particularly those used by young people - to relay the prevention messages and promote the 119-Child in danger hotline.</p> <p>An awareness-raising campaign on children in danger aimed at the general public has been re-initiated in order to encourage this community vigilance.</p>
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2. Legal and policy measures or initiatives developed in criminal proceedings

Legislative changes	Because of the health crisis, the Government has postponed the entry into force of the new Criminal Justice Code for minors from 10 October 2020 to 31 March 2021, ⁵¹
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⁵¹ France, Law n°2020-734 on various provisions related to the health crisis, other urgent measures, and the withdrawal of the United Kingdom from the European

	<p>which is to replace the 2 February 1945 Ordinance on Juvenile Offenders. This new code, which was introduced by Order in September 2019,⁵² and therefore requires ratification through legislation, modifies the procedure for the trial of minors (see Report contribution to FRA2020).</p>
<p>Policy developments</p>	<p>The new Criminal Justice Code for Minors provides that juvenile offenders may be subject, in addition to a criminal sanction, to either a 'judicial warning' or a 'judicial educational measure'. The latter consists of individualised accompaniment of the minor based on an assessment of their personal, family, health and social situations. This evaluation is carried out in an interdisciplinary framework. The Government plans to establish indicators to evaluate the efficiency of this measure.⁵³</p> <p>With the entry into force of the Juvenile Criminal Justice Code, the reference for the measures and duties entrusted to the youth judicial protection services will be updated. This will include information sheets on types of measures (including judicial measures of educational investigation (MJIE), collection of socio-educational information, judicial educational measures), which will detail the procedures and indicators for the assessment of the situations of minors.⁵⁴</p> <p>In addition, one of the strategic objectives of the Department of Legal Protection of Youth (<i>Direction de la protection judiciaire de la Jeunesse</i> - DPJJ) 2019-2022 national strategic project is to refine knowledge of the</p>

Union, Article 25 (*Loi n°2020-734 relative à diverses dispositions liées à la crise sanitaire, à d'autres mesures urgentes ainsi qu'au retrait du Royaume-Uni de l'Union européenne, art. 25*), 17 June 2020, available at: www.legifrance.gouv.fr/jorf/id/JORFTEXT000042007059/.

⁵² France, Order No. 2019-950 on the legislative part of the Juvenile Criminal Justice Code (*Ordonnance n° 2019-950 portant partie législative du code de la justice pénale des mineurs*), 11 September 2019, available at: www.legifrance.gouv.fr/jorf/id/JORFTEXT000039085102/.

⁵³ According to the document provided by the Department of Legal Protection of Youth (*Direction de la protection judiciaire de la Jeunesse*), on 6 January 2020.

⁵⁴ Idem.

	<p>children and their backgrounds.⁵⁵ In this regard, it states that the evaluation of the situation of the young person and its implementation methods are at the heart of this objective, whatever the care setting and at any point in the process.</p> <p>The DPJJ therefore intends to develop a reference framework for the evaluation of children to be shared with other child protection actors.</p>
<p>Other measures or initiatives</p>	<p>Law No. 2019-222 of March 23 2019 provides initiatives to promote alternatives to prison. These provisions are common to adults and children and are included in the juvenile criminal justice code. These include :</p> <ul style="list-style-type: none"> - house arrest under electronic surveillance ; - the possibility of imposing community service; - ending prison sentences of one month or less; - mandatory sentence adjustment for prison sentences of one year or less, reinforced for prison sentences of 6 months of less. <p>The Criminal justice code for minors also aims to reduce the use of pre-trial detention for child suspects.</p> <p>First, by reducing the average time to a hearing from 18 months to 1 year, so that the judicial response can more effectively play its role in preventing re-offending.</p> <p>Furthermore, in accordance with the principle of the primacy of education over punishment, the aim is to give priority to the provisional judicial educational measure at the pre-sentence stage, whose content is reinforced, reducing the use of security measures likely to lead to the incarceration of the minor, in order ultimately to reduce the use of pre-trial detention for minors.⁵⁶</p> <p>Training modules on the criminal justice for children code are being developed for magistrates, juvenile court assessors, lawyers, judicial protection officers, court</p>

⁵⁵ France, Justice Ministry (*Ministère de la Justice*), Department of Legal Protection of Youth (*Direction de la protection judiciaire de la Jeunesse*), National Strategic Plan 2019-2022 (*Plan stratégique national 2019-2022*), available at : www.cnape.fr/documents/dpjj_-plan-national-strategique-2019-2022/.

⁵⁶ According to the document provided by the Department of Legal Protection of Youth (*Direction de la protection judiciaire de la Jeunesse*), on 6 January 2020.

	clerks, as well as for the investigation services (police and gendarmerie). These training modules will include training on the fundamental principles of criminal procedure applicable to minors and on the exercise of their rights under Directive 2016/800, but will not only focus on the procedural guarantees concerning minors. ⁵⁷
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⁵⁷ Idem.

Chapter 7. Access to justice including crime victims

1. Victims' Rights Directive

The Ministry of Justice, in its response of May 2020 to a Senator's question on the state of transposition of Directive 2012/29 (see contribution to the annual report 2019), considers that all the provisions of the directive have been transposed into French law.⁵⁸

It adds that the reinforcement of the protection of victims and the effectiveness of their rights has guided the action of the Ministry of Justice in the development of the National Strategy for Crime Prevention 2020-2024.⁵⁹ In this respect, Priority 2 of this strategy aims to '*further develop support for victims, within the framework of institutional, partnerships and multidisciplinary actions aimed at vulnerable persons, including female victims of domestic violence, minors at risk, victims of discrimination, the elderly, and persons with disabilities*'.

For this second priority, the strategy calls for 'mobilising and better identifying invisible victims' (the elderly, the disabled, women, children). It is to rely on local networks, local authorities, associations, multidisciplinary health centres, France Services centres, and to include reporting channels within Departmental victim support schemes. The government intends to 'develop comprehensive care for victims'. The strategy sets the objective of providing each Department with at least two social workers in police stations or gendarmeries.

⁵⁸ France, Senate (*Sénat*), Reply from the Ministry of Justice published in the Senate OJ of 07/05/2020 (*Sénat, Réponse du Ministère de la justice publiée dans le JO Sénat du 07/05/2020*), page 2134, available at: www.senat.fr/questions/base/2019/qSEQ190912348.html.

⁵⁹ France, Government, National Crime Prevention Strategy 2020-2024 (*Stratégie nationale de prévention de la délinquance 2020-2024*), available at: www.cipdr.gouv.fr/wp-content/uploads/2020/03/Tome-2-SNDP-E%CC%81XE%CC%81-INTERACTIF.pdf.

In order to improve the care of victims, the strategy includes a series of actions:

- To facilitate the lodging of complaints: by guaranteeing victims reception in a dedicated area (in police and gendarmerie stations and in hospitals), to build trust and respect confidentiality by disseminating simple and accessible information.
- To increase the number of specialised and decentralised offices within the framework of a legal, social and psychological multidisciplinary approach in order to provide better support for victims.
- To consolidate prevention and protection measures for women.
- To promote social support in addition to safety and protection tools: through the serious risk telephone service, an anti-approach device and mobile applications, in addition to calling the emergency services.
- To adapt intervention to the needs of vulnerable people, potential or actual victims, and particularly people with disabilities: with sign language users to receive, inform and guide people affected by hardness of hearing, and using Departmental Councils for Access to Law (CDAD), which ensure access to law for people with disabilities.

2. Violence against women

Law to protect victims of domestic violence

In July 2020, Parliament passed a law to protect victims of domestic violence.⁶⁰

This law allows for the suspension of the rights of the violent parent to access to and accommodation of the child.

In the case of domestic violence, registration on the criminal record of perpetrators of sexual or violent offences is automatic for the most serious offences (unless a judge determines otherwise). Domestic bullying is considered an aggravating circumstance. The mediation procedure in criminal and civil matters is supervised in cases of domestic violence.

The law relieves the parents, grandparents, descendants, and brothers or sisters of persons convicted of an offence against personal integrity committed by one parent against the other parent from their maintenance obligation.

Domestic psychological bullying that leads to suicide or attempted suicide is now punishable by a ten-year prison sentence and a €150,000 fine.

The suspension of medical confidentiality becomes possible when violence puts the life of an adult victim in immediate danger and the victim is 'in the grip' of the perpetrator. The healthcare professional must endeavour to obtain the consent of the victim. In the event of an inability to obtain this consent, they must inform the victim of the report made to the Prosecutor of the Republic.

The law also includes measures on housing (enjoyment of shared housing allocated as a matter of principle to the spouse who is not the perpetrator of the violence, even if he or she has benefited from emergency accommodation), measures on foreign victims of family or domestic violence, and measures on the stiffening of penalties in the event of a breach of the confidentiality of communications or whereabouts by the offending party.

⁶⁰ France, Law No. 2020-936 to protect victims of domestic violence (*Loi n°2020-936 visant à protéger les victimes de violences conjugales*), 30 July 2020, available at: www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000042176652&categorieLien=i
[d.](http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000042176652&categorieLien=i)

Domestic violence during lockdown

On 25 March 2020, the Ministry of the Interior, the Ministry of Justice, the State Secretariat in charge of Gender Equality and the State Secretariat in charge of Child welfare reported on measures in place to deal with domestic violence.⁶¹

Although the courts were closed to prevent the spread of the virus, they nevertheless continued to deal with cases of domestic violence. Family court judges continued to ensure the issuing of protection orders, and immediate appearance hearings were maintained.

The sexual and gender-based violence reporting system - for reporting violence and being able to benefit from assistance and advice - remained operational 24 hours a day, on '[arretonslesviolences.gouv.fr](https://www.arretonslesviolences.gouv.fr)'. It allows for anonymous communication with law enforcement officers trained in gender-based and sexual violence. Anyone can direct victims of domestic violence to this service.

The national helpline for female victims of violence (3919), remained operational from Monday to Saturday from 9am to 7pm. In order to respond to the problems caused by lockdown, the government created a special 114 SMS service.

It was also possible for victims of domestic violence to raise the alarm in high street pharmacies, which would go directly to the police.

€4 million in additional funds were made available in the third draft of the bill amending the budget. Marlène Schiappa, Secretary of State for Gender Equality, announced:

⁶¹ France, Government, 'Government fully mobilized against domestic and family violence' (« *Le Gouvernement pleinement mobilisé contre les violences conjugales et intra-familiales* »), Press Release, 25 March 2020, available at: www.interieur.gouv.fr/Actualites/L-actu-du-Ministere/Le-Gouvernement-pleinement-mobilise-contre-les-violences-conjugales-et-intrafamiliales.

- a special fund financed by the State of €1 million to help associations in the field to adapt to this period of lockdown.

- the financing of nearly 20,000 hotel nights 'so that women can flee the violent man but also to immediately remove violent spouses from their homes.'⁶²

In the law extending the state of health emergency, it was provided that victims of domestic violence '*shall not be quarantined, or placed or kept in self-isolation in the same home as the perpetrator of the violence, even if violence is suspected*'.⁶³ It states that 'if the removal of a violent spouse cannot be carried out, a place of accommodation allowing respect for the private and family life [of the alleged victim] is assigned to them.' It should be noted, however, that since the 'end' of the state of health emergency in July, these provisions are no longer applicable, yet quarantine and isolation are still required for those exposed to or testing positive for the virus.

Report on domestic violence

On 9 October, the High Council for Gender Equality (HCEFH) published a report on domestic violence: this report is in response to a government consultation and identifies progress and shortcomings in the support provided to female victims of domestic violence and their children throughout the process of leaving violent situations⁶⁴.

The High Council recalls that in 2019, of 88 female killings, four in ten women killed had reported the violence to the police. Only 18% of the reports had

⁶² www.assemblee-nationale.fr/dyn/15/textes/l15b3074_projet-loi#

⁶³ France, Law No. 2020-546 extending the state of health emergency and supplementing these provisions, Article 11 (*Loi n° 2020-546 prorogeant l'état d'urgence sanitaire et complétant ses dispositions, art. 11*), 11 May 2020, available at: www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041865244&categorieLien=i.d.

⁶⁴ France, High Council for Gender Equality (Haut Conseil à l'Égalité entre les Femmes et les Hommes), « Domestic violence: Ensuring the protection of women victims and their children throughout the procedure » (« Violences conjugales : Garantir la protection des femmes victimes et de leurs enfants tout au long de leur parcours »), Report, October 2020, available at : <https://www.egalite-femmes-hommes.gouv.fr/wp-content/uploads/2020/10/HCE-RAPPORT-VIOLENCES-CONJUGALES-2020.pdf>.

been investigated and 80% of the complaints had been closed without follow-up⁶⁵.

By cross-referencing these figures with the statements of female victims of violence that it had been able to gather, the High Council points out the shortcomings in the care of these women. It makes 44 recommendations to '*better protect women*' and '*put an end to the impunity of the aggressors*', for example: through an experiment with filing complaints with specialised associations; giving priority to evicting violent partners from the home; and having at least one specialised women's shelter in each Department.

Domestic violence during lockdown

The Interministerial mission for the protection of female victims of violence and the fight against trafficking in human beings (*Mission interministérielle pour la protection des femmes victimes de violences et la lutte contre la traite des êtres humains* - MIPROF) has compiled all available data on domestic violence during lockdown in a report submitted to the Minister for Gender Equality on 29 July 2020.

The number of calls received by the domestic violence helpline increased by approximately 400% between the week of 9 March 2020 (before lockdown) and the week of 20 April 2020 (during lockdown). The number of calls rose from 2,145 to 8,213.

According to the MIPROF, this figure does not necessarily mean that the number of violent incidents increased during this period: '*The number of victims supported increased, though it is not possible to draw the conclusion that lockdown had 'triggered' domestic violence*'. On the other hand, according to the Mission, this figure reveals that victims have come forward more often and that the measures implemented by the State have provided them the means to do so.

⁶⁵ France, Ministry of Justice, General Justice Inspectorate (*Ministère de la justice, Inspection générale de la justice*), Mission on domestic homicides (*Mission sur les homicides conjugaux*), October 2019, p. 20, available at: www.vie-publique.fr/sites/default/files/rapport/pdf/271806.pdf

Chapter 8. Developments in the implementation of the Convention on the Rights of Persons with Disabilities

1. CRPD policy & legal developments

Presidential announcements

In February 2020, upon the closing of the National Conference on Disability, the President announced:⁶⁶

- In order to make educational inclusion of all pupils effective: an increase in the number of carers for pupils with disabilities and the upgrading of their status (longer, more attractive contracts, and more training); compulsory training [in working with pupils with a disability] for all trainee teachers at the start of the 2020 school year; and greater inclusion in higher education.
- Better support for autistic children and their families is planned, with the creation of a diagnosis and support package with no additional charge. The lagging behind in the field of autism in France has been highlighted, and the creation of 45 autism teaching units has been announced.
- In an effort to simplify procedures, a single national number (360) will be put in place and response times will be reduced and standardised.
- Disability will be taken into account in the pension system (even for parents who receive 5% more), and it will now be possible to combine the AAH (disability allowance) with 24-hour/week part-time work.

⁶⁶ France, Speech by the President of the Republic, National Conference on Disability (*Discours du Président de la République, Conférence nationale du handicap*), 11 February 2020, available at: www.elysee.fr/emmanuel-macron/2020/02/11/conference-nationale-du-handicap.

- The Disability Compensation Benefit will be extended (for life for a permanent disability registered before the age of 60 as of mid-2020) and will include needs associated with parenting.
- Accelerating general accessibility: one thousand civic service ambassadors will be 'trained' to help people in public places; government communication will be 100% accessible; the remainder of the responsibility will rest with mayors. From this point of view, the responses given here to the problem of accessibility are clearly inadequate and remain unclear, particularly with regard to the commitments made to make all public places genuinely accessible (transport, housing, doctors' surgeries, courts of law, polling stations, etc.), and with regard to digital accessibility.
- A 'major awareness-raising campaign in 2025 for a positive image of people with disabilities' was mentioned (although their presence in the media is very low), as well as the debate on support for private and sexual life, with a referral to the National Consultative Council on Ethics.

Carer's allowance

The Social Security Financing Act for 2020 provided for paid leave for 'close carers'. Paid carer's leave enables a person with a disability or a particularly serious loss of independence to be cared for. The draft decree concerning the daily allowance of the close carer was presented in September 2020.

Support for employing people with disabilities

A decree of 6 October 2020 created a form of aid for employing people with disabilities.⁶⁷

This financial assistance is awarded to private companies and associations (either commercial or not), regardless of their size or sector of activity, who

⁶⁷ France, Decree No. 2020-1223 of 6 October 2020 providing help for the recruitment of people with disabilities, (*Décret n° 2020-1223 du 6 octobre 2020 instituant une aide à l'embauche des travailleurs handicapés*), available at: www.legifrance.gouv.fr/jorf/id/JORFTEXT000042401631.

between 1 September 2020 and 30 June 2021 employ someone with the status of 'recognised worker with a disability' (RQTH), on a permanent or fixed-term contract of at least three months and who are paid up to two-times the minimum wage.

The amount of the premium is a maximum of €4,000. It is paid on a quarterly basis, at a maximum rate of €1,000 per quarter within the limit of one year.

The amount of aid is pro-rata depending on the employee's working time and the actual duration of the employment contract.

CRPD monitoring at national level

The National Consultative Commission on Human Rights and the Public Defender of Rights monitor the implementation of the CRPD, alongside the French Council for Persons with a Disability on European and International issues (CFHE), and the National Consultative Council for Disabled Persons (CNCPH).

In July 2020, the DDD issued its first assessment report on the implementation of the Convention.⁶⁸ It provides an account of the implementation of the Convention, article by article. According to the DDD, this assessment is mixed because although *'much progress has been made in recent years (...), major gaps remain in the effective implementation of the rights recognised by the Convention'*.

In particular, it considers that the national definition of disability, introduced by Law No. 2005-102 of 11 February 2005, does not appear to be in conformity with the Convention: *'focused on disability, it does not identify the environment as a 'causal factor' on which action should be taken, in the same way as on impairments and disabilities, to prevent or remedy instances of disability'*. It criticised law for *'emphasising the responses to be made in terms of individual compensation for the consequences of disability rather than the transformation of the social environment to ensure a society which is open to everyone.'*

⁶⁸ France, Public Defender of Rights (*Défenseur des droits*), The implementation of the CRPD (*La mise en œuvre de la CRPD*), Report, July 2020, available at: www.defenseurdesdroits.fr/sites/default/files/atoms/files/rap-cidph-num-02.07.20_0.pdf.

Whereas, according to the Public Defender of Rights, the two approaches should be combined.

The report also highlights the absence of women and girls with disabilities in studies, public policies and equal opportunity plans. The DDD notes that *'they are invisible in many areas of society'*. In order to overcome this shortcoming, it recommends, among other things, the introduction of a *'gendered'* dimension in all data and statistics relating to persons with disabilities. Such discrimination is particularly pervasive in the area of employment where women with disabilities are subjected to a double penalty that, according to the DDD, limits their choice of vocational guidance and their opportunities to access or return to employment.

With regard to accessibility, the DDD notes the *'persistent reluctance'* of public authorities to address this issue as an essential precondition for the effective enjoyment of rights in shops and businesses, public transport, public highways, courts, healthcare establishments, leisure facilities etc. It noted *'a lack of accessibility in moving around'*, and also deplored the fact that the Elan Law⁶⁹, passed in 2018, lowers the required quota of accessible housing in new housing developments from 100% to 20%, with other housing simply having to meet a requirement of being adaptable to disability. It laments that *'the objectives set by the 1975 and 2005 laws are still not being met'*. To this effect, it advises in particular that an exhaustive and regularly updated audit should be carried out on all establishments receiving the public (*ensemble des établissements recevant du public* - ERPs), which are subject to accessibility rules, and that qualitative data on their situation should be provided. It goes even further, calling on the government to *'implement monitoring arrangements'* and to *'apply appropriate sanctions for those who fail to comply with these obligations.'*

The Public Defender of Rights also deplores inequalities in access to rights depending on the area where people live and the age at which their disability occurs, and calls for a standardisation of practices. It also calls on public

⁶⁹ France, Law No. 2018-1021 on the development of housing, town planning and digital technology (*Loi n° 2018-1021 portant évolution du logement, de l'aménagement et du numérique*), 23 November 2018, available at: www.legifrance.gouv.fr/jorf/id/JORFTEXT000037639478/.

authorities not to restrict the requirement to provide adequate facilities to the areas of work and employment alone.

Annex 1 – Promising Practices

Thematic area	EQUALITY AND NON-DISCRIMINATION Please provide one example of a promising practice to tackle discrimination against elderly people or LGBTI people such as awareness raising campaigns or ethical codes for healthcare staff held in your country in 2020. Where no such examples are available, please provide an example of an awareness raising campaign held in your country in 2020 relevant to equality and non-discrimination of elderly people or LGBTI people, preferably one conducted by a national equality body.
Title (original language)	« Le test de discrimination, une méthodologie à respecter »
Title (EN)	'The discrimination test, a methodology to be followed'
Organisation (original language)	Défenseur des droits (DDD)
Organisation (EN)	Public Defender of Rights
Government / Civil society	Public Institution (French Ombudsman)
Funding body	Public
Reference (incl. url, where available)	www.defenseurdesdroits.fr/sites/default/files/atoms/files/fiche-testdiscrpreuve-num-08.04.20.pdf
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	July 2020
Type of initiative	Practical guide
Main target group	Victims of discrimination

Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	The Public Defender of Rights has published a practical guide entitled 'Discrimination testing, a methodology to be followed' for people who feel they have been discriminated against and wish to substantiate their suspected discrimination. The purpose of the guide is to provide the key procedural requirements to be met in order for the evidence of a discrimination case to be recognised in court.
Highlight any element of the actions that is transferable (max. 500 chars)	Testing is an accepted method of providing evidence under French law.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	This is a very practical guide with concrete examples and is readily accessible to anyone.
Give reasons why you consider the practice as having concrete measurable impact	The guide can provide useful assistance to victims of discrimination who wish to bring evidence before a court.
Give reasons why you consider the practice as transferable to other settings and/or Member States?	This guide may be useful for other EU States which have the same regulations, especially with regard to ways of providing evidence.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	The DDD has based its recognition of the value of testing as evidence on the regulations and on the requirements expected by courts.

Explain, if applicable, how the practice provides for review and assessment.	-
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Thematic area	RACISM, XENOPHOBIA AND RELATED INTOLERANCE Please provide one example of a promising practice to address racism and xenophobia in the context of the COVID-19 pandemic. Where no such practice exists, please provide one example of a promising practice related to combating racism, xenophobia and related intolerances.
Title (original language)	« Agir contre le racisme et l'antisémitisme » - Vademecum
Title (EN)	'Acting against racism and antisemitism' - Handbook
Organisation (original language)	Ministère de l'Éducation nationale & Délégation interministérielle à la lutte contre le racisme, l'antisémitisme et la haine anti-LGBT (DILCRAH)
Organisation (EN)	Ministry of National Education & Interministerial Delegation for Combating Racism, Antisemitism and Anti-LGBT Hatred (DILCRAH)
Government / Civil society	Government
Funding body	Public
Reference (incl. url, where available)	https://cache.media.eduscol.education.fr/file/MDE/89/2/vademecum_lutte_contre_racisme_antisemitisme_1227892.pdf
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	January 2020
Type of initiative	Vademecum / Handbook
Main target group	Teachers

Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	<p>This 100-page document is designed both to be a knowledge base on the subject and to provide practical information notes based on situations that teachers may encounter in their daily work.</p> <p>The first part is intended to help teachers in the choice of words to be used with pupils or in the handling of concepts, by looking at the definition of terms. The legal framework is also outlined, as well as the teaching resources available.</p> <p>Part 2 focuses on practical aspects by providing fact sheets on examples of situations in schools: how to act? Which procedures to adopt? How to deal generally with the racial hatred in schools?</p> <p>Part 3 focuses on the practical implementation of projects in schools, as well as providing an overview of the school curricula where these issues are addressed. In particular, a list of associations and memorial institutions that can help with such group projects is provided. Finally, it should be noted that a particular focus is given to the overall management of online racial hatred, which has tended to increase in recent years.</p>
Highlight any element of the actions that is transferable (max. 500 chars)	This practical guide could be transferred to other Member States, subject to national particularities linked in particular to the legal framework.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	This tool for teachers has an undeniable practical impact. It can enable teachers to respond usefully to issues of racism in their lessons, but also to prevent racism through suggestions for educational projects.
Give reasons why you consider the practice as having concrete measurable impact	The impact of this guide will depend on how teachers use it in practice. The major challenge when the national education system makes educational tools/resources available to teachers is how to raise teachers' awareness of them.
Give reasons why you consider the practice as transferable to	See above

other settings and/or Member States?	
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	Not mentioned
Explain, if applicable, how the practice provides for review and assessment.	Not mentioned

Thematic area	<p>ROMA EQUALITY AND INCLUSION</p> <p>Please provide one example of promising practice in relation to the legal and policy developments in regard to Roma/Travellers (or any group covered by this term as per the Council of Europe definition) in 2020 that relate to the (1) application of the EU Framework on national Roma integration strategies and (2) the preparations for the new post-2020 initiative on Roma equality, inclusion and participation or in relation to any measures in your country in 2020 to address Roma inclusion and prevent discrimination, hate crime and hate speech with a particular focus on COVID-19.</p>
Title (original language)	Campagne de ROMEUROPE pour les élections municipales de 2020
Title (EN)	ROMEUROPE campaign for the 2020 local elections
Organisation (original language)	Romeurope

Organisation (EN)	Romeurope
Government / Civil society	Civil society
Funding body	
Reference (incl. url, where available)	www.romeurope.org/wp-content/uploads/2019/10/DOSSIER_Les-%C3%A9lus-locaux-face-%C3%A0-la-r%C3%A9sorption-des-squats-et-bidonvilles_FINAL.pdf
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	October 2019 – May 2020
Type of initiative	Awareness campaign
Main target group	Elected municipal officials and candidates for the 2020 municipal elections
Indicate level of implementation: Local/Regional/National	Local
Brief description (max. 1000 chars)	<p>In view of the 2020 municipal elections, Romeurope sent candidates for the municipal election a file containing:</p> <ul style="list-style-type: none"> - Information on experiences of people living in slums and squats in France; - case studies covering what has worked in cities and towns, but also what has not worked; - tools to drive local dynamics; - interviews with actors of change.
Highlight any element of the actions that is transferable (max. 500 chars)	Beyond national regulatory specificities, the file emphasizes the advantages of dynamic inclusion carried out at the local level.

Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	This file was designed in the context of the 2020 municipal elections. The information in the file, which is accessible on the internet, remains current.
Give reasons why you consider the practice as having concrete measurable impact	It remains to be seen to what extent the local elected officials who were aware of this file decided to address this issue.
Give reasons why you consider the practice as transferable to other settings and/or Member States?	See above.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	The file includes accounts from elected officials who have worked on inclusion for people living in slums, as well as accounts of people who have benefited from relocation, including Roma.
Explain, if applicable, how the practice provides for review and assessment.	None provided.

Thematic area	<p>INFORMATION SOCIETY, PRIVACY AND DATA PROTECTION</p> <p>Please, provide one example of a promising practice related to any of the topics addressed in the chapter – i.e. in relation to data protection, and/or artificial intelligence systems - in 2020.</p>
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Title (original language)☐	Guide RGPD du développeur
Title (EN)	GDPR Guide for Developers
Organisation (original language)	(National Data Protection Authority) Commission Nationale de l'Informatique et des Libertés - National commission of data processing and freedoms - CNIL
Organisation (EN)	National Data Protection Authority - National commission on data processing and civil liberties
Government / Civil society	Public body
Funding body	CNIL
Reference (incl. url, where available)	www.cnil.fr/fr/guide-rgpd-du-developpeur
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	28 January 2020
Type of initiative	Ensuring full effectiveness of the GDPR
Main target group	Primarily developers
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	<p>This GDPR guide for developers provides a first approach to the broad principles of GDPR and the different areas of attention to be taken into account in the deployment of applications respecting the privacy of their users.</p> <p>It includes 16 thematic sheets that cover most of developer needs to assist them at each stage of their project, from development preparation to audience measurement:</p> <ol style="list-style-type: none"> 1. Develop in compliance with GDPR

	<ol style="list-style-type: none"> 2. Identify personal data 3. Prepare development 4. Secure development environment 5. Manage source code 6. Make an informed choice of its architecture 7. Secure websites, applications and servers 8. Minimize data collection 9. Manage users 10. Control libraries and SDKs 11. Ensure the quality of code and its documentation 12. Test applications 13. Inform people 14. Prepare for the exercise of human rights 15. Manage data retention time 16. Take legal bases into account in technical implementation 17. Measure website and application traffic
<p>Highlight any element of the actions that is transferable (max. 500 chars)</p>	<p>This type of best practice could be used in the other Member States of the EU.</p>
<p>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</p>	<p>This guide is intended to evolve with contributions from developers.</p>
<p>Give reasons why you consider the practice as having concrete measurable impact</p>	<p>The CNIL is well known by information and communication technology players. CNIL best practices are a reference for them.</p>
<p>Give reasons why you consider the practice as transferable to other settings and/or Member States?</p>	<p>See above</p>

Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	The guide is available in a GitHub version which offers the opportunity for everyone to contribute to it: https://github.com/LINCnil/Guide-RGPD-du-developpeur
Explain, if applicable, how the practice provides for review and assessment.	See above.

Thematic area	RIGHTS OF THE CHILD Please provide one example of a promising practice relating to the topics addressed in this chapter.
Title (original language)	« #Entendons leurs cris »
Title (EN)	'#Hear their cries'
Organisation (original language)	Unicef & le collectif #NousToutes
Organisation (EN)	Unicef and the #NousToutes (All of us) group
Government / Civil society	Civil society
Funding body	Private and public
Reference (incl. url, where available)	www.unicef.fr/article/entendonsleurscris-une-campagne-pour-rappeler-le-119
Indicate the start date of the promising practice and the	8 April – May 2020

finishing date if it has ceased to exist	
Type of initiative	Awareness raising campaign
Main target group	Children
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	<p>Lockdown has increased child abuse within families and, above all, has called into question the traditional channels of vigilance and alert within the school. Therefore, the two NGOs launched an information and awareness campaign aimed at children.</p> <p>This was a campaign using social networks, which directly addressed children and adolescents who were victims or witnesses of violence, reminding them of their rights and encouraging them to report cases to the 119 helpline for children in danger and/or to any other person who could help them.</p>
Highlight any element of the actions that is transferable (max. 500 chars)	This information campaign requires the existence of a helpline or a system for dealing with children's complaints and questions.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The value of this campaign, beyond reminding children of the listening facility they can benefit from, is that it has increased the information children receive about their rights.
Give reasons why you consider the practice as having concrete measurable impact	According to Unicef, whereas at the beginning of lockdown the 119 helpline was rarely used, the number of calls to the child helpline has increased significantly since the launch of the awareness-raising campaign on social networks.
Give reasons why you consider the practice as transferable to other settings and/or Member States?	See above.

Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	Not mentioned
Explain, if applicable, how the practice provides for review and assessment.	The associations have access to the number of 119 calls made.

Thematic area	ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS Please provide one example of a promising practice relating to the topics addressed in this chapter.
Title (original language)	« Alerte Pharmacie »
Title (EN)	'Pharmacy Alert'
Organisation (original language)	Ministère des Solidarités et de la Santé
Organisation (EN)	Health Ministry
Government / Civil society	Government
Funding body	Public
Reference (incl. url, where available)	www.egalite-femmes-hommes.gouv.fr/communiqu-e-de-presse-dispositif-alerte-pharmacie-29-10-2020/
Indicate the start date of the promising practice and the	27 March 2020

finishing date if it has ceased to exist	
Type of initiative	Alert system
Main target group	Female victims of domestic violence
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	<p>As of 27 March 2020, ten days after the start of the first lockdown, the Government set up the 'pharmacy alert' system aimed at enabling victims of domestic violence to report domestic violence to their pharmacist so that they could contact the police. This system is available to all 22,000 pharmacies in mainland France and the overseas territories and is maintained once the lockdown is lifted.</p> <p>Each victim or a victim's immediate circle (family, friends, neighbours, colleagues, etc.) can therefore alert a pharmacist at any time. In order to provide victims with care as quickly as possible, the police and Gendarmerie forces have been instructed by the Ministry of the Interior to take emergency action for calls from pharmacies.</p>
Highlight any element of the actions that is transferable (max. 500 chars)	It is clearly transferable to other countries.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	This system worked well during lockdown. It was therefore maintained after lockdown.
Give reasons why you consider the practice as having concrete measurable impact	Women can go to a pharmacist when they are victims of domestic violence.
Give reasons why you consider the practice as transferable to	See above.

other settings and/or Member States?	
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	Not mentioned
Explain, if applicable, how the practice provides for review and assessment.	Not mentioned

Thematic area	DEVELOPMENTS IN THE IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD) Please provide one promising practice example of projects or programmes implementing the CRPD or furthering the rights of persons with disabilities.
Title (original language)	Plateforme « Mon Parcours Handicap »
Title (EN)	'My Disability Pathway' service
Organisation (original language)	Caisse des Dépôts and Caisse nationale de solidarité for autonomy
Organisation (EN)	National Solidarity Fund for Independence
Government / Civil society	Public
Funding body	State

Reference (incl. url, where available)	www.monparcourshandicap.gouv.fr/
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	6 May 2020
Type of initiative	Information
Main target group	People with disabilities and people close to them
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	<p>My Disability Pathway is a service for information, guidance and services for people with disabilities and their close carers. In the immediate future, it will offer a range of content related to employment and vocational training. It will be extended until 2022 and will eventually propose information and service content on the entire life path of persons with disabilities (informing of disability, parenting, education and studies, health, social and cultural life, housing, transport, age advancement, retirement etc.).</p> <p>The service aims to enable persons with disabilities to learn and carry out procedures online through direct access to:</p> <ul style="list-style-type: none"> - general official, reliable, easily understandable and up-to-date information; - national and local resources, location-based (directories, specialized sites, events etc.); - personalized and secure services. <p>The service guarantees the highest level of accessibility for persons with disabilities (ability to navigate with a speech synthesis or Braille window; customise the site display, navigate using the keyboard only, via a touch screen, by voice or other suitable device, consult articles written according to ease of access and understandability rules).</p>

Highlight any element of the actions that is transferable (max. 500 chars)	It is an information and guidance service: other Member States can use its functions to facilitate access to information for persons with disabilities.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	This service is designed to last.
Give reasons why you consider the practice as having concrete measurable impact	The service can promote access to information for persons with disabilities.
Give reasons why you consider the practice as transferable to other settings and/or Member States?	-
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	<p>The different stages of the development of the service were based on the experience of persons with disabilities who were brought together and consulted regularly during the project.</p> <p>Its implementation is a major step in continuing co-construction. As part of the continuous improvement of the service provided, internet users can suggest corrections, additions or new items at any time using the 'Your opinion counts' button.</p>
Explain, if applicable, how the practice provides for review and assessment.	See above.

Annex 2 – Case Law

Thematic area	EQUALITY AND NON-DISCRIMINATION Please provide one high court decision addressing discrimination against elderly people or against LGBTI people. Where relevant, always highlight any relevance or reference to multiple or intersectional discrimination in the case you report.
	No case law has been identified for this thematic area.

Thematic area	RACISM, XENOPHOBIA AND RELATED INTOLERANCE. Please provide the most relevant high court decision concerning the application of <u>either</u> the Racial Equality Directive <u>or</u> the Framework Decision on racism and xenophobia, addressing racism, xenophobia and other forms of intolerance more generally.
Decision date	17 December 2019
Reference details	Labour Court of Paris (<i>Conseil de Prud'hommes de Paris</i>), n° 17/10051, available at: https://juridique.defenseurdesdroits.fr/doc_num.php?explnum_id=19434 .
Key facts of the case (max. 500 chars)	Following a serious industrial accident on a building site, the Employment Inspectorate carried out a wide-ranging investigation and drew up a report in which it found multiple breaches of the law in respect of 25 Malian workers in an irregular situation employed in particularly undignified and dangerous conditions during the demolition of a building.
Main reasoning/argumentation (max. 500 chars)	The judges first of all recall the extent of this operating 'system', on the basis of all the shortcomings observed by the employment inspectorate, with a view to demonstrating the inappropriateness of the working conditions: lack of safety equipment, lack of employees trained in safety and able to control the equipment on the site, lack of medical attention, and so forth. The industrial tribunal then referred to Decision No. 2019-108 of 19 April 2019 by the Public Defender of Rights, which recalls the many international and national grounds for outlawing discrimination and gives theoretical and comparative definitions of what constitutes

	'systemic discrimination'. The industrial tribunal then referred to a study carried out as part of a doctoral thesis in sociology (Nicolas Jounin) describing and explaining the causes of racial segregation observed during a survey of construction companies. This paper shows that jobs are not allocated on the basis of skills or experience, but on the basis of race. Racial origin determines where a person works in a company
Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	Evidence suggesting the existence of discrimination was identified by the employment inspectorate, brought to light by the Public Defender of Rights who was involved in the proceedings, and finally recognised by the industrial tribunal as 'racial and systemic discrimination'.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	In order to punish this systemic discrimination, the judges awarded each of the workers a sum equivalent to twelve months' salary as damages (€17,760).
Key quotation in original language and translated into English with reference details (max. 500 chars)	<p>« <i>Chaque groupe est ainsi prédestiné à certaines tâches et cela, non en fonction des compétences réelles, mais semble-t-il uniquement en fonction de son origine, origine qui lui attribue une compétence supposée, l'empêchant ainsi de pouvoir occuper un autre positionnement au sein de ce système organisé de domination raciste</i> ».</p> <p>"Each group is therefore predestined to perform certain tasks, and not in terms of actual skills, but seemingly only in terms of their origins, which attribute a supposed skill to them, thus preventing them from being able to take up another position within this organised system of racist domination".</p>

Thematic area	ROMA EQUALITY AND INCLUSION Please provide the most relevant high court decision addressing violations of fundamental rights of Roma and Travellers.
Decision date	16 July 2020

Reference details	Council of State (<i>Conseil d'Etat</i>), n° 437113, available at: www.legifrance.gouv.fr/ceta/id/CETATEXT000042133689/
Key facts of the case (max. 500 chars)	The Essonne Department owns land within the territory of a commune. Following the occupation of this land by caravans, the Department referred the matter to the judge for summary proceedings of the administrative court, on the basis of Article L. 521-3 of the Code of Administrative Justice (a summary proceedings procedure which allows the judge to order any 'useful measure' as a matter of urgency before the administration has taken a decision), in order to obtain the eviction of the occupants and the clearing of their property. The request having been rejected by the judge for summary proceedings of the administrative court, the Department appealed in cassation before the Council of State.
Main reasoning/argumentation (max. 500 chars)	<p>According to a law of 5 July 2020, relating to the reception and housing of Travellers, <i>'the owner of a piece of land on which Travellers are parked may ask the prefect to give them formal notice to leave the premises within a certain period, unless it is possible to proceed with the forced evacuation of their mobile homes'</i>. This formal notice can only be given <i>'in cases where parking is likely to affect public health, safety or public order'</i>.</p> <p>According to the judge for summary proceedings hearing the case in first instance, the existence of this special procedure made it impossible for the Department to refer the matter to it in order to obtain the eviction of the occupants of its land on the basis of Article L. 521-3 of the Code of Administrative Justice.</p> <p>The Council of State considers that in so ruling the administrative court erred in law.</p> <p>According to the Council of State, the provisions of the law of July 2020 do not in fact prevent the Department from asking the summary proceedings judge to remove persons who illegally occupy the public land.</p> <p>Having noted this error of law by the judge for summary proceedings of the administrative court, the Council of State notes that many people equipped with vehicles and mobile homes, without any right to occupancy, have taken possession of its land, and that they occupy it in</p>

	<p>unhealthy conditions. Furthermore, it notes that this occupation compromises the plan for the development of the land by the Department.</p>
<p>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</p>	<p>This ruling authorises an eviction procedure under the law of July 2020 (according to which the owner of illegally occupied land can request its evacuation if the occupation is detrimental to public health, safety or public order, and after formal notice to the occupants).</p>
<p>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</p>	<p>The Council of State therefore ruled in favour of the Department and ordered the eviction of the occupants and the removal of their property under penalty of law.</p> <p>The Council of State takes no account whatsoever of the situation of the occupants. In doing so, the High Administrative Court does not comply with the case law of the European Court of Human Rights, which calls on countries to take into account the situation of individuals and to preserve their right to respect for private and family life, possibly by considering relocation options.</p>
<p>Key quotation in original language and translated into English with reference details (max. 500 chars)</p>	<p>« (...) ces personnes alimentent leurs résidences mobiles en électricité à partir d'une armoire électrique qui a été forcée, au moyen de relais et de câbles posés à même le sol. Ils n'ont accès, dans des conditions adéquates, ni au réseau de distribution d'eau potable, ni au réseau d'assainissement, ni à un dispositif de collecte de déchets. Les seules installations sanitaires qui leur sont accessibles sont situées dans les bâtiments désaffectés implantés sur les terrains concernés, dont la porte a été fracturée. Au surplus, (...) cette occupation compromet, d'une part, le projet de commune de Corbeil-Essonnes d'acquérir certains terrains afin d'y construire un parc de stationnement public, d'autre part, le projet du département d'affecter les bâtiments dont elle demeurera propriétaire à des services publics départementaux (...). Dans ces conditions, la libération des terrains occupés présente un caractère d'utilité et d'urgence au sens des dispositions de l'article L. 521-3 du code de justice administrative ».</p> <p>"(...) these people supply their mobile homes with electricity from an electricity cabinet that has been forced open, using relays and cables laid on the ground. They do not have access,</p>

	<p><i>in adequate conditions, to the drinking water distribution network, the sewerage network or a waste collection system. The only sanitary facilities accessible to them are located in disused buildings on the land in question, whose doors have been broken down. Moreover, (...) this occupation compromises, on the one hand, the plan of the commune of Corbeil-Essonnes to acquire certain plots of land in order to build a public car park, and on the other hand, the plan of the Department to allocate the buildings of which it will remain the owner to Departmental public services (...). Under these conditions, the release of the occupied land is of a useful and urgent nature within the meaning of the provisions of Article L. 521-3 of the Code of Administrative Justice¹.</i></p>
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Thematic area	INFORMATION SOCIETY, PRIVACY AND DATA PROTECTION Please provide the most relevant high court decision related to the topics addressed in the chapter, i.e. in relation to data protection, and/or artificial intelligence systems.
Decision date	19 June 2020
Reference details	Council of State (<i>Conseil d'Etat</i>), No. 440916, available at: www.legifrance.gouv.fr/ceta/id/CETATEXT000042040572
Key facts of the case (max. 500 chars)	<p>The Law of 24 July 2019 on the organization and transformation of the health system created by the Health Data Hub. This new system is responsible for storing and making available to researchers the data necessary to carry out their projects. This tool should enable research to be promoted, particularly through the use of artificial intelligence techniques. However, data processed in this context should not include names of individuals or other directly identifying data; it should be made anonymous through the use of pseudonyms.</p> <p>As part of the COVID-19 health crisis the Minister responsible for health decided by an Order of 21 April 2020 to urgently authorise the Health Data Hub to receive the first series of data.</p> <p>Several organisations, trade unions and associations have asked the summary proceedings judge to suspend this Order. The applicants challenged the implementation of this Order,</p>

	<p>particularly with regard to the methods of hosting the data, their anonymity, their possible transfer to non-EU countries, and the security of the Hub.</p>
<p>Main reasoning/argumentation (max. 500 chars)</p>	<p>With regard to the security of the Hub, the summary proceedings judge noted that it has been approved in accordance with the applicable standards.</p> <p>The data host, Microsoft, hosts the data in Europe - currently in the Netherlands and in the near future in France - in centres that are certified as 'health data hosts', in accordance with the Code of Public Health. The judge observed that Microsoft is subject to the requirements of French regulations on the hosting of health data in accordance with the contract it has signed, and must comply with the General Data Protection Regulation (GDPR) with regard to the transfer of personal data to a non-EU country. In particular, as regards possible transfers of data to the United States for maintenance purposes, these fall within the framework authorised by a 2016 European Commission decision, as permitted by the GDPR.</p> <p>With regard to the anonymisation of data, the summary proceedings judge considered that the arrangements provided for in the Order were appropriate. The judge nevertheless noted that the National Commission for Information Technology and Civil Liberties (CNIL), when consulted on the draft Order, had not had the time to verify that the measures adopted by the Hub were adequate.</p> <p>Finally, the summary proceedings judge noted that the information provided by the Hub on the data collected was incomplete.</p>
<p>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</p>	<p>The choice of Microsoft to host the Health Data Hub data is not called into question by the administrative judge.</p> <p>The choice to make the data anonymous is also validated by the judge. However, the judge considers that s/he does not have the investigative powers to verify the adequate nature of the specific measures taken by the Health Data Platform.</p>
<p>Results (sanctions) and key consequences or</p>	<p>The judge ordered the Hub to communicate all information relating to the anonymisation procedures used to the CNIL within five days so that it could verify them. And to mention</p>

implications of the case (max. 500 chars)	certain information on its website relating to the possible transfer of data outside the European Union and to provide information on the rights of the persons concerned.
Key quotation in original language and translated into English with reference details (max. 500 chars)	<p><i>"le droit au respect de la vie privée n'implique pas que des données, même aussi sensibles que les données de santé, fassent dans tous les cas l'objet d'une anonymisation avant d'être traitées à des fins d'évaluation ou de recherche mais seulement, ainsi que le prévoient les dispositions du règlement général sur la protection des données (...), que des garanties appropriées soient prévues, qui peuvent comprendre la pseudonymisation, lorsque l'anonymisation ne permettrait pas de poursuivre les travaux de recherche nécessaires. Or il résulte de l'instruction que l'anonymisation des données considérées conduirait soit à un appauvrissement, soit à une agrégation des données disponibles, affectant ainsi la pertinence des travaux d'évaluation ou de recherche conduits".</i></p> <p><i>"the right to respect for private life does not imply that data, even data as sensitive as health data, should in all cases be made anonymous before being processed for evaluation or research purposes but only, as provided for in the provisions of the General Data Protection Regulation (...), that appropriate safeguards should be provided, which may include anonymisation, where anonymisation would not allow the necessary research work to be carried out. However, it follows from the investigation that the anonymisation of the data under consideration would lead either to an impoverishment or an aggregation of the available data, thus affecting the relevance of the assessment work or research work carried out".</i></p>

Thematic area	RIGHTS OF THE CHILD Please provide the most relevant high court decision relating to the topics addressed in this chapter.
Decision date	17 June 2020
Reference details	Court of Cassation (<i>Cour de cassation</i>), No. 20-80065, available at: https://juricaf.org/arret/FRANCE-COURDECASSATION-20200617-2080065

<p>Key facts of the case (max. 500 chars)</p>	<p>A minor was charged with wilful violence against an educational worker in a home. The alleged victim was the person in charge of the home who was taking care of the minor part of a placement measure. When taken into custody, the juvenile himself appointed the person in charge of the home - the victim of the acts of which he was accused, as his legal representative.</p> <p>The juvenile's lawyer argued that the police custody of the juvenile was null and void due to the irregularity of the information given to the person or department to which he was entrusted.</p> <p>The Court of Appeal dismissed this argument, considering firstly that the minor himself had appointed his supervisor and, secondly, that the supervisor had been advised in his capacity as an educational worker representing the Departmental children's centre.</p>
<p>Main reasoning/argumentation (max. 500 chars)</p>	<p>The Court of Cassation examined the appeal in cassation lodged by the minor against the order of the Court of Appeal.</p> <p>According to Article 4, II, of Order No. 45-174 of 2 February 1945, when a minor is placed in police custody, the judicial police officer must, as soon as the public prosecutor or the judge responsible for information has been notified of this measure, inform the parents, the guardian, or the person or department to whom the minor is entrusted.</p> <p>With regard to this provision, the Court of Cassation considers that:</p> <p>On the one hand, it is not the responsibility of the minor to designate the person responsible for the home in which he is placed.</p> <p>On the other hand, informing the person designated both as the juvenile's legal representative and as the presumed victim of his or her violence of the fact that the juvenile is in police custody does not guarantee the conduct of a procedure that respects the conflicting interests at stake.</p>

Key issues (concepts, interpretations) clarified by the case (max. 500 chars)	The information given to the legal guardian of a minor in police custody is not a mere formality; it is an essential requirement with regard to the rights of the defence. Failure to comply with this necessarily gives rise to a grievance on the part of the person concerned and justifies the annulment of the police custody and that which follows.
Results (sanctions) and key consequences or implications of the case (max. 500 chars)	The Court of Cassation therefore overturned the order of the Court of Appeal and referred the case back to another Court of Appeal to determine the consequences of its decision.
Key quotation in original language and translated into English with reference details (max. 500 chars)	<p><i>"L'irrégularité de cette information [donnée à la personne à la fois représentante légale et victime présumée] fait nécessairement grief au mineur dès lors que la formalité prévue a pour finalité de permettre à la personne désignée d'assister le mineur dans ses choix de personne gardée à vue dans le seul intérêt de sa défense."</i></p> <p><i>"The irregularity of this information [given to the person who is both the legal representative and the alleged victim] necessarily gives rise to a grievance on the part of the juvenile if the purpose of the formality is to enable the designated person to assist the juvenile in his or her choice of person in police custody in the sole interest of his or her defence".</i></p>

Thematic area	ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS Please provide the most relevant high court decision relating to the topics addressed in this chapter.
Decision date	13 February 2020
Reference details	Court of Cassation, n° 19-22192, available at: www.legifrance.gouv.fr/juri/id/JURITEXT000041620400?tab_selection=juri&searchField=ALL&query=19-22192&searchType=ALL&typePagnation=DEFAULT&sortValue=DATE_DESC&pageSize=10&page=1&tab_selection=juri#juri
Key facts of the case (max. 500 chars)	In January 2019, a family court judge (JAF) issued a woman with a protection order under which he had banned her former spouse from contacting her and from carrying a weapon, maintained the joint exercise of parental authority over their two children whose habitual

	<p>residence he had, however, provisionally fixed at the mother's home, and authorised the mother to conceal the address from the father, to whom he had granted visiting rights on the condition that they be exercised in an mediated environment. Following an appeal filed by her former spouse, the Court of Appeal lifted all of these protective measures. The victim appealed in cassation, accusing the appeal judges of having reversed the burden of proof by justifying the lifting of the protective measures initially ordered by the lack of evidence provided by the beneficiary of the existence of a current danger to her or her children.</p>
<p>Main reasoning/argumentation (max. 500 chars)</p>	<p>The Civil Code (Article 515-9) provides that when domestic violence endangers the victim, or one or more children, the family court judge may issue an urgent protection order to the victim.</p> <p>The Court of Cassation points out, however, that it is not sufficient for physical violence to be likely, as the trial judges point out, for the protection order to be issued. According to the Civil Code (Article 515-11), the family court judge must assess whether there are serious reasons for considering the alleged acts of violence to be likely and whether the victim and/or her children are exposed to a current danger.</p>
<p>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</p>	<p>Two cumulative conditions must therefore be verified in order to obtain a protection order: not only proven acts of violence, but also a future danger.</p>
<p>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</p>	<p>Insofar as, for the appeal judges on the merits of the case, the violence suffered by this family remained isolated and not repeated, the claimant did not provide proof of a current danger to herself or her children, and her appeal in cassation was therefore rejected.</p>
<p>Key quotation in original language and translated into English with reference details (max. 500 chars)</p>	<p>« <i>Selon l'article 515-11 du code civil (...) l'ordonnance de protection est délivrée, dans les meilleurs délais, par le juge aux affaires familiales, s'il estime, au vu des éléments produits devant lui et contradictoirement débattus, qu'il existe des raisons sérieuses de considérer comme vraisemblables la commission des faits de violence allégués et le danger auquel la victime ou un ou plusieurs enfants sont exposés</i> ».</p>

	<p><i>'According to Article 515-11 of the Civil Code (...) a protection order is issued, as soon as possible, by the family court if it considers, in light of the evidence produced before it and discussed by both parties, that there are serious reasons to consider that the alleged acts of violence and the danger to which the victim or one or more children are exposed are likely to occur.'</i></p>
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<p>Thematic area</p>	<p>Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD) Please provide the most relevant high court decision making reference to the CRPD or employing the CRPD in their reasoning.</p>
	<p>No case law has been identified for this thematic area.</p>