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EUROPEAN  
COMMISSION

Brussels, 24.7.2024  
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## **COMMISSION STAFF WORKING DOCUMENT**

### **2024 Rule of Law Report Country Chapter on the rule of law situation in France**

*Accompanying the document*

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL  
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

### **2024 Rule of Law Report**

#### **The rule of law situation in the European Union**

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## **ABSTRACT**

Two important laws related to the justice system were adopted in November 2023: one on the status of magistrates, reforming their recruitment and disciplinary regimes; and another one bringing a substantial increase in human resources in the justice system and making the profession of magistrate more attractive. The law also empowers the Government to recast the Code of Criminal Procedure, includes new provisions on criminal proceedings, and promotes the amicable settlement of disputes. Further efforts were made on the digitalisation of judicial procedures, and the online access to court decisions advanced further. In general, the length of court proceedings further decreased.

The 2024-2027 national anti-corruption plan is in preparation. Significant results continue to be achieved in the prosecution and adjudication of corruption cases, although concerns exist in relation to resources. The implementation of integrity measures in the private and public sectors, including the declarations of asset and interests of public officials, and the public funds used by political parties and politicians, continued to be monitored, although the increased workload or limited resources may represent challenges for relevant institutions. Guidelines on lobbyists' register have entered into force, the number of ethics requests from Members of Parliament increased, and integrity measures for police officers and judges continue to be applied, although some concerns exist. New instruments were developed to track whistleblowing reports and provide advice to potential whistleblowers. Public procurement is a priority for the prosecution authorities considering that it is an area with a high risk of corruption.

Rules are in place to ensure the effective and autonomous functioning and adequate funding of the independent media regulator (ARCOM). No further steps have been taken to enhance transparency of media ownership, in particular regarding complex shareholding structures. Public service media maintain their independence through well-established safeguards, while the Government plan to reform the public media is postponed for the time being. While safeguards are in place to ensure the safety of journalists, attacks and threats against them continue.

The Government continued to make considerable use of accelerated legislative procedures. Several tools have been put in place to increase the participation of citizens in the law-making process. The Defender of Rights and the National Consultative Commission on Human Rights (CNCDH) are facing a continuous increase in their workload, which is not always followed by an increase in resources. The financial environment of civil society organisations remains favourable, while concerns have been expressed by stakeholders about the granting and possible withdrawal of public subsidies. Courts and experts have recalled the need for demonstrations to take place in a safe environment.

## **RECOMMENDATIONS**

Overall, concerning the recommendations in the 2023 Rule of Law Report, France has made:

- Some further progress on completing ongoing projects aimed at full digitalisation of civil and criminal court proceedings.
- Significant further progress on ensuring adequate human resources for the justice system, particularly by completing the development of the workload measuring tools to better evaluate the needs.
- Some progress on ensuring that rules on lobbying activities are consistently applied to all relevant actors, including at top executive level.
- No progress in stepping up efforts to improve the transparency of media ownership, in particular, complex shareholding structures, building on the existing legal safeguards.

On this basis, and considering other developments that took place in the period of reference, it is recommended to France to:

- Further continue efforts to complete ongoing projects aimed at full digitalisation of civil and criminal court proceedings.
- Step up efforts to ensure that rules on lobbying activities are consistently applied to all relevant actors, including at top executive level.
- Step up efforts to improve the transparency of media ownership, in particular, complex shareholding structures, building on the existing legal safeguards.

## **I. JUSTICE SYSTEM**

The justice system is composed of two autonomous branches of courts: ordinary courts with jurisdiction in civil and criminal cases on the one hand, and administrative courts on the other hand. Both branches consist of three levels of courts, with first instance courts, courts of appeal and an upper court (the Court of Cassation and the Council of State, respectively). The Council of State also has an advisory branch that provides opinions on draft legislation and is tasked with the management of the administrative tribunals and courts of appeal. The High Council for the Judiciary<sup>1</sup> plays an important role in safeguarding judicial independence: it nominates candidates for top judicial functions and, as regards the appointment of judges by the Minister of Justice, issues binding opinions<sup>2</sup>. The prosecution service is part of the judiciary and falls under the authority of the Minister of Justice<sup>3</sup>. The latter can give general instructions on prosecution policy but is barred from giving instructions in individual cases<sup>4</sup>. In addition, the Constitutional Council is competent to verify the constitutionality of laws. France participates in the European Public Prosecutor's Office (EPPO). Lawyers are represented by various bar associations throughout France.

### **Independence**

**The level of perceived judicial independence in France continues to be average among both the general public and companies.** Overall, 54% of the general population and 48% of companies perceive the level of independence of courts and judges to be 'fairly or very good' in 2024<sup>5</sup>. The perceived judicial independence among the general public has slightly increased in comparison with 2023 (53%), although it remains lower in comparison with 2020 (56%). The perceived judicial independence among companies has increased in comparison with 2023 (46%), although it remains lower in comparison with 2020 (68%)<sup>6</sup>.

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<sup>1</sup> The High Council for the Judiciary has two distinct formations. For the formation relating to judges, the High Council for the Judiciary is comprised of the President of the Court of Cassation, five judges, one public prosecutor, one member of the Council of State, one lawyer, and six other qualified members, who are not affiliated with the Parliament, the judiciary or the administrative courts. An additional judge completes this formation when acting as a disciplinary council. For the formation relating to prosecutors, the High Council for the Judiciary is comprised of the General Prosecutor of the Court of Cassation, five public prosecutors, one judge, the same member of the Council of State, the same lawyer and the same six other qualified members as mentioned above. An additional prosecutor completes this formation when acting as a disciplinary council.

<sup>2</sup> Prosecutors are currently nominated by the Minister of Justice, following an advisory opinion of the Council, which has been followed in practice since 2008.

<sup>3</sup> Art. 5 of Ordinance 58-1270 of 22 December 1958.

<sup>4</sup> Art. 1 of Law 2013-669 of 25 July 2013 and Art. 30 of the Code of Criminal Procedure. This prohibition is respected in practice.

<sup>5</sup> Figures 51 and 53, 2024 EU Justice Scoreboard, and Figures 50 and 52, 2022 EU Justice Scoreboard. The level of perceived judicial independence is categorised as follows: very low (below 30% of respondents perceive judicial independence as fairly good and very good); low (between 30-39%), average (between 40-59%), high (between 60-75%), very high (above 75%).

<sup>6</sup> 61% of the companies in France are either fairly or very confident that their investments are protected by the law and courts in the Member State. Only 20 % of the surveyed companies see the quality, efficiency or independence of justice as one of the main reasons for concern about investment protection in the country. Figures 55 and 56, 2024 EU Justice Scoreboard.

**A law reforming the status of magistrates, including their disciplinary regime, was adopted.** The law<sup>7</sup> clarifies the definition of ‘disciplinary offence’<sup>8</sup>, in line with the practice of the High Council for the Judiciary, while allowing for an adjustment of the different sanctions<sup>9</sup>. Under this law, the High Council for the Judiciary is entitled to draft and adopt an ethical charter for magistrates and assess, from a disciplinary angle, the resignation of a magistrate in view of joining the private sector. The law also simplifies the admissibility conditions for complaints against judges lodged with the High Council for the Judiciary<sup>10</sup> and strengthens the investigative powers of the Council’s panel ruling on the admissibility of such complaints<sup>11</sup>, with the aim to increase citizens’ trust in the judiciary<sup>12</sup>. The law further provides that all decisions of the Council’s panel ruling on the admissibility of litigants’ complaints must be communicated to the Minister of Justice<sup>13</sup>. This does not reflect recommendations by the Venice Commission and GRECO to shift the power to initiate disciplinary proceedings *ex officio* from the Minister of Justice to the High Council for the Judiciary<sup>14</sup>, which is considered as unconstitutional by the Ministry of Justice<sup>15</sup>. The Parliamentary Assembly of the Council of Europe<sup>16</sup> reiterated on 26 January 2024 its call to France for further legislative and constitutional reforms to address the Venice Commission’s recommendations regarding the High Council for the Judiciary. Recommendations not taken

<sup>7</sup> Organic Law no. 2023-1058 of 20 November 2023 on the openness, modernisation and accountability of the judiciary. It modifies the ordinance Nr 58-1270 of 22 September 1958 on the statute of the magistracy.

<sup>8</sup> New Art. 43(1) of Ordinance 1958.

<sup>9</sup> New Art. 46(2) of Ordinance 1958. These two aspects are in line with recommendations made by the Venice Commission (CDL-AD(2020)017, points 57-59).

<sup>10</sup> New Art. 50(3) and 63 of Ordinance 1958. The number of complaints by citizens has been stable in the last years (from 2017 to 2022: around 300 per year). In comparison, the number of decisions by the High Council of the Judiciary in disciplinary cases has increased substantially between 2021 and 2022 (+150%). Litigants tend to see this procedure as a way to contest judicial decisions. Information received in the context of the country visit to France from the High Council for the Judiciary and written contribution from the Union of Magistrates in the context of the country visit to France.

<sup>11</sup> ‘Commission d’admission des requêtes’.

<sup>12</sup> The biggest magistrates’ trade union, the Union of Magistrates (USM), however points to the risk that the reinforced possibility for litigants to lodge complaints against magistrates might be instrumentalised to destabilise them. It should be accompanied, in their view, by rules reinforcing the protection of magistrates, e.g. the possibility for a magistrate to get his/her costs reimbursed where no charges have been found against him/her. To be noted that the High Council of the Judiciary, including in its disciplinary formation, is composed mainly of non-magistrates. Written contribution from the Union of Magistrates in the context of the country visit to France.

<sup>13</sup> This possibility was negatively assessed by the High Council for the Judiciary in its observations to the draft law, see 2023 Rule of Law Report, Country Chapter on the rule of law situation in France, p. 4, fn. 14, in the contribution from the European Association of Judges, and in the contribution from ENNRHI for the 2024 Rule of Law Report, (p. 12 for both), as in their view, this procedure would give the litigants the power to indirectly refer a case to the Minister. The European Association of Magistrates also recommended to the French authorities not to introduce this change. Written contribution from the Union of Magistrates in the context of the country visit to France. See also GRECO, Fourth Evaluation Round, Second Addendum to the second compliance report, France, Recommendation ix, para. 37 and 51.

<sup>14</sup> Venice Commission (CDL-AD(2023)015, point 79).

<sup>15</sup> The Minister of Justice considers this proposed change unconstitutional, in line with Article 20 of the Constitution and Article 15 of the Human and Citizen’s Rights Declaration, as interpreted by the State Council on 23 March 2018, which provides that the Minister of Justice is competent for inspections. On the other hand, the law adapted the election rules for the High Council for the Judiciary, in line with the recommendations from the Venice Commission. Written contribution from the Ministry of Justice in the context of the country visit to France. For more details on the Venice Commission opinion, see 2023 Rule of Law Report, Country Chapter on the rule of law situation in France, p. 5 and fn. 17.

<sup>16</sup> Resolution 2534 (2024), para. 6.1.

into account by France so far also include changing the composition of the Council<sup>17</sup>, which would require a constitutional amendment. Constitutional reforms relating to the status of prosecutors, both in terms of their disciplinary regime and their appointment rules, have not progressed, despite calls of the General Estates of Justice to strengthen impartiality in the appointment and the management of prosecutors<sup>18</sup>.

**The procedure against the Minister of Justice has been closed.** The Minister was found not guilty of the charges against him and was therefore acquitted by the Court of Justice of the Republic (CJR) on 29 November 2023<sup>19</sup>. More generally, this is a court of exception and due to its specific mandate, its composition and its place outside the ordinary justice system, the Committee of the Estates General of Justice, as well as two previous draft constitutional laws, proposed to abolish it<sup>20</sup>.

## Quality

**Further significant progress was made on increasing human resources of the justice system, with the adoption of the law on the orientation and programming of justice 2023-2027, and substantial efforts made to increase the attractiveness of careers in the judiciary.** The 2023 Rule of Law Report recommended to France to '[f]urther continue efforts made to ensure adequate human resources for the justice system, particularly by

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<sup>17</sup> See fn. 1 for the composition of the High Council of the Judiciary and Venice Commission opinion CDL-AD(2023)015 on the Superior Council of the Magistracy, recommendation in para. 77 and reference in para. 23 to the recommendation of the Council of Ministers CM/Rec(2010)12 which states that 'half of the members of the High Councils for the Judiciary should be selected by their peers [...] from within the Judiciary'.

<sup>18</sup> The Committee of the Estates General of Justice proposed to confer on the High Council of the Judiciary power to give its assent to proposals for the appointment of these magistrates as well as on the disciplinary measures affecting them. 2023 Rule of Law Report, Country Chapter on the rule of law situation in France, p. 5. The French Bar Association also regrets that the reform of the prosecutors' statute has not progressed. According to them, the fact that the Minister of Justice plays an important role in the nomination of prosecutors would give rise to suspicion in relation to the handling of sensitive cases. In addition, the fact that the EPPO (who will not be submitted to the authority of the Minister) started its work would make it even more urgent to have some coherence between both categories of prosecutors. Contribution from the French Bar Association for the 2024 Rule of Law Report, p. 1. See also written contribution from Transparency International France in the context of the country visit to France, citing the European Court of Human Rights, the Council of Europe and the OECD asking for a reform of the statute of prosecutors to guarantee their independence. See also report of the Committee of Inquiry of the National Assembly into Judicial Independence, No. 3296, September 2020 and information received in the context of the country visit to France from the High Council for the Judiciary.

<sup>19</sup> For details on the whole procedure, see 2023 Rule of Law Report, Country Chapter on the rule of law situation in France, pp. 3-4.

<sup>20</sup> The CJR is exclusively competent to hear criminal cases relating to acts of members of the government in the exercise of their functions, *La Vie Publique*, *La Cour de justice de la République: une institution contestée* [official website of the Prime Minister]. Draft constitutional law of 14 March 2013 on the judicial liability of the President of the Republic and members of the government and the draft constitutional law for a renewal of the democratic life of 29 August 2019: both proposed the abolition of the CJR. The final report of the Committee of the Estates General of Justice (transmitted to the President of the Republic on 8 July 2022) also recommended its abolition. The Committee proposed, in addition to the abolition of the CJR, to align on the ordinary law the applicable rules of procedure and jurisdiction applying to members of the Government, subject to the establishment of a filtering mechanism. See also contribution from the French Bar Association for the 2024 Rule of Law Report, p. 7, contribution from the CCBE for the 2024 Rule of Law Report, p. 56, contribution from ENNRHI for the 2024 Rule of Law Report on p. 13 and written contribution from Transparency International France in the context of the country visit to France.

completing the development of the workload measuring tools to better evaluate the needs'<sup>21</sup>. This new law<sup>22</sup>, inspired by the work of the Estates General of Justice, increases the budget of the judiciary from EUR 9.5 billion in 2023 to EUR 10.7 billion in 2027<sup>23</sup>. This increase will allow to finance, by 2027, 10 000 additional full-time equivalent jobs, including 1 500 magistrates and 1 800 clerks<sup>24</sup>. Compared to previous years, this is an important increase and is in line with the recommendations made by the Estates General of Justice. Workload measuring tools for the judiciary, currently in development, are expected to evaluate more precisely the number of magistrates and supporting staff needed to ensure the sustainability of the justice system<sup>25</sup>. The remuneration of magistrates in the judiciary (civil and criminal courts) has been substantially increased, to make the career more attractive. It is now aligned with the remuneration of magistrates of the administrative courts<sup>26</sup>. The team supporting the magistrate is being reinforced through the recruitment of newly created 'judicial attachés' (with expanded competences compared with the current court assistants) and specialised assistants<sup>27</sup>. To attract more candidates in the judiciary, the Law on the opening, modernisation and responsibility of the judiciary also opens up and simplifies the procedures for becoming a magistrate. In particular, the law provides for a new competition for legal professionals, including lawyers<sup>28</sup>. It also modernises the career of the magistrates, by providing new rules on the evaluation<sup>29</sup>, promotion<sup>30</sup> and representation of magistrates<sup>31</sup> and

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<sup>21</sup> 2023 Rule of Law Report, Country Chapter on the rule of law situation in France, p. 2.

<sup>22</sup> Law no. 2023-1059 of 20 November 2023 on the orientation and programming of the Ministry of Justice 2023-2027.

<sup>23</sup> Between 2023 and 2024, the budgetary increase for the judicial services will be 12% (from EUR 3,4 to 3,8 billion).

<sup>24</sup> On 1 January 2024, there were 9424 magistrates in France, an increase of 139 since the publication of the 2023 Rule of Law Report in July 2023. In 2024, 327 new positions of magistrates will be created. Written contribution from the Ministry of Justice in the context of the country visit to France. In addition, the number of court auditors will increase by 24% between 2023 and 2024. The high number of recruitments has opened a discussion on the quality of recruitments and training for the new staff. Information received in the context of the country visit to France by the High Council for the Judiciary.

<sup>25</sup> Input from France to the 2024 Rule of Law Report, p. 1-2. The works of the working group put in place by the government to evaluate the workload in the judiciary rendered its conclusions beginning of 2024 (not publicly available). In April 2024, 20 benchmarks had been adopted for first instance courts and 28 for courts of appeal. This work is complemented by a project submitted by France and currently funded by the Commission (DG REFORM) via the Technical Support Instrument to further develop the benchmarks. An experimentation of new digital tools is planned for 2024. Written contribution from the Ministry of Justice in the context of the country visit to France. According to the website of the Union of Magistrates, whose representatives participated in the working group and their written contribution in the context of the country visit to France, preliminary results for first instance tribunals show a need to double or triple the number of magistrates, which is line with analyses of CEPEJ.

<sup>26</sup> On average the increase is of approximately EUR 1 000 in the gross monthly remuneration of magistrates in civil and criminal courts. Input from France to the 2024 Rule of Law Report, pp. 10-11. Decree 2023-768 of 12 August 2023 and Circular of the Ministry of Justice of 8 November 2023.

<sup>27</sup> Criticism about this law has been voiced by the Defender of Rights, notably with regard to the transfer of certain competences from the Judges of Liberties and Detention to the ordinary judges, particularly regarding the detention of migrants and forced hospitalisation. The Judges of Liberties and Detention have acquired relevant expertise on these issues, and the transfer of part of their attributions to the ordinary judges might have an impact, in the Defender's view, on the quality of justice. See Defender of Rights, opinion No. 23-04, 9 June 2023.

<sup>28</sup> In addition, a special competition for the recruitment of court auditors for students in the 'Pre-Talents' classes will be tested until the end of 2026 in order to open up the judiciary to different profiles.

<sup>29</sup> E.g., heads of courts and tribunals will be evaluated on a 360° basis (they were not evaluated before).

<sup>30</sup> E.g., a third grade will be created.

by improving social dialogue<sup>32</sup>. With regard to the substantial efforts made to increase human resources and make the careers in the judiciary more attractive, further significant progress has been made on the recommendation made in the 2023 Rule of Law Report.

**Some further progress was made on the digitalisation of judicial procedures.** The 2023 Rule of Law Report recommended to France to '[f]urther continue efforts to complete ongoing projects aimed at full digitalisation of civil and criminal court proceedings'<sup>33</sup>. France remains among the lowest-ranking Member States as regards the use of digital technology by courts and prosecution services and the availability of secure electronic communication tools for courts and prosecution services<sup>34</sup>. However, progress was made in the implementation of the Digital Criminal Procedure<sup>35</sup>, a project to digitalise all steps of criminal procedures<sup>36</sup>. *Portalis*, which replaces applications considered obsolete, was tested in 2023 in nine labour courts and will be extended to all labour courts in 2024, and to all civil proceedings in the coming years<sup>37</sup>. The development of electronic signatures<sup>38</sup> and the deployment of the Legal Aid Information System (SIAJ), which enables digital legal aid procedures<sup>39</sup>, also continued. The IT budget of the Ministry of Finance has more than doubled since 2018<sup>40</sup>. The new digital transformation plan of the judiciary 2023-2027 will allow courts to rely on the help of 200 newly recruited local IT technicians (TIP)<sup>41</sup>. Therefore, some further progress was made on the recommendations made in previous Rule of Law Reports.

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<sup>31</sup> Magistrates will participate in the joint renewed promotion commissions. These commissions will now be consulted on any draft law having an impact on the statute of magistrates.

<sup>32</sup> Magistrates' unions have now the possibility to request the extension to magistrates of agreements negotiated for the benefit of civil servants. The promotion committee, in which magistrates participate, will become a social dialogue committee, which will have to be consulted on all legislative drafts relating to the status of magistrates. Information received in the context of the country visit to France from the Ministry of Justice and written contribution from the Ministry of Justice in the context of the country visit to France.

<sup>33</sup> 2023 Rule of Law Report, Country Chapter on the rule of law situation in France, p. 2.

<sup>34</sup> Figures 42-44, 2024 EU Justice Scoreboard.

<sup>35</sup> For more details on this project and previous steps taken, see 2022 Rule of Law Report, Country Chapter on the rule of law situation in France, pp. 6-7 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in France, pp. 6-7.

<sup>36</sup> Cooperation on this project has been reinforced between the Ministry of Justice and the Ministry of Interior through the creation of a joint directorate. More than 3.5 million fully digitalised procedures were communicated by the Ministry of Interior to the Ministry of Justice through the PPN application, including 1.3 million procedures in 2023. In the case of misdemeanour proceedings (offences like theft, serious violence, etc.), the PPN has been successfully tested in 147 out of 168 jurisdictions and is expected to be effective in all jurisdictions at the end of 2025. 98% of the jurisdictions use automated procedures for cases not requiring further action. Input from France for the 2024 Rule of Law Report, p. 4.

<sup>37</sup> Input from France for the 2024 Rule of Law Report, p. 3. The Union of Magistrates expressed doubts on the swift implementation of *Portalis*, since there have been many delays in the past years. Written contribution from the Union of Magistrates in the context of the country visit to France.

<sup>38</sup> Ibidem, p. 2. The Axone electronic archiving system went to production on 23 August 2023. Its gradual deployment at national level started in January 2024, with a connection to the PPN. This will relieve the courts of paper archiving in criminal matters.

<sup>39</sup> Ibidem, p. 3. The electronic signature of legal aid decisions is now deployed in all courts in metropolitan France and will be extended in 2024 to overseas and administrative courts. The SIAJ allows citizens to request legal aid online and to evaluate its amount.

<sup>40</sup> Report of the finance committee of the Senate on the draft finance law for 2024.

<sup>41</sup> Ibidem. 127 have already been recruited and the objective is to recruit a total of 200 TIP by the end of 2024. Written contribution from the Ministry of Justice in the context of the country visit to France.

**Online access to court decisions improved further.** In accordance with national legislation<sup>42</sup>, all decisions issued by administrative courts are publicly available. Decisions by the Court of Cassation and the courts of appeal in civil matters have been made available and 770 000 of them were accessible in open data in December 2023<sup>43</sup>. Decisions of civil courts are gradually made available online, at the latest on 30 September 2025. Some first and second instances' judgments in criminal cases are available online<sup>44</sup>. These judgments in criminal cases should be fully online resp. end of 2024 for the first instance and end of 2025 for the second instance<sup>45</sup>.

**In line with the Action Plan on Justice, launched in January 2023 by the Minister of Justice, new legislation adopted in 2023 promotes the amicable settlement of disputes to respond to recommendations of the General Estates of Justice.** The law on the orientation and programming of justice provides for the recast of the code of civil procedure to clarify existing modes of alternative dispute resolutions (ADR) and envisages to increase the compensation of lawyers under the legal aid regime when resorting to ADR<sup>46</sup>. Decrees of July and December 2023 provide for two new procedures: the possibility for the judge to split proceedings and the introduction of the hearing for an amicable settlement<sup>47</sup>. This new procedure allows the judge to assist the parties in reaching an agreement<sup>48</sup>. Work is underway on a new platform for resolving small disputes in the area of pre-litigation. Its purpose would be to put users in contact with each other during the negotiation phase and/or to offer them the services of an amicable settlement professional, conciliator or mediator<sup>49</sup>.

**The law on the orientation and programming of justice also empowers the Government to recast the Code of Criminal Procedure and includes new provisions on criminal proceedings.** According to the new law, the Government has two years to improve the code's clarity and readability (without changing the content of the provisions), as called for by the Estates General of Justice. The law also includes a number of new measures to simplify criminal proceedings, which were in general well received, with some exceptions<sup>50</sup>: among these measures, the possibility for a judge to remotely activate a connected device to geo-locate persons in real time in certain investigations<sup>51</sup>, the reform of the status of assisted

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<sup>42</sup> Law of 23 March 2019 and Order of 28 April 2021, modified by order of 27 June 2023; see also 2022 Rule of Law Report, Country Chapter on the rule of law situation in France, p. 4. and 2023 Rule of Law Report, Country Chapter on the rule of law situation in France, p. 7.

<sup>43</sup> Input from France for the 2024 Rule of Law Report, p. 2. Figure 49, 2024 EU Justice Scoreboard.

<sup>44</sup> Figure 49, 2024 EU Justice Scoreboard.

<sup>45</sup> According to national legislation mentioned.

<sup>46</sup> Decree Nr. 2023-1299 of 28 December 2023.

<sup>47</sup> Decrees of 29 July and 28 December 2023. For more details on the new procedures, see also 2023 Rule of Law Report, Country Chapter on the rule of law situation in France, p. 8.

<sup>48</sup> On the promotion and incentives for using ADR methods, see also figure 28, 2024 EU Justice Scoreboard.

<sup>49</sup> Information received in the context of the country visit to France from the Ministry of Justice and written contribution from the Ministry of Justice in the context of the country visit to France. This platform is known as the 'service de règlement amiable des différends' (amicable dispute resolution service).

<sup>50</sup> Article 6ff. On several of these aspects, the Defender of Rights recommended to remain vigilant to avoid abuses. See opinion No 23-04 and 2023 Annual Report. The CNCDH is of the opinion that some of these new provisions 'raise serious concerns over possible violation of human rights, notably, the rights of the defence and the right to privacy'. Contribution from ENNRHI for the 2024 Rule of Law Report.

<sup>51</sup> For crimes punishable by at least five years' imprisonment.

witnesses, the limitation of pre-trial detention if it can be avoided, or the possibility to place a person under an electronic bracelet in the event of unlawful pre-trial detention<sup>52</sup>.

## Efficiency

**In general, the length of court proceedings further decreased and the 2023 reforms of the justice system are expected to have a positive impact on judicial efficiency and overall length of proceedings.** In 2022, the disposition time for civil, commercial, administrative and other cases at first instance courts, decreased considerably, from 440 to 297 days, whereas it lowered from 495 to 333 days for litigious civil and commercial cases at first instance<sup>53</sup>. After a significant decrease in 2021, the estimated time needed to resolve administrative cases at first instance slightly increased<sup>54</sup>. However, as regards corruption cases, the average length of court cases at first instance is particularly high and increased further<sup>55</sup>. Overall, the number of pending cases remains generally stable, except for litigious civil and commercial cases<sup>56</sup>. The clearance rates slightly decreased<sup>57</sup>.

## II. ANTI-CORRUPTION FRAMEWORK

Authorities competent for the fight against corruption include the Anti-Corruption Agency (AFA), which prepares the multiannual anti-corruption plan, monitors its implementation, supports private and public entities on how to prevent and detect corruption, checks the execution of judicial compliance programs<sup>58</sup>, and has been designated as an external reporting channel authority for whistleblowers revealing breaches against probity<sup>59</sup>; the High Authority for Transparency in Public life (HATVP), responsible for ensuring the integrity of public officials; and the Central Office for Combating Corruption and Tax Offences (OCLCIFF), a specialised police service for the investigation of economic crimes, including corruption and money laundering. The National Financial Prosecutor Office (PNF) is competent for the investigation of high-level corruption cases.

**The perception among experts and business executives is that the level of corruption in the public sector remains relatively low.** In the 2023 Corruption Perceptions Index by Transparency International, France scores 71/100 and ranks 10<sup>th</sup> in the European Union and 20<sup>th</sup> globally<sup>60</sup>. This perception has been relatively stable over the past five years<sup>61</sup>. The 2024

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<sup>52</sup> The law also allows the judge to authorise investigators to remotely activate a connected device (mobile phone, computer, etc.) to geo-locate people in real time in certain instructions or investigations (for crimes punishable by at least five years' imprisonment).

<sup>53</sup> Figures 5-6, 2024 EU Justice Scoreboard.

<sup>54</sup> Figures 8-9, 2024 EU Justice Scoreboard.

<sup>55</sup> Figure 23, 2024 EU Justice Scoreboard. The average duration of proceedings at first instance increased from 529 days in 2021 to 638 days in 2022, the third highest available data across the EU.

<sup>56</sup> Figures 13-15, 2024 EU Justice Scoreboard. The number of pending litigious civil and commercial cases decreased in 2022 from 2.4 to 1.8.

<sup>57</sup> Figures 10-12, 2024 EU Justice Scoreboard.

<sup>58</sup> Competences are carried out through advice and administrative audits, and also the monitoring of companies' compliance programs when decided by judicial authorities. Information received from the AFA in the context of the country visit to France.

<sup>59</sup> In application of the Law n. 2022-401 of 21 March 2022 on whistleblower protections (also known as Wasserman law). Written contribution in the context of the country visit to France.

<sup>60</sup> Transparency International (TI), Corruption Perceptions Index 2023 (2024). The level of perceived corruption is categorized as follows: low (the perception among experts and business executives of public

Special Eurobarometer on Corruption shows that 70% of respondents consider corruption widespread in their country (EU average 68%) and 13% of respondents feel personally affected by corruption in their daily lives (EU average 27%)<sup>62</sup>. As regards businesses, 62% of companies consider that corruption is widespread (EU average 65%) and 42% consider that corruption is a problem when doing business (EU average 36%)<sup>63</sup>. Furthermore, 20% of respondents find that there are enough successful prosecutions to deter people from corrupt practices (EU average 32%)<sup>64</sup>, while 36% of companies believe that people and businesses caught for bribing a senior official are appropriately punished (EU average 31%)<sup>65</sup>.

**The 2024-2027 national anti-corruption plan is in preparation.** Following an initial stakeholders' public consultation<sup>66</sup>, an inter-ministerial group coordinated by the AFA is preparing the national anti-corruption plan for 2024-2027 which according to the draft should include five pillars, namely: link between fighting corruption and organised crime; integrity in public sector; ethics in private sector; detection and repression; and international action<sup>67</sup>. The final report on the implementation of the previous national anti-corruption plan (for 2020-2022) is still not published<sup>68</sup>.

**Significant results continue to be achieved in the prosecution and adjudication of corruption cases, although concerns exist in relation to resources.** In 2023, both the OCLCIFF<sup>69</sup> and the PNF<sup>70</sup> continued the investigative and prosecutorial activities. The PNF

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sector corruption scores above 79); relatively low (scores between 79-60), relatively high (scores between 59-50), high (scores below 50).

<sup>61</sup> In 2019 the score was 69, while, in 2023, the score is 71. The score significantly increases/decreases when it changes more than five points; improves/deteriorates (changes between 4-5 points); is relatively stable (changes from 1-3 points) in the last five years.

<sup>62</sup> Special Eurobarometer 548 on Citizens' attitudes towards corruption in the EU (2024). The Eurobarometer data on citizens' corruption perception and experience is updated every year. The previous data set is the Special Eurobarometer 534 (2023).

<sup>63</sup> Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024). The Eurobarometer data on businesses' attitudes towards corruption as is updated every year. The previous data set is the Flash Eurobarometer 524 (2023).

<sup>64</sup> Special Eurobarometer 548 on Citizens' attitudes towards corruption in the EU (2024).

<sup>65</sup> Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024).

<sup>66</sup> NGOs deplore not being more involved also in the finalisation of the new anti-corruption strategy. Information received by Anticor and TI in the context of the country visit to France.

<sup>67</sup> Input from France for the 2024 Rule of Law Report, p. 21 and information received by the AFA in the context of the country visit to France. In May 2024, the ad-hoc Senate commission of inquiry into the impact of drug trafficking in France, issued a report including recommendations to curbing corruption linked to drug trafficking. Among other entities, the national police participates in the development and implementation of the inter-ministerial and multi-annual national anti-corruption plan. Written contribution from France in the context of the country visit to France.

<sup>68</sup> According to the AFA, the 2020-2022 national anticorruption plan was implemented successfully. 2023 Rule of Law Report, Country Chapter on the rule of law situation in France, p. 11. NGOs raised concerns on the delay in the publication of the report on the implementation of the last national anticorruption plan. Written contribution from TI France in the context of the country visit to France, p. 6.

<sup>69</sup> At the end of Q1 of 2024, the OCLCIFF had 81 officers, handling a total of 227 ongoing cases (compared to 233 in 2023). Written contribution from France in the context of the country visit to France. To cover lack of staff, OCLCIFF occasionally uses external consultants, and retired police officers (as per law n. 52 of 2022). Information received from the OCLCIFF in the context of the country visit to France.

<sup>70</sup> The PNF counts 20 judges and prosecutors, and 9 specialized assistants. Written contribution from the Ministry of Justice in the context of the country visit to France.

continued to achieve significant results and closed numerous cases<sup>71</sup>, treated a total of 781 procedures in 2023 (compared to 708 in 2022) including 300 procedures initiated and 234 closed<sup>72</sup>, and some concerns exist regarding their limited resources, including to carry out training and retain specialised investigators<sup>73</sup>. The EPPO investigated 3 corruption cases in 2023, which accounts for around 2% of the total number of EPPO cases (in France)<sup>74</sup>. Some shortcomings persist regarding the investigation and prosecution of foreign bribery<sup>75</sup>, and some NGOs expressed some concerns about the modalities for their participation as a civil party in criminal trials against corruption<sup>76</sup>.

**AFA continued to monitor and support the implementation of integrity measures in the public and private sectors, with a significant increase of its workload.** In 2023, the new Director of AFA was appointed, two additional officials were hired<sup>77</sup>, and AFA promoted a series of tools and trainings for public agents, business actors and representatives of civil society<sup>78</sup>. In addition, the number of whistleblowing reports received by the AFA increased by 23% compared to 2022<sup>79</sup>, and AFA also needed external support from audit companies<sup>80</sup>

<sup>71</sup> In 2023, the PNF obtained 111 convictions (71 individuals were banned from public office, concluded 5 judicial agreements of public interest - CJIPs, and one individual appearance on prior admission of guilt - CRPC), and collected around EUR 482.8 million, while since it was created (in 2014), it collected EUR 12.328 billion (2023 PNF annual report, pp. 2-5). Input from France for the 2024 Rule of Law Report, p. 34. The public fund created to return illicit funds to States of origin continues to be used. Information received from the Ministry of Foreign Affairs in the context of the country visit to France.

<sup>72</sup> 2023 PNF Annual Report, p. 3.

<sup>73</sup> The chief of OCLICIFF voiced difficulties with budget (see National Assembly hearing of March 2023). In March 2024, GRECO recommended to provide adequate human resources to the PNF (GRECO Fifth Evaluation Round, Second Compliance Report), while the OECD recommended to strengthen the resources to investigate, prosecute and adjudicate foreign bribery (OECD Phase 4 Evaluation of France). According to the EPPO, the heavy workload of investigators may also have a negative effect on the investigation of cases concerning EU funds. Written contribution received by the EPPO for the 2024 Rule of Law Report, Annex, p. 25.

<sup>74</sup> EPPO (2024) Annual Report 2023, p. 31.

<sup>75</sup> Information received from the Anticor and TI in the context of the country visit to France, in addition to the written contribution from TI France, pp. 16-18. The OECD recommended a better coordination between the non-trial resolutions for natural and legal persons in foreign bribery cases, and noted some legislative weakness for corporate liability (OECD Phase 4 Evaluation of France, March 2024). NGOs raised concerns on the large use of alternative criminal measures (such as the CJIPs) compared to other 'regular' criminal procedures.

<sup>76</sup> Some stakeholders raised concerns on the procedure to obtain the Government issued certificate to act as civil parties in criminal proceedings, and its 3-year duration. Written contribution from TI France in the context of the country visit to France and information received in the context of the country visit to France from Anticor.

<sup>77</sup> AFA has 54 officials, and the current Director, was appointed in August 2023 (6 month after the expiring of the mandate of the previous Director). Input from France for the 2024 Rule of Law Report, p. 20. NGOs raised concern of possible conflicts of interests between the newly appointed Director and the Minister of Justice. Information received from the Anticor and TI in the context of the country visit to France. In its March 2024 Report, OECD was encouraged by the increase in the AFA's annual funding since 2021, as well as a slight increase in its human resources. OECD Phase 4 Evaluation of France (March 2024).

<sup>78</sup> AFA issued a report on the implementation of its anti-corruption guidelines for associations, and other guidelines (for private sector) are under preparation; it developed an anti-corruption educational toolkit for high schools. AFA representatives participated in 69 training events (with public servants), and developed online training, university courses and radio broadcasts. Finally, AFA issued a guide to 'Support on the issue of facilitation payments' (October 2023), and a 'Guide for Chambers of commerce and industry' (May 2024). Input from France for the 2024 Rule of Law Report, p. 23 and 27.

<sup>79</sup> AFA received 373 whistleblowing reports in 2023 (compared to 304 for 2022). On average (considering also anonymous reports), almost 60% of the reports received by the AFA are used for an inspection or other type

to continue to monitor the implementation of integrity programmes in both public entities and private corporations<sup>81</sup>. The OECD noted that no measures had been implemented concerning assertions of professional secrecy obligations to the AFA, which it had identified as a possible impediment to its audits<sup>82</sup>.

**The High Authority for Transparency in Public Life (HATVP) continued checking the integrity of public officials, including their declarations of asset and interests and issues related to revolving doors, although with limited resources.** In 2023, the HATVP examined about the same percentage of asset and interests' declarations compared to the previous year (about 40% of the declarations received)<sup>83</sup>, and transmitted some files to the Public Prosecutor Office for criminal examination<sup>84</sup>. The HATVP continued to carry out trainings and issued 384 opinions to officers on professional mobility (between public and private sectors)<sup>85</sup>, although, according to the HATVP, not all cases could have been properly followed up due to its limited resources<sup>86</sup>.

**Public funds used by political parties and politicians continued to be audited, finding some breaches.** In 2023, the auditing by the National Commission on Campaign Accounts and Political Financing (CNCCFP) on the use of public finance by political candidates and parties showed some breaches (for which the CNCCFP issued administrative fines against political parties)<sup>87</sup>. In its 2024 annual report (for activities of 2023), the CNCCFP expressed

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of follow up action. In 2023, around 50 files were forwarded to the judicial authorities (for further examination and prosecution). Information received from the AFA in the context of the country visit to France.

<sup>80</sup> The externalization of this monitoring raises some concerns (see for example *Observateur de l'Ethique Publique*, 'The externalization of control operations by the AFA', February 2024). According to international standards, an anticorruption agency 'shall be entitled to adequate resources for fulfilment of its mandate'. UNDP/UNODC supported Jakarta Statement on Principles for Anti-Corruption Agencies (2012), and its Colombo commentary (2020).

<sup>81</sup> In 2023, AFA completed 18 controls on public entities; it opened 15 new controls on public entities, and 10 on private companies; and it checked 12 CJIPs. The implementation of corporate compliance programmes is mandated by AFA to private auditing companies (whose cost is paid by the monitored corporation). Input from France for the 2024 Rule of Law Report, pp. 26-28 and information received from the AFA in the context of the country visit to France. In October 2023, the European Court of Human Rights rejected the application from two large companies registered in France, involved in a case of foreign bribery. In January 2024, the Inter-American Development Bank (IADB) debarred two large corporations registered in France, for fraudulent and corrupt practices. IADB press release (4 January 2024).

<sup>82</sup> OECD Phase 4 Evaluation of France, March 2024.

<sup>83</sup> In 2023, HATVP received 8 816 declarations of assets and interests, and examined 3 536 of them (compared to 10 659 and 4 170 respectively in 2022). The number of declarations received depends strongly on the number of newly elected officials as well as, more marginally, on the evolution of the property situation and the interests held by other officials bound to declare. Written contribution from the HATVP in the context of the country visit to France.

<sup>84</sup> In 2023, 17 files were transmitted to the public prosecutor office (compared to 51 cases in 2022). Among the files previously transmitted by the HATVP to the prosecutor office, one case was concluded in 2023 with an individual appearance on prior admission of guilt (CRPC), including a fine of EUR 15 000. Written contribution from the HATVP in the context of the country visit to France.

<sup>85</sup> HATVP organized 34 ethics awareness and training events and met with delegations of 21 foreign counterparts. Input from France for the 2024 Rule of Law Report, pp. 22-23.

<sup>86</sup> Written contribution from the HATVP in the context of the country visit to France. The workload on lobbying for the HATVP increased. See below p. 13.

<sup>87</sup> Public funds may be suspended, for up-to three years. The CNCCFP does not have investigative powers. Information received from the CNCCFP in the context of the country visit to France.

public criticism on the current mechanism of financial declarations and control<sup>88</sup>. A software (FinPol) was used to check the financial declarations of the candidates to the EU elections and the candidates to the legislative elections in June 2024<sup>89</sup>.

**Some progress has been achieved regarding the rules on lobbying, as guidelines on lobbyists' register have entered into force, but concerns remain in relation to top executive level officials.** The 2023 Rule of Law Report recommended France to '[e]nsure that rules on lobbying activities are consistently applied to all relevant actors, including at top executive level'<sup>90</sup>. In 2023, the guidelines on the lobbyists' register (applied to an extended type of public officials) entered into force<sup>91</sup>. Consequently, the workload for the HATVP related to lobbying increased significantly compared to the previous year<sup>92</sup>, while its personnel (with a majority of temporary officers) did not grow accordingly<sup>93</sup>. Concerns remain on the disclosure of lobbying meetings by top-ranking officials, and on the type of lobbying activities and lobbyists<sup>94</sup>. Two draft laws on lobbying presented in the second half of 2023<sup>95</sup> are still pending in the Parliament<sup>96</sup>. So far, with regard to the guidelines on

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<sup>88</sup> In light of some increased challenges, such as the risk of illegal financing by legal entities and interference in electoral campaigns via social networks or the use of loans from natural persons, the CNCCFP proposed 18 actions aimed at combating the risks of hidden or irregular financing, or to simplify the obligations of candidates and political parties. The actions are grouped in the following clusters: strengthen the commission's means of control and sanction; protecting political funding from interference; simplify certain provisions for candidates; simplify and improve the regime of the agent of a political party; and rationalize and unify specific regimes. 2024 CNCCFP annual activity Report (for the year 2023). Some concerns on the form of funding and potential abuse of administrative resources by presidential candidates holding executive positions were also raised by media outlet (see media coverage from Le Monde, in June 2023). Following a report from the CNCCFP, the Paris prosecutor's office opened a preliminary inquiry in July 2024 against a member of the national Parliament regarding suspicions of illicit financing related to the presidential campaign of 2022. The allegations concern possible financial crimes against the public administration for an estimated amount of around EUR 316.000. Several media outlets covered the news on 9 July 2024, including: Politico, Marine Le Pen hit by shock probe into 2022 presidential campaign funding; Le Monde, Marine Le Pen's campaign in 2022: judicial information open on financing conditions; Euronews, 2022 presidential election: suspicions of illegal financing of Marine Le Pen's campaign.

<sup>89</sup> Before, FinPol software could not be deployed for large national or regional elections, with participations of many candidates and lists. Information received from the CNCCFP in the context of the country visit to France.

<sup>90</sup> 2022 and 2023 Rule of Law Reports, Country Chapter on the rule of law situation in France, p. 2 and p. 2.

<sup>91</sup> The new measures entered in force in October 2023, apply to an extended type of public officials, including from local administrations, as well as foreign institutions or States, as confirmed by the OECD report on Public Governance Reviews Strengthening the Transparency and Integrity of Foreign Influence Activities in France (April 2024). Input from France for the 2024 Rule of Law Report, p. 18.

<sup>92</sup> In 2023, HATVP received the registration from 3 055 lobbyists, 73 251 lobbying activities, and launched 234 controls (i.e. an increase of more than 15%, 659% and 44% respectively compared to 2022). The HATVP found 79 violations for non-disclosure (compared to 87 in 2022), and it forwarded six files to the public prosecutor (compared to eight files in 2022).

<sup>93</sup> For 2023, the HATVP relied on 71 agents (compared to 67 in 2022, with a plan to reach 75 by the end of 2024). The staff employed by the HATVP is 49% permanent and 51% on a temporary base. Written contribution from the HATVP in the context of the country visit to France. *Mutatis mutandis*, according to international standards, bodies performing anti-corruption tasks 'shall be entitled to reliable and adequate resources for the gradual capacity development and improvement of the agency's operations and fulfilment of its mandate'. UNDP/UNODC supported Jakarta Statement on Principles for Anti-Corruption Agencies (2012), and its Colombo commentary (2020).

<sup>94</sup> In March 2024, GRECO recommended to increase the transparency of lobbying with top executive officers. GRECO, Fifth Evaluation Round, Second Compliance Report.

<sup>95</sup> The draft laws on the Transparency of interest representation (text n. 834), and on Digital directory of interest representatives were presented in July 2023 at the Senate and the National Assembly, respectively.

lobbyists' register that have entered into force, there has been some progress on the recommendations made in the previous years.

**The number of ethics-related requests from Members of the Parliament increased, and there were calls for increased transparency and accountability.** In 2023, the ethics offices in both Chambers of the Parliament saw a significant increase of ethics-related requests from Members of Parliament<sup>97</sup>. While new integrity tools were issued in 2023<sup>98</sup>, concerns remain in relation to the transparency and accountability on the use of parliamentary assistants, their operational expenses and benefits, and declarations of assets of Members of the Parliament<sup>99</sup>, as well as vetting, declarations of asset and interests, and other integrity measures for senior officials (including at Minister and President level)<sup>100</sup>. In March 2024, the HATVP was asked to issue its opinion on the first draft of the ethics charter for the Presidency<sup>101</sup>. The data shows that the number of declarations for voting recusals filed by both members of the National Assembly and Senators (to avoid conflicts of interest), although still modest, is slightly increasing<sup>102</sup>.

**Integrity measures for police officers and judges continue to be applied and some became operational, although some concerns exist.** The integrity of police officers continues to be screened against different aspects, based on asset declarations, ethics interviews, and checks on side activities<sup>103</sup>. The system for collecting and processing

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<sup>96</sup> Stakeholders raised concerns on the lack of legislative action on lobbying, and they advocate for reform. Written contribution from TI France in the context of the country visit to France, p. 24.

<sup>97</sup> In 2023, the Ethics Committee of the Senate issued 221 written replies (+73% compared to 2022) to integrity requests; while the Ethics Office of the National Assembly received about 1 000 requests for advice. The Senate uses a software (called 'Julia') to receive financial statements from Senators. While the Senate relies on about 30 external accountants to control financial statements, the Ethics Office of the National Assembly has ten full-time officials. Information received from the Ethics Offices of the National Assembly and the Senate in the context of the country visit to France.

<sup>98</sup> The Ethics Committee of the Senate issued a new code of conduct for research entities and a deontology guide for Senators' assistants; clarified measures on lobbying, and its annual activity report was published on its webpage in March 2024. Written contribution from the Ethics Committee of the Senate in the context of the country visit to France.

<sup>99</sup> In January 2024, GRECO concluded that two previous recommendations (to improve transparency and accountability on use of parliamentary assistants, and their operational expenses and benefits) remained partly implemented, while another recommendation (to make declarations of assets from all MPs easily accessible) remained not implemented. GRECO, Second Addendum to the Second Compliance Report of the Fourth Evaluation Round, pp. 3-9.

<sup>100</sup> In March 2024, GRECO recommended to extend HATVP's prior vetting to all Government advisers; to publish registers of withdrawals; to ensure total independence and impartiality of the court assessing acts of corruption in the performance of duties committed by members of the Government; and verify the declarations of assets and interests of the elected presidential candidate. GRECO, Fifth Evaluation Round, Second Compliance Report. NGOs also raised concerns on the independence of the special court. Written contribution from TI France in the context of the country visit to France.

<sup>101</sup> The charter, aimed at all members of the President's private office and staff, including new recruits, is expected to be approved by the President soon after the conclusion of the review by the HATVP, and its implementation is expected to be monitored by an ethics committee. Information received from the General Secretariat of the Government in the context of the country visit to France.

<sup>102</sup> For 2023-2024, there are approximately 26 declarations from 17 MPs, and 8 declarations from Senators, compared to 577 MPs and 348 Senators in France.

<sup>103</sup> Police officers submit the declaration of their assets (to the HATVP) and pass an ethics interview before moving to a different post; an integrity officer checks the accumulation of side activities. In 2023, the Inspectorate General of the Police (IGPN) conducted 105 investigations (compared to 113 in 2022), including 41 for corruption. In 2023, the IGPN issued 59 opinions on ethics conduct, and a specific training

whistleblowing reports has been set up in January 2024 by directorates-general of the Ministry of Interior<sup>104</sup>, and the general inspectorate and the ethics office<sup>105</sup> are responsible for collecting and processing whistleblowing reports within the national police force<sup>106</sup>. Despite some positive developments<sup>107</sup>, there are some concerns regarding the integrity measures for law enforcement agencies<sup>108</sup>. Last year, some measures on the integrity of members of the judiciary were updated<sup>109</sup>, and others are under discussion<sup>110</sup>, although some concerns exist regarding the disciplinary procedure, and the appointment of prosecutors<sup>111</sup>.

**New instruments were developed to track whistleblowing reports and provide advice to potential whistleblowers.** In 2023, the workload of the Defender of Rights (Defender) increased significantly in relation to whistleblowing<sup>112</sup> (with a 128% growth of whistleblowing reports compared to 2022)<sup>113</sup>, the Defender developed a single form to be used by competent authorities to record and track the whistleblowing reports, and it continued to coordinate the actions of the 40 competent authorities<sup>114</sup>. A staff reinforcement was

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was delivered. Input from France for the 2024 Rule of Law Report, p. 22-29 and information received from the Ministry of Justice in the context of the country visit to France.

<sup>104</sup> As part of the alert system, it is possible to choose among different reporting channels based on the merit of the report: for integrity whistleblowing, there is an internal reporting (via the IGPN or the IGGN) or external one (via the Defend of Rights); for non-integrity complaints against police officers and gendarmes, there is an internal and one external platform. Written contribution from the Ministry of Interior in the context of the country visit to France.

<sup>105</sup> The body is tasked to review ethical measures, and issue opinions to officials of the Ministry of Interior and police officers. Input from France for the 2024 Rule of Law Report, p. 21.

<sup>106</sup> Written contribution from the Ministry of Justice in the context of the country visit to France.

<sup>107</sup> In its March 2024 Report, GRECO positively noted the changes in the code of ethics, the conduct action plan and whistleblowing system for the police. GRECO, Fifth Evaluation Round, Second Compliance Report.

<sup>108</sup> In March 2024, GRECO concluded that there was no corruption prevention strategy for law enforcement agencies; no adequate security checks, and no specific rotation system sectors with risk of corruption. GRECO, Fifth Evaluation Round, Second Compliance Report.

<sup>109</sup> Organic Law no. 2023-1058 of 20 November 2023 on the openness, modernisation and accountability of the judiciary.

<sup>110</sup> A new code of ethics is expected to be drafted by the CSM by 2025. Judges and magistrates are not bound to disclose their assets but, in case they move to a different tribunal, they submit a declaration of interests, which is assessed by their new chief of section. Information received from both the HATVP, the CSM and the Union of Magistrates in the context of the country visit to France.

<sup>111</sup> In its January 2024 report, GRECO concluded: a) that its recommendation on judges (that the disciplinary authority and administrative procedure be concentrated at the Judicial Service Commission with jurisdiction over judges), remained not implemented; and b) that its recommendation on prosecutors (to reform the procedure for the appointment of prosecutors, with a binding opinion by the Judicial Service Commission, and that the disciplinary procedure be in line with that applicable to judges, with the High Council for the Judiciary holding sole authority), remained partly implemented. GRECO, Second Addendum to the Second Compliance Report of the Fourth Evaluation Round, pp. 9-12.

<sup>112</sup> The 2023 annual activity report from the Defender (published in March 2024) indicates that complaints, information and advises increased by 10%, and requests by phone increase by 18%.

<sup>113</sup> The Defender received 306 whistleblowing cases in 2023, while the data on whistleblowing reports received by the competent authorities remains uneven. Information received from the Defender of Rights in the context of the country visit to France. According to the Defender, the list of 40 competent authorities should be completed. The 2023 annual activity report from the Defender (March 2024), pp. 9 and 80.

<sup>114</sup> The Defender coordinates the mailing list of competent authorities, and organises topic-focused meetings: on confidentiality, or whistleblowing reports in the financial, labour, and pharmaceutical sectors. Information received from the Defender of Rights in the context of the country visit to France.

allocated in recent years<sup>115</sup>, and for 2024 no additional staff is foreseen by the Defender to support and advise whistleblowers<sup>116</sup>. According to the Defender and NGOs, funding would be needed, in particular in view to provide sufficient financial and psychological support to whistleblowers (as required by the law)<sup>117</sup>. A consortium of NGOs was created to provide advice to potential whistleblowers<sup>118</sup>.

**Public procurement is among the priorities for the prosecution authorities, considering that it is an area with a high risk of corruption.** Combatting corruption in public procurement is one of the priorities for the PNF<sup>119</sup>. Businesses' attitudes towards corruption in the EU show that 34% of companies in France (EU average 27%) think that corruption has prevented them from winning a public tender or a public procurement contract in practice in the last three years<sup>120</sup>. Following concerns raised on large public contracts<sup>121</sup>, a draft law on the use of consulting companies for public policies was presented at the Parliament (where it remains pending)<sup>122</sup>, and the Government established a public advising agency in March 2024<sup>123</sup>.

### **III. MEDIA PLURALISM AND MEDIA FREEDOM**

The French legal framework concerning media pluralism and media freedom is established by the Constitution and specific sectorial legislation, and it is enforced for the audiovisual and digital sectors by the independent media regulator the *Autorité de régulation de la communication audiovisuelle et numérique (ARCOM)*. The Constitution protects freedom of expression and guarantees pluralism of the media. The Declaration of Human Rights and the Rights of the Citizen recognises freedom of expression as a fundamental right<sup>124</sup>.

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<sup>115</sup> Despite the allocation of three additional officers, the Defender pointed to the lack of sufficient human and financial resources to carry out its tasks. 2023 Rule of Law Report, Country Chapter on the rule of law situation in France, p. 16-17.

<sup>116</sup> Written contribution from the Defender in the context of the country visit to France.

<sup>117</sup> The lack of funds necessary to provide the support foreseen by the law remains a point of concern for both the Defender and NGOs. Information received from the Defender of Rights and Anticor and TI in the context of the country visit to France. 2023 Rule of Law Report, Country Chapter on the rule of law situation in France, p. 17. For resources allocated to the Defender in general (not limited to whistleblowing), see the information provided in the section on 'checks and balances', further below.

<sup>118</sup> The whistleblowers' home (*La maison des lanceurs d'alerte*), in combination with the Centre for judicial support (in French CAJAC) offer advice and support to potential whistleblowers. Information received from Anticor and TI in the context of the country visit to France.

<sup>119</sup> Together with groups of inside traders, corruption in public procurement is at the top of priorities for the PNF. Information received from the PNF in the context of the country visit to France. On this topic, in June 2020 the AFA had issued specific guidelines on 'Control the risk of corruption in the cycle of public procurement'.

<sup>120</sup> Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024). This is 7 percentage points above the EU average.

<sup>121</sup> Consulting company were estimated to have signed public contracts worth above EUR 1 billion. Senate Commission of inquiry report No. 578 (2021-2022), volume I, filed on 16 March 2022.

<sup>122</sup> Draft law on Supervising the intervention of private consulting firms in public policies. Written contribution from the Ethics Committee of the Senate in the context of the country visit to France.

<sup>123</sup> The inter-ministerial consulting agency, attached at the Ministry of Civil Service, has recruited 53 agents, and plans to reach a staff of 75 by the end of 2024.

<sup>124</sup> France ranks 21st in the 2024 Reporters without Borders World Press Freedom Index compared to 24th in the previous year.

Transparency on media ownership is guaranteed by specific legislation<sup>125</sup>. The Right to information is guaranteed by the Law on Free Access to Administrative Documents<sup>126</sup>.

**A solid legal framework permits the media regulator to operate autonomously.** The ARCOM disposes of its own budget and the allocated resources continue to be considered adequate for the accomplishment of its tasks. Transparent and balanced rules on the appointment and dismissal of the ARCOM members are established by law<sup>127</sup>. As regards legal safeguards for media pluralism, in a recent decision<sup>128</sup>, the Council of State established that to assess compliance by a television channel with pluralism of information, ARCOM must take account not only the airtime taken up by politicians, but also the diversity of thought and opinion represented by all the participants in its broadcasts. Furthermore, according to the Council of State's decision, ARCOM must ensure independence of information within a channel by 'taking account of all its operating conditions and the characteristics of its programming'<sup>129</sup>. In November 2023, the National Assembly approved the creation of a parliamentary Committee of inquiry into 'the allocation, content and control of licenses for national television services on digital terrestrial television'<sup>130</sup>, following a request by the opposition parties<sup>131</sup>. The Committee is composed of 30 Members from all political groups in the lower chamber of Parliament (National Assembly). Its work focuses on the procedure for granting authorisations for the broadcasting of digital terrestrial television (DTT) by ARCOM, the compliance with the obligations established in the authorisations, particularly for those channels whose contracts are due to expire in 2025, as well as the resources made available to ARCOM to ensure compliance with those commitments. The 2024 MPM maintains its low-risk score for the independence of the media authority<sup>132</sup>.

**The Government has announced its intentions to change the framework relating to transparency of media ownership, however there are currently no concrete plans for regulatory changes.** The 2023 Rule of Law Report recommended France to 'step up efforts to improve the transparency of media ownership, in particular, complex shareholding structures, building on the existing legal safeguards'<sup>133</sup>. The 'États généraux de

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<sup>125</sup> Law No. 86-1067 of 30 September 1986 on the Freedom of Communication; Law No. 2004-575 of 21 June 2004 to support confidence in the digital economy, and Law of 29 July 1881 on the Freedom of the Press; these laws state that any editor of a broadcasting service or director of publication must keep certain information permanently available to the public, including ownership.

<sup>126</sup> Law No. 78-753 of 17 July 1978.

<sup>127</sup> The President is appointed by the President of the Republic after consulting the relevant standing committees of the National Assembly and the Senate. Three members are appointed by the President of the National Assembly, three by the President of the Senate, one by the Vice-President of the Council of State and one by the First President of the Court of Cassation.

<sup>128</sup> The decision follows an appeal submitted by Reporters without Borders: 'RSF appeal elicits historic decision by France's Council of State on TV news channel's regulation'.

<sup>129</sup> Council of State, Judgment of 13 February 2024: Pluralism and independence: Arcom must re-examine compliance with its obligations by CNews.

<sup>130</sup> 8 November 2023: Rapport n°1839-Rapport de la commission des affaires culturelles et de l'éducation sur la proposition de résolution de M. Aurélien Saintoul, les membres du groupe La France insoumise - Nouvelle Union Populaire écologique et sociale tendant à la création d'une commission d'enquête sur l'attribution, le contenu et le contrôle des autorisations de services de télévision à caractère national sur la télévision numérique terrestre (1743).

<sup>131</sup> Motion for a resolution n° 1753 tabled on 13 October 2023 by Mr Aurélien Saintoul and the members of the groupe La France insoumise – Nouvelle Union Populaire écologique et sociale (LFI-NUPES).

<sup>132</sup> 2024 Media Pluralism Monitor, France, p.19

<sup>133</sup> 2023 Rule of Law Report, Country Chapter on the rule of law situation in France, p. 2

l'information', (Estates General of Information) have been launched in July 2023 by the President of the Republic, to analyse all the issues relating to information and 'to lay the foundations for a media and digital space model for future generations'<sup>134</sup>. While the Government announced that aspects relating to the transparency of media ownership and media concentration would be addressed in particular by the working groups on 'the future of the news media and journalism' and 'the State and regulation', no legislative changes have been adopted yet. The 2024 MPM indicates a high risk for 'plurality of media providers', in France, pointing to 'the progress of vertical, horizontal and diagonal/conglomerate concentration' and highlighting that 'concentration in the audiovisual sector has led to less internal pluralism'<sup>135</sup>. Considering the ongoing consultation as regards the revision of the national framework and considering that no legislative changes have been adopted yet to improve the transparency of media ownership, there has been no progress yet in the implementation of the recommendations made in previous Rule of Law Reports.

**Public service media maintain their independence through well-established safeguards, while the Government plan to reform the public media is postponed for the time being.**

The public service media (France Télévisions, Radio France, France Médias Monde, Arte, parliamentary channels) are mainly regulated by the Law on Freedom to Communicate (Law Léotard)<sup>136</sup>. The state holds the entire capital of France TV, Radio France and France Médias Monde, which is subject to the legislation on public limited companies. By law<sup>137</sup>, public service media must ensure pluralism of information and independence as well as diversity of opinion, respect for human rights and democratic principles. Furthermore, when broadcasting television news, the services of France TV must have an independent editorial line<sup>138</sup>. As reported in the 2023 Report, the public broadcasting contribution has been abolished and public broadcasting will be financed by a fraction of the value-added tax (VAT) revenues until the end of 2024, when a more stable system should be defined<sup>139</sup>. According to some stakeholders, in the absence of an adequate and predictable funding model, public service media risk to become more precarious<sup>140</sup>. The 2024 MPM considers the independence of public service media as an area of medium risk<sup>141</sup>. A draft bill<sup>142</sup> was tabled in Parliament in 2023 and modified in 2024 by the Government to provide for the merging of Radio France and France Télévisions at the start of 2026. The objective is to strengthen the public media industry, which is facing stark competition from private companies<sup>143</sup>. This proposal faced opposition from the public broadcasters' unions<sup>144</sup>, and its examination was interrupted by the dissolution of the National Assembly on June 9, 2024.

<sup>134</sup> 2023 Rule of Law Report, Country Chapter on the rule of law situation in France, p. 19.

<sup>135</sup> 2024 Media Pluralism Monitor, France, p.23.

<sup>136</sup> Law No. 86-1067 of 30 September 1986 (Law Léotard).

<sup>137</sup> Ibidem.

<sup>138</sup> Article 44 of Law No. 86-1067 of 30 September 1986.

<sup>139</sup> 2022 Amending Budget Law (FRL) published in Official Journal of 17 August 2022. 2023 Rule of Law Report, Country Chapter on the rule of law situation in France, pp. 19-20.

<sup>140</sup> Information received from French Journalists' trade unions and France Television in the context of the country visit to France.

<sup>141</sup> 2024 Media Pluralism Monitor, France, p.40.

<sup>142</sup> Draft Law No. 545 of 21 April 2023 on the reform of public broadcasting and audiovisual sovereignty.

<sup>143</sup> International video platforms and social networks, which have diminished exposure to public media services.

<sup>144</sup> See e.g. Communication from the National Journalists' Union: <https://snj-francetv.fr/renforcer-audiovisuel-public-ne-se-fera-pas-avec-des-fusions-suppressions/>.

**Journalists continue to be subject to threats and attacks, particularly during demonstrations.** Since the publication of the 2023 Rule of Law Report, nine new alerts were registered by the Council of Europe’s Platform to promote the protection of journalism and safety of journalists, while the Mapping Media Freedom platform reported twenty-one new incidents<sup>145</sup>. The alerts relate mainly to cases of attacks or threats against journalists and online harassment. The National Law Enforcement Plan (SNMO)<sup>146</sup> amended in 2021 recognises the particular role of journalists during demonstrations and provides for the obligation to guarantee their security in the context of public protests and demonstrations. Despite the safeguards in place, some cases of police intimidation against journalists have been reported, as well as physical attacks by protesters<sup>147</sup>. On 7 February 2024, the lower chamber of Parliament adopted an amendment extending from three months to one year the time limit for elected officials to lodge complaints for defamation or public insult<sup>148</sup>. This amendment was dropped after being largely criticised by journalists’ trade unions, which denounced the measure as it could in their view disproportionately increase the time available to elected officials to attack newspapers and give them the possibility to put pressure on journalists investigating, without providing publishers with additional safeguards to protect themselves against abusive lawsuits<sup>149</sup>. The 2024 MPM considers journalistic profession, standards and protection as an area presenting medium risk, pointing in particular to the ‘ongoing degradation of journalists’ working conditions’<sup>150</sup>.

#### **IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES**

France is a democratic republic with a semi-presidential system of government, with a President directly elected by the people and a Prime Minister who is accountable to Parliament. The bicameral Parliament consists of the National Assembly and the Senate. Legislative proposals can originate from the Government or from members of both Houses of Parliament. The Constitutional Council scrutinises the constitutionality of laws, before or after their adoption. Independent authorities play an important role in the system of checks and balances. The Defender of Rights, which also functions as the national equality body, and the National Consultative Commission on Human Rights (CNCDH) are both tasked with the promotion and protection of human rights and fundamental freedoms.

**The Government continued to make considerable use of accelerated legislative procedures.** In 2023, an accelerated legislative procedure was used for 40 draft bills out of 71<sup>151</sup>, including regarding the draft pension reform, the draft programming law on public finances, and the draft 2024 finance law. The considerable use of the accelerated procedures<sup>152</sup> has been regularly criticised by members of Parliament, the CNCDH<sup>153</sup> and the

<sup>145</sup> Council of Europe, Platform to promote the protection of journalism and safety of journalists, France.

<sup>146</sup> *Schéma national du maintien de l’ordre* (SNMO), December 2021.

<sup>147</sup> Input from RFS for the Rule of Law Report, p.18.; and information received from French Journalists’ trade unions in the context of the country visit to France.

<sup>148</sup> Mapping Media Freedom: National Assembly adopted amendment extending time limit for elected officials for filing defamation complaints.

<sup>149</sup> Input from French Journalists’ trade unions (SNJ, SNJ-CGT, CFDT-Journalistes, SGJ-FO) for the 2024 Rule of Law Report.

<sup>150</sup> 2024 Media Pluralism Monitor, France, p.16.

<sup>151</sup> In addition, the Article 49-3 of the Constitution was used 13 times. Input from France for the 2024 Rule of Law Report.

<sup>152</sup> The two governments of Premier Minister Borne (16 May 2022 – 9 January 2024) used the procedure of the article 49-3 of the Constitution 23 times between 2022 and 2023 (website of the National Assembly). It was

Human Rights League<sup>154</sup>. As mentioned in the 2023 Report, the use of accelerated legislative procedures limits parliamentary debate as well as the possibility to introduce and debate amendments. The approach has also been criticised by the Venice Commission<sup>155</sup>.

**Several tools have been put in place to increase the participation of citizens and stakeholders in the policy-making process.** The application ‘Agora’ was launched in September 2023. It allows citizens to participate in the consultations launched by the ministries and to ask questions to the government. Every week, the Government replies to the most frequent questions<sup>156</sup>. First results show a significant interest<sup>157</sup>. This initiative is part of a broader political initiative to increase the participation of citizens in decision-making. In line with this approach, the National Council for Reconstruction (*Conseil national de la refondation*) was launched by the President of the Republic in September 2022. Its goal is to build consensus and identify solutions at the local level to address policy issues in fields such as health and education, by holding meetings and consultations to initiate or support multistakeholder projects. The joint own-initiative referendum, introduced in the Constitution in 2008, allows members of Parliament to trigger a referendum on the basis of a request of 10% of the electorate<sup>158</sup>, without a majority vote in parliament.

**On 1 January 2024, France had 20 leading judgments of the European Court of Human Rights pending implementation, a decrease of nine compared to the previous year<sup>159</sup>.** At that time, France’s rate of leading judgments from the past 10 years that remained pending was at 29% (compared to 36% in 2023) and the average time that the judgments had been pending implementation was 3 years and 10 months (compared to 2 years and 11 months in

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used for the adoption of major pieces of legislation. The President of the Republic announced specifically that the normal legislative procedure would be used for the legislation on the ‘end-of-life’. Information received in the context of the country visit to France from the Constitutional Council.

<sup>153</sup> Contribution from ENNRHI for the 2024 Rule of Law Report, p. 4.

<sup>154</sup> LDH website.

<sup>155</sup> CDL-AD(2023)024, para. 44. See also 2023 Rule of Law Report, Country Chapter on the rule of law situation in France, p. 21. The Constitutional Council also drew attention to the need for legislative proposals to abide by the principles of the rule of law and EU legislation. Speech of the President of the Constitutional Council of 8 January 2024. On the other hand, only 13% of the surveyed companies perceive the frequent changes in legislation or concerns about quality of law-making process as a reason for a lack of confidence in investment protection. Figure 56, 2024 EU Justice Scoreboard.

<sup>156</sup> Either the Minister concerned or the spokesperson of the government replies with a video directly on the application. Out of 24 frequent questions in the first 6 months of operation, 6 related to justice, 5 to the functioning of democracy and 3 to education and childhood, while the rest relating to other more specific topics. Written contribution from the French authorities in the context of the country visit to France.

<sup>157</sup> In February 2024, 130 000 citizens had downloaded the application on their device; 36 000 had participated in public consultations via the application and 24 questions had received a public answer by the government. 61% of users were satisfied with the reply. Information received in the context of the country visit to France from the Secretariat General of the Government.

<sup>158</sup> 4.8 million signatures required.

<sup>159</sup> The adoption of necessary execution measures for a judgment by the European Court of Human Rights is supervised by the Committee of Ministers of the Council of Europe. It is the Committee’s practice to group cases against a State requiring similar execution measures, particularly general measures, and examine them jointly. The first case in the group is designated as the leading case as regards the supervision of the general measures and repetitive cases within the group can be closed when it is assessed that all possible individual measures needed to provide redress to the applicant have been taken.

2023)<sup>160</sup>. The decrease in the absolute number of pending cases is explained by the closure of 10 cases in 2023, though the majority were newer judgments whose implementation had been pending for less than 3 years. The oldest leading judgment, pending implementation for almost 14 years, concerns the inaction of the authorities in the execution of judiciary measures of expulsion regarding illegally occupied lands<sup>161</sup>. As regards the respect of payment deadlines, on 31 December 2023 there were 8 cases in total awaiting confirmation of payments (compared to 15 in 2022)<sup>162</sup>. On 1 July 2024, the number of leading judgments pending implementation had increased to 25<sup>163</sup>.

**The Defender of Rights and the National Consultative Commission on Human Rights are facing a continuous increase in their workload, which is not always followed by an increase in resources.** In 2023, the number of complaints, requests for information to the Defender of Rights, decisions, opinions and reminders to the law it issued, including opinions to the parliament on draft laws and, for the first time, to the European Parliament, increased substantially<sup>164</sup>. This is even more the case since the Defender of Rights has been entrusted with tasks in relation to whistleblowing. Its budget will increase in 2024, including through 10 new positions for the fight against discrimination but the Defender of Rights considers this increase as insufficient<sup>165</sup>. The National Consultative Commission on Human Rights (CNCDH), the French human rights' institution accredited with an 'A Status' by the GANHRI<sup>166</sup> Sub-Committee on Accreditations, in compliance with the Paris Principles, is facing similar issues of lack of sufficient resources. The ENNRHI recommended to France to provide the CNCDH with the 'required financial and human resources so that it can effectively carry out all its tasks and mainly its mandate as independent rapporteur' and that the CNCDH 'shall be consulted in advance, or at least be informed systematically, of the preparation of legislative and regulatory texts and public policies, in particular those that are directly related and affect human rights'<sup>167</sup>.

**The financial environment of civil society organisations remains favourable, while stakeholders continued to raise concerns about the granting and possible withdrawal of public subsidies.** The civic space continues to be considered as narrowed<sup>168</sup>. Public funding

<sup>160</sup> All figures are calculated by the European Implementation Network and are based on the number of cases that are considered pending at the annual cut-off date of 1 January 2024. See the Contribution from the European Implementation Network for the 2024 Rule of Law Report, p. 4.

<sup>161</sup> Judgment of the European Court of Human Rights of 21 January 2010, *Barret and Sirjean v. France*, 6528/11, pending implementation since 2010.

<sup>162</sup> Council of Europe (2024), Supervision of the execution of judgments decisions of the European Court of Human Rights – 17<sup>th</sup> Annual Report of the Committee of Ministers – 2023, p. 137.

<sup>163</sup> Data according to the online database of the Council of Europe (HUDOC).

<sup>164</sup> In 2023, the Defender of Rights received 257 000 solicitations from individuals and 137 894 complaints and requests for information and orientation. It took 320 decisions (compared to 221 in 2022) and issued 416 reminders to the law (302 in 2022). In 2023, the number complaints and requests for information and orientation increased by 10% as compared to 2022. 2023 Annual Report of the Defender of Rights.

<sup>165</sup> The Defender of Rights' budget will increase by EUR 1.1 million in 2024. Information received and written contribution from the Defender of Rights in the context of the country visit to France.

<sup>166</sup> GANHRI (Global Alliance of National Human Rights Institutions).

<sup>167</sup> Contribution from the ENNRHI for the 2024 Rule of Law Report, pp. 2-3.

<sup>168</sup> Rating by CIVICUS; ratings are on a five-category scale defined as: open, narrowed, obstructed, repressed and closed.

of civil society organisations increased between 2021 and 2022<sup>169</sup>. Direct funding to associations is gradually replaced with calls for proposals, directed at needs identified by the administrations<sup>170</sup>. The Economic, Social and Environmental Council launched a broad consultation on the financing of associations. According to preliminary findings<sup>171</sup>, 62% of associations mentioned that they do not have sufficient budget to reach their goal and 42% noted a decrease in public funding. In application of the law of 24 August 2021 on the respect of Republican principles<sup>172</sup>, several decisions were taken to order the dissolution of associations or withdraw their public subsidies<sup>173</sup>. Some of these decisions have subsequently been successfully challenged in court<sup>174</sup>, while associations and the Defender of Rights consider that certain decisions to withdraw funds go beyond the intended purpose of the law, which can create uncertainties<sup>175</sup>. The Defender of Rights<sup>176</sup> and the CNCDH<sup>177</sup> criticised the stigmatisation by public authorities of certain associations<sup>178</sup>.

**Courts and experts have recalled the need for demonstrations to take place in a safe environment.** In the beginning of 2024, the Defender of Rights recalled the need for public authorities to respect certain guarantees, not to discourage the public from participating in demonstrations<sup>179</sup>. In a number of cases, decrees banning demonstrations were taken at a very

<sup>169</sup> In 2022, public funding for CSOs amounted to EUR 11 billion, of which 8.5 billion subsidies; in 2021, these figures were of EUR 10.6 and 8 billion respectively. Input from France for the 2024 Rule of Law Report, pp. 49-50.

<sup>170</sup> Information received in the context of the country visit to France from La Ligue des Droits de l'Homme (LDH), Le Mouvement Associatif (an umbrella organisation for 39 national and 13 regional associations) and the European Civic Forum. The part of public grants represented 34% of the associations' budget in 2005 but was below 20% in 2020. In the same period, the part of financing through public procurements increased from 17% to 29% in proportion to the associations' budgets.

<sup>171</sup> Economic, Social and Environmental Council, Evolution of the financing models of associations, Analysis of 6500 contributions received from associations, Final report, 11 March 2024.

<sup>172</sup> Law No. 2021-1109. For more details on its provisions, see 2022 Rule of Law Report, Country Chapter on the rule of law situation in France, pp. 23-24 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in France, p. 24. Associations requesting a subsidy, a State accreditation or a public utility status must subscribe to a contract of republican commitment.

<sup>173</sup> The Decree of 31 December 2021 provides that if the contract of republican commitment has been violated, *all* public fundings are withdrawn. See e.g. associations Alternatiba Poitiers, Cie Arlette Moreau, media Ti Zef, Alternatiba Rhônes, Maison régionale de l'environnement et des solidarités, Centre sociale des Epinettes (Maubeuge).

<sup>174</sup> Input from France for the 2024 Rule of Law Report, p. 48, mentioning the ruling of the Council of State of 9 November 2023, annulling the dissolution of the association 'Les soulèvements de la Terre'; for more information on this case, see 2023 Rule of Law report, fn. 222. In November 2023, the court in Poitiers also annulled the decision to withdraw public subsidies from the association Alternatiba. Contribution of The Human Rights League and the European Civic Forum for the 2024 Rule of Law Report.

<sup>175</sup> Contribution from The Human Rights League and the European Civic Forum for the 2024 Rule of Law Report, p. 18. Information confirmed in the context of the country visit to France from The Human Rights League, the European Civic Forum and the Mouvement Associatif. Defender of Rights, 2023 Annual Activity Report, p. 16.

<sup>176</sup> Defender of Rights, 2023 Annual Activity Report, p. 16.

<sup>177</sup> Contribution from ENNRHI for the 2024 Rule of Law Report.

<sup>178</sup> The Human Rights League in particular, but also, more generally, associations defending the environment, women's rights and migrants. Information received in the context of the country visit to France from the CNCDH.

<sup>179</sup> See 2023 Annual Report, recalling the recommendations made by the Defender of Rights in its opinion of 23 March 2023, like strictly setting the framework for identity controls and centering the police interventions on appeasement and the protection of individual rights. See also contribution from the Fundamental Rights Agency for the 2024 Rule of Law Report, p. 15 of the chapter relating to France.

short notice, making it difficult, in practice, to challenge them in front of a court<sup>180</sup>. The Council of State, in a ruling of 4 December 2023<sup>181</sup>, recalled the need to inform the public about the ban of demonstrations by any useful means and, as far as possible, within a timeframe that allows the matter to be brought before the administrative court. Police actions, in the framework of demonstrations, that would allegedly be contrary to their deontology rules, can often not be investigated, as the authors of these actions cannot be identified. In its decision of 11 October 2023<sup>182</sup>, the General Assembly of the State Council ordered the Minister for Interior and Overseas Matters to make sure that the characteristics of individual identification of policemen and gendarmes be readable by the public in all operational contexts. Several United Nations experts called on France to respect and promote the right to peaceful assembly<sup>183</sup>. The Parliamentary Assembly of the Council of Europe ‘urge[d] the authorities to introduce an effective system of recording identity checks and to publish statistics on the number of people wounded or killed during protests with a view to improving the accountability of law enforcement officials’<sup>184</sup>.

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<sup>180</sup> Contributions from The Human Rights League and the European Civic Forum, as well as from ENNRHI for the 2024 Rule of Law Report. See also horizontal contribution from the European Civic Forum, p. 9: ‘In Nice, the Prefect of Police issued no less than ten successive orders banning gatherings (...). All were suspended by the administrative court on the grounds of serious and manifestly illegal infringement of the fundamental freedoms of expression and peaceful assembly, and in one of its decisions (of 18 November 2023), the court pointed out the prefect’s obstinacy in an approach that had already been ordered illegal’.

<sup>181</sup> Order of the Council of State of 4 December 2023, *The Human Rights League*, 487984.

<sup>182</sup> Council of State, judgment of 11 October 2023, No. 467771, ECLI:FR:CEASS:2023:467771.20231011. The Council of State also ordered that ‘the characteristics of individual identification [be modified], in particular its size, so as to ensure sufficient readability for the public’.

<sup>183</sup> <https://www.ohchr.org/fr/press-releases/2023/06/france-must-respect-and-promote-right-peaceful-protest-un-experts>.

<sup>184</sup> Council of Europe, Parliamentary Assembly, Resolution n°2534 (2024), para. 6.1, with reference to Resolution 2512 (2023).

## Annex I: List of sources in alphabetical order\*

\* The list of contributions received in the context of the consultation for the 2024 Rule of Law report can be found at [https://commission.europa.eu/publications/2024-rule-law-report-targeted-stakeholder-consultation\\_en](https://commission.europa.eu/publications/2024-rule-law-report-targeted-stakeholder-consultation_en).

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## **Annex II: Country visit to France**

The Commission services held virtual meetings in March 2024 with:

- Agence France Presse
- Anticor
- Anti-Corruption Agency
- Central Office for Combating Corruption and Tax Offenses
- Conference of Bar Presidents
- Constitutional Council
- Council of State
- Defender of Rights
- Delegation of the Bars of France
- Ethics Commissioner of the National Assembly
- European Civic Forum
- France Chamber of Commerce and Industry
- High Authority for the Transparency of Public Life
- High Council for the Judiciary
- Journalistic Ethics and Mediation Council
- League for Human Rights
- Le Mouvement Associatif
- Ministry of Culture
- Ministry of Justice
- Ministry of Foreign Affairs
- National Commission on Campaign Accounts and Political Financing
- National Consultative Commission on Human Rights
- National Council of Bar Associations
- National Financial Prosecutor
- National Journalists Union
- Paris Bar Association
- Public service media (Radio France and France Télévision)
- Regulatory Authority for Audiovisual and Digital Communication (ARCOM)
- Reporters without Borders
- Senate Ethics Committee
- Syndicat de la Magistrature
- Transparency International France
- Union Syndicale des Magistrats

\* The Commission also met the following organisations in a number of horizontal meetings:

- Amnesty International EU
- Centre for Democracy and Technology Europe
- Centre for European Volunteering
- Civil Liberties Union for Europe
- Civil Rights Defenders
- Civil Society Europe

- Culture Action Europe
- Democracy Reporting International
- European Centre for Non-Profit Law
- European Civic Forum
- European Federation of Journalists
- European Partnership for Democracy
- European Youth Forum
- Free Press Unlimited
- International Federation for Human Rights
- International Planned Parenthood Federation
- International Press Institute
- Irish Council for Civil Liberties
- JEF Europe
- Open Society Foundations
- Philanthropy Europe Association
- PICUM
- Reporters Without Borders
- SOLIDAR
- Transparency International EU