



FUNDAMENTAL RIGHTS  
AND THE RULE OF LAW

# **Report on the visit to France** **Authorities' observations on the report**

27-28 November 2024



European Economic  
and Social Committee

**Report on the visit to France**  
**27-28 November 2024**



# Fundamental Rights and the Rule of Law

## Report on the visit to France 27-28 November 2024

*As part of the EESC's efforts to promote fundamental rights and the rule of law, a delegation from the EESC's Fundamental Rights and Rule of Law Group visited France on 27 and 28 November 2024. The delegation met with several representatives of civil society, more specifically civil society organisations (CSOs), the social partners, the media and the legal professions. A separate meeting was held with the French authorities, during which the French authorities had the opportunity to react to some of the points presented to them. The aim of this report is to faithfully reflect the views of civil society. The last visit of the EESC's Fundamental Rights and Rule of Law Group to France had been on 28 and 29 May 2019.*

### 1. **Fundamental rights of the social partners**

According to the participants, **social dialogue** in France is experiencing fragility in a tense social climate. Several participants highlighted the fact that the procedure requiring the government to let the social partners negotiate before any reform of labour law (consultation) was respected overall, but that the results of negotiations were not adequately reflected in the law. Participants regretted the fact that the 'framework letters' (lettres de cadrages) outlining the scope of the negotiations were too rigid, particularly with regard to unemployment insurance, and that the deadlines set for negotiations were too short. Participants considered that the increase in parallel consultation mechanisms sometimes weakened the voice of the social partners in favour of models based on the conclusions of experts. Others strongly regretted the lack of genuine national dialogue on major reforms, such as pension reforms. Participants also regretted that representative trade unions had never been invited to the highest level of state, despite topics of major importance being discussed and despite huge demonstrations, and that the reform had been adopted at the French National Assembly following unsuccessful debates on the substance under Article 49(3) of the Constitution.

Despite the fact that the social partners present had reiterated their strong commitment to social dialogue, opinions differed when it came to the extent to which it should be developed as a priority. According to trade unions, **national and sectoral negotiations** are key to effectively framing discussions. According to employers, companies are the most appropriate forums. For their part, small businesses stated that they would prefer a combination of negotiations at company level and negotiations at sectoral level to maintain proximity, while providing a common framework, avoiding unbalanced competition that favours large businesses to the detriment of small ones.

Participants agreed on the fact that the **2017 labour ordinances** (*ordonnances travail*) had significantly changed employment relations, but had different perceptions of their impact. Trade unions criticised the merging of staff representative bodies (DP/staff delegates, CE/works council, and CHSCT/health, safety and working conditions committee) into a single Social and Economic Committee (CSE). In their view, this reform has not simplified processes as such, but rather it has reduced the human resources available to staff representatives. They also considered that the working time allocated to representatives was not enough to cover the wider range of topics. Trade unions also claimed that their role had been weakened due to the possibility for company boards to negotiate in fields which were normally the sole remit of trade unions. The possibility for employers of companies with fewer than 11 employees to submit to referendum agreements drafted without trade union representatives was also criticised. Employers deemed that the ordinances made it easier to adapt the rules of labour law to local needs and that they reinforced social dialogue at company level.

Participants discussed the transposition of the **European Minimum Wage Directive**. Employers considered that this task would be easy, given that the French legal minimum salary (SMIC) already meets most of the directive's objectives. Trade unions, on the other hand, expressed their disappointment at the lack of consultation of the social partners in the legislative processes transposing EU directives. They also noted that a part of the salary grids for some sectors was too low, to the point where it had to be caught up with by SMIC trends, reducing annual trading margins to a simple adjustment.

According to participants, **union representation** in France continues to face major challenges. Despite the 2008 reform aimed at increasing union density, it remains around 10% – one of the lowest rates in Europe. Some participants explained that, since trade union agreements benefit all employees, whether they are trade union members or not, the incentive to join a union remained low. Participants also noted that union freedoms, although protected by law, had been undermined by recent political and societal developments.

Participants also condemned **union discrimination**. According to a 2019 study, between one third and half of union members feared reprisals, deterring their involvement. They added that trade unions were facing increasing pressure on their financial resources and affordable or highly subsidised accommodation, with associations citing budgetary constraints as a reason for reducing their support. They also recommended putting an end to the reduction of resources for labour inspection.

Participants expressed concerns about increasing attacks on the **right to freedom of protest**. The so-called 'anti-rioters' law had been criticised for its measures which were deemed too restrictive, for example the banning of participation in a protest with a masked face. The French authorities specified that the basis for such a ban was safety concerns and preventing breaches of public order. Participants also noted that the administrative procedures for announcing a demonstration had become more restrictive. With regard to preserving order, participants condemned what they saw as the excessive use of force by law enforcement forces, particularly the use of non-lethal but dangerous weapons during trade union and yellow vests protests. They also reported more than a thousand judicial, administrative or disciplinary proceedings allegedly brought against trade union representatives for peaceful action such as power cuts during the demonstrations against the pension reform in 2023.

According to the union representatives that were present, the **right to strike**, although enshrined in the Constitution, is increasingly under threat. They pointed out that a proposal for a Senate bill had suggested suspending this right in public transport for 60 days per year (the French authorities also mentioned that the government had strongly opposed this proposal for a bill, which had never been examined by the French National Assembly). The trade union representatives present also noted the fact that strikes were often conditional on collective bargaining having failed.

## 2. **Freedom of association and freedom of assembly**

Participants felt a gap was forming between the authorities and civil society, creating threats to **freedom of association and civic space**. Despite the fact that these freedoms are protected by law, participants said they felt they were being restricted, particularly when it came to environmental demonstrations and demonstrations in favour of migrants or on social issues. Some noted that migrant rights' defenders are subject to regular intimidation, including being arrested for unclear legal reasons. During the meeting with the French authorities, the authorities stated that the law was not to punish solidarity with migrants but just the facilitation of irregular entry. They also recalled that the Constitutional Council had recognised in 2018 the constitutional value of the principle of fraternity, excluding humanitarian aid from the scope of criminal prosecution for facilitation of irregular residence.

Participants also highlighted the perceived growing stigmatisation of **environmental defenders**. They considered that some politicians and social groups, especially in the agricultural sector, were calling into question their right to defend the public interest, even labelling them 'eco-terrorists'. One organisation reported more than 50 acts of physical or verbal aggression against environmental activists since 2019, including insults, death threats and acts of vandalism such as having the tires of their vehicles slashed. Participants recommended looking into such acts more thoroughly and punishing them. They also described responses that they deemed to be disproportionate to peaceful acts of civil disobedience such as long-term detention in custody, DNA sampling and food restrictions for protesters sitting in trees. They recommended putting an end to the practices of the special *gendarmerie* unit Déméter, responsible for monitoring the 'ideological actions' of environmental activists.

According to the participants, the 2021 Law strengthening respect for the principles of the Republic, known as the '**Separatism Law**', and the 'republican commitment contract' that it sets out, have created a climate of suspicion around civil society organisations (CSOs). According to participants, this contract, which is required in order to obtain subsidies or authorisations, is based on unclear criteria and makes it easier to abolish subsidies and dissolve associations, thus favouring self-censorship of associations. The example given was that of a prefect who had requested the withdrawal of funding granted to an association for organising a workshop on civil disobedience. The French authorities pointed out that the withdrawal was not carried out in the end, as the prefect's request had been rejected by locally elected representatives followed by the courts. Participants felt that the principle of proportionality had been lacking since an organisation could lose all public funding as soon as a single point was not respected. The French authorities defended the republican commitment contract, stating that it provides a valuable clarification compared to the patchy frameworks previously used. They specified that only 14 dissolutions had taken place before the entry into force of the law, which is not many considering that there are 1.3 million associations in France.

According to the participants, **freedoms of assembly** have been increasingly restricted in recent years. They criticised what they described as a vague definition of the offence of participating in a group with a view to committing vandalism, and the offence of unlawful assembly. Some mentioned the bans on demonstrations concerning Palestine, which, they believed, were made without proof of public disorder, as well as successive orders temporarily banning pension demonstrations, complicating emergency legal appeals. They also claimed that legislative texts which they considered had been interpreted in too restrictive a way, for example the 2017 law on internal security, had been applied in order to prohibit noise during some protests.

Participants welcomed the fact that the new version of the **National Scheme for Maintaining Order (SNMO)** provided an exception to the offence of gathering for journalists. Nevertheless, they regretted the fact that abuse persists, particularly through the ‘kettling’ technique, which in their view is often used without complying with the rules such as the obligation to provide exit points. One participant criticised the fact that it is still possible to use non-lethal weapons such as defence ball launchers (LBD-40) and stun grenades (GM2L), which have caused serious injuries in the past. Participants recommended putting in place stronger police surveillance and investigation mechanisms in the event of incidents. The French authorities confirmed that the revised SNMO ensured a balance between safeguarding liberties and maintaining order, and recalled that every case of excessive use of violence was subject to an in-depth investigation by the General Inspectorate of the national police.

As regards **surveillance**, participants expressed their concerns about the May 2023 Olympics law which authorised the trialling of algorithmic video surveillance assisted by artificial intelligence. Although this did not yet include the use of facial recognition, they feared that such technology would pave the way for more intrusive practices. The French authorities announced that a parliament report would evaluate this trial by 2025. One participant claimed that France carried out approximately 47 million identity checks per year. However, the lack of individual receipts to prove that such checks had been carried out made it impossible to challenge them in cases of perceived discrimination. Participants recommended the systematic and visible wearing of police registration numbers (RIO) and the use of body cameras, which they deemed were currently not used enough.

Participants also discussed the challenges related to **CSO funding**. They observed that the French associative model heavily depended on public funds. The gradual cuts in these funds, combined with a top-down logic where the state dictates priorities, reduces the autonomy of associations, particularly small structures, which tend to be marginalised. Participants also noted difficulties in benefiting from tax advantages because of processes that they considered extremely slow and protracted, sometimes lasting several years and creating considerable uncertainty, and increased competition with the private sector. The French authorities explained that direct and indirect funding of associations accounted for approximately 3.1% of the State budget in 2022, i.e. EUR 2.9 billion – more than 2.5% recommended by the Economic, Social and Environmental Council (CESE).

Participants criticised the **administrative burden** on CSOs, made worse by disproportionate requirements such as carrying out regular audits. They gave the example of statutory amendments that had taken two years to be validated, paralysing the activities of an association recognised as being of public benefit. In their view, these obstacles hamper the effectiveness and sustainability of associations.

Lastly, the participants considered that the level of **consultation of CSOs** and civil dialogue by the authorities varied too much from one ministry to another. They recommended better training for public officials and setting up better structured and uniform dialogue frameworks that can include both large networks of associations and small structures.

### 3. Freedom of expression and media freedom

Participants believed that several **problems identified in 2019**, such as violence against journalists, persisted, while others, such as media concentration and interference in editorial independence have increased. Although France has progressed in the Reporters Without Borders World Press Freedom Index compared to other countries, participants highlighted the fact that its absolute score actually reflected a worrying stagnation.

According to participants, **media concentration** has accelerated, with a small number of actors now controlling a significant proportion of multimedia groups. According to the participants, two of these groups aim to change their media into reactionary propaganda tools. To counter this phenomenon, participants recommended increased action by the Audiovisual and Digital Communication Regulatory Authority (Arcom), specifically by making broadcasting licences more strictly conditional on respect for the ethics of journalism. They also suggested revising the French law on media concentration, which was considered obsolete.

The issue of **internal pluralism in the media** was also raised. One participant recommended introducing an approval clause, allowing editorial offices to oppose editorial changes imposed by the owner or by external stakeholders. Another recommendation was to generalise ethical charters established by contract between press companies and journalist associations (associations of journalists formed within an editorial office).

Participants also discussed the **socioeconomic conditions of journalists**. They claimed that the sector's digital transition, while intensifying competition with social media, was sometimes used to leverage pressure, undermining workers' rights and creating precarious work. This situation could exacerbate the poor well-being of journalists, a profession for which financial and personal security is no longer guaranteed. It was observed that difficult working conditions and lack of stable contracts were creating increasing problems in regional media.

As regards **public service media**, participants expressed their concerns following the abolition in 2022 of the TV licence fee, which, in their view, had weakened public media resources, despite the planned budgetary compensation. They stressed that getting rid of dedicated funding could go against the recommendations of the European Media Freedom Act (EMFA) (applicable with regard to the majority of its dispositions as of August 2025, as pointed out by the French authorities). Another area of concern was the plan to regroup French public radio and television stations into a single holding company, the single aim of which the participants saw as staff cuts.

Participants also expressed their fears about growing **information control** in France. They spoke about recent practices such as the rewriting of interviews, bypassing journalists in favour of direct communication on social media, and increasing barriers to accessing public places or documents. Although the confidentiality of sources is protected under law, participants highlighted the fact that there

were legal blind spots, giving the example of a journalist who was taken into custody and searched by the authorities for her investigations into French military cooperation, with the aim of obtaining her sources. A participant recommended strengthening the 2010 law on the protection of journalist sources.

According to participants, there is growing distrust **between journalists and public authorities**. It could be fuelled by the downplaying of verbal attacks, including at the highest level of the State, and amplified by digital platforms. This rhetoric is accompanied by tougher laws, such as the 2017 law, which strengthens internal security, or the 2021 law on global security. On a more positive note, participants and authorities underlined the importance of the States General of Information, a consultation organised in 2023 and 2024, which produced 15 key recommendations to strengthen media freedom and pluralism.

Participants also reported an increase in **prosecutions**, administrative searches and house arrests targeting journalists and citizens exercising their freedom of expression. One of them criticised the gradual transfer of provisions from the 1881 law on freedom of the press, such as provisions on the glorification of terrorism, to the Criminal Code, considering that this facilitated the prosecution of journalists. Participants also highlighted the need to anticipate transposition of the EU Anti-SLAPP Directive and to broaden its scope. The French authorities reiterated their proactive support for this directive during European negotiations.

Participants highlighted that, according to data from the Council of Europe, **violence against journalists** remained a serious problem. They noted that few complaints about police violence resulted in sanctions. However, they welcomed the progress made in the cooperation between authorities and journalists, including the setting-up of a contact group on policing.

Lastly, participants discussed the major impact of **digital platforms** on the right to reliable information. They recommended strengthening the regulation of such platforms to ensure the transparency of algorithms and imposing obligations similar to those for press editors. Participants also made recommendations on media literacy, raising awareness of the risks of generative artificial intelligence, and fair advertising regulation allowing the press to be fairly remunerated for their texts being republished or for them being used by platforms or for training in artificial intelligence.

One participant also welcomed the significant progress made in the protection of **whistleblowers** since the Sapin II law of 9 December 2016, the Wasserman law of 21 March 2022 and the 2019 European directive. Despite progress, participants recommended more structured financial and psychological support, increasing the resources of the authorities responsible for protecting whistleblowers and measures to ensure financial compensation.

#### 4. **The right to non-discrimination**

Although significant progress had been made when it came to **tolerance** in France over the last two decades, participants found that a worrying decline had emerged since 2022, with particular regard to racism. Progress in collecting statistics was deemed significant, but it was considered that the main obstacle to fighting discrimination was still that it was not a high enough political priority. Although CSOs are included in the working group of the National Action Plan to combat discrimination, they observed a gap between the commitments made and the measures taken. Participants recommended

investing more in awareness-raising from a young age and encouraging digital platforms to take more effective action to combat hate speech. Participants condemned the aggressive rhetoric used by some politicians, which creates risks of CSOs working with certain groups that are discriminated against being stigmatised. They also recommended more stable funding for the work of CSOs and more training for institutions. For their part, the French authorities pointed out the tools available such as discrimination contact people in each public prosecutor's office, regular training for police officers and the national Pharos platform for reporting hateful content online.

The 2010 EU Directive on **equal treatment between persons irrespective of their racial or ethnic origin**, was praised for the role it had played in creating bodies such as the Defender of Rights. However, it was seen as regrettable that the transposition of the directive, in law and in practice, was still incomplete. It was recommended that statistical tools be improved to better highlight indirect discrimination (seemingly neutral practices entailing disadvantages for certain groups), by using indicators such as access to housing and jobs. Participants pointed out that the feeling of discrimination was particularly high among second generation immigrants, particularly women wearing hijabs. It was found that acts of racism, whether hate speech, harassment or damage to property, were on the rise and, in particular, anti-Semitic and anti-Muslim ones since 2023. Participants recommended strengthening criminal sanctions and providing better training for judges and police officers in these fields.

Participants also highlighted the legal instability surrounding **asylum and immigration** policies, which had seen dozens of reforms over the last 30 years. They expressed concerns that future bills might try to reintroduce measures previously censured by the Constitutional Council. They also noted a lack of consultation and open dialogue with civil society on the European Pact on Migration. Participants considered that conditions for the reception of migrants were still far too inadequate, particularly when it came to residence, housing and employment. Associations working with migrants reported growing pressure and general public misunderstanding of the difference between asylum and other forms of migration. Participants criticised practices that were deemed abusive of those providing humanitarian aid at borders. The situation of unaccompanied foreign minors was described as critical. In addition, participants recommended putting an end to the derogatory regime in Mayotte, where residence permits limit free movement, minors can be placed in administrative detention and appeals against orders to leave French territory (OQTF) do not have suspensive effect.

Participants pointed out that **disability** remains top of the list for grounds for discrimination in France, especially in the field of employment. Although legal instruments exist, they are not well-known and are not widely used. Participants recommended introducing targeted measures to reduce inequalities in the hiring process, including to address specific situations, such as those of people with chronic illnesses. Participants also regretted the fact that France has failed to fully uphold its commitments undertaken through the ratification of the Convention on the Rights of Persons with Disabilities (CRPD), as illustrated by the lack of legal recognition of the denial of reasonable accommodation as grounds for discrimination, including outside the field of employment. Participants recommended strategies to address multiple and intersectional discrimination, recalling that France had been condemned in 2023 by the European Committee of Social Rights for its shortcomings in this area.

Participants regretted the fact that, despite tools such as the index of professional equality, the **gender** pay gap remains. These inequalities concern not just the jobs held, but also entire sectors, with care professions being paid less than technical professions, despite the fact that the skills involved are

comparable. Combating violence against women was identified as a priority; to this end participants recommended better implementation of the Istanbul Convention. They had found that administrative abuse, such as the confiscation of identity documents by a spouse and revictimisation during the filing of complaints, remained frequent. Moreover, they regretted that the notion of consent had not been included in the definition of rape at European level. Participants highlighted the specific vulnerability of women in asylum procedures and recommended reviewing conventions that recognise discriminatory personal statuses. One participant also proposed carrying out an equality impact assessment before each new piece of legislation is adopted.

Participants acknowledged that significant progress in **LGBTIQ+ persons'** rights had been made in recent years, while noting that challenges remained. They recommended establishing a monitoring committee and allocating sufficient resources to implementing the National Plan for Equality, Against Hate and Anti-LGBT+ Discrimination (2023-2026). The rights of trans people were identified as a point of political tension, as illustrated by the transphobic pressure placed on the High Authority for Health and proposed laws aimed at limiting access to healthcare for transgender children. Some political statements betrayed lack of awareness of demands, particularly those concerning the removing from the judicial sphere the change of sex in the civil record. Participants also recommended ensuring the implementation of national 'programmes of emotional and sexual education', despite virulent opposition from certain groups, and tackling bullying in schools better. In conclusion, they pointed out the obstacles faced by LGBTIQ persons wishing to file complaints and obtain justice, which are aggravated by prejudices, lack of training of police officers in the subject of discrimination and shortcomings in the application of the national plan.

## 5. The rule of law

According to participants, **the rule of law in France** had been seriously undermined since the 2015 terrorist attacks. They considered that the state of emergency declared for two years, until 1 November 2017, had thrown institutions off balance, transferring powers from the ordinary judge to the prefect and the administrative judge and strengthening executive powers to the detriment of the parliament. Participants also felt that certain political speeches tended to call the rule of law into question, giving as an example the recent statement by the Minister for the Interior who said that 'the rule of law is neither inviolable nor sacred'. Participants viewed this as a dangerous conceptual shift, overturning the protective logic of the right to safety (protection against arbitrariness) in favour of a right to security justifying restrictions to fundamental freedoms. Participants also criticised the government's attempts to pass the Immigration Control Act of 26 January 2024, despite evidence that part of the text was unconstitutional and was going to be censored by the Constitutional Council.

Participants expressed concerns about the intensification of **security measures** such as the 2017 Law Strengthening Internal Security and the Fight Against Terrorism, which had incorporated administrative control and surveillance measures ('MICAS') into common law. They criticised the increase in administrative measures without judicial control. Some also criticised an erosion of procedural guarantees for foreigners and the fact that certain categories of persons (such as parents of French citizens) were no longer protected from the risk of expulsion. With regard to the reform of the right to asylum, participants condemned the replacement of collegiate judgments by single judges and the widespread use of videoconferencing in administrative detention centres, which they believe to be prejudicial to the right of defence.

Participants considered that the independence of the prosecution service remained a central issue, and recalled that the European Court of Human Rights (ECHR) had refused to consider that the prosecution satisfies the guarantees inherent in the ‘autonomous concept of the judge’ pursuant to Article 5 of the European Convention on Human Rights (Right to Liberty and Security). Despite the fact that since 2013, the prosecutor’s office no longer receives individual instructions, participants highlighted that it is still the recipient of general instructions, which they believe is evident in the management of protests. The French authorities also stated that these general instructions were aimed at enabling a consistent application of prosecution policy and ensuring the equality of all citizens before the law. Participants also regretted the tendency to entrust more investigative powers to the prosecution, undermining the investigative judge and thereby the rights of the defence. Even though the Law for confidence in the investigative judge aimed to reinforce procedural guarantees, participants deemed that it had overall failed in its objective of shortening the duration of preliminary investigations.

The chronic lack of **resources allocated to justice** was also highlighted. According to participants, three decades of under-investment had led to a system where France ranks as one of the lowest out of the countries according to the Council of Europe in terms of judges per capita. They outlined the consequences of this situation such as the growing use of single judges, undermining collegiate courts, or even excessive delays for certain disputes, which can last up to five years, or the slow implementation of ECHR judgments and the deterioration of the working conditions of judges and lawyers. The participants welcomed the planned recruitment of 1 500 magistrates and 1 800 clerks, but also recommended additional efforts to meet the urgent needs of the judicial system. The French authorities pointed out that this planned recruitment constituted an effort comparable to that of the last 20 years, and prioritised the needs identified through field studies.

Participants believed that the lack of structural resources in the justice system compromises the **fight against corruption**. They criticised the limited resources of the National Financial Prosecutor’s Office (PNF), which has only 20 judges for handling more than 700 cases, assisted by 18 clerks, nine specialist assistants, two legal practitioners and one law clerk, making it difficult to deal with complex financial corruption cases. They also sounded a warning regarding the reorganisation of the judicial police, and its impact on investigation resources for financial offences. Participants recommended significantly increasing the resources allocated to financial justice and reforming the approval mechanism allowing anti-corruption associations to be party to legal proceedings. One of these associations had to seek recourse multiple times in order to re-obtain its approval, a process that was deemed pointless and disruptive.

Participants widely criticised chronic **prison overcrowding**; the French authorities confirmed that the national occupancy rate was 128% in 2024, sometimes reaching 200% in certain prisons. They recalled that the principle of individual cells, laid down by the law since 1875, was still not applied. The lack of prison staff, with an average of one guard for more than 100 prisoners, was deemed problematic, as was the lack of sufficient monitoring of prisoners to prevent repeat offences. Participants recalled that the ECHR had delivered a judgment against France for inhumane and degrading prison conditions, ordering the country to take corrective measures. The French authorities explained that, following this sentence, they had adopted on 8 April 2021 a law guaranteeing the right to respect for dignity in detention, a plan intended to favour alternative sentences such as probation, community service and sentence reduction mechanisms. This plan also provides for more support for prisoners before they are released. However,

participants believed that these measures were still insufficient and recommended establishing a binding mechanism for prison control and improving the remedies for contesting undignified prison conditions.

**Authorities' observations  
on the report on the visit to France  
27-28 November 2024**

## MEMO FROM THE FRENCH AUTHORITIES

**Subject:** Revised comments from the French authorities on the report following the visit to France of the Group on Fundamental Rights and the Rule of Law (FRRL Group) of the European Economic and Social Committee (EESC) on 27 and 28 November 2024 – Memo from the French authorities.

Following the visit to France of the EESC FRRL Group on 27 and 28 November 2024, in response to the invitation to comment on the report on the visit, the French authorities would like to make the following comments:

**As a preliminary remark, the French authorities note that the report constitutes a compilation of comments put together by the Group on Fundamental Rights and the Rule of Law after consulting certain civil society organisations, social partners or lawyers. They understand that it does not claim to be either representative or objective. In that regard, they appreciate being given the opportunity to draw up a more precise picture of the situation, correcting the incorrect assertions and purely subjective assessments contained in some places in the report. They therefore make the following comments.**

### 1. Fundamental rights of the social partners

**Firstly, the French delegation wonder about the structure of the report: freedom of assembly is addressed under this point whereas the actual subject of the point is social dialogue. It would be preferable to group together all statements relating to freedom of assembly/freedom to protest under point 2.**

#### *The ‘masked face offence’:*

The French authorities state that there is no such offence. However, it is forbidden, for reasons of security and preventing breaches of public order, to participate in or be in the immediate vicinity of a protest with a masked face. The so-called ‘anti-rioters’ law follows various episodes of repeated spill-overs of violence against people and property, committed by people completely outside the demonstration in question and who it was impossible to identify because they were wearing masks.

#### *Regarding ‘the possibility of initiating proceedings on grounds of simply participating in a demonstration’:*

They point out that only the fact of participating in a prohibited demonstration constitutes a 4th class offence (Article R. 644-4 of the Criminal Code) and that only the fact of continuing to participate in a gathering following requests to disperse (Article 431-4 of the Criminal Code) or of participating in an attack while armed and concealing one’s face (Article 431-5 of the Criminal Code) constitute offences.

## 2. Freedom of association and freedom of assembly

### Freedom of protest

#### *Regarding the National Scheme for Maintaining Order (SNMO) and criticisms related to the use of intermediate weapons during demonstrations:*

The French authorities point out that the National Scheme for Maintaining Order (SNMO) was revised in 2021 and created the liaison and information teams (ELI), which are designed to strengthen communication between the security forces and the organisers throughout events, and that the SNMO was validated by the Council of State (CE), with the exception of the point prohibiting independent observers from carrying out their duties when a gathering is being dispersed (CE, 29 December 2023, No 461513). The content of the SNMO is not fixed but by definition evolving. The relevant departments of the Ministry of the Interior meet regularly to reflect on how to enhance this content in the light of developments in law enforcement practice. The scheme affirms the need for security forces to use intermediate weapons and regulates their use. For example, the most harmful grenades (in particular stun grenades) are replaced with less powerful grenades, and conditions of use are specified for defence ball launchers (LBD) – firing them only under the supervision and on the instructions of a supervisor.

During the protests against the pension reform (January-June 2023), the police were mobilised for 25 action days. Every use of an LBD resulting in serious injury is referred to the General Inspectorate of the National Police by the judicial authority.

#### *With regard to the definition of offences:*

The French authorities point out that, contrary to the assertions made in the EESC report, the offence of participating in a group with a view to preparing intentional violence or damage to property is well defined in [Article 222-14-2](#) of the Criminal Code<sup>1</sup>. Moreover, the [circular of 16 March 2010](#) setting out the provisions of Law No 2010-201 of 2 March 2010 states that, for this to be considered an offence, a number of specific elements must be present, in particular **dolus specialis** (specific intent): the person being charged must have participated knowingly in a group with a view to planning violence or damage. However, as the Constitutional Council has pointed out, this offence does not establish any criminal liability for offences allegedly committed by third parties (Constitutional Council, Decision No 2010-604 DC of 25 February 2010).

### Freedom of association and freedom of assembly

#### *Regarding the criticisms linked to the ‘republican commitment contract’ (CER)*

The seven commitments that make up the republican commitment contract (CER) are reminders of principles which already have legislative or even constitutional force – for example, freedom, equality, fraternity or dignity. The CER’s contribution is to create a common reference framework for all administrative authorities to enable them to assess failure to comply with these principles, in conjunction with other constitutionally recognised freedoms, such as freedom of expression or freedom of assembly.

---

<sup>1</sup>

This involves the deliberate participation of a person in a grouping, even if it is formed on a temporary basis, for the preparation, characterised by one or more material acts, of intentional violence against persons or destruction or damage of property. It carries a punishment of one year’s imprisonment and a fine of EUR 15 000.

The republican commitment contract did not change the applicable ordinary law on the requirement for associations and foundations to respect the principles of the Republic. Both the Constitutional Council<sup>2</sup> and the Council of State<sup>3</sup> have confirmed that that mechanism does not interfere with freedom of association, taking the view: firstly, that the requirement to subscribe to a CER when an association applies for a public grant is not intended to frame the conditions under which it is formed and carries on its activities; and secondly, that the withdrawal procedure is accompanied by sufficient safeguards. By a decision of 30 June 2023, the Council of State, hearing an application against the decree implementing the law establishing the CER, considered it to be compatible with freedom of association as guaranteed by the European Convention for the Protection of Human Rights (ECHR), the Charter of Fundamental Rights of the European Union and the International Covenant on Civil and Political Rights, taking the view that the requirements laid down constitute a necessary measure in a democratic society that is proportionate to the aim pursued.

The French authorities strongly refute the allegations of abolishing subsidies ‘at random’ made in the report. In that regard, as regards the fact that an organisation could ‘lose all public funding as soon as a single point had failed to be respected’ referred to by some associations, the French authorities point out that, in the case in point, the withdrawal of funding never took place and would have concerned only the financing of the civil disobedience workshop (and not the entire financing of the association).

#### ***Regarding the criticisms related to the cases of dissolution of associations***

With regard to the measures adopted in the period 2016-2023, they were mainly adopted in the context of the arrangements put in place by the public authorities to combat the spread of radical Islamist ideology and the resurgence of far-right groups, which were the main threats they faced during that period. The number of cases of dissolution remains particularly low, with only around thirty counted between 2017 and 2023<sup>4</sup>. Moreover, the procedure takes a long time to be implemented and is assessed after two years<sup>5</sup>.

#### ***Regarding monitoring the actions of environmental activists***

The French authorities would like to point out that combating environmental damage is one of the priorities of the French government, enshrined in particular in the laws of 24 December 2020 and 22 August 2021. The revamped mechanism resulting from these laws has made it possible to increase the specialisation of the courts and to strengthen the enforcement arsenal available to them, in order to make environmental criminal proceedings more effective, with the protection of the environment, the common heritage of human beings, an objective with constitutional value. As a result of these laws, the government has continued to engage fully in line with the legislative process of protecting the environment through criminal law and its recent work has resulted in the dissemination of a number of structural texts, in particular the Decree of 13 September 2023 setting up the operational committees for combating environmental crime (COLDEN), which is tasked in particular with coordinating judicial and

---

<sup>2</sup> Decision No 2021/823 of 13 August 2021.

<sup>3</sup> Judgment No 2021-823 DC of 13 August 2021

<sup>4</sup> In 2023, in France: there were 1.5 million associations operating; 71 130 associations were created between July 2022 and July 2023; 153 000 associations employed 1.9 million people (almost one employee in 10 in the private sector).

<sup>5</sup> Report on Islamist radicalisation by the Senate Committee of Inquiry, p. 164.

administrative action in choosing the responses to be made to the environmental damage identified. This new judicial mechanism was accompanied on 9 October 2023 by a circular from the Ministry of Justice to the Prosecutors General and public prosecutors with the aim of updating the criminal policy guidelines on combating environmental damage. This criminal policy resulted in an increase in the number of cases and prosecutions of environmental offences in 2023 over 2022.

In this context, the attacks on environmental defenders receive firm and tailored response. The judicial authority also strictly monitors respect for the rights of activists, which are fully safeguarded by law.

Set up in 2019 within the gendarmerie, the role of the Demeter cell is, in particular, to assist farming professionals in the field of safety, to inform the authorities by anticipating disturbances of public order and to analyse crime phenomena. It assesses the risks of harm caused by animal rights, antispeciesist and environmentalist movements that may pose a threat to the farming world. With a decision of 7 November 2024, the Council of State approved the Demeter cell's activity of monitoring the ideological actions of environmental activists: Demeter's information gathering activities, including in so far as they consist of increasing knowledge of the structuring and modes of action of organisations acting lawfully on environmental, animal rights and antispeciesist grounds, do not go beyond those which the Minister for the Interior could lawfully entrust to the gendarmerie, since they cannot pursue aims other than **the prevention of acts contrary to public order and the security of property and people**.

***With regard to identity checks:***

In order to ensure the smooth running of demonstrations, identity checks and baggage and vehicle searches may be authorised by request from public prosecutors. They are of necessity limited in time and space.

In addition, the ensuing potential remanding in custody is of necessity in the framework of the committing of a criminal offence, such as violence, the carrying of weapons or damage. This measure may also be taken against people participating knowingly in a group formed, even on a temporary basis, for the preparation, characterised by one or more material facts, of intentional violence against people or destruction or damage of property, as provided for in Article 222-14-2 of the Criminal Code.

The establishment of the national police ethics evaluation committee, whose latest report deals specifically with identity checks, along with the current reflections on better identification of police officers and gendarmes in interventions (RIO) and more systematic activation of body cameras are part of the Ministry of the Interior's proactive approach.

***Regarding the use of the RIO number***

We question the request by some participants for systematic wearing of police registration numbers (RIO), bearing in mind that each police officer is already required to wear a visible individual identification number, a 7-digit number known as the RIO number. Exceptions have to be justified by the department to which the police officer belongs or the nature of the tasks entrusted to them.

Thus, wearing the number is mandatory and forms an integral part of police uniform. The importance of wearing this identification number in the link between the police and the population is reiterated regularly in a context of high law enforcement engagement, regardless of work attire (both uniform and plain clothes), and including in policing operations.

In addition, the French authorities are pursuing their reflections to make sure that the RIO number is visible. A working group has been set up, which has already resulted in tangible proposals validated by the Director-General of the national police.

Regarding the use of body cameras

The individual cameras were put in place under Article 45 of Law No 2021-646 of 25 May 2021 on global security safeguarding freedoms, which amended Article L 241-1 of the Internal Security Code. 31 954 body cameras are deployed throughout the country, of which 21 000 cameras have been deployed since 2021 to help the department gendarmerie, the mobile gendarmerie and the Republican Guard in metropolitan France and then overseas, making it possible to equip 4 000 units. Almost 700 additional cameras have recently been allocated to the zonal region gendarmerie in order to meet the volume of engagements and specific operational needs (major events, etc.).

Regarding failure to issue a receipt during an identity check, particularly in view of its incompatibility with the constitutional framework

The issuing of a receipt to any person checked, implemented for example in the United Kingdom at the end of the check (a search record showing the ethnicity of the person being checked) is an idea that is raised regularly, but has never been successful due to difficulties in practical implementation. It transpired that the handing over of a receipt to individuals checked, often referred to as limiting discriminatory controls, would make little sense as it does not prevent a fresh check being carried out in the event of suspicious behaviour. In addition, it would considerably increase the procedural tasks of police officers and gendarmes, whereas the government's intention is to move towards reducing these tasks.

This would complicate the deployment of identity checks and would therefore automatically undermine the effectiveness of judicial investigation services and the enforcement of court decisions (respect for judicial review, additional penalties, information gathering, etc.).

Moreover, contrary to the assertions of the EESC report, this tool would not reveal whether a check was discriminatory in nature unless ethnic data were incorporated into data processing. Now, ethnic statistics are prohibited by the constitutional framework (Constitutional Council, Decision No 2007-557 DC of 15 November 2007, point 29, and the Data Protection Act of January 1978 (Article 6: 'It is prohibited to process personal data revealing claimed racial or ethnic origin [...]'). This issue was also highlighted by the Defender of Rights in a report delivered in October 2012. It stated that the practices observed in the United Kingdom and Spain were not transposable to France since the collection of ethnic or racial data would contravene constitutional principles.

3. **Freedom of expression and media freedom**

As regards the allegation that certain multimedia groups aim 'to change their media into reactionary propaganda tools', the French authorities strongly dispute those statements, which are not based on any factual evidence and are akin to pure supposition. As background information, the French authorities point out that the Council of State decision of 13 February 2024 called on the Audiovisual and Digital Communication Regulatory Authority (ARCOM) to monitor the requirements of pluralism and independence more extensively with a view to better monitoring of multimedia groups.

As regards the concerns relating to the financing of public service media, the French authorities point out that the adaptation of national law to this Regulation is ongoing and that the Amsterdam Protocol cited in the Regulation is not prescriptive as to the methods of financing public service media. Furthermore, the Regulation requires it to be ensured ‘that public service media providers have sufficient, sustainable and predictable financial resources’, without specifying the need for specific funding. The budgetary compensations mentioned in the EESC report therefore seem to be sufficient, and it is therefore not necessary to pre-empt the application of a regulation which is not to date fully applicable. In addition, the Organic Law of 13 December 2024 aims to maintain the current method of financing the public audiovisual sector with a fraction of the proceeds of VAT.

***With regard to the judicial follow-up to complaints about police violence against journalists:***

As regards the assertion that ‘violence against journalists remains a serious problem’, which is not based on any quantified and substantiated evidence, they point out that each complaint gives rise to an in-depth investigation and that, if unlawful violence from a person holding public authority is proven, this quality constitutes an aggravating circumstance for all offences of violence, which may be added to the aggravating circumstance of the use of a weapon.

They add that, as regards unlawful violence committed by the law enforcement authorities, the circular of 20 September 2016 calls on the public prosecutors’ offices to adapt the judicial follow-up to the nature, seriousness and complexity of the facts but also to any disciplinary measures taken against accused persons by their hierarchical authority, that penalty having to be coordinated with the administrative authority.

**4. The right to non-discrimination**

***Regarding criminal penalties:***

The criminalisation of racist or discriminatory behaviour is addressed through the offences of discrimination, in Articles 225-1, 225-2, 225-1-1, 225-1-2 and 432-7 of the Criminal Code and through the general aggravating circumstances linked to the discriminatory grounds provided for in Articles 132-76 and 132-77 of the Criminal Code. Racist or discriminatory hate speech is addressed by the Freedom of the Press Act of 29 July 1881 and by the Criminal Code. The Law of 24 August 2021 confirming compliance with the principles of the Republic strengthened the pre-existing legislative arsenal by introducing a new aggravating circumstance applicable to offences of public incitement to discrimination, hatred or violence, denial, and racist insults provided for by the Law of 29 July 1881. The circular of 24 November 2020 on combating hatred online created a national hub for combating hatred online and designated the Paris judicial court as a hub to centralise, under the direction of the Paris prosecutor, the handling of significant cases of cyber bullying and hatred online. Finally, provision is henceforth made for the possibility of excluding perpetrators convicted of incitement to anti-LGBT + hatred from stadiums.

As regards the part relating to equality between women and men, the French authorities point out that *ex ante* impact studies, including on subjects relating to equality between women and men, are already mandatory, in particular since a circular issued on 23 August 2012 on taking account of their impact in terms of equality between women and men in the drafting of legislative and regulatory texts.

## 5. The rule of law

The French authorities point out that the rule of law is the cornerstone of France's legal system and the foundation of its institutions. It ensures that power is exercised within a legal and predictable framework, respecting fundamental freedoms and equality before the law.

They refute any weakening of the rule of law, which remains a core value for France, including when the country faces major crises. France, which suffered the most serious terrorist attack in its history on 13 November 2015, has taken exceptional measures to protect its population, with all due regard for the rule of law. **All administrative measures were open to appeal before the administrative judge**, which examined their legality, how necessary they were and their proportionality. Between 14 November 2015 and 30 June 2016, the judges dealing with applications for interim measures of the administrative courts issued 216 orders relating to measures taken under the state of emergency. Of those orders, 26 noted that the measure had been withdrawn before the court pronounced its decision, 33 suspended the measure in whole or in part, and 157 dismissed the application. Before the Council of State, which issued 44 orders, the Minister for the Interior withdrew their decision in another 13 cases and suspended it in 7 others. In addition, over the same period the administrative courts issued 120 substantive decisions, of which 41 led to the annulment in whole or in part of the contested decision. The review by the administrative court was rapidly strengthened, as the Council of State recognised that the house arrest measures gave rise to a presumption of urgency which allows an application to be made to the judge dealing with applications for interim measures (Council of State, 11 December 2015, No 394989) and that it was for the administrative judge to carry out a full review of the grounds for an administrative search (Council of State, Assembly, 6 July 2016, No 398234).

### ***With regard to the reform of the right to asylum and the National Court of Asylum (CNDA):***

The reform of the National Court of Asylum (CNDA) provided for in Law No 2024-42 of 26 January 2024 met a twofold imperative need: bringing the asylum judge closer to the applicant in order to improve the reception of the individual and complying with the requirement for a reasonable time to pronounce judgment. The choice of a single judge as the ordinary court panel allows appeals to be dealt with more quickly and does not in any way infringe the asylum seeker's rights of defence. On the contrary, it ensures that their right to appeal is more effective. The regionalisation of the CNDA is also a real step forward for asylum seekers, whose access to judges is considerably increased. The possibility of specialising chambers on a linguistic basis is also a major step forward for the applicants. The widespread use of videoconferencing hearings for foreigners placed or kept in administrative detention or waiting areas also ensures a better balance between the proper administration of justice, the dignity of asylum seekers and the proper use of public money.

### ***With regard to the fight against corruption:***

In 2023, 2 143 individuals were referred to and directed by the public prosecutor's offices for cases of lack of integrity, amounting to an increase of 30% compared to 2017 (1 649 defendants). Moreover, for the first time since its establishment, the number of pending cases handled by the National Financial Prosecutor's Office has been falling, from 781 in 2023 to 766 in 2024.

### ***With regard to the approval mechanism:***

The approval mechanism for anti-corruption associations in France is based on a clear legal framework. It is subject to rigorous judicial oversight by the administrative judge. Article 2-23 of the Code of Criminal Procedure provides that anti-corruption associations may form a civil party in corruption cases,

provided that they have been approved by the state. This approval is granted for a renewable period of three years by order of the Minister for Justice. In order to obtain the approval, the association must meet a number of criteria laid down in Decree No 2014-327 of 12 March 2014. The refusal or withdrawal of approval may be challenged before the administrative judge, which will verify, in particular, compliance with the legal requirements and the absence of a manifest error of assessment. The administrative judge may, if necessary, annul the decision, thus enabling the association to have its situation reviewed. Such a mechanism and **the judicial review it can be subject to** provide strong safeguards for anti-corruption associations and their specific rights. In addition, the EESC report refers to the unique and specific situation of an association whose approval decision is in fact still ongoing from a judicial point of view and which therefore cannot therefore be used as the basis for the need for a reform of the approval system.

***With regard to the independence and autonomy of the prosecution service:***

Although the European Court of Human Rights (ECtHR) has held that the public prosecutor's office cannot be classified as a 'judicial authority' within the meaning of Article 5(3) of the European Convention on the Protection of Human Rights (ECHR) (Judgments *Medvedyev v France* of 29 March 2010 and *Moulin v France* of 23 November 2010), on the other hand, the Court of Justice of the European Union held that the French Public Prosecutor's Office complied with the guarantees inherent in the concept of judicial authority, within the meaning of Framework Decision 2009/299/JHA (European arrest warrant (CJEU, 12 December 2019, Joined Cases C-566/19 PPU and C-626/19 PPU). The French Constitutional Council also considers that the judicial authority includes judges **and prosecutors**, confirming their role as guardians of individual freedoms in accordance with Article 66 of the Constitution (**Decision No 2010-14/22 QPC of 30 July 2010**).

Moreover, contrary to what is alleged, the 'general instructions' are in fact only general recommendations, in order to ensure consistent application of France's criminal policy and to ensure equality of all citizens before the law. In its decision of 8 December 2017 (No 2017-680 QPC), the Constitutional Council declared Article 5 of the Order of 22 December 1958, highlighting all the provisions of the Code of Criminal Procedure and the general investigative power of the Keeper of the Seals, to be compatible with the Constitution. It concludes that 'a balance is struck between the principle of the independence of the judicial authority and the prerogatives which the government derives from Article 20 of the Constitution'. A draft constitutional reform (draft constitutional law for a renewal of democratic life) changing the process of appointing prosecutors and the disciplinary procedure applicable to them was tabled in Parliament on 29 August 2019. The text was not discussed in Parliament.

In order to increase impartiality in the appointment and management of public prosecutors, the Independent Committee of the Estates General of Justice has proposed that the High Council of the Judiciary (SJC) be given the power to give assent to proposals for the appointment of these prosecutors and to disciplinary penalties affecting them. On the other hand, it did not accept the possibility of conferring on the SCM its own power to propose appointments for certain functions of the public prosecutor's office, in particular those of the Prosecutor General and the Public Prosecutor. The Committee thus considered that, **since the public prosecutor's office was autonomous and subject to a hierarchy, it was necessary not to cut its constitutional link with the executive.**

***With regard to the rights of the defence:***

A number of procedural avenues ensure that the individual has access to the judicial authority, in particular direct action of the complainant with the possibility of lodging a complaint with a civil party before the senior investigating judge with a view to an investigation being carried out by the latter, or direct summons of the defendant before the criminal court. It should also be pointed out that the rights of the defence in the context of criminal investigation were significantly strengthened by the Law of 22 December 2021 on trust in the judicial institution, which extended the possibility for an accused person to have access to the documents of the proceedings, limited the duration of investigations to within strict time limits and further regulated searches at the law firm or at the domicile of a lawyer and requests relating to connection data issued by a lawyer. Furthermore, the Organic Law of 20 November 2023 relaxed the conditions for the admissibility of complaints by individuals against magistrates, gave additional investigative powers to the High Council of the Judiciary in charge of the discipline of magistrates, extended the scope of its reviews and revised the scale of penalties applicable. Individuals are thus better protected against situations of arbitrariness.

Finally, the participants' criticisms of the reform of the length of preliminary investigations appear premature as the provisions on investigation deadlines entered into force, by part of them, only on 24 December 2021 and, for another part, only on 22 November 2023.

***With regard to the resources allocated to the Ministry of Justice:***

The Ministry of Justice is fully committed to implementing the 2023-2027 five-year plan for the recruitment of 10 000 judicial posts, including 1 500 magistrates, 1 800 clerks and 1 100 judicial attachés. This historic effort on the judicial services' employment plan will continue in 2025, despite a very tight inter-ministerial budget, reflecting the priority given to the resources allocated to the judiciary.

An experiment is also being launched with a number of appeal courts, designed to take account of work organisation through the major operational risks of judicial activity and thus to draw up an action plan and an appropriate operating protocol. Furthermore, the overall work of the Ministry of Justice is aimed, in particular, at continuing to improve the timeframes for processing both civil and criminal judicial decisions. Thus, in 2025, the Ministry of Justice will continue its work on lengthy proceedings in order to improve on the time taken to pronounce decisions in disputes in social centres (social security and incapacity cases) and in grievance procedures. In addition, over the last three years, lengthy disputes with parts of cases handled in less than 12 months have increased significantly, particularly in social centres or employment tribunals (53% in 2023 compared with 48% in 2022).

***With regard to working conditions:***

The Ministry of Justice has been working for several years on assessing workload by setting up a dedicated working group to accurately map the entire judicial activity and assess the working time needed. This work is continuing with a time study financed by an intra-European project, to be carried out in a panel of national jurisdictions in the coming months. The aim is to put in place a robust case weighting system, making it possible to accurately assess the national need for magistrates to deal with judicial activity and to facilitate an objective distribution of needs.

***As regards prison conditions:***

Prison regulation is one of the priorities of the Ministry of Justice, which aims to combat this structural phenomenon that affects the conditions of detention and the quality of the prison process. Drawing on

the consequences of the ECtHR judgment of 30 January 2020 (*J.M.B. v France*) condemning France for inhumane and degrading conditions in prison in six remand centres and penal institutions and the lack of effective remedy, the government quickly submitted an action plan in December 2020, which was regularly updated. The government pointed to the measures put in place by the French authorities concerning, in particular, alternative penalties, such as probation, community service and sentence reduction mechanisms. The plan thus aims to develop the execution of sentences in an open environment, to strengthen all measures to support detainees before their departure and a gradual and anticipated return to freedom, to increase prison capacity and, finally, to improve current detention conditions. In order to respond to the judgment of the ECtHR, with regard to the judicial remedy aimed at guaranteeing the right to respect for dignity in detention, France adopted Law No 2021-403 of 8 April 2021 establishing, under the new Article 803-8 of the Code of Criminal Procedure, a new remedy enabling any person detained, whether adult or minor, remanded in custody pending trial or finally sentenced, to bring an action before the court where they consider that they are suffering conditions contrary to their dignity, in order for this to be stopped.

This new action is to be brought before the court without prejudice to the possibility for the detained person to apply to the administrative court for interim relief. The person detained therefore has the choice between referring the matter to the administrative court, which has the power to issue an injunction against the prison administration (without, however, being able to order release) or to the ordinary judge, who does not have that power of injunction but who can order measures to put an end to undignified conditions of detention, including the release of the person, or the referral to those judges, although the involvement of the administrative judge may be suspended by the judicial proceedings. In the context of this new appeal, the judge may verify the conditions of detention by deploying a number of measures (on-site visit, involving an expert, consulting the applicant, co-detainees and staff, etc.). The judge also collects the comments of the detained person or, where appropriate, his lawyer. In addition, the judge receives the written opinion of the investigating judge, the public prosecutor or the prosecutor general. When declaring the application well-founded, the judge specifies the conditions of detention which the judge considers to be contrary to the dignity of the human person and sets the prison administration a deadline of between 10 days and 1 month from the date of the order stating that the application is well founded to take remedial action.

If the court finds that the conditions of detention which they consider to be unsafe continue to exist at the end of the deadline given to the administration, the judge may themselves order a transfer or, for individuals who have not yet been tried, the release of the individual, if necessary under a detention order. In the case of convicted persons, they may order release under probation, if the person is eligible for such a measure. Each order may be appealed.

Thus, Decree No 2023-457 of 12 June 2023 laying down various provisions on legal aid, which entered into force on 15 June 2023, allows this new appeal for legal aid to be dealt with with effect from 1 July 2023 in order to ensure its effectiveness. The decree was drawn up in conjunction with the French National Bar Council and meets the expectations of several civil society organisations. At the end of 2024, the Ministry of Justice set up a working group on the statistical processing of appeals in undignified conditions in pre- and post-sentencing matters in order to be able to fully assess its effectiveness.

In addition, a working group of justice professionals is soon to make proposals on the enforcement of sentences and the levers still available in the context of prison overcrowding. Lastly, the Estates General on rehabilitation and probation will be held in the course of 2025: this will include further mobilising all public policies on rehabilitation for those detained under the judicial system and making the execution of sentences in an open environment even more credible.

---



## European Economic and Social Committee

Rue Belliard/Belliardstraat 99  
1040 Bruxelles/Brussel  
BELGIQUE/BELGIË

[www.eesc.europa.eu](http://www.eesc.europa.eu)



*Printed by the EESC-CoR Printing and Distribution Unit, Belgium*

EESC-2025-21-EN

© European Union, 2025

Reproduction is authorised provided the source is acknowledged.  
For any use or reproduction of the photos / illustrations,  
permission must be sought directly from the copyright holder.



Publications Office  
of the European Union



*Print:*  
QE-01-25-016-EN-C  
ISBN 978-92-830-6768-9  
doi:10.2864/5589469

*PDF:*  
QE-01-25-016-EN-N  
ISBN 978-92-830-6767-2  
doi:10.2864/1574088

EN