



Annual Activity Report 2020

We are all equal before the law

Défenseur des droits

RÉPUBLIQUE FRANÇAISE

Annual Activity Report 2020

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EDITORIAL

DEFENDING ACCESS TO RIGHTS SO THAT NO ONE IS DENIED THEIR RIGHTS

The crisis we are going through affects all of us, especially the people furthest from their rights, who were already in difficulty. The first studies all agree about the extent of the consequences of this pandemic: increased insecurity and isolation of the most vulnerable persons; worsening inequalities, poor housing, increasing school dropout rates; harmful effects on mental health, particularly for young people, etc. Faced with this bleak picture, the defence of rights and the promotion of equality have a crucial role to play, and the involvement of the Defender of Rights during the first months of the pandemic has convinced me of this.

With the publication of this activity report, I would like to take the opportunity to pay tribute to my predecessor. Jacques Toubon, who came to head a very young institution, consolidated its identity, reputation, and recognition among its interlocutors as an integral part of our democracy. Firmly committed to the requirements of our rule of law, he has made the Defender of Rights' office the uncompromising watchdog of our rights and freedoms.

" Faced with the exceptional measures taken to protect the health of all, it was necessary to continue to preserve the access to rights for all. "

Jacques Toubon has taken courageous and productive positions on a wide range of subjects, including the decline in public services, discrimination based on origin, the consequences of dematerialisation on access to rights, violations of the rights of foreigners, and breaches of ethics in law enforcement. At a time when successive states of emergency imposed unprecedented restrictions on our rights and freedoms, his vigilance and commitment to defending them gave the Defender of Rights' office the full scope of the role it could play in troubled times.


The activity of the Defender of Rights' office in 2020 has confirmed how indispensable its role is. This report shows, through numerous illustrations, the way in which the crisis context undermines access to rights. This is evidenced, for example, by the increased difficulties encountered by the most vulnerable people – the elderly and dependent, people living in precarious situations or with disabilities, people in detention – in accessing some of their rights.

The particular context in which I took up my duties has enabled me to measure our institution's capacity to grasp in real time the risks of infringement of rights and freedoms, as soon as they emerge. But while it highlights that ability, it is not the context of states of emergency and the health crisis that makes the Defender of Rights' office attentive to shortcomings in access to rights and threats to our freedoms. The Defender of Rights' office is in constant touch with the reality on the ground, thanks to its territorial installation, which was strengthened in 2020 with the creation of the heads of regional units, and to the network of 536 delegates, creating territorial coverage on call in over 870 locations.

Also at headquarters, with the establishment of the Defender of Rights Observatory, which analyses complaints received and puts them into perspective with survey data, helping to make knowledge a tool for action.

Coming at the head of this institution with such a solid footing, I would like to continue to give it the resources to fully exercise the prerogatives that organic law has entrusted to it. Firstly, by reporting on our interventions in an ever more legible and transparent manner. In all areas where we make recommendations, whether it is a question of individual complaints or opinions on legal texts, it must be clear what action is taken on them. While the Defender of Rights' office is now well established in the landscape of the institutions of the French Republic, its opinions and recommendations must be taken into greater consideration and receive better follow-up. On the other hand, in order to further defend the access of one and all to their rights, it seems to me that it is essential to reach out even more to those who are furthest from the law and their rights. Building on the foundations we have today, we must seek to reach out to those people who do not reach out to us and yet whose rights are violated in many ways. Confidence in our democracy, the cohesion of our society, and the meaning we give to brotherhood are at stake.

Claire Hédon
Defender of Rights



EDITORIAL

ETHICS AT THE HEART OF TRUST IN LAW ENFORCEMENT

Law enforcement missions, which have become even more complex in recent times, must take into account the greater demand for quality in relations between citizens and their institutions, together with the elevated terrorism threat level, a rise in the level of violence and the constraints arising from the pandemic.

This threat level and these constraints call for measures that are likely to infringe on rights and freedoms. That is the whole issue of the successive states of emergency and, from now on, the public health state of emergency.

In particular, this translates into a requirement for law enforcement to set an example and be rigorous in their law enforcement mission, in order to halt the increase in the number of injuries recorded during their operations. In addition, discriminatory identity checks and a lack of traceability in them undermine public confidence and increase tensions: things must necessarily change in this area as well.

In this context, faced with shocking images and the weight of emotions, effective oversight of law enforcement appears more important than ever to restore the population's confidence in them. The oversight practised by the Defender of Rights' office, external and independent, is based on compliance with the professional code of ethics, i.e. on good professional practices, and good individual and collective behaviours. It aims not only to punish breaches, but above all, through training, to change professional cultures in order to improve individual and collective practices.

The promotion of ethical standards, alongside the commitment of the general inspectorates and the intervention of the judicial authority, not only guarantees the effectiveness of the rule of law, but also makes it possible to better lead law enforcement and to give full meaning to the accomplishment of their missions.



This is why, at a time when reforms are desired and announced, I will be working, alongside the Defender of Rights, in the service of this requirement of exemplary behaviour and effectiveness, conditions of the confidence and necessary respect for law enforcement. We will thus continue our action, based on the examination of individual complaints and participation in the training of the law enforcement actors, to ensure that ethics is at the heart of their practices, in the service of our fellow citizens.

Pauline Caby

Assistant in charge of ethics compliance
by law enforcement professionals

EDITORIAL

LISTENING TO AND BELIEVING THE WORDS OF CHILDREN: A DAILY COMMITMENT

I have devoted my entire career to the field of education, including more than 20 years working with the most vulnerable children. I have been able to see the effects of a lack of benevolence, the consequences of violence against children, and seeing in their eyes the essential carefree nature that should characterise this period of childhood and adolescence. I have observed this apparent over-maturity in young adolescents without hope, who talk to you about endangerment, about death as if they had already lived and experienced a lifetime of suffering. But, above all, I have seen children and adolescents who needed adults to look at them and see them as something other than a source of “problems”, to be able to change their outlook, to see their potential, especially when the manifestations of suffering are most visible.

Now more than ever, it is time to listen actively and attentively to what children have to say, both individually and collectively. Let's not wait until the child is a victim, or until they act out, before finally feeling obliged to listen to them. Let us allow them to learn to express themselves freely, provide them with the space to do so, and take the time to do so. It is then that they will be able to become an adult committed to the respect of rights, in their family and societal environment, in a social ecosystem.

Although it is probably still too early to effectively measure the consequences of the pandemic, the Children's Ombudsperson is already observing its effects: increased difficulties at school, depression, intra-family violence, over-adaptation of children with risks of psychological decompensation. So many difficulties that already worry many professionals about the mental health of these young people. Now more than ever it is time to act, in order to ensure the right to health, education and child protection, to adapt the functioning and resources of institutions and to decompartmentalize them.



During these six years as Children's Ombudsperson, I wish to support the defence, protection and promotion of the children's voices through a daily commitment to the Defender of Rights, Claire HEDON. Through that, children will gain confidence and self-esteem. While the child's right to be heard is one of the four general principles of the Convention, it determines the effectiveness of all other rights.

Éric Deleamar

Children's Ombudsperson,
deputy in charge defending
and promoting children's rights

EDITORIAL

THE DEFENDER OF RIGHTS' OFFICE REINVIGORATING THE FIGHT AGAINST DISCRIMINATION

The fight against discrimination is one of the major missions entrusted to the Defender of Rights' office when the institution was created in March 2011. In this field, it took over from the HALDE (French High Authority for the Fight against Discrimination and for Equality (Haute autorité de lutte contre les discriminations et de la promotion de l'égalité)) which, in a few years, had well established the subject in our institutional landscape.

Since then, the Defender of Rights' office has become one of the main sources of law development in this area. It has also mobilised civil society and public authorities, by producing resources that can be mobilised in the everyday actions of each and every one, and reports that can inspire public action. *"Recruiter sans discriminer (Recruiting without discrimination)"*, *"Agir contre les discriminations liées à l'identité de genre dans l'emploi (Acting against discrimination related to gender identity in employment)"*, *"L'emploi des personnes en situation de handicap et aménagements raisonnables (Employment of persons with disabilities and reasonable accommodations)"*, *"Discriminations et origines, l'urgence d'agir (Discrimination and origins, the urgency to act)"* are essential reference works.

However, it must be said that the number of claims remains too low in relation to the scale of discrimination. Discouragement, difficulty in establishing the facts, slow proceedings, ineffective sanctions. The Defender of Rights' office is concerned about this phenomenon.

Our ambition is to fight against such discouragement, and to strengthen our capacity to raise individual and collective awareness, reactions and claims, responses that will enable victims to regain their rights. We will do that by mobilising the resources at our disposal: relying on the heads of the regional units, strengthening the network of discrimination representatives throughout the country, improving the link between their work and that of the legal experts at headquarters, strengthening links



with partners and associations, and resolutely pursuing exchanges with the European bodies that create the normative frameworks necessary for such actions.

Nor can the Defender of Rights overlook the new resources and tools used, which may entail new risks in the aspiration for equality. This is why the work undertaken on algorithms and artificial intelligence, which can surreptitiously reintroduce very human prejudices and exclusions, will be more in-depth in the months and years to come.

Finally, the new Sapin 2 Act, entrusting the Defender of Rights' office with the protection of whistleblowers introduces a new and extremely topical field into the scope of our responsibilities.

With its solid teams and the confidence that is placed in its actions, our institution has the best assets to move forward in 2021.

George Pau-Langevin

Assistant in charge of the fight against discrimination and promoting equality

EDITORIAL

PAVING THE WAY FOR RIGHTS

During the pandemic, the digitisation of our lives has accelerated considerably. Now omnipresent in our personal, family, friendship, and professional relationships, digital technologies are also transforming our relationship with public services. While they may speed up and often facilitate our procedures, let us not forget that, faced with doubt, exhaustion, and the distress of someone who "does not tick all the boxes", a screen will never replace a welcome, an online form will never replace face-to-face exchanges.

In this world of "no contact", mediation obviously has a crucial role to play: it must be accessible, allow dialogue to be re-established, and place the attention due to each and every person at the heart of public service. However, mediation alone will not succeed. This is why we need to disseminate, at all levels of the administrations, a culture of listening and a practice of respect for rights and people.

This starts with an example. We know that every person who enters the office of one of the Defender of Rights delegates, who sends a letter or clicks on our website, is seeking to break a deadlock, to rectify an injustice and to be recognised in their rights, all at once. To all of us, we dedicate our efforts to find and open the way to clarify, resolve and, if necessary, correct a conflict situation.

In most cases, the public officials we work with are willing to take our complaints seriously – and even to improve, based on our analyses, the way they handle cases. But sometimes, obstacles seem to be deliberately placed in the way of rights; in which case we will not fail to denounce and fight it.



The coming years will be fraught with threats to the cohesion of our society; they will require unwavering solidarity. More than ever, the Defender of Rights' office, all of its agents and delegates remain a local player and an uncompromising watchdog, in the service of equal access to rights and public goods. With this in mind, I will strive to defend attentive and rigorous mediation, anchored in law, whose independence is non-negotiable.

Daniel Agacinski

General Delegate for Mediation

STATISTICS

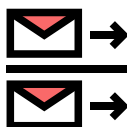
2020, IN FIGURES

MORE THAN 165,000 REQUESTS FOR INTERVENTION OR ADVICE



96,894

complaint filings
in 2020



6%

Decline in
complaints
(**+1.1% over the** last
2 years)



69,705

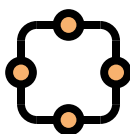
calls
to telephone
platforms (**+45%**)



10%

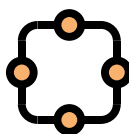
Overall increase
in **referrals**
in 2020

PERMANENT CONTACTS WITH THE PUBLIC AND CIVIL SOCIETY



3

advisory boards made up
of **22** qualified personalities,
meeting **11** times



9

standing dialogue committees
with civil society meeting
16 times



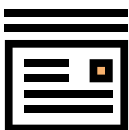
57

partnership agreements,
including **2** concluded in 2020,
to strengthen the access
to rights



34

press releases
from the institution
in 2020



5,111

mentions
of the institution in the
traditional and digital media



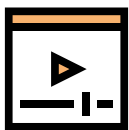
20%

increase in the **number**
of visits to the institution's
website



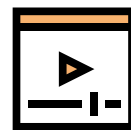
145,587

subscribers on social
networks: Twitter, Facebook,
Instagram, etc.



6,036,502

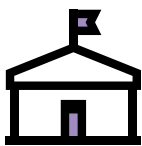
Posts of the institution's
content on social networks



65,871,872

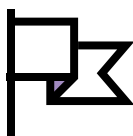
Screen **views**
of the information campaign
aimed at 16-25 year olds

A TEAM IN THE SERVICE OF RIGHTS AND FREEDOMS

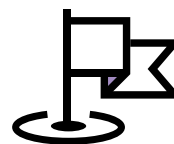


226

agents at headquarters



536

delegates present throughout
the country

872

reception points
throughout the country

RECOGNISED EXPERTISE



93,662

cases handled
in 2020

Nearly

80%

of out-of court
settlements have been
favourably resolved

6

opinions issued
to the public
prosecutor

21

ex officio
referrals

245

decisions



87

decisions concerning
257 recommendations
including 47 reform
proposals

122

Observation filings
made before
the courts

73%

observations
are confirmed by
court decisions

13

notices
to Parliament

90

Including
recommendations
and 57 reform
proposals

200

recommendations
from topical reports

64

Including
reform proposals

STATISTICS

GENERAL STATISTICS

THE OVERALL CHANGE IN COMPLAINTS RECEIVED BETWEEN 2019 AND 2020

Head office	20,661	23,639	25,048	6.0%	21.2%	
Delegates	75,175	79,427	71,846	- 9.5%	- 4.4%	
TOTAL	95,836	103,066	96,894	- 6.0%	1.1%	31.89%

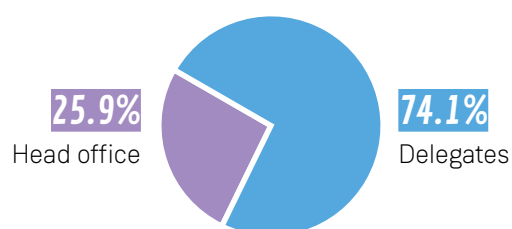
BREAKDOWN BASED ON AREA OF EXPERTISE OF THE DEFENDER OF RIGHTS*

Relations with public services	61,596	60,617	- 1.6%	75.6%
Defence of children's rights	3,016	2,758	- 8.6%	10.6%
Fight against discrimination	5,448	5,196	- 4.6%	14.6%
Law enforcement ethics	1,957	2,162	10.5%	208.0%
Guidance and protection of whistleblowers	84	61	- 27.4 %	

Access to rights	35,626	30,174	- 15.3%	-3.3%
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* It should be taken into account in the presentation that the sum is not equal to the total number of claims received (Multiqualification).

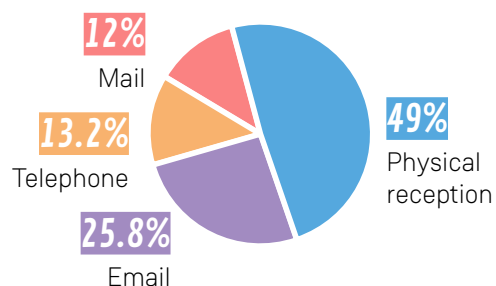
BREAKDOWN OF CASES RECEIVED BETWEEN HEADQUARTERS AND DELEGATES



HEAD OFFICE REFERRAL METHOD*



DELEGATE REFERRAL METHOD*



* The change in referral methods is associated with the pandemic and the lockdown episodes.

OVERALL BREAKDOWN OF COMPLAINTS BY THE INSTITUTION'S AREA OF INTERVENTION*

Social protection and security	22.1%
Traffic law	15.1%
Immigration law	10.7%
Justice	8.9%
Public services	5.8%
Private goods and services	5.7%
Taxation	4%
Civil service	3.4%
Private employment	3.3%
Privacy	3.2%
Housing	3.1%
Law enforcement ethics	2.6%
Environment and urban planning	2.6%
Nat. education/higher education	2.3%
Child protection	2.2%
Health	2.1%
Network operators	1.5%
Public liberties	1%
Regulated professions	0.4%

* In 2020, 3,786 cases were multi-qualified, 1,237 of which (2%) were handled by delegates, and 2,549 (13%) were handled at headquarters.

STATISTICS

STATISTICS BY MISSION

RELATIONS WITH PUBLIC SERVICES

TYPOLOGY OF THE MAIN RIGHTS VIOLATIONS

<i>RIGHTS VIOLATIONS</i>	<i>%</i>
Relations with users	71.7%
Regulations	21.6%
Computer tools	3.6%
Organisations	3.1%

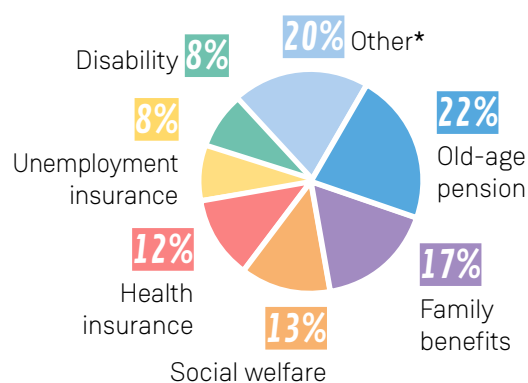
TYPOLOGY OF THE MAIN VIOLATIONS LINKED TO RELATIONS WITH USERS

<i>VIOLATIONS ASSOCIATED WITH RELATIONS WITH USERS</i>	<i>%</i>
No response	24.2%
Lack of listening and consideration of arguments	21.1%
Processing or response time	17.3%
Lack of information	7.4%
Lack of justification for decisions	3.5%
Intelligibility of responses	1.6%
Deadline for refunds of unjustified payments	1%
Abusive or repetitive document requests	1%
Lost files or documents	0.9%
Multiplicity of points of contact	0.6%
Other	21.4%

BREAKDOWN OF CASES CONCERNING RELATIONS WITH PUBLIC SERVICES

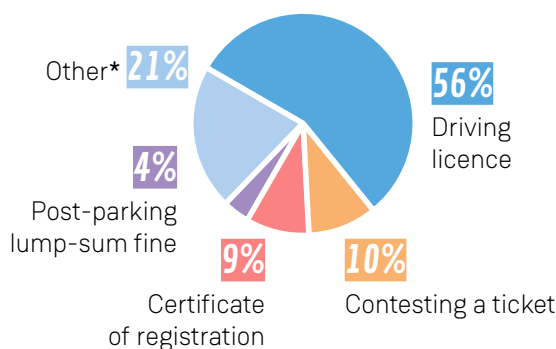
Social protection and security	25.6%
Traffic law	16.9%
Immigration law	11.2%
Justice	8.4%
Public services	6.5%
Taxation	4.3%
Civil service	2.6%
Environment and urban planning	2.6%
Housing	2.3%
Nat. education/higher education	2.3%
Health	2.2%
Network operators	1.6%
Public liberties	0.8%
Regulated professions	0.4%
Others	12.3%

MAIN CASES INVOLVING SOCIAL PROTECTION AND SECURITY



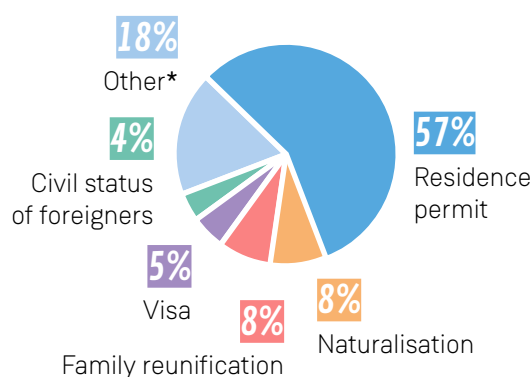
* Accident at work or on-duty	2%
Disability	2%
Employment programs	2%
Maternity or paternity	1%
Other	8%

MAIN CASES IN TRAFFIC LAW MATTERS



* Unregistered transfer certificate	3%
Lump-sum fine in tort	3%
Road traffic	2%
Non-receipt of the initial or increased fine	2%
No response from the PMO	1%
No designation of the driver	1%
Non-refund of deposit/overpayment of deposit	1%
Identity or number plate theft	1%
Other	7%

MAIN CASES INVOLVING IMMIGRATION LAW



* Material reception conditions	2%
Asylum	2%
Restraining orders	1%
Work permits	1%
Administrative Detention Centre	1%
Prohibition from the territory	1%
Direct debit problems	0.5%
Home detention	0.5%
Reintegration	0.5%
Other	8.5%

FIGHT AGAINST DISCRIMINATION

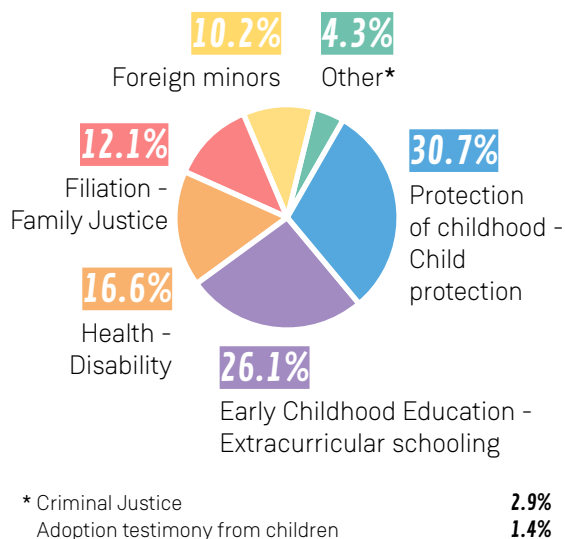
MAIN GROUNDS OF DISCRIMINATION (HEADQUARTERS AND DELEGATES)

Disability	21.2%	3.6%	4.8%	5.0%	2.9%	3.7%	1.2%
Origin	13.3%	4.7%	2.7%	2.1%	1.7%	0.7%	1.4%
Health condition	11.3%	3.4%	4.1%	1.8%	0.9%	0.8%	0.3%
Nationality	8.1%	0.7%	0.3%	5.7%	0.6%	0.4%	0.4%
Marital status	5.9%	1.0%	0.9%	1.0%	2.2%	0.3%	0.5%
Age	5.7%	1.8%	0.9%	1.3%	1.2%	0.2%	0.3%
Economic vulnerability	5.4%	0.6%	0.2%	1.4%	2.4%	0.1%	0.7%
↑ Sex	5.1%	2.2%	1.3%	0.6%	0.7%	0.1%	0.2%
Trade union activities	4.5%	2.0%	2.3%	0.2%	0.0%	0.0%	0.0%
Place of residence	3.3%	0.5%	0.2%	1.1%	0.7%	0.5%	0.3%
Pregnancy	3.1%	2.2%	0.5%	0.1%	0.1%	0.2%	0.0%
Physical appearance	2.5%	0.8%	0.5%	0.5%	0.6%	0.1%	0.0%
Religious beliefs	2.4%	0.7%	0.3%	0.7%	0.4%	0.2%	0.1%
Direct debit problems	2.4%	0.1%	0.1%	0.7%	1.5%	0.0%	0.0%
Gender identity	1.6%	0.2%	0.2%	0.6%	0.4%	0.1%	0.1%
Sexual orientation	1.4%	0.5%	0.3%	0.3%	0.2%	0.0%	0.1%
Other*	2.8%	0.8%	0.5%	0.7%	0.5%	0.2%	0.1%
TOTAL	100%	25.8%	20.1%	23.8%	17.0%	7.6%	5.7%

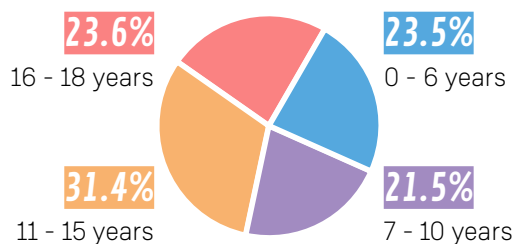
* Other criteria: political opinion, surname, morals, genetic characteristics, and loss of autonomy.

DEFENCE OF CHILDREN'S RIGHTS

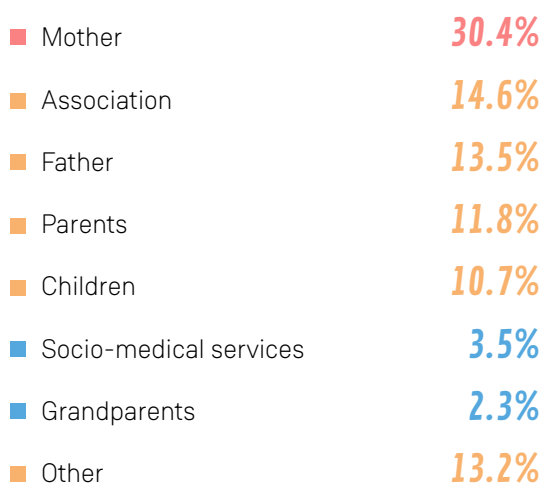
BREAKDOWN ACCORDING TO THE NATURE OF THE COMPLAINTS



BREAKDOWN BY AGE OF CHILDREN

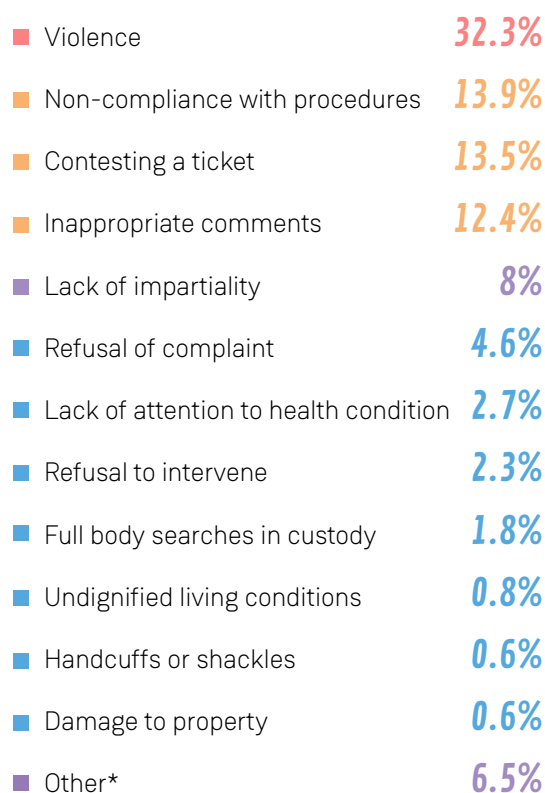


BREAKDOWN BY CLAIMANTS



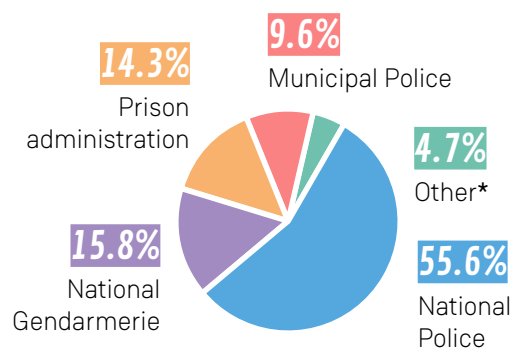
LAW ENFORCEMENT ETHICS

MAIN REASONS FOR COMPLAINTS HANDLED BY THE INSTITUTION



* Theft, death, corruption, pat-down, etc.

LAW ENFORCEMENT AGENCY INVOLVED



* Private security services, public transport surveillance services, customs services, private investigators, etc.

FOLLOW-UP ON THE INSTITUTION'S RECOMMENDATIONS

Pursuant to Article 25 of Organic Law No. 2011-333 of 29 March 2011, the Defender of Rights' office makes recommendations that it may aim at all the defendants in the case referred to it. They must report to it on the actions taken, whether it concerns State services, public services in general, social benefit organisations, or local authorities. In the fight against discrimination, it can also involve private individuals, particularly companies.

It recommends to the persons concerned the measures that it considers likely to remedy any situation or practice that it considers to be prejudicial to rights, in violation of law enforcement ethics, or discriminatory. It may recommend reforming legislation, compensating or punishing the defendants, setting up training, correcting internal rules, or adopting measures.

The Defender of Rights' office establishes an analysis of the recommendations which enables it to have a better reading of the effectiveness of its decisions according to the referrals and the defendants. It made 310 recommendations in 2018, 357 in 2019, and 234 in 2020.

As its recommendations may call into question the development of complex measures over the long term, and as they are subject to a time limit, it is only able to give its opinion on the outcomes of its recommendations issued before 2020. However, the assessment of follow-up on recommendations since 2018 reveals a significant follow-up rate of 30% positive responses after one year and 50% positive outcomes after two years.

Despite the specific situation in 2020, non-responses to the recommendations made have nevertheless remained significant. Of the 357 recommendations issued in 2019, the Institution received 201 responses, representing 56% of its recommendations.

The non-responses came mainly from public services, particularly the Ministry of the Interior (10 recommendations received no response), town halls and departments (7 recommendations), prisons (4 recommendations) and university medical centres (CHU) (3 recommendations).

Of the 201 responses obtained for the 2019 recommendations, 62% were implemented and 7% were partially implemented. 31% of the recommendations were refused, 99% of which concerned the public sector. The majority of refusals came from local authorities such as municipalities and departments (9 recommendations were not followed), the hospital sector (6 recommendations), and in particular university medical centres; and the Ministry of the Interior (5 recommendations).

The Defender of Rights' office has decided to improve the follow-up on its recommendations in order to contribute to a better effectiveness of access to the rights of those who refer cases to it. Indeed, recommendations only make sense if they genuinely resolve the situations of people whose rights have been ignored. Assessments of the outcomes of its recommendations will give rise to sustained dialogue and questioning of the actors concerned, as part of its strategy to combat non-responses from State services.

THE PATH BETWEEN A COMPLAINT AND A DECISION

REFERRAL BY

- ★ A person with difficulties within the field of expertise of the institution
- ★ Its "beneficiaries"
- ★ A French parliamentarian or a French member of the European Parliament
- ★ A foreign institution with the same functions as the Defender of Rights

SERVICES CONCERNED

- ★ A State administration
- ★ A local authority
- ★ A hospital, a managing body of a public service, an employer, etc.

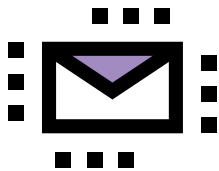
AREAS OF EXPERTISE

- ★ Defending the rights of users of public services
- ★ Defending and promoting the rights of children
- ★ Fight against discrimination and promoting equality
- ★ Law enforcement officer ethics compliance
- ★ Guidance and protection of whistleblowers

WAYS OF REFERRAL

- ★ Online form
- ★ Meeting with a delegate
- ★ Free mail without postage required

1. CLAIMANT REFERRAL



2. REVIEW OF ADMISSIBILITY



MEDIATION DELEGATE OR HEAD OFFICE



3. CASE INVESTIGATION BY A SPECIALIST LAWYER

POWERS

- ★ Request for documents
- ★ On-the-spot verification
- ★ Hearing
- ★ Request for observations or information



4. SENDING OF A SUMMARY NOTE* TO THE DEFENDANT

* A summary note sets out all the facts, the applicable legislation, and an analysis of the complaint. It is sent to the defendant by registered letter with acknowledgement of receipt.



5. RESPONSE FROM THE DEFENDANT



6. DRAFTING THE DECISION

TYPES OF DECISIONS

- ★ Individual, collective, or general recommendation
- ★ Transmission to the public prosecutor
- ★ Transmission to the sanctioning authorities
- ★ Acknowledgement
- ★ Observations before the court

PART 1

2020, A YEAR OF CHANGE FOR THE LIFE OF THE INSTITUTION

A·

COMPLETION OF JACQUES TOUBON'S 6-YEAR TERM OF OFFICE

2014-2019 IN FIGURES

More than **1 in 2 French** people now know the Institution, according to a survey conducted by the Ipsos polling firm in 2020¹.

At the time of Mr. Jacques Toubon's appointment in 2014, the awareness of the institution was much lower: only 37% of awareness was spontaneous.

In 2020: 51% of those interviewed had heard of the Defender of Rights' office, an encouraging increase for one of the youngest institutions in the Republic. 87% of respondents described the institution as useful, with no particularly significant distinction between indicators such as age, socio-professional category (SPC) or political sensitivity.

AN INSTITUTION DEDICATED TO THE PUBLIC

★ **780,000**
requests for intervention
or advice (+50% between 2014 and 2019)

★ **500,000**
claims over the entire 2014-2019 period
(+38%)

★ **230,000**
Information requests

★ **270,000**
children and young people made aware
of the law

★ **874** reception points
including **172** in prisons (+173% between
2017 and 2019)

★ **520**
delegates throughout France (**398** in 2014)

A CONTINUED INCREASE IN CLAIMS

★ **+78%**
Public services

★ **+21%**
Children's rights

★ **+20%**
Fight against discrimination

★ **+179%**
Law enforcement ethics

The mission of guiding and protecting whistleblowers was entrusted to the Defender of Rights in 2016.

¹ Ipsos (2020), *Defender of Rights*, [sample of 1,817 people], 15 April to 21 April 2020.



THE DEFENCE AND PROMOTION OF FUNDAMENTAL RIGHTS AND FREEDOMS IN ALL OF THE INSTITUTION'S AREAS OF EXPERTISE

In six years, Jacques Toubon made the institution an essential pillar in the defence and promotion of fundamental rights and freedoms, both nationally and internationally and among users and associations, as well as public authorities.

Although it is difficult to give a full account of the 123 opinions addressed to the Parliament, the 1,409 decisions issued or the 780,000 requests received, the institution has published a website dedicated to the assessment by Jacques Toubon and his deputies, Claudine Angeli Troccaz, Geneviève Avenard, Patrick Gohet and Bernard Dreyfus, General Delegate for Mediation with Public Services. The 2019 annual activity report was also an opportunity to review the major subjects dealt with by the institution, the concrete legislative advances since 2014, the realisations of public authorities and the changes in collective mentalities.

As Jacques Toubon said, the Defender of Rights is society's seismograph, with claims often acting as weak signals. While difficulties are dealt with individually, the problem raised by a claimant often has a more collective dimension. Consequently, the Defender of Rights endeavours, as soon as it is relevant, to generalise its recommendations so that the situation in question cannot recur and as many people as possible can be protected.

Sometimes the texts themselves, laws or decrees, or their absence, are at the origin of such rights violations. One of the powers conferred on the Defender of Rights' office by Organic Law No. 2011-333 of 29 March 2011 is to recommend that the public authorities make any legislative or regulatory changes that appear useful to it.

Thus, the legislative and regulatory recommendations regularly sent by the Defender of Rights to the public authorities during his term of office have been the subject of a vast work of inventory and follow-up giving rise to the publication, on a dedicated website as well as on the institution's legal space, of 56 "reform sheets" covering the institution's field of expertise. They aim, on the one hand, to show the impact of the institution's action on the daily life of each and every person, indicating the reforms carried out and, on the other hand, to relay the expected reforms that have not been implemented to the competent authorities, which the Defender of Rights endeavours to repeat at every useful opportunity.

In addition to reform proposals, the **Institution has worked to improve relations between users and administrations by fully playing its role as mediator**. As difficulties relating to social protection and security were the first reason for referring cases to the institution between 2014 and 2020, the Defender of Rights ensured that the conditions of access to various social benefits were respected. The action of Jacques Toubon and his teams has also led to concrete progress for users, particularly in the area of retirement. Indeed, the introduction by the Ministry of Health in 2015 of a "binding right to retirement", recommended by the Defender of Rights' office in (Decision No. 2013-272 of 10 January 2014), in order to prevent a lack of resources following retirement, was a significant step forward, as was the restoration of the supplementary pension rights of thousands of micro-entrepreneurs. Furthermore, the dematerialisation of public services was one of Jacques Toubon's major concerns during his term of office. It has constantly warned of the risks and excesses linked to this digital transformation, notably in its report entitled, "*Dematerialisation and inequalities in access to public services (Dématisation et inégalités d'accès aux services publics)*" published in 2019, although it could be a powerful lever for improvement, for equal access of users to their rights.

The institution has been strongly mobilised to ensure its mission of protecting and promoting children's rights in all aspects of their lives.

The Defender of Rights' office, which is mainly concerned with difficulties related to child protection and education, has increased the visibility of these specific issues and their consideration by the public authorities by choosing as a theme for its 2019 annual report on the rights of the child: "*Childhood and violence: the role of public institutions*". It has also made reform recommendations to the competent authorities, several of which have been acted upon, to protect the best interests of the child throughout metropolitan France and the overseas territories. For example, in July 2019, the Parliament adopted a law enshrining the prohibition of corporal punishment of children in the Civil Code, in accordance with a request from the institution. The Defender of Rights also urged the public authorities to put an end to certain practices that are contrary to the rights of the child, such as the refusal of schooling by mayors without a legitimate reason. The Defender of Rights is now a key player and driving force for European and international coordination on all issues relating to children's rights.

The Defender of Rights has consistently promoted equality under the law by fighting discrimination.

With a 20.1% increase in claims in this area between 2014 and 2020, Jacques Toubon paid particular attention to vulnerable groups such as the elderly, French or foreign, or protected adults. The Defender of Rights' office has alerted the public authorities to discrimination in employment, particularly against women and people with disabilities, as well as in access to private goods and services, including discrimination in access to healthcare and housing. The Institution's work in this area has led to advances in case law. In 2016, the Defender of Rights' office submitted observations before the courts (Decision No. 2016-212 of 29 July 2016) to call on the civil courts to recognise ambient sexual harassment, a situation in which the victim, without being directly targeted, is subjected to provocations

and obscene or vulgar jokes that become unbearable for them. In a decision of February 7, 2017, the Orléans Court of Appeal reiterated its observations by stating the principle that sexual harassment may consist of environmental or ambient harassment.

Within the framework of its missions, the Defender of Rights has ensured that law enforcement ethics and fundamental rights and freedoms were respected by persons carrying out law enforcement activities.

The number of referrals has increased dramatically – by 179% between 2014 and 2019. Drawing inspiration from the practices of our European neighbours, the 2018 report entitled, *“Policing in the light of the ethics rules”* drew up an assessment of policing resources and methods for the first time, while making several recommendations aimed at calming its management in France. Institutional players and public authorities have taken up this issue and have notably applied the recommendations on the wearing of a compulsory identification number (RIO) for law enforcement officers and on the ban on the use of OF-F1 sting ball grenades in 2017 and GLI-F4 tear gas grenades at the beginning of 2020. The Defender of Rights also focused its attention on the respect of individual freedoms in the context of identity checks and the respect of the rights of persons deprived of their liberty, in police custody, in prison or in detention centres.

Considering that the way in which foreigners are treated in a State is indicative of the way in which that State respects the fundamental rights of all people, the Defender of Rights has ensured that the rights of foreigners present in our territory are effective and respected. In this area, the institution has repeatedly regretted the discrepancy between the rights proclaimed and the rights actually exercised, and through its action has made possible many advances in access to political, civil, economic and social rights for foreigners.

After visiting several camps, Jacques Toubon publicly denounced the unworthy living conditions of exiles who suffer inhuman or degrading treatment, violations of the right to asylum and the questioning of the unconditionality of emergency accommodation. Two reports were devoted to the particularly worrying situation in Calais, *“Exiles and fundamental rights, the situation in Calais”* in 2015 and *“Exiles and fundamental rights, 3 years after the Calais report”* in 2018.

Finally, Jacques Toubon's term of office was marked by the repeated use of states of emergency, reinforcing the Institution's role as a “freedom watchdog”. The security situation following the 2015 terrorist attacks led the Defender of Rights to express its views on the security measures taken and the laws against terrorism. In the course of the security state of emergency extensions and proposed legislative and constitutional changes, the Defender of Rights warned about the effect of provisions that restricted our public and individual freedoms, shifted the border between judicial authority and the administrative police, and weakened the rule of law. When a public health state of emergency was declared in March 2020 to deal with the COVID-19 pandemic, the Defender of Rights also ensured that the legislative and regulatory measures envisaged to combat the pandemic did not unduly infringe on the rights and freedoms of individuals and guaranteed equal treatment.

CREATION OF THE DEFENDER OF RIGHTS OBSERVATORY

Created in 2017, the main objective of the Defender of Rights Observatory is to help to update the knowledge of situations falling within the institution's various fields of expertise and to ensure its dissemination to a wide public. To this end, it operates a database of complaints submitted to the institution, carries out surveys and acts as a research facilitator, supporting the production of studies, research and statistics relating to its areas of intervention.

It enables the institution:

- To be an **observer of society's ills**: the work carried out by the observatory helps to identify the difficulties faced by individuals in exercising their rights. An analysis of referrals also enables it to identify segments of the public who do not exercise their rights of recourse to the institution;
- To serve as a **watchdog and whistleblower**: through its role and position, the Defender of Rights' office can alert on emerging problems;
- To contribute to **official statistics**: the Defender of Rights has surveys and information sources it can make available to researchers. By giving access to its databases² or archives, in strict compliance with the GDPR, the Defender of Rights contributes to fostering independent research on its areas of expertise.

In June 2020, the institution published a first "*Defender of Rights Observatory*" report based on complaints received in 2019 and covering all of the institution's areas of expertise.

As part of its mission to conduct and coordinate research, two studies supported by the Defender of Rights have been made public:

- National Institute for Demographic Studies (INED) "*Intra-family violence: girls and young LGBT people most affected*", *Studies and results*, April 2020.

This publication highlights the scale of domestic violence suffered by girls and homosexual and bisexual people under the age of 25. It is based on the results of the survey entitled, "VIRAGE: Violence and Gender Relations" conducted in 2015 by the National Institute for Demographic Studies (INED) and shows that, despite the increasing acceptance of sexual minorities over time, at least half of all homosexuals have been rejected by their parents. Bisexual people are even less well-accepted and overwhelmingly remain silent (50% have parents who do not know, compared to less than 30% of homosexuals). The tendency not to say reveal one's bisexuality seems to be closely linked to more frequent intra-family violence among bisexual people, which would hinder the assertion of self and identity. Sexism and LGBTphobia, which are still very present in society, are major factors in the emergence of violence within the family, which can put young lesbian and bisexual people at risk.

- Centre for administrative and political scientific studies and research (CERSA) "*Asylum applications on grounds of sexual orientation: how to prove intimacy*" *Studies and results*, May 2020.

This study shows that one of the main problems faced by LGBTI asylum seekers is proving their sexual orientation when applying for asylum in France. The specificity of this protection for LGBTI persons requires asylum authorities to make an effort to go beyond the stereotypes and traditional notions with which evidence of the intimacy of populations from cultural contexts far removed from those in France is assessed. Overcoming this barrier requires adequate training on LGBTI issues from an intercultural perspective for all asylum officers, particularly the Protection Officers with the French Office for the Protection of Refugees and Stateless Persons (OFPRA), judges with the National Court of Asylum (CNA), but also prefectural agents and staff of administrative detention centres.

² The "Access to Rights" survey database is thus accessible on request at the Quêtelet Centre.



A call for projects was launched to undertake studies on discrimination related to the “*particular vulnerability resulting from economic situation*”. Two projects have been selected:

- The “*particular vulnerability resulting from the economic situation*”: *sociological insights for a better understanding by anti-discrimination law* (ESADA), by a multidisciplinary team (Grenoble Alpes, CNRS and Science Po Grenoble);
- “*Economic discrimination in access by poor households to social rental housing*”, by a team from the French Observatory of Economic Circumstances (Observatoire français des conjonctures économiques - OFCE).

In 2020, the Defender of Rights Thesis Prize was awarded to Clara Deville for her sociology thesis entitled, “*The pathways of law. Dematerialisation of the RSA and distance from the State of the rural working classes*”, carried out under the direction of Isabelle Astier and Pierre-Yves Baudot, and defended on 12 December 2019 at the University of Picardy Jules Verne.

DECONCENTRATION AND STRENGTHENING OF THE TERRITORIAL NETWORK

INCREASING THE NUMBER OF DELEGATES IN ORDER TO RECREATE THE HUMAN BOND

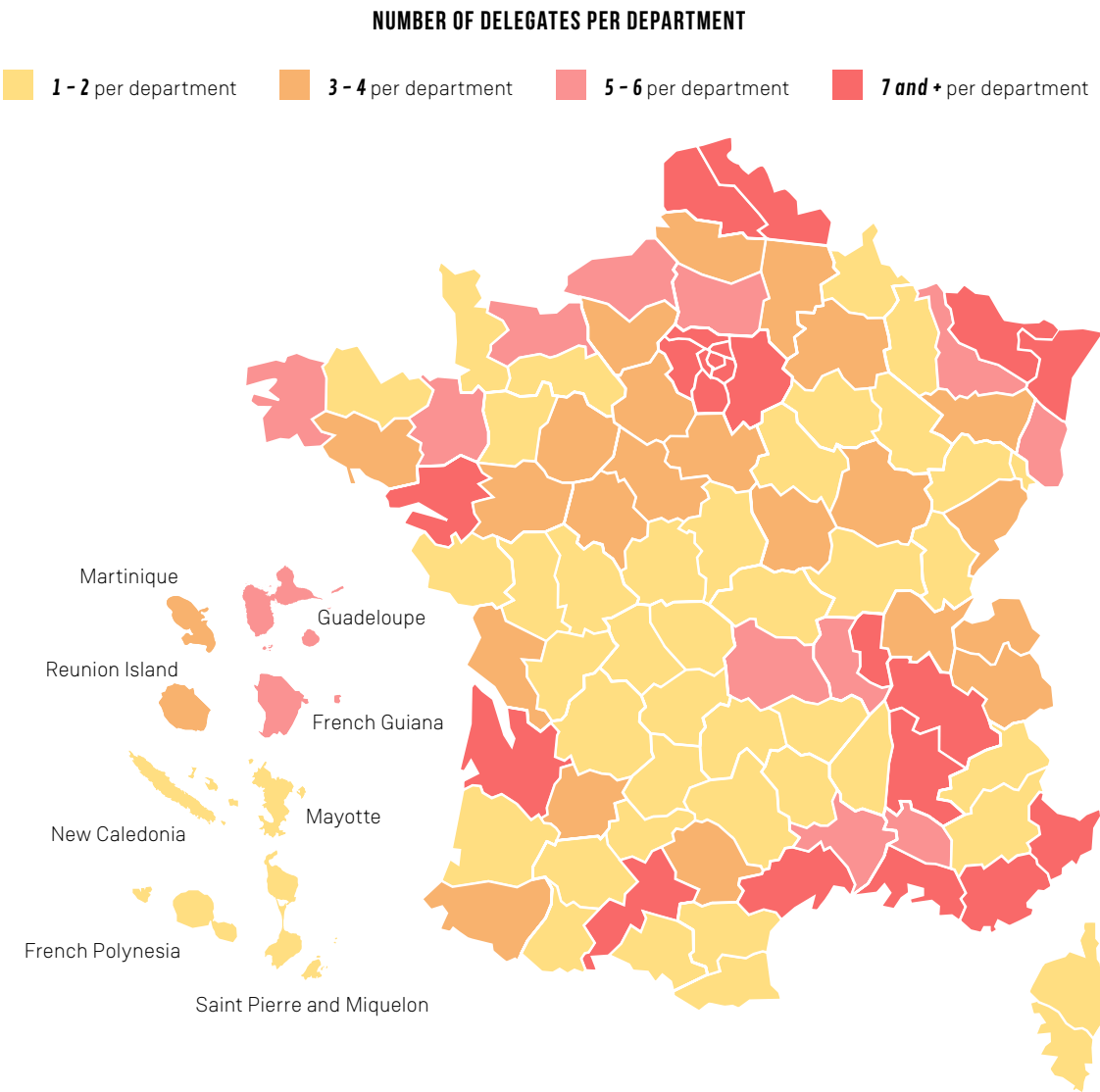
Throughout his term of office, faced with the constant increase in the number of complaints submitted to the institution, the Defender of Rights was keen to strengthen the presence and proximity of the institution throughout the country. Between 2014 and 2020, the number of delegates increased by 31%, from 398 to 536 (as at 31 December 2020), and the number of offices where they receive the public increased by 61%, from 542 to 872.

The delegates are volunteers who put their time, skills and knowledge of the local fabric at the service of the Defender of Rights to receive the public and deal with their complaints. Neutral and impartial third parties, they are specialists in dialogue and mediation who succeed in 80% of the amicable settlements they initiate.

In six years, delegates have handled nearly 80% of the requests submitted to the institution, which represented about 60,000 claims in 2014, and nearly 85,000 in 2019, a 40% increase in five years.

Some 95% of the requests submitted to the delegates concern a difficulty in the relationship between users and public services. The continuous increase in requests submitted to the institution in this field (+ 78.4% since 2014) shows that the territorial network of the Defender of Rights' office is increasingly supplanting the gradual disappearance of human presence within public services and the growing complexity of administrative procedures, accentuated by their dematerialisation.

In order to cope with the growth of the network and the influx of requests submitted to delegates, it appeared necessary to create an organisation that would allow them to be supported at best locally. 12 heads of regional units, salaried employees of the Defender of Rights, now based in the regions, took up their posts in 2020 to facilitate exchanges between the headquarters and the delegates, coordinate the processing of cases, promotional actions in the territory, and to represent the institution in the regions.





Eva Ordinaire, head of regional unit for Burgundy, Franche-Comté and Seine-et-Marne.

THE CREATION OF THE NETWORK AND ACCESS TO RIGHTS DEPARTMENT (DRAD)

In June 2020, the DRAD was born, the result of the merger between the Territorial Network Directorate (DRT) and the Directorate of Admissibility, Orientation and Access to Rights (ROAD). This new department, which brings together all the reception and claims filing procedures, strengthens the links between the Paris headquarters and the regional network, with the aim of being closer to claimants.

This new department brings together 48 agents at the head office, including 12 CPRs, working in the regions or overseas territories, 12 people responding to the public on the telephone platform (Monday to Friday from 9am to 6pm), a mail service, and 536 voluntary delegates of the Defender of Rights, in 872 duty stations.

WHAT ARE THE DRAD'S MISSIONS?

The department is responsible for recruiting, training, and supporting the work of the delegates. It provides the legal support they need to fully exercise their delegation and participate locally in activities to promote rights and equality. An analysis of complaints sent to the head office is also an essential mission of the DRAD, which ensures the

distribution of cases between the central services and the network of delegates. To ensure that claimants have access to their rights, the DRAD prepares cases, responds to requests that do not fall within the institution's remit, and deals with disputes within the framework of an amicable settlement. Its role is also to manage the telephone information platform and mail.

WHAT IS THE COMPOSITION OF THIS NEW MANAGEMENT?

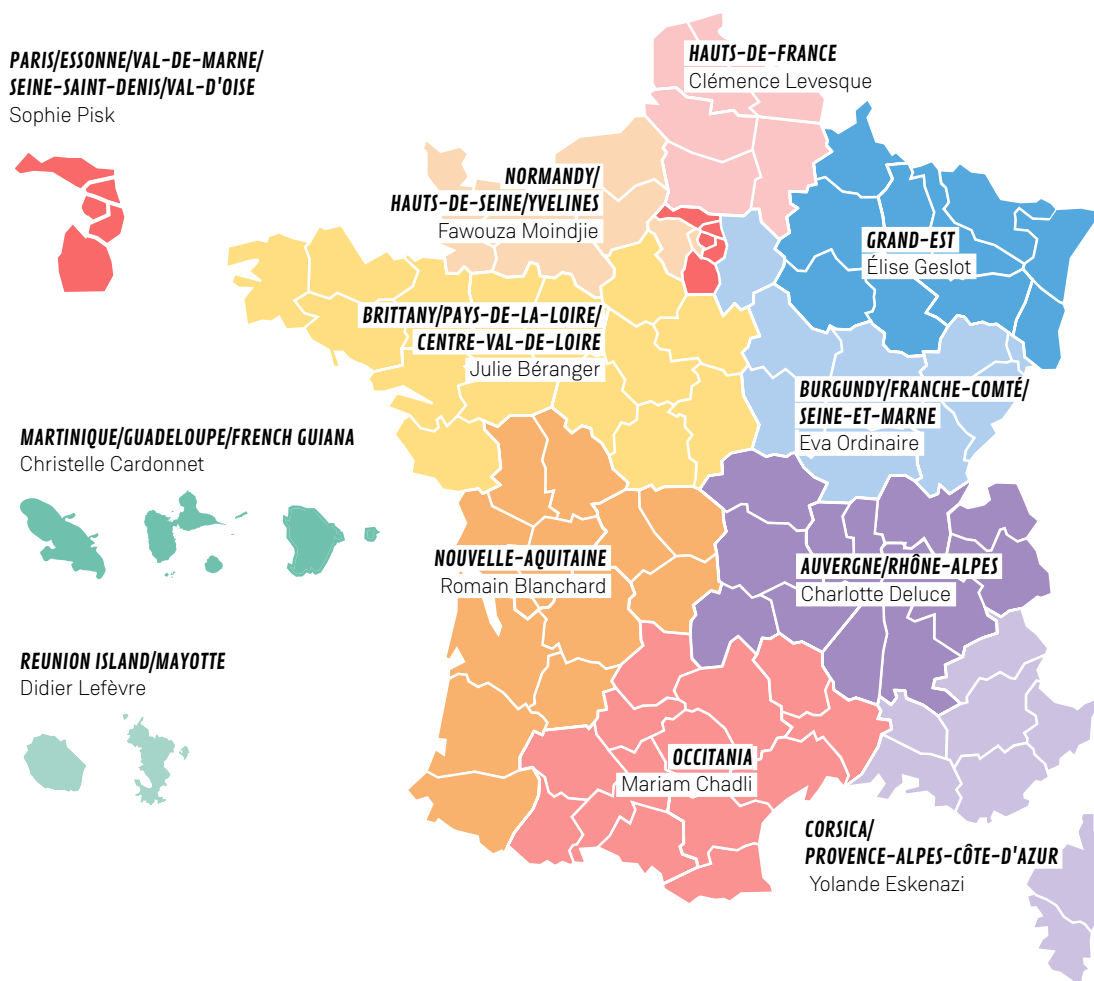
The director, Mr. Benoît Normand, and his deputy director, Mr. Fabien Dechavanne, coordinate the management, which is divided into 3 divisions:

- **The "Network" division**, focused on essential "support" functions (recruitment, training, logistics), contributes to the growth of the network and its qualification. It also manages the transmission of complaints to delegates, including those related to the experimentation of mandatory prior mediation (MPO) or the telephone platform. 12 agents make up this centre, headed by David Manaranche.
- **The "Legal" division** is responsible for analysing all complaints sent to the institution's head office and for responding to requests that do not lend themselves to processing at the level of

an investigative unit. It is divided into two sectors: the "proximity treatment" sector, which favours direct treatment with claimants through telephone or e-mail exchanges. Investigating officers handle the preparation of cases, reorientations and "simple" closures. In the "Guidance and Investigation" sector, the lawyers are responsible for the guidance of all referrals received, the investigation and handling of situations that are not intended to be dealt with by the specialised investigation centres, handling by means of amicable settlements, and the most urgent situations. The head of this division, made up of 16 agents, is Guillaume Fichet.

- **The heads of regional units (CPR).** They are distributed throughout the major regions and Overseas territories. Most of them are in charge of a region, plus, for some, neighbouring departments. These heads of regional units, now essential to the territorial organisation of our institution, play a linking role, provide legal support to the delegates, coordinate the processing of cases at the regional level, as well as actions to promote equality and awareness.

TERRITORIAL DISTRIBUTION OF HEADS OF REGIONAL UNITS



ONE MEDIA AND COMMUNICATIONS DEPARTMENT FOR THE WHOLE INSTITUTION

While, for several years, two separate departments had handled all press relations on the one hand and the institution's communication on the other, a restructuring led to the creation of a Media and Communications Department. Its aim is to consolidate the information provided to the public, and to disseminate the institution's messaging and image more widely.

The creation of this department has made it possible to set up a transversal, responsive and coherent work, at the service of access to rights. In addition to the audiences of experts to whom the communication department strives to promote the use of reference knowledge, the department contributes daily to informing the public about the missions and the recourse that the Defender of Rights represents. It also works to strengthen its media presence in the territories, supporting the creation of heads of regional units, which it supports for better visibility.

THE CHALLENGE OF PROXIMITY TO THE PUBLIC

In recent years, the institution's communication department has focused on developing outreach activities for different audiences, in order to increase understanding of its essential public service mission. Throughout 2019 and until March 2020, the Defender of Rights carried out a series of trips to the regions, which were opportunities for dialogue with the local press and to promote the institution's use and proximity to all people in the region. A dedicated publicity campaign, which began in 2019, ended in the summer of 2020 after Jacques Toubon's last trip to Strasbourg on 6 July 2020. Aiming to raise awareness of the use of the Defender of Rights' delegates, by emphasising the legal listening, advice and support service provided by the delegates, several publications promoting the territorial network were distributed in all the regional daily media over several months, with 1,233,027 copies printed.

OUEST-FRANCE: RAISING AWARENESS AS CLOSE AS POSSIBLE TO EVERYDAY LIFE

Since the establishment of the partnership with the daily newspaper, Ouest-France in February 2018, the institution has written and published 120 columns on access to rights. Every Tuesday, the Defender of Rights' office explained to readers of the paper and digital newspaper what the law says about certain problems of everyday life and the steps to be taken to assert one's rights.

Since October 2020, the partnership has evolved to give way to testimonials from territorial delegates in the regional daily newspaper, telling readers about their concrete actions to support the people who have called on them.

SPECIFIC ACCOMPANIMENT

The deconcentration of the institution's work also took place in terms of communication: specific support within the Media and Communications Department was set up to enable the CPRs to become real regional relays for the Defender of Rights' office, and to raise awareness of the possibilities for contacts at the level of each territory. The installation of the CPRs in the regional institutional and media landscape was thus consolidated with the publication, in November 2020, of the *Annual Report on the Rights of the Child*, enabling CPRs to raise local awareness of the issues of children's rights and particularly the right to participate, enshrined in Article 12 of the UN Convention on the Rights of the Child.

Since she took up her position on 22 July 2020, the Defender of Rights, Claire Hédon, has wanted to continue strengthening this proximity with local, association, and institutional players.

B.

THE ARRIVAL OF CLAIRE HÉDON AS DEFENDER OF RIGHTS

Claire Hédon was officially appointed as Defender of Rights following the Decree issued by the President of the Republic in the Council of Ministers on 22 July 2020. Her term of office is for 6 years and cannot be renewed or revoked. Succeeding Dominique Baudis and Jacques Toubon, she is the first woman to head the institution since its creation in 2011.

At a hearing held by the legislative committees of the Senate and then the National Assembly on 15 July 2020, Claire Hédon praised her predecessor's achievements: *"Jacques Toubon and his teams have strengthened the reputation, identity, and influence of this institution through courageous and independent decisions"*. Taking up the words of Mrs Geneviève de Gaulle-Anthonioz before the members of parliament, Claire Hédon spoke about the observations she had made: *"Our democracy does not fully exist because it tolerates permanent violations of human rights, whereas those rights are indivisible, and they cannot be allocated piecemeal"*. Therefore, her priority as Defender of Rights will be to *"work on the effectiveness of rights, all rights, whether economic, social, cultural, or civil and political rights, and without hierarchy"*.

The Defender of Rights also looked back on her personal and professional trajectory, demonstrating her attachment to access to rights and action as close to the ground as possible. In addition to her career as a journalist at Radio France Internationale (RFI), specialising in health issues, Claire Hédon's career has been marked by her commitment to ATD-Quart Monde. She has been a volunteer in this movement against extreme poverty since 1993, and became its president in 2015. At the head of the Defender of Rights' office, Claire Hédon aspires to pursue the common thread of her professional and community life: *"defending access to rights for all"*.

BUILDING A NEW TEAM

In accordance with the Organic Law of 29 March 2011, two female deputies and one male deputy were appointed by the Prime Minister, on the proposal of the Defender of Rights, by Decree of 10 November 2020.

Ms. Pauline Caby has been appointed assistant in charge of the ethics compliance by law enforcement professionals. Successively deputy public prosecutor at the District Court of Auxerre, Evry and Paris, she then held the position of assistant public prosecutor at the District Court of Paris, then Assistant Advocate General at the Criminal Division of the Court of Cassation.

Éric Delemar has become Children's Ombudsperson, deputy in charge of defending and promoting children's rights. Working in contact with vulnerable minors for many years as a special educator, then as head of educational services, he had been director at the Henri Fréville children's centre in Chantepie, Ille-et-Vilaine, since 2010. Éric Delemar was also a member of the child protection commission of the National group of social and medical-social public institutions (GEPSO).

The position of deputy in charge of the fight against discrimination and the promotion of equality has been entrusted to Ms. George Pau-Langevin. A lawyer and Member of Parliament for Paris, she was Minister Delegate for Educational Success from 2012 to 2014 and Minister for Overseas France from 2014 to 2016. George Pau-Langevin has also chaired the Movement against Racism and Friendship between Peoples (MRAP) and has led a number of anti-discrimination projects, including a legislative report on discrimination based on origin.

Finally, Mr. Daniel Agacinski was appointed by the Defender of Rights as General Delegate for Mediation. After serving as adviser to the Minister Delegate in charge of the disabled and the fight against exclusion from 2012 to 2013, then adviser to the Minister of National Education from 2013 to 2014, he joined France Stratégie.



Within the “society and social policies” department, he wrote the report entitled, *“Mediation accomplished? Discourse and practices of mediation between citizens and administrations”*.

THE COMPOSITION OF THE ADVISORY BOARDS

Pursuant to Article 11 of the Organic Law of 29 March 2011, the Defender of Rights is assisted by three advisory boards for the exercise of their powers respectively in the defence and promotion of the rights of the child, the fight against discrimination and the promotion of equality, as well as ethics in the field of law enforcement.

The various appointing authorities (Presidents of the Parliamentary Assemblies, President of the Economic, Social and Environmental Council, First President of the Court of Cassation, Vice-President of the Council of State) renewed these boards after the appointment of Claire Hédon. The members of the boards bring an indispensable multidisciplinary perspective to some of the Institution's projects.

For instance, the decision on the conditions of care for minors in psychiatric emergency services was considerably enriched by the “children's rights” board

(Decision No. 2020-008 of 22 December 2020). The “law enforcement ethics” board wanted to tighten the recommendations of a draft decision on the conditions under which a young man was arrested and injured following an identity check (Decision No. 2020-199 of 23 November 2020). Finally, the discussions within the “Fighting Discrimination and Promoting Equality” board made it possible to envisage concrete follow-up to a draft decision (now Decision 2020-164 of 1 December 2020) concerning a refusal to hire a man for a position entitled “medical assistant” in a dental practice.

“LAW ENFORCEMENT ETHICS” BOARD

Mr. Claude BALAND - Honorary Prefect - Former Director General of the National Police - President of the Food Bank network (appointed by the President of the Senate).

Mr. Alain FOUCHÉ - Honorary Senator from La Vienne - President of the Culture Commission of the Department of La Vienne - Board Member of the Futurology and Innovation Foundation - Former member of the Court of Justice (appointed by the President of the Senate).

Ms. Dominique de la GARANDERIE - Lawyer - Former President of the Paris Bar - President of the Ethics Committee of the Le Monde Group (appointed by the President of the Senate).

Mr. Yves NICOLLE - Honorary Commissioner General (appointed by the President of the National Assembly).

Mr. Olivier RENAUDIE - Professor of Public Law at the University of Paris 1 Panthéon-Sorbonne (appointed by the President of the National Assembly).

Mr. Jacky RICHARD - Honorary Councillor of State (appointed by the Vice-President of the Council of State)

Ms. Valérie SAGANT - Magistrate - Director of the "Law and Justice" research mission (appointed by the President of the National Assembly).

Mr. Pierre VALLEIX - Advocate General at the Court of Cassation (appointed by the First President of the Court of Cassation and the Public Prosecutor at the said court).

"DEFENCE AND PROMOTION OF CHILDREN'S RIGHTS" BOARD

Mr. Jérôme BIGNON - Honorary Member of Parliament - honorary lawyer (appointed by the President of the Senate).

Ms. Odette-Luce BOUVIER - Counsellor at the Court of Cassation (appointed by the First President of the Court of Cassation and the Public Prosecutor at the said court).

Ms. Pascale COTON - Vice-President of the EESC - Vice-President of the CFTC (appointed by the President of the Economic, Social, and Environmental Council).

Ms. Elisabeth LAITHIER - Honorary Deputy Mayor of Nancy - Expert in early childhood with the AMF - President of the Association for the Promotion of Early Childhood Medical and Social Action in Lorraine (appointed by the President of the Senate).

Ms. Anne-Marie LEROYER - Professor at the Sorbonne Law School, specialist in personal and family law (appointed by the President of the National Assembly).

Ms. Marie-Rose MORO - Professor of Child and Adolescent Psychiatry - Head of Department, Paris Descartes University (appointed by the President of the National Assembly).

"FIGHTING DISCRIMINATION AND PROMOTING EQUALITY" BOARD

Ms. Gwénaële CALVES - Professor of Public Law at the University of Cergy-Pontoise, specialist in non-discrimination law (appointed by the President of the National Assembly).

Mr. Stéphane CARCILLO - Affiliated Professor at the Sciences Po Department of Economics - In charge of the Employment and Income Division at the OECD (appointed by the President of the Senate).

Mr. Éric CEDIEY - Director of ISM Corum (appointed by the President of the National Assembly).

Ms. Karima SILVENT - Director of Human Resources at AXA and President of EPIDE - Public Institution for Employment Integration (appointed by the President of the Senate).

Ms. Marie-Françoise GUILHEMSANS - Councillor of State - Alternate President of CADA (appointed by the Vice-President of the Council of State).

Mr. Guy-Dominique KENNEL - Former Senator - Honorary President of the Departmental Council of Bas-Rhin (appointed by the President of the Senate).

Mr. Pap NDIAYE - University Professor at Sciences Po Paris, specialist in the history of minorities (appointed by the President of the National Assembly).

Ms. Véronique SLOVE - Counsellor at the Court of Cassation (appointed by the First President of the Court of Cassation).



The Defender of Rights' visit to Bobigny in July 2020.

TRAVEL IN THE FIELD

Since her appointment on 22 July, the Defender of Rights, while taking into account the constraints linked to the pandemic, wanted to meet immediately with local players and the institution's delegates in the field.

For her first trip as Defender of Rights, the day after her appointment, Claire Hédon chose to visit Seine-Saint-Denis on the topic protecting children's rights. In Bobigny, she exchanged views with representatives of the association, "La Sauvegarde", which works for the protection of children, help and support for young adults and families. The situation of unaccompanied minors and school drop-outs, particularly due to the lockdowns, were also discussed.

Claire Hédon then visited a residential establishment for dependent elderly people (EHPAD) on 29 July 2020 in Droué, in the department of Loir-et-Cher. Particularly vulnerable, older persons have been affected by the pandemic and by measures that have forced their isolation. She took advantage of this moment to discuss with the staff the difficulties caused by the health crisis.

The following day, the Defender of Rights attended a training session for student

police officers at the national police centre in Chassieu, in the Auvergne-Rhône-Alpes region, where the institution's teams regularly travel to conduct training on discrimination. The trip continued in the afternoon in Villeurbanne with a meeting with the city's institutional and association actors revolving around innovative actions implemented locally to promote equality and fight against discrimination.

One of Claire Hédon's priorities was to travel to meet territorial delegates quickly. On 21 September 2020, the Defender of Rights took part in a meeting in Rennes, bringing together all the delegates from the Brittany, Centre-Val de Loire, and Pays de la Loire regions. She exchanged views with them on the issues arising from local complaints, then with those involved in access to rights and the fight against discrimination in the Ile-et-Vilaine department, and lastly, with the President of the Departmental Council and the Secretary General of the Prefecture on the mechanisms put in place by local public authorities to improve and ensure access to rights.

As of 30 October 2020, Claire Hédon has adapted the way the institution operates to continue to forge privileged links, even at a distance, with territorial delegates and local players, both in metropolitan France and overseas.



THE DEFENDER OF RIGHTS' VISIT TO CALAIS

The start of the Defender of Rights' term of office was marked in particular by her visit to Calais on 22 and 23 September 2020. Claire Hédon spoke at length with many exiles, the associations helping them, the State services, the Prefect, the heads of all the security forces present in the Calais region, the services in charge of receiving unaccompanied minors for the Department and the Mayor of the town. Reiterating observations already made by the institution, Claire Hédon highlighted the violations of the most basic fundamental rights of the exiles, their degrading and inhuman living conditions, their difficulties in accessing water, food, and hygiene, and their state of physical and mental exhaustion. The Defender of Rights recommended concrete and urgent solutions to put an end to this unacceptable situation.

THE OBSERVATIONS OF THE DEFENDER OF RIGHTS BEFORE THE COURTS CONCERNING THE ORDER PROHIBITING THE DISTRIBUTION OF MEALS IN THE CENTRE OF CALAIS

Shortly before her visit to Calais, the Defender of Rights had been petitioned by several associations providing assistance to foreigners, with the litigation brought against the prefectoral order issued on 10 September 2020 prohibiting the distribution of foodstuffs in certain places in the centre of Calais in order to prevent health risks and risks related to public health. In a decision (Decision No. 2020-179 of 18 September 2020), she submitted observations before the Lille Administrative Court, considering that the order was unlawful and that, insofar as it pursued an objective unrelated to the protection of public order, it was also discriminatory. In a judgement of 22 September 2020, the Administrative Court dismissed the application on the grounds that the food distributions by non-mandated associations remained accessible to exiles, although further away, and that the inadequacy of the food distributions proposed by the State was not proven. The visit to Calais on the same day was an opportunity to draw up on-the-spot observations and gather information in an adversarial manner. She presented her observations before the judge in charge of

summary proceedings at the Council of State hearing the appeal (Decision No. 2020-190 of 24 September 2020). On 25 September 2020, the High Court upheld the lower court's decision.

A CONSTRUCTIVE AND DEMANDING APPROACH TOWARD INSTITUTIONAL PLAYERS

The Defender of Rights wanted to establish a constructive dialogue with institutional players, in order to address the difficulties of access to rights, to understand what the obstacles are, and to remove the obstacles.

Members of the government and parliamentarians were among those whom Claire Hédon made a point of meeting upon her arrival in order to discuss with them her concerns in their respective fields of expertise. In particular, she was able to exchange views with the Minister of Justice, Attorney General, on the rights of litigants, detainees and whistleblowers; with the Minister of Solidarity and Health on the situation of vulnerable people during the crisis linked to the COVID-19 pandemic, as well as on the risks of infringement of rights and freedoms linked to that crisis; and with the Minister of the Interior on the new national scheme for maintaining law and order during public demonstrations and identity checks. The meetings organised with the Secretary of State for the Disabled, the Minister of Transformation and the Civil Service, and the Minister of National Education, the Minister Delegate for Gender Equality, Diversity and Equal Opportunities, enabled Claire Hédon to present the institution's point of view on priority issues.

As the Defender of Rights regularly issues Opinions to Parliament, she felt it was essential to have a dialogue with the Presidents of the National Assembly and the Senate, as well as with the President of the National Assembly's Law Commission. With the Vice-President of the Council of State, she shared her concerns about the preservation of rights and freedoms during the health state of emergency and exchanged views on the development of administrative mediation. In view of the existence of common objectives with other institutions, Claire Hédon has held numerous meetings with the Chairs of the Economic, Social and Environmental Council, the High Authority for Transparency in Public Life, the National Advisory Committee for the Disabled, as well as with the chairs of the French Data Protection Authority (CNIL), the Controller General of Prisons, and the Director of the French Anti-Corruption Agency.

In addition, the Defender of Rights continued to take the pulse of society with representatives of associations working in defence of human rights, eager to consolidate the links between the latter and the Institution.

At the European level, as Secretary General of the Association of Ombudspersons and Mediators of the French-Speaking World (AOMF), Claire Hédon has made contact with the President of the AOMF, the Mediator of the Kingdom of Morocco, and with the Vice-President, the Mediator of Wallonia and the Wallonia-Brussels Federation. She also participated in her first AOMF Board of Directors meeting on 2 October. That Board meeting made it possible to take stock of the health situation in the various French-speaking countries, to reorganise the association's schedule, to confirm the establishment of its first online course on children's rights, and to welcome two new members (the Greek and Geneva Mediators). The association's communications were also discussed, since it was decided at this meeting to create a LinkedIn account for the AOMF and to launch a new call for projects in communication with the members.

On 20 October, the Defender of Rights met the President of the European Court of Human Rights (ECHR), Mr. Robert Spano, and the recently appointed judge for France, Mr. Mattias Guyomar. On this occasion, she presented the priorities of her term, her concerns about the situation of the rights of the most vulnerable in France, the current health crisis and the respect of human rights and freedoms in times of health crisis. The Defender of Rights also reaffirmed the commitment to strengthen the institution's cooperation with the Court and to contribute to the arguments in the cases brought before it, through third party interventions.

YOUTH AS A PRIORITY AUDIENCE

In 2019, minors represented only 1.6% of referrals to the institution and 18-25 year olds represented 3.7%, even though under-25s represent around a third of the overall population in France.

This lack of recourse is partly explained by the lack of knowledge of children and young people about their rights: during the national consultation organised by the institution in 2019, almost 70% of the young people questioned had no knowledge of their rights. However, citing at least one of the child's rights doubles the likelihood of taking action in the event of infringement. The pandemic also tends to make it more difficult for a generation already marked by precariousness to have its rights respected.

The institution has thus deployed two noteworthy actions in 2020, aimed at young people:

It launched its Instagram account in November 2020 to increase awareness of the institution, its areas of expertise and its work with a young audience. Strong emphasis was placed on education about the law, in order to make it more accessible and to demonstrate its presence and necessity in the lives of all individuals. Through several sections, the Instagram account thus speaks about the law in all its forms, sometimes tragic, sometimes anecdotal, and sometimes even humorous.



Particular emphasis is placed on discrimination and difficulties encountered by young people. The aim is to show the broad experience of law in which the institution naturally fits, with education and history.

ENSURING RESPECT FOR THEIR FUNDAMENTAL RIGHTS IS FUNDAMENTAL

In November, the Defender of Rights also launched a national awareness campaign for young people between ages 16 and 24, in response to the low percentage of referrals from this section of the population. The institution would like to remind them that it is present at their side to help them assert their rights, free of charge, throughout France. Disseminated on official accounts and digital media, this campaign was supplemented by an interview with the Defender of Rights recorded with Konbini.

C.

A YEAR MARKED BY THE PANDEMIC: AN INSTITUTION THAT REMAINS ATTENTIVE

A NEW WAY OF WORKING

This activity report cannot overlook the very particular context of the pandemic, which has had a profound effect on the institution's spirit and functioning.

From the very beginning of the health crisis, the organisation and responsiveness of the administrative services has minimised its impact on the institution's operations and the slowdown in its activity. It has thus continued to provide support to its various audiences as close as possible to their concerns.

Since 2017, the institution had in fact set up an effective teleworking system which has made it possible to ensure continuity of activity and rapid adaptation to the changes brought about by the crisis.

As soon as the March lockdown was announced, and as a precautionary measure, teleworking was generalised for all agents until May. While the delegates were then unable to remain on duty on a weekly basis until the lifting of the lockdown, all of them remained in touch by e-mail. Then, during the second lockdown in October, teleworking was once again generalised, subject to strict service requirements, this time with the delegates' physical presence on a voluntary basis.

Throughout the health crisis, the Defender of Rights has preserved a very high level of teleworking, as a precautionary measure, and by capitalising on teleworking methods that will have preserved the institution's capacity for intervention.

THE TELEPHONE PLATFORM OF THE DEFENDER OF RIGHTS' OFFICE DURING THE COVID-19 PANDEMIC

Since 2018, calls from the public have increased by more than 69%, due to the growing awareness of the Defender of Rights.

Thanks to its telephone platform and the information provided by the delegates, the Defender of Rights' office has, for example, been aware of numerous situations in which children accompanying their parents have been refused access to supermarkets. For single-parent families in particular, such refusals have had the effect of either making access to basic necessities impossible or of undermining the best interests of children by requiring that they be left at the door of shops.

The Defender of Rights' office has intervened with all the major companies, the government and the media to put an end to these practices. It requested that shop managers be reminded that denial of access to shops for children is not one of the restrictive measures adopted in the health state of emergency. These practices undermined the rights of individuals, particularly the rights of single parents and the best interests of their children.

The Defender of Rights' office and its delegates obtained an end to such discriminatory practices from the vast majority of the businesses concerned. In addition, a complaints system with a dedicated e-mail address has been set up to receive reports of single parents refused entry to the shops and to intervene.

Subsequently, the Defender of Rights' office was informed of several refusals of access to supermarkets by persons with disabilities who were accompanied to do their shopping. It referred the matter to the Secretary of State for the Disabled, who agreed to issue a reminder to all store chains, the accessibility representatives of the prefectures, and the representatives of the reception staff.

A TELEPHONE NUMBER DEDICATED TO PRISONERS

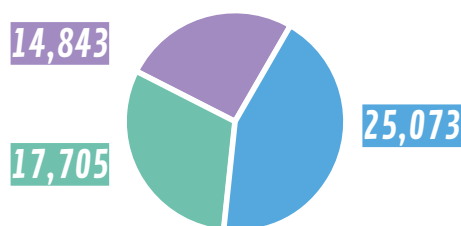
On 20 March 2020, the Defender of Rights created a dedicated number to enable prisoners to understand and access their rights in the context of the particular restrictions linked to the pandemic. During the first lockdown, the telephone number, staffed by lawyers from its investigation services, received an average of 40 calls per day, i.e. a total of approximately 2,500 calls. A special effort was made to improve the visibility and accessibility of the Defender of Rights in detention centres. A total of 5,000 calls have been received since the first lockdown.

This period revealed the need to train our telephone platform on such issues, which until then had been little used by detainees, to supplement the presence of the Defender of Rights allowed by the hotlines provided in all correctional facilities.

Since July 2020, the telephone platform has been managing a dedicated number for people under incarceration, with a sharp increase in calls during the second lockdown. Those calls mainly concerned the impact of the pandemic on prisoners, marked by an almost total disruption of their rights (social rights, severance of parent-child ties, civil status, etc.).

EVOLUTION OF CALLS OVER THE LAST 3 YEARS

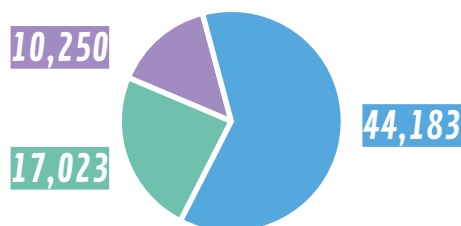
Administrative Claimants Public



From Jan. to Nov. 2018

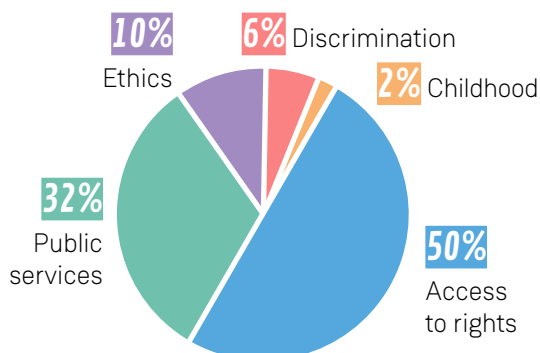


From Jan. to Nov. 2019



From Jan. to Nov. 2020

CALLS FROM THE PUBLIC BY AREA OF EXPERTISE



THE KEY ROLE OF THE TERRITORIAL NETWORK FOR ACCESS TO RIGHTS DURING THE PANDEMIC

During the first lockdown, the activity of the delegates' network was very strongly affected, with a halving of requests between mid-March and the end of April. In the absence of physical reception, the Defender of Rights' continuity of service was essentially kept up by e-mail, which effectively excludes many claimants who do not have access to digital technologies.

However, the introduction of the direct telephone line, public relations actions in connection with the local media to inform the public, and information systems organised on certain public service sites and/or by the structures hosting the delegates' offices or on the social networks of the places where rights are accessed, have made it possible to ensure the continuity of the service, even though many public services were no longer accessible.

The local partnership network of Defender of Rights delegates has been an essential asset in providing answers and making progress on issues with services that have become difficult for users to access.

During the second half of 2020, the delegates of the Defender of Rights' office continued and even amplified their work on access to rights throughout the country. An information operation has been carried out in all the regions to alert local networks (regional media, local partners, municipal newsletters). The drop in activity during the first lockdown was finally almost erased by a strong increase in activity in the months that followed.

It should be noted that the vast majority of the Defender of Rights' delegates resumed face-to-face meetings from the summer onwards. However, all of them noted that the difficulties of access to public services, particularly dramatic during the first lockdown, have persisted despite some improvements. The accessibility of prefectures and sub-prefectures appeared to be particularly problematic from this point of view.

Perhaps the most important observation is that of the digital divide and its impact on access to rights: the closure of digital points, the dematerialised version of approaches to public services, access to information or administrative documents, which has become almost exclusive over the years, has left out a large part of the population who do not have access to digital technology or who do not have the capacity to use IT tools.

Even within public services, while France has embarked on a dematerialisation process, the advantages but also the risks and excesses which had already been highlighted before the crisis by the Defender of Rights, there is also a digital divide between State services, which are more or less equipped and prepared for teleworking - some of which have proved unable to adapt quickly to teleworking for lack of suitable equipment and access to their business applications, which can only be consulted in the workplace.

CLAIMS STILL NUMEROUS

In spite of strong constraints, the efficiency of the Defender of Rights' organisation in times of crisis has enabled it to provide close support to its various audiences.

The claims submitted to the Defender of Rights since March 2020 have shown the need for increased vigilance in times of crisis for the rights of the most vulnerable, often the first to be affected by restrictive or exceptional legislation: people living in residential facilities for dependent elderly people (EHPAD) and deprived of visits, children hindered in their access to education, people living on the street or in precarious accommodations, people deprived of their freedom, prisoners confined in degraded conditions and faced with reduced opportunities for family visits, foreigners detained for an extended period by an inability to return, isolated people, people with disabilities, etc.

From the first lockdown in March, the central services and the territorial network of the Defender of Rights organised themselves to ensure that all claims continue to be processed and that those directly related to COVID-19 are dealt with as a matter of priority. The institution's activity normalised with the unlockdown of 11 May, and continued until 28 October, the date of the new lockdown due to the resurgence of the COVID-19 pandemic.

Since 1 January 2020, despite the impact of lockdown on the action of delegates, claims from headquarters have increased compared to 2019.

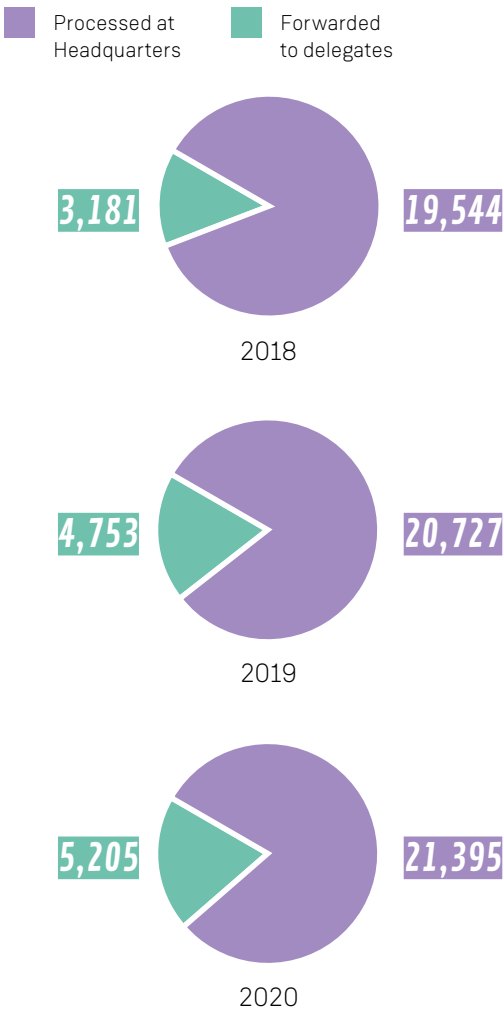
The number of referrals received at headquarters since 1 January 2020 was 6% higher than for the same period in 2019, and was almost 21% higher than the number of referrals received for the same period in 2018. At the same time, the number of cases sent to delegates continued to increase.

The number of referrals received in 2020 by the delegates, since the beginning of January, was down 8% compared to 2019 and 1% compared to 2018. For claims alone, however, the decline was only 3% from 2019.

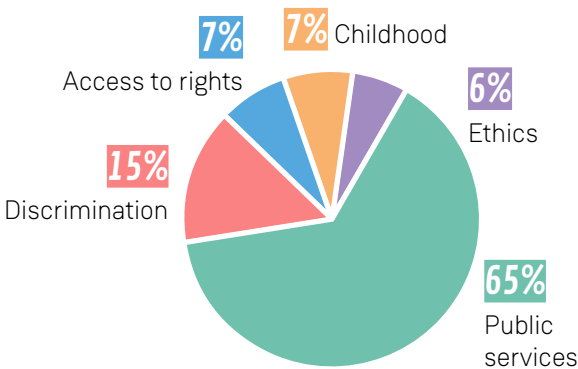
CLAIMS RELATING TO COVID-19

Between 15 March and 31 October, the Defender of Rights received 62,500 complaints, 17,471 from headquarters and 45,079 from delegates. At the same time, the institution registered 3,093 requests relating to COVID-19, with 1,416 for the head office and 1,677 for the territorial network.

PROCESSING OVER THE LAST 3 YEARS

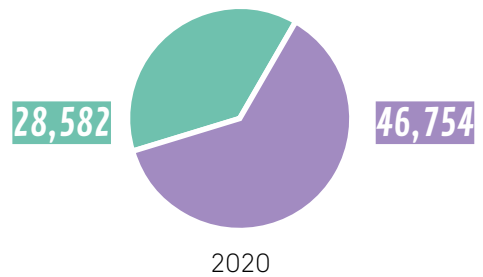
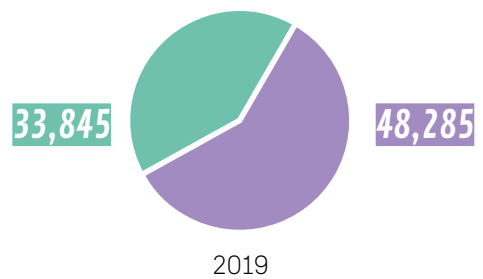
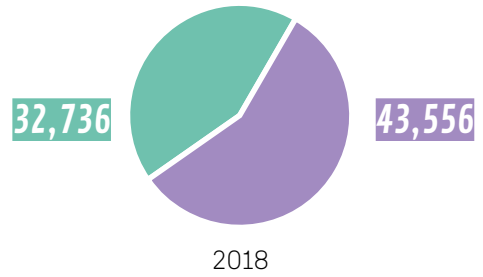


PROCESSING BY AREA OF EXPERTISE

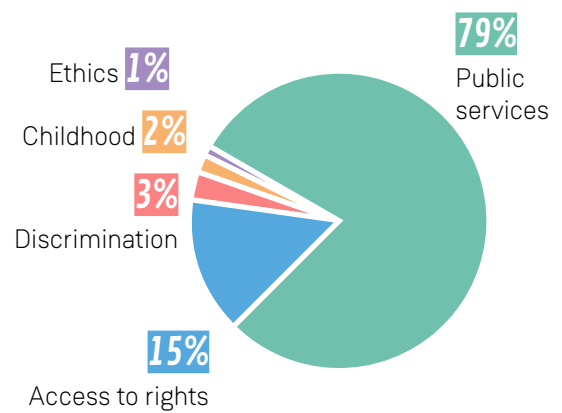


BREAKDOWN OF COMPLAINTS/INFORMATION REQUESTS OVER THE LAST 3 YEARS

Claims Information/guidance



PROCESSING BY AREA OF EXPERTISE



PART 2

RIGHTS AND FREEDOMS DURING HEALTH STATES OF EMERGENCY

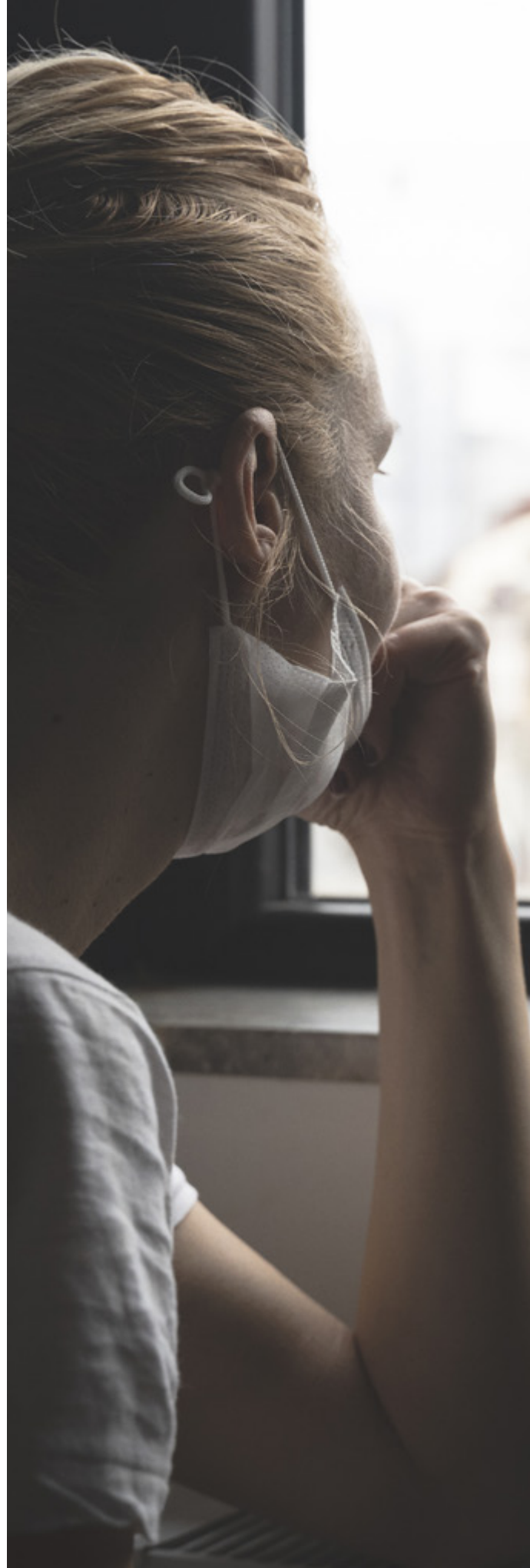
It is legitimate for the State to be able to equip itself with the necessary means to be able to deal with an exceptional situation seriously threatening the safety or health of the population.

This was the case in November 2015 following the terrorist attacks of 13 November 2015, which justified the declaration of a state of emergency provided for by the Act of 3 April 1955, then last March, in response to the global pandemic, with the creation and establishment of the health state of emergency enshrined in the Public Health Code.

Both the state of emergency under the Act of 1955 and the health state of emergency of 23 March 2020 are exceptional regimes giving the government police powers that restrict the exercise of individual rights and freedoms, the time needed to manage the threat that justified the use of the state of emergency.

Such states of emergency, which had different objectives, affect many rights and freedoms, such as the freedom to come and go, the right to liberty and security, the right to respect for private and family life, the freedom of worship, the freedom to demonstrate, the freedom of trade, and so on.

The health state of emergency is characterised by two new features.



It infringes almost all the rights and freedoms hitherto regarded as fundamental and guaranteed as such by the Constitution and the European Convention on Human Rights and Fundamental Freedoms. It is also unprecedented in its scope, as it targeted millions of people and intrudes into all spheres of their daily, family, work, private and social life.

Given the very nature of this regime, it must therefore remain temporary, be strictly regulated, and respect the principles of our rule of law: legality, necessity and proportionality.

In all circumstances, respect for freedoms must remain the rule and restrictions the exception.

Since 2015, the Defender of Rights' office has constantly questioned the authorities in this respect, warning of the long-term risks of systematically renewing a state of emergency: the trivialisation of the regime, the habituation of the population to such restrictions and/or its resignation, the gradual erosion of our rule of law, our achievements in terms of fundamental rights and freedoms, the balance of institutions, and the perpetuation of such measures.

In an op-ed published in the newspaper, “*Le Monde*” on 24 October 2020, the Defender of Rights once again alerted the public authorities to the major risks that measures that erode rights and freedoms in the long term represent for our democracy and our rule of law.

“For years now, in an oppressive silence, freedoms hitherto considered fundamental and guaranteed as such by the Constitution and the European Convention for the Protection of Human Rights and Fundamental Freedoms have been gradually disappearing, at best reduced to an extra soul that a democracy could adorn itself with when the situation and its public services allow it to do so, at worst to obstacles to the deployment of measures taken to deal with crises.”

Also calling for an end to the state of emergency and for more transparency on the data used for public decision-making, she stressed that *“such transparency would help everyone to reappropriate this crisis as active and responsible citizens, rather than suffering it as individuals concerned only with being protected.”*

Beyond that, the health crisis has not spared the functioning of public services. In addition to the public hospital service, which is particularly in demand, the situation has highlighted the fact that, with the closure of schools, school cafeterias, post offices and courts, a large part of the population has been faced with sometimes dramatic difficulties.

This weakening of public services has contributed to the deepening of social inequalities, hitting the most vulnerable first, underlining the essential role of public services in preserving equality.

SUMMARY: THE KEY DATES OF THE PUBLIC HEALTH CRISIS

- ★ **12 MARCH 2020:** announcement by the President of the Republic of the closure of schools from 16 March.
- ★ **16 MARCH 2020:** announcement by the President of the Republic of a national lockdown from 17 March.
- ★ **23 MARCH 2020:** a health state of emergency is declared for two months by Act No. 2020-290.
- ★ **28 APRIL 2020:** presentation by the Prime Minister of the national unlockdown strategy.
- ★ **11 MAY 2020:** gradual unlockdown and extension of the health state of emergency until 10 July by Act No. 2020-546.
- ★ **29 MAY 2020:** creation of the StopCovid application by Decree No. 2020-650.
- ★ **14 JUNE 2020:** announcement by the President of the Republic of a new phase of unlockdown, the 100 kilometre limit being lifted.

- ★ **9 JULY 2020:** introduction of a transitional regime from 11 July authorising the government to take exceptional measures until 31 October by Act No. 2020-856.
- ★ **17 JULY 2020:** obligation to wear a mask in public and indoor spaces by Decree No. 2020-887.
- ★ **23 SEPTEMBER 2020:** Announcement of new restrictions in 11 metropolises and municipalities in the inner suburbs of the Paris metro region.
- ★ **14 OCTOBER 2020:** a new state of emergency is introduced from 17 October and for one month by Decree No. 2020-1257.
- ★ **17 OCTOBER 2020:** introduction of a curfew in the Paris metro region and eight other metropolises for a period of four to six weeks.
- ★ **22 OCTOBER 2020:** replacement of the *StopCovid* application by the *TousAntiCovid* application.
- ★ **22 OCTOBER 2020:** extension of the curfew from 9pm to 6am in the morning to 54 departments, i.e. 46 million French people, from 23 October for a period of six weeks.
- ★ **28 OCTOBER 2020:** announcement by the President of the Republic of a national lockdown introduced from 30 October.
- ★ **7 NOVEMBER 2020:** adoption by the National Assembly of the bill presented providing for the extension of the health state of emergency until 16 February 2021 and the transitional regime until 1 April 2021.
- ★ **24 NOVEMBER 2020:** presentation of the progressive unlockdown in three stages by the President of the Republic.
- ★ **15 DECEMBER 2020:** unlockdown and re-introduction of curfew.

JOINT COMMITTEES: AN ONGOING DIALOGUE WITH CIVIL SOCIETY

In order to gain a better understanding of situations of discrimination and rights violations experienced by the most exposed populations, in April and June 2020, the Defender of Rights brought together the joint committees on disability and advanced age to discuss the consequences of the COVID-19 pandemic.

During these sessions devoted to people with disabilities or loss of independence (in institutions and at home) and their carers, several alerts were brought to the attention of the institution: the restrictions placed on the reception of families and relatives of residents in residential facilities for dependent elderly people (visitation rights), difficulties in accessing care and everyday goods and services, the inaccessibility of travel documents and institutional sites, the need to clarify the notion of “vulnerable person” or “person at risk”, the isolation of people living at home and the difficulties of their carers, the vigilance regarding the compulsory and generalised wearing of masks (for deaf and hard of hearing people, the inability to read lips and use facial expressions due to the lack of transparent inclusive masks), the poor consideration given to actors in the home help sector.

AN ACCESSIBLE INSTITUTION

The institution has a videoconferencing service with an interpreter, enabling deaf and hard of hearing people to petition the institution in French sign language (LSF). Released in November 2020 by L'œil et la main, a documentary on discrimination encountered by deaf people in the workplace shows in detail this referral and support process set up by the institution (“*A Defender for My Rights (Un Défenseur pour mes droits)*”, L'œil et la main, 18 November 2020, France 5, by Clarisse Felletin).

The Defender of Rights Jacques Toubon drew up an initial assessment last June, in which he noted that the health crisis had exacerbated social and territorial inequalities and created situations where public services were in decline.

In order to report on his action in relation to the consequences of the pandemic, in a context where restrictions are placed on rights and freedoms, the Defender of Rights' office has also created a dedicated page on its website.

It paid particular attention to the (dys) functioning of the justice system, the rights of the most vulnerable people, and respect for the rights of children, especially those in child protective care.

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THE FUNCTIONING OF THE PUBLIC JUSTICE

SERVICE AND THE HUMAN RIGHTS OF DETAINED OR RESTRAINED PERSONS

THE RIGHTS OF PERSONS SUBJECT TO TRIAL

The proper functioning of the public justice service is an important indicator of the effectiveness of users' rights. Individuals are deprived of their rights when they are confronted with abnormally long hearing delays (Decision No. 2019-176 of 6 January 2020), failure by the administration to comply with a court decision (Decision No. 2020-072 of 18 May 2020) or in the event of failure to comply with a court decision due to the practice of certain bailiffs of requesting payment of a prior provision (Decision No. 2020-011 of 9 July 2020).

In the context of the debates in Parliament on the adoption of the health state of emergency in March 2020, the Defender of Rights warned about the importance of preserving the participation of all judicial actors in the proceedings. He stressed the need to ensure that procedural adaptations do not undermine the right to a fair trial. He recommended that the law should provide

for the periods of extension of the period of police custody, pre-trial detention or house arrest under electronic surveillance, so as not to leave them up to the administration's discretion. The Defender of Rights stressed the need to provide for the specific modalities of exercising the rights of defence, especially for communication with persons in places of deprivation of liberty or in lockdown.

The Defender of Rights also considered that the automatic extension of pre-trial detention provided for by Order No. 2020-303 of 25 March 2020, which had the effect of depriving incarcerated persons of their right to have their situation reviewed by a judge, went beyond what was necessary to limit the spread of the COVID-19 pandemic. Legislative and jurisprudential developments have taken place, making it possible to correct this situation.

With regard to the use of telecommunication means during hearings, which was generalised by Orders No. 2020-303 of 25 March 2020 and No. 2020-1401 of 18 November 2020, the Defender recalled in a decision (Decision No. 2020-011 of July 9, 2020), the Defender reiterated his reservations in the case of disputes relating to deprivation of liberty, particularly when such means are not made absolutely essential by the impossibility of physically bringing the persons detained before the court. The use of telecommunication means is only one option for the courts. Constituting a restriction on the right to a fair trial, it must remain the exception and be surrounded by additional guarantees to be determined in connection with the bar associations. It is in this sense that two recent decisions of the Council of State and the Constitutional Council have been taken. Thus, on 27 November 2020, the Council of State suspended the possibility, introduced by the Order of 18 November, of using videoconferencing after the end of the investigation at the hearing before the criminal courts. The Constitutional Council, for its part, censured, on 15 January last, the provisions allowing recourse to video-conferencing before the courts, other than criminal courts, without the agreement of the parties.

ADAPTING DETENTION CONDITIONS

As of 20 March 2020, the Defender of Rights has created a dedicated number to enable prisoners to contact lawyers in order to know and access their rights during the lockdown period. Approximately 5,000 calls from prisoners have been processed since the first lockdown and the system has been made permanent. The main questions concerned the conditions for the organisation and execution of sentences, the conditions for the renewal of pre-trial detention provided for by order, sanitary conditions and access to masks and hand sanitizer, access to health care, showers, suspension of visiting hours in detention, use of telephones, work disruption, and violence between detainees. The Defender of Rights has repeatedly appealed to the prison administration management on these issues.

The health crisis has had an impact on prison conditions. As of 16 March 2020, the Defender of Rights alerted the Minister of Justice to the risks of contamination of detainees and prison officers, and recommended that relations between the detainee, their family and their lawyer should be fostered by means of remote communication, the adjustment of sentences or the early release of persons at the end of their sentence, the suspension of sentences for medical reasons for the most vulnerable detainees, and the granting of furloughs and exit permits.

On 21 March, he signed an op-ed drafted with the Controller General of Prisons (CGLPL), Mrs Adeline Hazan, and the President of the National Advisory Committee on Human Rights (CNCDH), Mr. Jean-Marie Burguburu, to underline the difficulties of the particular difficulties linked to the overcrowded conditions prevailing in prisons and administrative detention centres, and the consequences of the health state of emergency on the confinement conditions. On 31 March, the Minister of Justice responded that, in addition to health measures, she was considering encouraging the granting of extraordinary reductions in sentences, suspensions of sentences on medical

grounds, as well as sentence adjustments. The measures taken have significantly reduced the number of prisoners in custody: 8,000 prisoners had already been released. The National Prison Administration forwarded to the Defender of Rights the lockdown plans and measures to prevent the spread as well as individualised information to inmates on the measures taken.

The health crisis highlighted the failure to comply with individual imprisonment, which is enshrined in Article 100 of the Prison Act of 24 November 2009, the implementation of which has again been postponed until 31 December 2022. The Defender of Rights expressed his concern about this in his opinions to Parliament on scheduling Bill No. 2018-2022 and justice reform (Opinion No. 18-22 of 27 September 2018 and Opinion No. 18-26 of 31 October 2018).

The combined efforts of the courts and the prison administration to limit inmates' exposure to COVID-19 have made it possible to put an end to prison overcrowding in order to better control the pandemic in detention.

The Defender of Rights has also been informed of difficulties encountered by incarcerated parents in seeing their children, especially during the first unlockdown. As early as May 2020, he drew the attention of the National Prison Administration to the right of children to maintain family ties and to the need for all children with a parent in prison, regardless of age, accompanied by a third party who respects barrier gestures, to be able to visit their parent in detention within a reasonable period of time. The health measures have evolved and different notes were published by the National Prison Administration to this effect between 6 May and 30 October 2020.

THE EXERCISE OF VISITATION RIGHTS

The Institution was petition with difficulties in accessing parental visitation rights in meeting spaces ordered by the family court judge, in the absence of government directives on how to reopen such spaces after lockdown. Of the nearly 300 child-parent meeting places in France, some are in public places (a school, a social centre, etc.) and others at their own premises (private premises). Although Decree No. 2020-548 of 11 May 2020 authorised certain establishments to receive the public again, it was not possible to establish with certainty whether or not the meeting spaces were authorised to reopen or not. The Defender of Rights drew the attention of the Minister of Justice to such difficulties. Decree No. 2020-663 of 31 May 2020 was adopted and expressly provided, in Article 28, for the reopening of meeting spaces to the public.

HEALTH PROTECTION OF ATTORNEYS

The Bar Associations of Paris and Marseille have asked the Council of State to enjoin the government to provide, in particular, protective masks and hand sanitizer to lawyers in the exercise of their duties in detention centres and in court. The Defender of Rights submitted observations stating that it is the responsibility of the State to provide judicial personnel, lawyers and persons subject to trial with the material means necessary to ensure their protection, unless that would undermine respect for their right to life and their right to health, and that, in the absence of protective measures, the very presence of lawyers in such proceedings could be compromised, thus calling into question the protected rights of the defence and fair trial guarantees (Decision No. 2020-094 of 14 April 2020). In an Order of 20 April 2020, the judge in chambers of the Council of State affirmed that it was up to the State to ensure the proper functioning of public services, and that it must, when the location or nature of the missions inevitably lead to close and prolonged contacts, provide protective equipment. Faced with a persistent shortage of masks, the Council of State

considered that the government should help lawyers, who contribute to the public justice service as officers of the court, to obtain them by facilitating access to supply channels through the State distribution channels for all of the bar associations, particularly the most modest ones. That request has been implemented.

THE CHILD'S RIGHT TO BE HEARD

The Defender of Rights was informed of the possibility for judges to take decisions without adversarial proceedings, in accordance with Order No. 2020-304 of 25 March 2020 adapting the rules applicable to judiciary courts ruling in non-criminal matters. He reiterated the importance that, in cases where the juvenile court judge is considering taking a decision without hearing the parties, the child's opinion must be accurately collected. In Decision No. 4399883, 439892 of 10 April, the Council of State validated the provisions of this order, while emphasising that they "did not prevent a minor capable of discernment from expressing his or her opinion beforehand".

THE SPECIAL CASE OF DETAINED CHILDREN

The situation of nearly 800 detained minors justified, as of March 2020, that special attention be paid to them. 82% were in pre-trial detention without the possibility of visits or schooling, placing them in total isolation. The Defender of Rights expressed his concern about the imprisonment of minors, insisting that alternatives to incarceration should be implemented. As at 1 July 2020, there were 670 juvenile detainees in the prisons, including 570 remand prisoners and 100 convicted prisoners. This number has since increased again. On 1 November 2020, the number of minors in detention was 756, 616 of which were remanded in custody and 140 were sentenced³.

PEOPLE IN DETENTION CENTRES ADMINISTRATIVE AND WAITING AREAS

In May 2019, the Defender of Rights noted, in the report entitled, "*Sick foreign nationals: weakened rights, protections to be strengthened*", significant shortcomings in the health care of people placed in administrative detention centres (CRA). The outbreak of COVID-19 has made them even more salient. Having received several complaints about the continued operation of the administrative detention centres (CRA) and the deterioration of health and safety conditions in them, the Defender of Rights considered, in his Decision No. 2020-082 of 25 March 2020, that such continued operation was, given the context, a disproportionate infringement of the rights to respect for life and health protection. He recommended the closure of the CRAs or, failing that, the immediate cessation of placements in any CRA and the strengthening of measures to protect both staff and detainees. In Decision No. 2020-096 of 17 April 2020, he reiterated these requests. Regularly informed of COVID-19 contaminations occurring within the CRA, the Defender of Rights has constantly reminded the Minister of the Interior of those recommendations, considering that these contaminations testify to the inadequacy of the measures taken to protect the health of detained foreigners and personnel working in the CRA. The Institution has also pointed out to the Minister on several occasions the worrying situations of certain foreigners held at the border, in waiting zones, in overcrowded conditions hazardous to one's health, or simply wandering around in the Charles de Gaulle airport terminal, in conditions contrary to human dignity.

³ DAP figures – Statistics of the detained and imprisoned population for the year 2020.



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DISCRIMINATORY RISKS AND RIGHTS VIOLATIONS

ACCESS OF ASYLUM-SEEKERS TO ONE-STOP SHOPS

From the very first lockdown measures, several associations informed the Defender of Rights of the closure of the system for registering asylum applications in the Paris metro region (Île-de-France) prefectures and of the discontinued operation of the multilingual telephone platform of the French Office for Immigration and Integration (OFII). In his observations before the Council of State (Decision No. 2020-100 of 28 April 2020), he stated that the closure of the one-stop shops for asylum seekers (GUDA) in the Paris metro region, as well as that of the OFII platform service, are not provided for by any text related to the health state of emergency and are not justified by a material impossibility of pursuing the public service mission incumbent on them. Sharing the analysis of the Defender of Rights, the Council of State ordered the Minister of the Interior to reinstate in Île-de-France, within five days, the registration of asylum applications under the sanitary conditions imposed by COVID-19, and the OFII to re-establish its telephone platform (Order No. 440250, 440253 of

30 April 2020). The Defender of Rights' office, which has continued to receive similar complaints on a regular basis, remains vigilant with regard to users' effective access to this fundamental right.

THE CLOSING OF POST OFFICES

As a result of isolated initiatives by certain offices or in certain regions, restrictions on access to post offices during the lockdown period, in particular the ban on allowing children to enter in the company of their parents, or accompanied vulnerable persons, may have led parents when they did not wish to leave their children alone at the entrance or in the care of a security guard, to forego the services provided by La Poste.

The Defender of Rights intervened with La Poste Group to remind it that no such instructions had been given by the government in connection with the restrictive measures required by the health state of emergency. He also recalled that such a decision was both an infringement on users of public services in general, in for particular single parents, and a measure contrary to the best interests of the child.



PEOPLE WITH DISABILITIES DEPRIVED OF ACCESS TO EMERGENCY SERVICES VIA 114

In view of the importance for people with severe COVID-19 symptoms to have rapid access to emergency services, the Defender of Rights was informed by two associations for the defence of deafblind people of the lack of accessibility for such people of the single, national and free emergency call number for the deaf and hard of hearing, 114.

The institution alerted the Secretary of State for the Disabled, who acknowledged that the system, initially designed for the needs of deaf persons, was intended to meet all the needs of people unable to telephone and to take into account the specific needs of deafblind and aphasic persons.

Also alerted by the Defender of Rights to the inadequacies of this service, the National 114 Relay Centre contacted those associations directly, to gather more precise information on the changes to be made and indicated that the National Federation of Aphasics in France (FNAF) had been integrated into the National 114 Steering Committee of the to improve the accessibility of the 114 for aphasics.

The Secretary of State for the Disabled informed the Defender of Rights that a new version of the application and web portal was

to be implemented in the coming months and that the specifications given to the service provider selected for its implementation included the necessary accessibility of the service to deafblind, deaf, visually impaired and aphasic persons and that an information campaign on the service had been set up using tools adapted to the diversity of users, including communication kits available to associations wishing to relay that information.

THE DISTRIBUTION OF MASKS TO NON-RESIDENTS

Some coastal municipalities, in which secondary residents were under lockdown, reserved the mask distributions they organised for the permanent residents of the municipality, excluding secondary residents.

In a press release and in a letter sent the same day to the Association of Mayors of France (AMF), the Defender of Rights emphasised that a distribution organised by a municipality for its inhabitants, in pursuit of a public health objective in the context of the unlockdown measures decided by the government as of 11 May 2020, could not be exempted from compliance with the principles applicable to access to public services, in particular the principle of equality.

In accordance with that principle, the differences in treatment instituted between users by the municipalities could only be based on objective differences in their situation in relation to the purpose of the service in question. However, the difference between secondary and principal residents appears to be unrelated to this purpose, which was intended to protect the entire population against the COVID-19 pandemic, regardless of the length of residence in the municipality. The Defender therefore called on the municipalities concerned and the AMF to include all residents, whether primary or secondary, in such mask distribution operations.

PUBLIC OFFICIALS VULNERABLE TO COVID-19

The implementation of the health protocols has posed various problems for public officials considered vulnerable. Arrangements were initially made by way of notes or even “frequently asked questions”. They may have given rise to sometimes erratic responses from the administration and to decisions that disregarded the rights of employees and were likely to constitute discrimination because of their health condition. The Defender of Rights was thus petitioned with the situation of employees considered “at risk”⁴ who were asked by their employer to come in to work because he considered that the working environment offered all the necessary guarantees, without prior verification with the prevention doctor. Failing this, agents were asked to take leave, were placed on standby, or on sick leave with losses, in the latter case, in terms of remuneration, whereas the instructions, most recently reiterated in a circular dated 10 November 2020⁵, were to place them on special leave of absence (ASA) for COVID-19 inducing the maintenance of remuneration, promotion, and pension rights. The Defender of Rights' office continues to intervene regularly to ensure that the now well-defined rules are respected.

PAYMENT IN CASH

Persons benefiting from a legal protection measure (guardianship, curatorship or legal protection) may have been refused cash payments in certain shops or large retail chains even though that measure was not part of the restrictive measures relating to the fight against the spread of COVID-19, as detailed in Act No. 2020-290 of 23 March 2020 relating to the health state of emergency and the implementing orders. As early as 30 March, the Defender of Rights drew the attention of the government as well as trade and distribution professionals to the difficulties encountered. He stressed the importance of guaranteeing protected adults and people in socially or economically precarious situations the use of the payment methods necessary for basic necessities, but also the existence of best practices on the part of merchants, consisting of opening accounts for basic necessities that the judicial representative can pay for later.

⁴ Pursuant to Article 1 of Decree No. 2020-521 of 5 May 2020 specifying the criteria for identifying vulnerable employees at risk of developing a serious form of infection with the SARS-CoV-2 virus and who may be placed in partial employment under Article 20 of the amended Finance Act No. 2020-473 of 25 April 2020.

⁵ Relating to the identification and modalities of care of civil public officials recognised as vulnerable persons.

VIGILANCE ON THE RIGHTS OF RESIDENTS IN EHPAD

The health crisis has put a strain on the sector of medical facilities for dependent elderly people (EHPAD), which was already weakened by several constraints such as a lack of staff, insufficient funding and the organisation of care in favour of comprehensive care for residents. Finally, the lack of personal protective equipment at the beginning of the pandemic led the sector to adopt particularly restrictive management practices.

The health crisis has had a considerable impact on the situation of the residents in EHPAD and the exercise of their fundamental rights, in particular the right to privacy.

The attention of the Defender of Rights was drawn to the difficulties that residents have encountered in receiving visits from their relatives, both in terms of organisation and frequency. Such restrictions have increased their isolation and have had a negative impact on their well-being. Many residents were confined to their rooms all day, with no visits other than those of the carers at the scheduled times for washing and meals. This total, dehumanizing confinement, combined with the use of physical or chemical restraints, may have contributed to accelerating the deterioration of the health and autonomy of such older persons.

Other restrictions have taken different forms: the introduction of visits under the supervision of carers for short periods of time and without the possibility of adapting the relationship to the person's sensory deficits, the suspension of collective activities, the obligation to accept screening samples (without the resident's consent) and the controlling of relations with relatives (prohibition, then restrictions on visits, etc.).

The choice was made to take precautions, sometimes maximum precautions, at the risk of aggravating individual situations, often causing a deterioration in the residents' state of health, both physical and psychological.

In addition, limitations in access to medical and paramedical care for residents may have been observed and could be discriminatory on the basis of age or place of residence. Access, particularly to care other than that related to COVID-19 also seems to have been limited.

The Defender of Rights recalled that the modalities of care should be based only on medical criteria and be based on a case-by-case assessment. Decision-making processes in emergency/resuscitation situations must guarantee equal access to care for all patients. An exceptional situation cannot result in an exceptional ethic.

All decisions must be made in accordance with the principles of non-discrimination and the effectiveness of rights. The current context reminds us that the temptation to want to protect the most vulnerable may tend to stigmatise those people, who are then seen only through the lens of their vulnerability and therefore of the health imperative, however legitimate it may be.

Restrictions on the right to respect for private and family life, in particular, to free choice and to maintain social ties of elderly people residing in EHPAD must be strictly necessary and proportionate and based on a principle of individual risk assessment and not on a general precautionary principle.

C

SPECIAL ATTENTION TO THE RIGHTS OF CHILDREN

The Defender of Rights immediately measured the effects that the health crisis could have on children's lives and development and alerted the public authorities. Only recently, on the occasion of their hearing by the parliamentary enquiry commission on the effects of the health crisis on children and youth, on 19 November 2020, the Defender of Rights and the Children's Ombudsperson reiterated their concerns.

BACK TO SCHOOL WITHOUT DISTINCTION

As soon as the first unlockdown was announced, the Defender of Rights spoke out publicly in favour of the return of all children to school, as the only way to guarantee the right to education without discrimination. That position was reinforced by the position taken by the French Paediatric Society and the various paediatric speciality societies from 26 April 2020. In particular, the Defender of Rights spoke out against a return based on "voluntary" return, which he felt was detrimental to the children's right to education. He also alerted the Minister of National Education about the exclusion, in certain establishments, of the children of parents working in a medical profession and about the excessively anxiety-provoking tone of certain instructions sent by schools to parents and children in the context of the unlockdown. By relaxing the rules laid down in the health protocol in grade schools and middle schools, Decree No. 2020-724 of 14 June 2020 allowed all pupils to resume classes from 22 June. The presence of all pupils in grade schools and middle schools has therefore become compulsory again, in accordance with the wishes expressed by the Defender of Rights.



CHILD PROTECTION

Departmental services and child protection structures have faced difficulties in ensuring the continuity of their missions for the 340,000 children entrusted to child protection. As early as 25 March 2020, the Defender of Rights alerted the government to the need to anticipate as much as possible the repercussions of the lockdown on children and adolescents, by ensuring national monitoring, coordination of services, support for parents, and making tools such as dedicated telephone lines and resource platforms available to them.

He also drew the attention of the Secretary of State for Child Protection to the urgent need to provide guidelines to promote the return to school of children in child protective care as soon as the lockdown is lifted, given their particular vulnerability in school, at the risk of leaving children, parents and child protection services in limbo for too long.

VIOLENCE AGAINST CHILDREN

The lockdown period has led to fears of increased violence against or in the presence of children in the family home. In a press release of 20 March 2020, the Defender of Rights and the Children's Ombudsperson called for collective responsibility and urged that any worrying situation concerning a child be reported to the emergency numbers. The Defender of Rights also drew the government's attention to the need to equip social workers with masks so that the activity of assessing dangerous situations reported is not interrupted.

THE SITUATION OF UNACCOMPANIED MINORS

The Defender of Rights alerted the local authorities and the government to the situation and the sheltering of unaccompanied minors (MNAs) who, in a number of departments, were faced with a closed reception service, leading to their de facto treatment as adult foreigners. He stressed that the sheltering of young people assessed as adults by the department until the end of the lockdown period should continue. The Defender of Rights requested that the prefectures provide structures or buildings that can accommodate young people in temporary emergency care under dignified, adequate conditions. The Secretary of State for Child Protection has asked the departments to systematically shelter all young people, whether or not they are assessed as minors, in a child protection system or in an emergency shelter.

Since the end of the first lockdown, the Defender of Rights has regularly had occasion to point out that the integration of MNAs often comes up against bottlenecks in public services, making it difficult to approach prefectures or school services.

DIFFICULTIES ASSOCIATED WITH MASK WEARING

The Defender of Rights was concerned about the failure to anticipate difficulties specific to certain children, associated with mask wearing, which was made largely compulsory after the first lockdown. He thus drew the government's attention to the problems related to the lack of inclusive masks for deaf and hard of hearing children and their teachers. Similarly, the lack of inclusive masks for teachers in the nursery school levels and the preparatory course makes it difficult for children who are learning to read and write, as well as for professionals in day-care centres, depriving very young children of much of the interaction necessary for their development. He also asked for benevolent support of parents and children in the application of health instructions.

THE DECLARATION OF THE EUROPEAN NETWORK OF OMBUDSPERSONS FOR CHILDREN (ENOC), CALLING TO DEFEND THE RIGHTS OF CHILDREN IN THE CONTEXT OF THE COVID-19 PANDEMIC

Children's Ombudspersons across Europe have been faced with a new challenge: to continue to defend children's rights in the current context of the COVID-19 pandemic.

The European Network of Ombudspersons for Children (ENOC), in which the Defender of Rights is very active, and of which Ms. Geneviève Avenard was President (2018-2019) and then Vice-President (2019-2020), has continued to closely monitor the situation of all children, in order to ensure respect for their rights under the UN Convention on the Rights of the Child and other European and international human rights instruments.

The rapidly changing situation has massively affected children in general, and worsened the conditions of the most vulnerable groups. ENOC thus adopted a declaration last April entitled "*Children's Rights in the context of the COVID-19 outbreak*", which calls on governments to prioritize the protection of all children from violence, to provide responses to the most vulnerable among them, and to strengthen and deploy the necessary means to support them and the professionals who accompany them. It specified the various difficulties that could arise in connection with this health crisis: the reception of mothers-to-be in maternity wards and the monitoring of early childhood, families accommodated in social hotels or held in administrative detention centres, home schooling, the monitoring of children with disabilities, children who are victims of abuse.

D· MONITORING PARLIAMENTARY AND REGULATORY ACTIVITY

Throughout this pandemic period, parliamentary and regulatory activity was marked by intense production, which was closely monitored by the Defender of Rights. As he did during the 2015 security emergency, he endeavoured to support and enlighten Parliament in his mission to defend rights and freedoms.

This year, while the health state of emergency will have been in force for more than six months, the Institution has exercised its role as a watchdog for rights and freedoms in order to raise awareness and alert parliamentarians to the threats of overreach contained in the texts submitted for their vote. The Defender of Rights recalled that a state of emergency cannot call into question the principles on which the rule of law is based and that rights and freedoms can in no way be the collateral victims of the emergency.

Already quite shaken by the very numerous orders issued during this period, the legal system has undergone major upheavals in a very short time.

The profusion of new laws, under which sometimes disparate, excessive or more restrictive measures are taken from one territory to another, without the health situation justifying this, represents a danger. Their proliferation and randomness undermine the intelligibility of measures and weaken the citizens they are supposed to protect, by creating grey areas in which they can no longer discern their rights.

The very strict measures enshrined in the law have also seen their effects redoubled by the multiplication of prefectoral and municipal decrees which have increased the number of prohibitions, some of which have been annulled by the administrative courts.

These effects are further aggravated by the proliferation of "soft law" during this period. Frequently Asked Questions (FAQs), sound messages broadcast in a loop, pictograms,

posters, etc. have multiplied, inciting in a more or less directive manner to respect rules of conduct, and encouraging everyone to adopt or, on the contrary, not to adopt certain behaviours. Although they have no force of law, such standards have come to provide the closest possible framework for individual freedoms. Although they are not subject to any judicial review, such "soft law" rules have contributed all the more to weakening, in a very direct manner, individual rights, since those responsible for their interpretation and application, whether public officials or private individuals, have had to enforce them without clear and precise instructions and sometimes without discernment.

FROM MARCH TO MAY: THE FIRST LOCKDOWN

As soon as the first bill relating to the health state of emergency was examined in Parliament, the Defender of Rights reminded the Presidents of the National Assembly and the Senate, in letters dated 19 March 2020, that although legitimate and proportionate restrictions remained justified in the context of the current health crisis, it was nevertheless essential to minimise the infringements of rights and restrictions on freedoms that could result. He stressed the need to respect the principles of legality, predictability and necessity, and to ensure that the provisions allowing for restrictions on freedoms are sufficiently precise and strictly regulated by law, and to have strengthened parliamentary control over the use of such provisions, following the example introduced in Act No. 55-385 of 3 April 1955 relating to the state of emergency and Act No. 2017-1510 of 30 October 2017 strengthening internal security and the fight against terrorism (SILT Act).

Auditioned on 22 April by the Senate's commission on the implementation of the health state of emergency to deal with the COVID-19 pandemic, as well as on the orders and regulations governing its application, the Defender of Rights proposed an initial assessment of the impact of the health state of emergency and the functioning of public services in the country (Opinion No. 20-03 of 27 April 2020).

Finally, in another letter to the presidents of the assemblies and their legislative committees, he expressed concern in early May about the bill extending the health state of emergency, recalling that the guarantee of health security for the greatest number of people should not lead to the long-term inclusion of exceptional measures in ordinary law at the end of lockdown.

The Defender of Rights issued several recommendations on this occasion, some of which have been implemented. Act No. 2020 724 of 11 May 2020 extending the health state of emergency and supplementing its provisions has thus incorporated more guarantees for persons likely to be subject to quarantine or isolation. In addition, the possibility of a review by the liberties and custody judge and its systematic referral in the event of extension of the measure – which would be deprivation of liberty within the meaning of Article 66 of the Constitution – has been provided for.

FROM JUNE TO SEPTEMBER: THE TRANSITION PERIOD

Act No. 2020-856 of 9 July 2020 organising the end of the state of emergency introduced a transitional regime, authorising the government to take exceptional measures until 31 October 2020.

On 23 September, the Defender of Rights alerted parliamentarians to the risks posed by the bill extending this transitional regime instituted after the end of the health state of emergency beyond 31 October, particularly for vulnerable people. Regularly receiving complaints from people in EHPAD complaining about the limitation on the number of visits by relatives and the possibilities of going out, she has remained attentive to the restrictions imposed on such persons, which could disproportionately infringe on their right to respect for the maintenance of family and social ties.

The transitional rules have given rise to the implementation of solutions that have sometimes been disparate, excessive or more restrictive from one territory to another, again without a difference in situations justifying it.



In the absence of prior judicial review, the Defender of Rights insisted that national measures applied locally must be systematically justified in the light of the principles of strict necessity and proportionality, and be the subject of appropriate and accessible information for the entire population. Compliance with such requirements would also contribute to a better social acceptability of health measures.

FROM OCTOBER TO DECEMBER:

THE LATEST MEASURES

A new state of emergency was declared on 17 October 2020 due to the resurgence of the pandemic and the adoption of the bill extending the transitional regime until 1 April 2021 was suspended during its consideration by Parliament.

The announcement at the end of October of a new national lockdown came in the context of a particularly tight parliamentary schedule during which Parliament had to give its opinion on numerous security issues: the extension of certain experimental provisions of the SILT Act (protection perimeters, closure of places of worship, individual control measures, etc.) and the introduction of a new national lockdown system, the Bill on global security,

which gave rise to debates on the issue of video recordings of police officers' actions (3 opinions to Parliament: Opinion No. 20-05 of 3 November 2020, Opinion No. 20-06 of 17 November 2020 and Opinion No. 20-13 of 21 December 2020), or the new law enforcement scheme of 17 September 2020 about which the Defender of Rights expressed her views within the framework of the National Assembly's committee of enquiry into the state of affairs, ethics, practices and doctrines of law enforcement (Opinion No. 20-08 of 30 November 2020).

The year 2020 ended with the presentation of a bill perpetuating the legal framework for the management of health emergencies. In an opinion (Opinion No. 20-10 of 3 December 2020), the Defender of Rights' office had called on the government as well as the Parliament to postpone the bill. Indeed, it did not seem reasonable to adopt, as a matter of urgency, a text enshrining this regime in ordinary law and having a long-term scope, while we are still in the midst of a health crisis, without the necessary hindsight on its management, and without an appropriate assessment of the effectiveness of the texts adopted and their effects on rights and freedoms and on the population.

PART 3

PROTECTION AND PROMOTION OF RIGHTS DESPITE THE HEALTH CRISIS

The health crisis will undoubtedly have left its mark on all aspects of our personal, professional and social lives in 2020, disrupting the daily lives of individuals, organisations, companies, and institutions. However, the activity of the Defender of Rights has never ceased, claims have been so numerous, and the difficulties experienced by the claimants could not be minimised or set aside because of the pandemic. While some of those difficulties were aggravated by COVID-19, the fact remains that the findings made by the institution over the years are still valid.

People are still experiencing difficulties in accessing their rights, they are still suspected of fraud, they still have problems accessing benefits. Children remain a particularly vulnerable group. The persistence of discrimination, particularly in the world of work, but also in daily life, remains a major challenge for French society. Foreigners, whether in metropolitan France or in Mayotte, continue to experience refusal after refusal that violates their fundamental rights.

The European cooperation for the protection of whistleblowers, in which the Defender of Rights played a full role, has led to an important development this year. Finally, 2020 was also marked by the issues of police-population relations and law

enforcement, with the respect of ethics by the law enforcement officers being a central issue for the Defender of Rights, an external, independent body that monitors the police, gendarmerie and private security services.

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LAW ENFORCEMENT OFFICER ETHICS

COMPLIANCE

Since 2014, referrals to the Defender of Rights in the area of law enforcement ethics have increased by 179%. Its activity remains focused on law enforcement, identity checks, and professional practices. It received 2,162 claims in 2020, a significant increase of 10.5% over 2019. The referrals revealed a significant increase in cases involving the municipal police.

The work of the police and gendarmes is made possible by the trust they inspire. The Defender of Rights' mission of external oversight of law enforcement ethics is based on this idea and aims in particular to strengthen this confidence through effective, independent, and publicly available investigations.

POLICING

The Institution of the Defender of Rights, thanks to the referrals it receives and investigates, is a privileged observer of the practices of law enforcement agencies. The National Commission for Law Enforcement Ethics (CNDS) and then the Defender of Rights have been developing knowledge and analysis of these practices for twenty years.

Faced with the persistence of referrals relating to violence or violations of fundamental freedoms during demonstrations, the Defender of Rights adopted Framework Decision No. 2020-131 of 9 July 2020 on general recommendations on law enforcement practices with regard to professional ethics rules.



On 16 September 2020, the Ministry of the Interior published a new national plan, taking into account some recommendations made by the Defender of Rights.

Following her hearing by the National Assembly's Committee of Inquiry into the state of affairs, ethics, practices, and doctrines of law enforcement, the Defender of Rights, Claire Hédon, issued an opinion on the new national law enforcement scheme (Opinion No. 20-08 of 30 November 2020).

The Defender of Rights welcomed the Ministry of the Interior's desire for transparency, which for the first time sets out, through the publication of a written document, the principles of law enforcement action in terms of maintaining law and order during public demonstrations. She also took note of the willingness of the Ministry of the Interior to improve the training of gendarmes and police officers in the maintenance of law and order, to establish better communication between law enforcement agencies and participants in a demonstration and to ensure the identification of police officers and gendarmes.

However, several recommendations contained in Framework Decision of 9 July 2020 have not been taken up, so that the provisions of the scheme do not appear capable of preventing the renewal of all the breaches of professional ethics noted by the Defender of Rights, in particular in the use of force and detention measures.

This is the case in particular for the facilitated identification of formed units engaged in a law enforcement mission by the generalisation of markings on the back. This measure mainly concerns the CRS and mobile gendarmes, not including intelligence or arrest units or those called in as reinforcements unexpectedly.

Other recommendations made by the Defender of Rights were not accepted: prohibiting the use of the flash ball launchers (LBD) during demonstrations; only entrusting the mission of maintaining law and order during public demonstrations to specialised units that are therefore trained, equipped, and organised to act collectively; and putting an end to practices leading to the detention of persons without a legal framework. There is no clarification of the legal framework for the use of confiscation of objects, and the same applies to preventive arrests, which the Defender of Rights considers to be unlawful.



THE RECOMMENDATIONS OF THE DEFENDER OF RIGHTS ON LAW ENFORCEMENT PRACTICES

In its Framework Decision No. 2020-131 of 9 July 2020 on general recommendations on policing practices with regard to the professional ethics rules, the Defender of Rights' office, on the one hand, renewed the warnings and recommendations made in his report entitled *“Le maintien de l'ordre au regard des règles de déontologie”* (*Maintaining law and order during public demonstrations with regard to ethical rules*) submitted to the President of the National Assembly in January 2018, and in particular: the banning of LBD during law enforcement operations; the end of the practice of kettling; the difficulties posed by the excessive criminalization of demonstrations and the use of units not dedicated to law enforcement.

It also makes new recommendations following the 198 referrals relating to law enforcement received over the past 18 months following the “Gilets Jaunes (Yellow Vests)” movement, as well as exchanges with its European counterparts in the framework of the *Independent Police Complaints Authorities Network (IPCAN)* – in particular the seminar “Police – population relations: issues and practices” conducted on 17 and 18 October 2019 in collaboration with the European Union Agency for Fundamental Rights. The main conclusions were as follows:

- The risks linked to the practice of preventive detention;
- The need to clarify the legal framework for the use of confiscation of objects during law enforcement operations;
- The importance of preserving freedom of the press, a fundamental principle of democratic systems;
- The difficulties hindering the oversight of law enforcement actions.

This Framework Decision is a guide to ensure that the missions of the security forces in maintaining law and order during public demonstrations are carried out with respect for fundamental rights, the rules of professional conduct and the freedom to demonstrate to which every citizen is entitled.

DISCRIMINATORY IDENTITY CHECKS

The Defender of Rights is both the external ethical oversight body of the police and also the national anti-discrimination body provided for by the European directives on combating discrimination.

Since 2011, its analysis has been informed by the individual claims and testimonies it has received, the hearings and work it has conducted and the comparative law studies resulting from its international partnerships.

The Defender of Rights' office recommended the establishment of a traceability system for identity checks and a recourse mechanism to ensure effective access to the law and to justice in order to denounce discriminatory checks. It called for a formal evaluation of their effectiveness and an analysis of their impact on police-citizen relations.

In 2020, the Defender of Rights' office intervened as *amicus curiae* before the Paris Court of Justice in the appeal brought by 17 young people, most of them minors, claiming to have been victims of discriminatory practices during repeated identity checks carried out by police officers over a time period from 2013 to 2015 (Decision No. 2020-102 of 12 May 2020). Its observations focused on an analysis of the situations that were the subject of the appeal based on the facts resulting from its investigation and the case. It noted that in this case, the context of the instructions and reprisals surrounding such discrimination was systemic in nature in a context of repeated procedural violations against the group of young people from the neighbourhood of North African and African origin resulting from formal directives to evict the persons concerned from the public space: the cumulative effect of such behaviours creates a climate of harassment, exclusion, and discrimination. In this context, the Defender of Rights argued that shifting the burden of proof in discrimination cases requires the State to establish the legitimacy and proportionality of its practices.

In its judgement handed down on 28 October 2020, the Paris Court of Justice ruled that the plaintiffs had not adduced evidence of a difference in treatment or behaviour or words likely to characterise discrimination. With regard to the identity checks, the court considered that the claimants had to prove gross negligence and materiality of each instance of alleged discrimination and that, with the exception of five of the forty-four facts before it, the alleged reason for the identity checks was sufficiently corroborated by the investigative evidence. The court held that a few checks and detentions at the police station had been carried out without due cause, thus engaging the responsibility of the State.

CHANGES IN OFFICER BEHAVIOURS

The training activity carried out by the Defender of Rights for professionals (in both the public and private sectors) aims to promote a transformation of professional practices, particularly with regard to discrimination, law enforcement ethics, or children's rights. This year, the Defender of Rights notably intervened with the security forces (38 sessions for 3,717 peacekeepers) in order to raise their awareness of the fight against discrimination and respect for ethical rules. In order to increase the effectiveness of such interventions, the National Police Central Recruitment and Training Department and the Defender of Rights have developed the materials and methods of intervention by making an institutional film available to trainee police officers and their trainers, as well as a teaching booklet on six "trigger cases" in the form of video clips and a sequence sheet that allows the intervention of the Defender of Rights to be more clearly integrated into the students' training programme.

Other training resources have also been developed, with the National Centre for Territorial Civil Service (CNFPT) in particular, for distance learning in the defence of children's rights, in order to publicise the role of the Defender in terms of guidance and protection of whistleblowers or to combat discrimination.

As part of this partnership, the Defender of Rights has created an open online course entitled, "Discrimination: Understanding for Action". 13,000 people participated in two sessions in 2020. The Defender of Rights also provided support to the National Union of Training and Research Actors in Social Intervention for a certification project ("Accueillir et accompagner dans des espaces numérisés (Welcoming and supporting in digital spaces)"), which is now included in France's specific directory of qualifications (RSCH) and offered to all social intervention actors (social workers, volunteers, elected officials, job seekers, concerned persons, etc.) from January 2021.

THE EUROPEAN IPCAN NETWORK

The European network, IPCAN (Independent Police Complaints Authorities' Network), created at the initiative of the Defender of Rights in 2013, in June 2020 published a summary of the work carried out during its October 2019 conference and adopted the Paris Declaration of June 2020 which includes the main recommendations. It sets out more than 20 actions to be implemented in the areas of police oversight, event management, and public reception, to improve relations between the police and the public.

In October, the Defender of Rights was invited to open the conference organised by the Council of Europe on the occasion of the 20 year anniversary of the Recommendation to Member States on the Code of Police Ethics, in which she recalled, among other things, the work of the Defender of Rights. Session 3 of the conference was devoted to the provisions of the Recommendation on police accountability and control. The IPCAN network in charge of organising the

discussions of the session was able to address the issue of external oversight of the security forces in their diversity as well as their interaction with internal inspections.

As a result of the seminar, the Council of Europe proposed creating a permanent high-level network of police forces from the 47 Member States within the Council of Europe, in which IPCAN members should be involved.

INTERNAL WORKING METHODS

An investigation by the Defender of Rights' office is an administrative, confidential investigation, except with regard to the judicial authority petitioned, and both the Defender of Rights and its agents are subject to professional secrecy.

In accordance with Articles 18 to 21 and 23 of Organic Law No. 2011-333 of 29 March 2011 on the Defender of Rights' office, the Institution may:

- Requesting the communication of administrative or judicial documents: the secrecy of the investigation or enquiry cannot be invoked against the Defender of Rights; the documents covered by medical secrecy or attorney-client privilege are also accessible to the Defender of Rights if the concerned person has given their consent; where the same facts are brought before the Defender of Rights' office as before the judicial authority, it must seek the consent of the judicial authority before conducting its own investigations;
- Conducting on-the-spot checks;
- Hearing claimants, witnesses, and defendants, who may be assisted by a person of their choice, and to whom a copy of the minutes of the hearing is given.

Article 12 of Ordinary Law No. 2011-334 of 29 March 2011 on the Defender of Rights allows for criminal prosecution for the offence of obstruction of justice in the event of a refusal to comply with the Defender of Rights' requests.

The investigation conducted results in a draft decision or a request for a text reminder or a closing letter.

When breaches of professional ethics are likely to be identified, a pre-decision, known as a “summary note”, is sent to the accused person, who has one month in which to submit his or her observations, either in writing or during a hearing.

In the event of a proven violation, the decision is accompanied by recommendations to repair the damage and prevent its recurrence. They most often concern:

- The need to initiate disciplinary proceedings against the officer in question;
- Changes to laws;
- A change in practices;
- An improvement in training.

Cases proposing such recommendations are presented before the Defender of Rights' Law Enforcement Ethics Board, which meets approximately five times a year. The panel is composed of one magistrate from the Council of State, one magistrate from the Court of Cassation, and six other members, three appointed by the President of the Senate and three by the President of the National Assembly.

The decisions are anonymised and then sent to the claimant, the defendants, and the relevant hierarchical authorities (supervisory minister, mayor or company director). The latter are required to respond to the recommendations of the Defender of Rights' office within a time limit it sets.

Where the facts give rise to a presumption of the existence of a criminal offence, the Defender of Rights brings them to the attention of the public prosecutor.

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DEFENDING AND PROMOTING

THE RIGHTS OF CHILDREN

The Defender of Rights' office has used all the powers at its disposal to ensure that children's rights are respected, noting, through the many complaints received, the violations that are still too frequently carried out against them, or by participating in the various work of the government, parliamentarians, inspectorates, independent authorities, through hearings or written contributions in this field.

In 2020, it received 2758 referrals relating to the defence of children's rights.

The Defender of Rights has ensured, in the school and extra-curricular environment, the respect of the right of every child to be protected from all violence as defined by article 19 of the Convention on the Rights of the Child (CRC). In Decision No. 2020-109 of 28 May 2020 relating to a case of harassment of several children over several months, the Defender of Rights recalled the need for the protocol for dealing with harassment situations to be implemented by schools as soon as the first difficulties are reported, and that all national education professionals be duly trained for that purpose. Furthermore, although it has been able to observe progress in the care of children with disabilities, the Defender of Rights' office still too often finds cases of discrimination due to the health condition of a child with a disability in the complaints brought before it. Thus, with regard to access, for children requiring individualised childcare following food allergies or diabetes, to the school canteen (Decision No. 2020-138 of 30 June 2020) or to the daycare (Decision No. 2020-185 of 8 December 2020), it recalled in particular the obligation to provide care without discrimination, through the introduction, where necessary, of the necessary accommodations, as well as the need for training and supervision of professionals to raise awareness of the care of children with disabilities.

EDUCATIONAL ASSISTANCE

Child protection was again the leading reason for referrals to the Defender of Rights in the area of children's rights.

The Defender of Rights' office has observed, through the numerous complaints submitted to it, various shortcomings in the implementation of the procedure for educational assistance by the public justice service. It concluded in its Framework Decision on educational assistance No. 2020-148 of 16 July 2020, that the public justice service does not guarantee respect for the rights and best interests of children everywhere involved in educational assistance proceedings. It made several recommendations to the Attorney General aimed at remedying the situation. In particular, it recommended that a reform be undertaken with a view to amending Article 375-4 of the Civil Code in order to enable the possibility of combining, over a short period of time, a child welfare placement measure and a measure of educational assistance in an open environment; to take into account, in the assessment of the courts' needs in terms of court registries, the imperative presence of court clerks at educational assistance hearings; to take the necessary steps to promote the appointment of an ad hoc administrator to represent children who are not capable of discernment in the educational assistance procedure; to ensure the effective involvement of public prosecutors in educational assistance proceedings.

Also in the field of child protection, the Defender of Rights has again this year regularly intervened to defend the rights of unaccompanied minors through several observations before the judicial courts⁶ and administrative courts⁷ and decisions with recommendations⁸.

ADOPTION

Although adoption only concerns 1.5% of the complaints dealt with concerning children's rights, the Defender of Rights had the opportunity this year to issue decisions following discrimination encountered in the adoption process against homosexual couples and single persons (in particular, Decision No. 2020-029 of 17 February 2020). They were an opportunity to draw the attention of the departments and prefectures to the fact that an adoption approval rejection cannot be based on the family situation or sexual orientation of the applicants, without such a refusal constituting discrimination prohibited by law.


The Defender of Rights stressed that the family that best corresponds to the child is the one that is able to fully meet his or her needs, identified, if necessary, by the family council if their degree of maturity allows it, and not the one that responds to the most widespread societal model. It recommended that each new member of the family council should be able to receive training, on taking office, beyond the exchange of information and knowledge, so that they are aware of their obligations and are fully informed of their mission in order to guarantee both the best interests of the children in their care and respect for the principle of non-discrimination.

In addition, the Defender of Rights has published an opinion on the Bill No. 3161 aimed at reforming adoption (Opinion No. 20-07 of 25 November 2020). In particular, it recognised lawmakers' desire to make the child's voice an essential element, both in the construction of the child's life project, and in consulting the child on a possible adoption plan, during the procedure or in the event of a change of first name during the adoption procedure. However, the Defender of Rights drew the attention of parliamentarians to the need to ensure that the child's biological parents give their informed consent to the adoption.

⁶ See, for example, Decision No. 2020-080 of 31 March 2020, relating to the difficulties of a young isolated foreigner in benefiting from an investment measure under Article 375 of the Civil Code.

⁷ See, for example, Decision No. 2020-209 of 15 October 2020 on the situation of an unaccompanied minor applying for emergency temporary reception pending the decision of the juvenile judge.

⁸ See, for example, Decision No. 2020-140 of 16 July 2020, relating to the evaluation system for unaccompanied minors in the department of X.



Without commenting on the relevance of the changes made to the composition of family councils, the Defender of Rights also pointed out that changes to practices within family councils must above all be carried out through better information and training of its members.

JUVENILE CRIMINAL JUSTICE REFORM

Following the publication of Order No. 2019-950 of 11 September 2019 on the legislative part of the Juvenile Criminal Justice Code, the Defender of Rights' office issued Opinion No. 19-14 on 13 December 2019. In addition, Opinion No. 20-09 of 1 December 2020 was published following the hearing of the Defender of Rights by the rapporteur of the National Assembly's Law Commission on the bill ratifying it.

While the Defender of Rights' office is in favour of a reform of the Order of 2 February 1945, with a view to making it more readable, it regretted that this reform did not provide an opportunity to create a juvenile code, bringing together all the civil and criminal provisions concerning children at risk.

Several points drew its attention: the inadequacy of the amendment made, which establishes a rebuttable presumption of non-discernment below the age of 13; the risk posed by the caesura procedure, as provided for, for educational work carried out with the minor; the lack of revision of the rules on erasure from the national criminal record for minors, and the absence of any substantial change in the conditions for placing minors under judicial supervision or in pre-trial detention.

Finally, it recalled that such a reform will only meet the needs identified if it is accompanied by human and budgetary resources commensurate with the stakes involved.

THE PROTECTION OF CHILDREN'S RIGHTS BEFORE THE EUROPEAN COURT OF HUMAN RIGHTS

Ensuring that France complies with its international commitments, in particular the European Convention on Human Rights, the Defender of Rights intervenes before the European Court of Human Rights as a third-party intervener. It did so recently on the situation of French children held in camps under the control of Syrian democratic forces in northern Syria (H.F. and M.F. v. France), following its decision concerning the recommendations of 22 May 2019 (Decision No. 2019-129). Situations brought before the Court may result in France being found guilty of non-compliance with the Convention. In Moustahi v. France, concerning the situation of young Comorian children travelling unaccompanied on a makeshift boat between the Comoros and Mayotte, the Court found several violations of the Convention, condemning the authorities' practice of arbitrarily attaching children arrested at sea and placed in administrative detention to a third adult for the purpose of their return to the Comoros. That judgement was in line with the observations that the Defender of Rights had submitted to the Court (Decision No. 2018-058 of 9 February 2018).

The Institution also has the task of ensuring that the Court's judgements are fully executed, and intervenes before the execution service for judgements of the European Court of Human Rights (SERVEX); which it did this year in the context of the execution of the Khan v. France judgement by sending it observations on the general measures to be taken by the French authorities to comply with that decision (Decision No. 2020-144 of 10 July 2020). The ruling concerns the reception and care of unaccompanied minors in France. In December 2020, based on the observations and recommendations of the Defender of Rights' office, the Committee of Ministers of the Council of Europe requested additional information from the French government.

CHILDREN PLACED IN SERVICES PSYCHIATRIC FACILITIES FOR ADULTS

The attention of the Defender of Rights has been drawn several times since 2018 to the situations of children, some of them aged 13 or 14, who are staying in adult psychiatric wards despite their minority. This reality, which can sometimes lead to dramatic events, is generally due to the inadequacy of suitable juvenile facilities and the absence of a legal age threshold in the law. The institution has appealed to the government to this effect. More specifically, in Decision No. 2020-008 of 22 December 2020, the Defender of Rights' office asked the Minister for Solidarity and Health to arrange that the law prohibits the admission of a child under the age of 18 into an adult psychiatric unit, due to the high risk of infringements of the child's rights. In this case, the minor hospitalized in a psychiatric ward for children and adults had been sexually assaulted by an adult patient hospitalized in that ward.

In the event of the exceptional psychiatric care of children in an adult ward, the Defender of Rights recommended, among other things, that this should be medically justified, and that appropriate arrangements should be put in place to guarantee the child's right to protection and safety, and thus ensure that the best interests of the child are respected. It also called for the strengthening and structuring of child psychiatric care throughout the country, and for guidelines to be given to the regional health agencies on the systematic reporting of any hospitalisation of a child in an adult psychiatric ward, in order to homogenise practices at the national level.

THE PLAN TO DEVELOP AN INTERNATIONAL CROSS-BORDER CHILD PROTECTION AREA (EUR&SUA)

After four years of work within the EUR&QUA project, the Children's Ombudsperson and their Walloon, Luxembourg and Rhineland-Palatinate counterparts signed a joint declaration of intent for cooperation in the field of children's rights on 27 November 2020. The aim is to formalise cross-border cooperation procedures. In particular, this collaboration will enable better cooperation in the processing of individual or collective referrals that reach the Children's Ombudspersons and practical guidance of applicants to the services best able to respond to them.

THE DECLARATION OF THE EUROPEAN NETWORK OF OMBUDSPERSONS FOR CHILDREN (ENOC) CALLING FOR SYSTEMATIZING IMPACT ASSESSMENTS ON CHILDREN'S RIGHTS

In 2020, the Network of European Network of Ombudspersons for Children (ENOC) focused on the topic of children's rights impact assessments, by exploring how and to what extent such impact assessments are developed and carried out in the different ENOC member countries.

A common frame of reference for conducting children's rights impact assessments has been adopted by the network.

The children's rights impact assessment is a process that supports a systematic evaluation of the decisions and actions of governments, institutions and other authorities on rights, in relation to the needs and interests of children and young people. The objective is to anticipate the effect of a public policy on the realization of children's rights, in order to maximize positive impacts, and mitigate or prevent negative impacts.

In its 2020 Declaration, adopted unanimously by the General Assembly on 18 November, ENOC called on all European states and governments, as well as local authorities, to generalise the use of children's rights impact assessments.

TAKING THE CHILD'S WORD INTO ACCOUNT, THEME OF THE ANNUAL REPORT ON HUMAN RIGHTS THE CHILD

As a follow-up to the national consultation conducted by the institution in 2019 entitled, *"I have rights, hear me"*, the Defender of Rights devoted her annual report on children's rights to this subject, *"Taking the child's word into account: a right for the child, a duty for the adult"*. The Defender of Rights recalled that the child's participation and taking into account the child's word are essential, especially in the context of health crises. Whenever their expression is sought and their words listened to, children are better protected, particularly against all forms of violence. The willingness to further integrate child participation has also resulted in the incorporation of certain recommendations drawn up by children in 2019 as part of the follow-up report on the International Convention on the Rights of the Child (CRC), submitted on 6 July 2020 to the United Nations (UN) Committee on the Rights of the Child as part of France's sixth periodic review. Among the observations made in this follow-up report, the first is that the four fundamental principles enshrined in the CRC continue to be insufficiently implemented in our country. Despite the recurrent recommendations of the Defender of Rights, the training of childhood professionals in children's rights and basic needs is moving forward only very slowly, and there is no shared knowledge base among all actors. The Committee, in the list of issues that it addressed to France in November 2020, was largely inspired by the questions raised by the Defender of Rights and noted a proposal made by children on the eradication of the phenomenon of street children.

RAISING YOUNG PEOPLE'S AWARENESS OF RIGHTS THROUGH THE YOUNG LAW AMBASSADORS PROGRAMME (JADE) AND THE EDUCADROIT PROGRAMME

The Young Law Ambassadors Programme (JADE), the only civic service scheme dedicated to children and young people's knowledge and understanding of the law, has taken on particular importance in this year marked by the effects of the health crisis: increased inequalities between children, an increase in violence against them, learning difficulties, psychological difficulties, etc.

While the mobility of young volunteers has been substantially affected, nearly 38,000 children have been made aware of these subjects, in schools, after-school centres or through so-called specialised interventions with hospitalised children, children with disabilities, children growing up under child welfare protection or placed under the legal protection of young people or unaccompanied minors.

In order to respond to the challenge of digital rights education, the Educadroit programme has added an eleventh key point entitled "Digital world: what are my rights?", whose aim is to respond to the needs of children and young people, as well as the adults who accompany them (teachers, educators, facilitators, parents), for legal guidance on their practices in the digital world. The Educadroit programme has also joined forces with the CNIL, the CSA, and Hadopi to create a teaching kit, which brings together all the resources designed by those institutions for the education of the digital citizen. Each institution has contributed its own expertise, in particular to make situations, questions or risks related to digital use accessible to the educational community and to young people.

C· FIGHTING DISCRIMINATION AND PROMOTING EQUALITY

The year 2020 was characterised by the publication of several reports taking stock of the situation of discrimination in France. The findings were relayed by intense promotional activity on the part of the Defender of Rights' office, both with institutions and the general public and within the framework of its European partnerships.

Its complaints handling activity has highlighted the persistence of situations of discrimination in employment and in access to goods and services, and the difficulty for organisations to anticipate and deal with situations of discrimination.

ARTIFICIAL INTELLIGENCE AND DISCRIMINATION: A CONTEMPORARY ISSUE

In recent years, the use of algorithmic processes has accelerated in the private sector and within administrations. Today, such procedures are found in essential areas such as access to social benefits, police and justice, access to public services and employment procedures. This multiplication of uses is not without risk, as biases can be integrated at all stages of algorithm development and deployment. However, the discriminatory effects of bias are much more difficult to identify and measure than the explicit inclusion of a prohibited discriminatory criterion in the algorithm. Indeed, they are most often based on a lack of representativeness of the data that feeds the algorithms.

If, for example, a university recruitment algorithm were based solely on a sample of historical data to select candidates with profiles closest to those who have worked as university professors in the past, men would be over-represented and women would be discriminated against because they entered the profession later. Thus, the algorithm could



conclude that women are less suitable to be university professors without the gender criterion itself being explicitly included in the algorithm.

The data are the mathematical expression of past practices and behaviours that are often discriminatory and of systemic discrimination operating within society. In so-called smart systems, biases even tend to increase over time and further reproduce discrimination and target those who are already disadvantaged and discriminated against. In June 2020, following an expert seminar organised in partnership with the CNIL, the Defender of Rights published a report entitled “*Algorithms: Preventing the automation of discrimination*”, sounding the alarm on such risks and the need to intervene in order to anticipate the discriminatory effects of algorithms and provide prevention, assessment, and intervention guidelines to control their effects.

DISCRIMINATION IN EMPLOYMENT

THE PERSISTENCE OF DISCRIMINATION ON THE JOB

The 13th edition of the Barometer of Perceptions of Discrimination in Employment, “From Prejudice to Discrimination: lasting consequences for individuals”, published by the Defender of Rights and the International Labour Organisation (ILO)⁹, explores the issues of the interdependence of hostile attitudes at work and sheds new light on their consequences on individuals and their career paths. In particular, it explores four types of hostile behaviour at work: prejudice and stereotypes, devaluation, stigmatising words and behaviour, discrimination and discriminatory harassment, experienced by almost a quarter of the working population.

The survey highlights the dynamics of discrimination at work, the extent of which is the result of the combined effect of prejudiced and stereotypical attitudes and unequal practices to which certain social groups are particularly exposed¹⁰.

⁹ Survey conducted among a representative sample of the population of private sector workers and civil servants.

¹⁰ 24% of those who reported a hostile attitude reported having been confronted with both forms of devaluation at work, stigmatising words or behaviour and discrimination. Conversely, evidence that discrimination never occurs in isolation, only 0.1% of people reported having been discriminated against without mentioning other facts.

This 13th edition shows for the first time the deleterious and lasting consequences of those repeated experiences on individuals and their life path.

Almost half of the working people who reported experiencing discrimination experienced negative consequences on their employment¹¹. Beyond employment, such experiences can also have psychological and physical health consequences, and also damage family and social relationships¹².

These consequences are long-term and disrupt life trajectories¹³.

These results reinforce the importance for companies and administrations to fully commit themselves to the fight against discrimination, taking into consideration the multiplicity of hostile behaviours at work, their systemic dimension and the particular situations of certain groups who are overexposed to them.

Within the civil service, preventing discrimination at work involves identifying the career stages during which employees are particularly exposed to it.

With regard to persons with disabilities – the first ground of discrimination invoked by public officials – training is a crucial period, as noted in Decision No. 2020-111. The winner of a civil service competitive examination had encountered serious difficulties during her year of training in order to receive working conditions compatible with the visual disability she was suffering from. In particular, her disability had not been taken into account when she was assigned to internships in services far from her home, due to a lack of knowledge of medical prescriptions. The recommended equipment was not provided at the internship venues and her reception was very hostile. Disability should not prevent a staff member from taking the

training provided for all civil servants, while receiving the reasonable accommodation to which they are entitled. Administrations have to find solutions for the often numerous problems posed by internships.

PREVENTING DISCRIMINATION AGAINST WOMEN

Despite the protections supposedly provided to pregnant women, pregnancy-related discrimination persists.

By incorporating the legal provisions provided for by the Act of 8 August 2016 on Work and the 2019 Act on the Transformation of the Civil Service, the Pregnancy without Discrimination leaflet aims to inform women of their rights (leave of absence for medical examinations, breastfeeding, and workstation accommodations). It also recalls the powers of the Defender of Rights' office in case of discrimination and the different means to petition it.

Sexual harassment is a form of sexual discrimination recognised under the law, and that the Defender of Rights has dealt with for many years.

After a #One Woman In Five awareness campaign in 2018, the Defender of Rights published a booklet for trainers on sexual harassment in the workplace on 25 November, the International Day for the Elimination of Violence against Women.

Its objective is to transmit theoretical, legal, and practical knowledge on the subject of sexual harassment through different animation techniques. It is aimed at all professionals (employers, employees, HR departments, training professionals, associations, consultants, etc.) who would like to organise an intervention on the subject of sexual harassment at work. It is also a useful basis for drawing up training specifications

¹¹ 19% were dismissed or not renewed after the fact and 14% received a warning or reprimand, or were transferred against their will.

¹² Nearly half of the respondents report feelings of fatigue, sadness, depression, or deteriorating health.

¹³ 70% of people who have been discriminated against in employment think that it is likely or certain that they will be discriminated against again in the course of their career, and 22% have given up applying for a job offer that matched their skills within the past five years, whether because of their gender, age, origin, religion, health or disability, physical appearance or sexual orientation.

and assessing the quality and relevance of any services offered.

Built around three main themes (“Knowing and recognising sexual harassment”, “Alerting”, “Preventing and reacting”), the booklet also includes simple and adaptable activities and teaching aids.

AN INITIAL INTERVENTION IN GROUP ACTION

A court decision that recognises a discriminatory employment practice constitutes an isolated condemnation, with minimal financial impact for the company, and with no consequences on social practices and relations within the organisation.

Given the low impact of sanctions imposed by the courts and the inertia of some employers in dealing with even the most serious cases of discrimination, effective and dissuasive sanctions for discrimination based on origin are necessary.

The introduction in procedural law of a collective recourse mechanism by Act No. 2016-1547 of 18 November 2016 on the modernisation of 21st century justice was a first step to going beyond individual approach of strict reparation for the benefit of a victim, by introducing a collective approach to recourse that encompasses all victims in a similar situation.

However, as the Defender of Rights' office pointed out in its opinion to Parliament No. 20-01 of 5 February 2020, a large number of uncertainties complicate the deployment of the class action¹⁴.

The lack of a precise procedural framework to support the handling of this new litigation, which is both cumbersome and complex, leaves the judge alone in the face of the new tasks entrusted to them. Faced with incomplete procedural indications, the effectiveness of the recourse remains dependent on the capacity of the courts to undertake this complex procedure, which is still at the experimental stage.

In order for the class action to provide an effective remedy for discrimination on the grounds of origin, the Defender of Rights recommended:

- Specifying the office of the judge and the organisation of the class action procedure, making use of the possibilities offered by the judge's powers specified in Articles 10 and 11 of the Code of Civil Procedure;
- Extending the class action to associations in the field of employment and access to goods and services; and examining the possibility of opening the action to a class that would form for the needs of the case;
- Establishing a fund to finance class action discrimination suits.

DISCRIMINATION IN ACCESS TO GOODS AND SERVICES

THE SIGNING OF A CHARTER TO COMBAT DISCRIMINATION IN ACCESS TO HOUSING

The results of various studies, surveys and discrimination testing operations on access to private rented housing carried out over the last few years¹⁵ have shown the importance of taking action to bring about an effective and sustainable change in the discriminatory practices and behaviour of professionals in the sector.

Acknowledging this need, on 1 October 2020, the Ministers for Housing and Gender Equality, Diversity and Equal Opportunities, meeting on 1 October 2020, brought together the representatives of the main professional organisations in the real estate sector (FNAIM, UNIS, SNPI) and landlords (UNPI) to sign a charter on the fight against discrimination in access to housing.

Through this charter, the signatories undertake to fight against all forms of discrimination in access to housing, whether related to origin, disability or health condition, age, family situation or sexual orientation.

¹⁴ Defender of Rights, Opinion 20-01 of 5 February 2020 on the assessment and outlook for class actions.

¹⁵ See in particular the test for discrimination in access to housing according to origin conducted by the Defender of Rights' office in partnership with the Ministry of Housing in 2019.

The development of awareness-raising and training tools for all professionals and the distribution of the Defender of Rights' educational guide entitled, *Renting without Discrimination* are also mentioned in it.

Their deployment is encouraged by the Decree of 14 October 2020, which makes it mandatory to include a module specifically dedicated to non-discrimination in access to housing in the continuing education programmes for estate agents.

The Defender of Rights' office welcomed these actions, which reinforce the work it has carried out in consultation with the main signatory organisations of the charter within the framework of its liaison committee of private housing actors, and the signing of the decree that responds to the recommendations it had made in this regard in 2015.

OBSERVATIONS BEFORE THE CONSTITUTIONAL COUNCIL UNDER THE ASAP ACT

On 5 February 2020, the government tabled a bill to speed up and simplify public action (ASAP) supplemented by numerous amendments. Among these provisions, some were aimed at modifying Article 38 of Law Act No. 2077-290 of 5 March 2007, known as the "DALO Act", governing the exceptional administrative procedure for rental eviction in order to allow eviction without trial from a squatted home, while others provided for a tightening of the criminal sanctions applicable in this area.

On 2 November 2020, 78 deputies referred the entire bill to the Constitutional Council.

Believing that these provisions were contrary to several fundamental rights and likely to violate certain constitutional principles, the Defender of Rights decided to refer the matter to herself ex officio with a view to submitting observations before the Constitutional Council (Decision No. 2020-222 of 9 November 2020).

In a decision of 3 December 2020, the Constitutional Council censured the provisions aimed at tightening the criminal law provisions for cases of home invasion and remaining in another person's home, but did not rule on the provisions aimed at extending the scope of application of the exceptional administrative procedure in matters of rental eviction (DC no. 2020-807, 3 December 2020).

REFUSAL OF ACCOMMODATION DUE TO THE UNDOCUMENTED STATUS OF A FOREIGN PERSON

A mediation commission refused the appeal sent to it on the grounds that the applicant was in French territory undocumented and/or declared the application devoid of purpose on the grounds that he was already benefiting from emergency accommodation.

The Defender of Rights recalled that the fact that an applicant is in French territory undocumented cannot, on its own, justify the rejection of his or her application for accommodation when the mediation commission has the possibility to recommend reception in an accommodation structure (Decision No. 2020-001 of 15 January 2020). It also considered that the fact that the applicant was provided with temporary accommodation at the time of his appeal did not prevent him from applying, in the context of the DAHO appeal, for stable accommodation adapted to his family situation.

After re-examining the situation of the persons concerned, the mediation commission maintained its position that the applications submitted were not given priority on the grounds that the initial applicant was already receiving accommodation adapted to his family situation in a social reintegration and accommodation centre (CHRS) and that the second had left the department.



**RIGOROUS APPLICATION TO AN AFFECTED PERSON
ALZHEIMER'S DISEASE OF THE ADAGE, "IGNORANCE
OF THE LAW IS NO EXCUSE".**

The former Article 2262 of the Civil Code relating to the thirty-year statute of limitations was repealed by Act No. 2008-561 of 17 June 2008 and Article 2224 of the Civil Code, which is now applicable, provides that "personal actions or actions relating to personal property are subject to a limitation period of five years from the day on which the holder of a right has known or should have known the facts enabling him to exercise it".

Article 2234 of the Civil Code provides, however, that "the limitation period shall not run or shall be suspended against a person who is unable to act as a result of an impediment resulting from the law, the agreement, or force majeure". Case law has held that a person's state of health and mental disorder may make it absolutely impossible to take action to suspend the limitation period.

This change in the statute of limitations from 30 years to 5 years is at the origin of a number of complaints submitted to the Defender of Rights by persons having subscribed to Treasury bills, securities issued by the State to finance its debt, and having forgotten to request their repayment in time.

The Minister of the Economy and Finance refused to grant the claimants' requests on the grounds that the evidence relating to their health condition was not sufficiently conclusive. In particular, such a refusal was opposed to the claim of the heirs of a deceased person who had not applied for reimbursement within the deadline, suffering from Alzheimer's disease (Decision No. 2019-206 of 5 September 2019).

The Minister also rejected the claim of a claimant who had subscribed for bonds in a treasury account of which she was a regular client and who was not informed of the change in regulations even though a circular had invited the Treasury to inform the holders under its jurisdiction (Decision 2020-019 of 22 January 2020).

The Minister also refused to review the cases concerned from a fairness standpoint, even though the sums in dispute came from the claimants' savings, which they had lent to the government in good faith.

DISCRIMINATION BASED ON ORIGIN

DISCRIMINATION BASED ON ORIGIN: AN ALARMING STATE OF AFFAIRS

Published in June 2020, the Defender of Rights' report entitled, "*Discrimination and origin: the urgent need to act*" makes a definitive statement. The prevalence of discrimination based on origin affects the lives of millions of people in France and is a worrying factor in the fracturing of French society.

Official data from public statistics and scientific studies make it possible to accurately document the extent of this discrimination: overexposure to unemployment, difficulties in accessing housing and care, police checks, educational inequalities, etc. People of foreign origin, or perceived as such, appear to be disadvantaged in all areas of social life.

However, victims of discrimination on the grounds of origin find it difficult to mobilise remedies. In employment, for example, only 12% of them start a process. The reasons for this are diverse: the impact of the complaint on the environment of the people concerned, the difficulty in proving discrimination or the weakness of the sanctions and compensation taken against the perpetrators.

The fight against discrimination on the grounds of origin has not managed to find a permanent place on the public policy agenda and even seems to have gradually faded away in favour of other paradigms such as the promotion of diversity or the fight against hatred. Gradually confined to urban policy, discrimination on grounds of origin is, however, massively affecting employment, housing, education, and relations with public services and law enforcement agencies throughout the territory.

There is an urgent need for ambitious public action to address such discrimination, as has been done in recent years in the area of gender equality between.

In order to bring about structural change and a comprehensive response to systemic

discrimination, the report proposes several levers for action:

- Deepening and promoting knowledge and research on the subject, in particular by setting up a Discrimination Observatory;
- Supporting the implementation of structured action plans within professional organisations, with clear and assessable objectives, based on non-financial indicators and concrete and cross-disciplinary methods of action;
- Ensuring more effective access to redress by broadening and clarifying the modalities of implementation of the class action suit and by creating punitive damages to ensure the dissuasive function of the judicial sentence.

DISCRIMINATORY GENERAL TERMS AND CONDITIONS OF SALE: THE EXAMPLE OF THE NAVIGO PASS

The case of a woman wearing a veil, forced to pose "bareheaded" in order to obtain a Navigo transport ticket by the general terms and conditions of sale imposed by COMUTITRES, manager of the Navigo Pass, was referred to the Defender of Rights. In response to the Defender of Rights' enquiry, the entity in charge of customer relations explained that this obligation is justified, on the one hand, by security considerations in public transport and, on the other hand, to limit the risks of fraud and card forgery.

The exchanges between the Defender of Rights' office and the operators concerned led it to recall that case law limits the right to demand bareheaded photographs to those expressly provided for by law. The Navigo Pass is not an identity document and no text of regulatory or legislative value provides for the condition of posing "bareheaded" in photographs on such documents.

In the absence of a legal requirement, this constitutes discrimination within the meaning of the law. The Defender of Rights' office took note of the joint decision of the transport network operators to remove the obligation to pose "bareheaded" from the general terms and conditions of sale and use of the Navigo Pass.

Religious freedom, protected by the European Convention on Human Rights and the French Constitution, cannot be restricted by general terms and conditions of sale of a contractual nature. There is nothing to prevent a user on the Paris metro region's transport network from wearing a head covering.

ACCESS TO THE CIVIC SERVICE FOR ALL FOREIGNERS LEGALLY PRESENT IN THE TERRITORY

The Defender of Rights has received several complaints concerning the difficulties encountered by some non-EU nationals in concluding a civic service contract. The purpose of this mechanism provided for by the law "is to strengthen national cohesion and social diversity and offer all volunteers the opportunity to serve the values of the Republic and to commit to a collective project by carrying out a mission of general interest". The provisions in force provide for a number of restrictions. In particular, certain foreigners who are lawfully present in the national territory are excluded from the system. Considering that these restrictions constitute discrimination on the grounds of nationality, the Defender of Rights' office recommended a legislative reform so that the restrictive list of residence permits authorising access to civic service be abandoned in favour of a wording authorising access to all documented foreigners (Decision No. 2020-146 of 9 July 2020). In so doing, the Defender of Rights' office reiterated the recommendations made in his opinion on the bill for controlled immigration and an effective right of asylum (Opinion No. 18-09 of 15 March 2018).

THE RIGHT OF RESIDENCE OF EUROPEAN NATIONALS AND SIMILAR

The Defender of Rights' office is the body responsible for France, in accordance with Article 4 of Directive 2014/54/EU, for promoting equal treatment and supporting European workers and members of their families. This mission leads it to investigate with particular vigilance the complaints it receives about the difficulties encountered by European and similar nationals. Many of them concern the interpretation of the right of residence as a European worker or former European worker.

For instance, the Defender of Rights' office was approached by an Italian national and his spouse, who were systematically refused residence permits. The claimant had alternated periods of unemployment, training, and work since his entry into France, before being dismissed for unfitness while working part-time, in accordance with the medical recommendations made with regard to his health condition. The prefect considered that the claimant did not have the status of a worker and could not claim early recognition of a right to permanent residence.

The Defender of Rights submitted observations before the court petitioned by the claimants, pointing out that both the claimant and his spouse had a right to the right of residence as former workers and parents of a child attending school in the host Member State (Decision No. 2019-280 of 6 November 2019). This right of residence, which is based on Article 10 of Regulation (EU) 492/2011, is not subject to the condition of having sufficient resources or to the condition of having comprehensive health insurance. It was recognised by the administrative court, which, in a judgement of 31 December 2019, annulled the rejections of the disputed permits and ordered the prefect to issue the claimant and his spouse with a residence permit bearing the words "EU citizen" and "family member of an EU citizen".



RESPECT FOR GENDER IDENTITY

In his Framework Decision No. 2020-136 of 18 June 2020 on respect for the gender identity of transgender persons, the Defender of Rights emphasised that gender identity and transition paths are specific to each person and are part of the private and intimate life of individuals. A summary of the main opinions and decisions of the Defender of Rights in this area, the decision recalls the legal texts in force and makes recommendations in all areas of the daily life of transgender persons: civil status, education, employment, access to goods and services, health and social protection, sexual and reproductive rights, medical assistance for procreation and filiation, and detention.

The Defender of Rights recommended not only respecting the gender identity of transgender persons but also promoting their inclusion, in particular by using the first name and form of address chosen on all documents, organising awareness campaigns on the subject and taking into consideration the gender identity of the person for access to single-sex changing rooms or toilets.

Through the complaints it receives, the Defender of Rights' office notes that LGBTI people continue to be the target of multiple discrimination and that few of them are able to claim their rights. To remedy this, the leaflet on discrimination on the grounds of sexual orientation and gender identity reminds us that such discrimination, which is still too often trivialised, is prohibited by law and invites those concerned to take action, by referring the matter to the Defender of Rights.

GENDER IDENTITY DISCRIMINATION ON A DATING SITE

In December 2020, the Defender of Rights intervened with the management of a dating site to draw its attention to the difficulties of the site.s encountered by a claimant to change her profile, first name and photos, following a change of first name at the civil registry office (RA-2020-086). As part of this

procedure, the management of the dating site made a commitment to the Defender of Rights to put an end to a discriminatory situation and to strengthen the inclusion of all gender identities on its site by various means. Moderation teams will need to take better care of transgender members to enable them to express and change their gender identity on their profiles. An update of the FAQ has been planned, with the creation of a new section dedicated to informing transgender members of the steps to take if they wish to change their gender and pursue their searches serenely. The management of the site will also contact LGBTI community rights groups for advice on how to improve their services.

INTERNATIONAL COOPERATION OF THE DEFENDER OF RIGHTS IN DISCRIMINATION MATTERS

THE DEFENDER OF RIGHTS' OFFICE, THE INDEPENDENT MECHANISM FOR MONITORING THE IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD)

By ratifying the international Convention on the Rights of Persons with Disabilities (CRPD) in 2010, the French State committed itself to take all appropriate measures to implement the rights recognised by the Convention in an effective manner.

Ten years after the entry into force of the CRPD in France, the Defender of Rights' office, as the independent mechanism responsible for monitoring the implementation of the Convention, published its first report on the implementation of the Convention, entitled *"The Implementation of the Convention on the Rights of Persons with Disabilities (CRPD)"* in July 2020.

What about the State's compliance with its international commitments? What about the effectiveness of the rights enshrined in the Convention? The overall assessment is mixed. While much progress has been made in recent years, such as the full recognition of the right to vote or marry for all protected adults, significant gaps remain in the implementation of the principles and rights

recognised by the Convention. From this point of view, it appears that France has not yet fully taken into account the change of model that the Convention has brought about. This is particularly worrying in terms of accessibility. In this area, the Defender of Rights deplored the significant delay by France and the persistent reluctance of public authorities to consider accessibility as an essential precondition for the effective enjoyment by persons with disabilities of the fundamental rights recognised by the Convention.

This report is in line with the first review of France by the United Nations Committee on the Rights of Persons with Disabilities scheduled for 16 and 17 March 2021.

THE ACTION OF THE DEFENDER OF RIGHTS' OFFICE WITHIN THE EUROPEAN ANTI-DISCRIMINATION NETWORKS

In 2020, the Defender of Rights' office continued its work within the European Network of Equality Bodies (Equinet), of which he is an elected member of the board of directors. This network comprises 49 national anti-discrimination and equality organisations operating in Europe, in application of the European directives that establish the European legal framework for combating discrimination.

On the occasion of the 20th anniversary of Directives 2000/43 and 2000/78, the network organised a conference in June 2020 where the Defender of Rights recalled the *"need for new European and national strategies to combat discrimination, in particular related to origin, with a momentum comparable to the one we experienced in 2000"*. The need to *"roll out comprehensive, structural and coordinated plans to combat discrimination in its systemic dimension"* was also stressed.

The Advocate contributed to Equinet's Report on the Inclusion of Roma and Travellers.

In a dedicated blog, Equinet made it possible to disseminate the work of its members in relation to the consequences of the pandemic in terms of discrimination. The Defender of Rights actively contributed to Equinet's publications on the discriminatory effects on certain vulnerable groups in terms of access

to rights and the use of all-digital technology and the use of artificial intelligence during the pandemic.

George Pau-Langevin, Deputy to the Defender of Rights in charge of the fight against discrimination and the promotion of equality, spoke at the online conference “Artificial intelligence in the European Union: Protecting fundamental rights in the age of artificial intelligence”, organised by the German Presidency of the Council of Europe and the European Union Agency for Fundamental Rights (FRA) on the occasion of the launch of its report on “*Preparing for the future – artificial intelligence and fundamental rights*”. The report is based on concrete case studies of the use of artificial intelligence and associated technologies by companies and public administrations in the European Union, to accompany the preparation of the European Commission's next legislative proposals aimed at framing a “trusted AI” expected in the first half of 2021.

Finally, the Defender of Rights' office was part of the legal working group working on Equinet's first third party intervention before the European Court of Human Rights in the Toplak v. Slovenia case concerning the accessibility of polling stations for people with disabilities.

D.

DEFENDING THE RIGHTS OF USERS OF PUBLIC SERVICES

Once again this year, beyond the problems posed by the health state of emergency, the questions submitted to the Defender of Rights reveal that the difficulties of access to rights and public services caused by the dematerialisation of the systems put in place by the State are continuing and are even proving to be widespread. While digitisation has made things easier for some people, it has become an obstacle to accessing rights for others.

As it leads to a real dehumanisation of the public service, dematerialisation is often accompanied by practices that resort to a strict interpretation of the rules, which can lead to very difficult situations for users.

The referrals also clearly reveal difficulties specific to the overseas territories that raise questions about respect for the principle of equality of the territories.

THE SHORTCOMINGS OF THE POST-PARKING FEE

The reform of paid parking, resulting from Act No. 2014-58 of 27 January 2014, provides for the decriminalisation and decentralisation of paid on-street parking. Since its entry into force on 1 January 2018, local authorities have been responsible for managing paid on-street parking. In the absence or inadequacy of payment, the user had to pay a post-parking fee (FPS) and no longer a fine. It must be contested before the local authority by way of a compulsory prior administrative appeal (RAPO), then in the event of a refusal, before the special administrative court called the “Paid Parking Disputes Commission (CCSP)”.

An increase in the number of cases brought by users to the Defender of Rights' office has illustrated the recurrent failings of this system at various levels: the assessing of undue post-parking fees, for example to persons holding a limited mobility card; delays in the processing of RAPOs with serious financial

consequences for users. Situations of unequal treatment depending on the community and the manager have been reported.

The technical nature of the procedure put in place and the complete dematerialisation of the dispute make access to the judge difficult and make it necessary to clarify, simplify, and standardise the information provided to public service users.

In a January 2020 report entitled “*The failure of the post-parking fee: restoring users' rights*”, the Defender of Rights addressed recommendations to local of paid on-street parking actors so that the decentralisation of parking may better guarantee the equality of users' rights and the right to redress. Local authorities can improve the information provided to users on parking arrangements, rates, and specific rules applying to certain user categories. The way in which the free appeals lodged by users contesting the post-parking fee can also be improved by, among other things, providing better training for the staff responsible for examining them and making the examination of the appeal conditional on obtaining all the documents. On the other hand, the Defender of Rights recommended that the government should better coordinate the paid on-street parking actors and consider legislative and regulatory changes aimed at removing excessive restrictions to the fundamental right of access to a judge. In particular, it was recommended that persons who are victims of vehicle theft, licence plate theft, transfer of vehicle subject to production of the declaration of transfer of vehicle, persons with disabilities exempt from parking fees, and financially vulnerable persons who could benefit from legal aid, should be exempted from payment prior to referral to the CCSP (Paid Parking Disputes Commission).

The Constitutional Council, in its Decision No. 2020-855 QPC of 9 September 2020, ruled that the condition of payment prior to referral to the CCSP was unconstitutional and should therefore be amended by Parliament.

BENEFIT PAYMENT SHORTCOMINGS

UNDULY PAID AMOUNTS MUST NOT LEAD TO PRECARIOUSNESS

A recurring problem, the recovery of sums unduly paid (“overpayments”) by the administration can push people into precarious situations. With regard to the survivor's pension, many spouses of deceased civil servants found themselves in this situation after honestly answering a survey asking them whether they were living in a common-law relationship. On the basis of this response, the Caisse des Dépôts et Consignations recovered the sums paid over sometimes very long periods, often very large sums, without allowing the persons concerned to benefit from the abbreviated limitation period, which limits claims for restitution of undue pension payments to the current year and the three previous years.

The Defender of Rights recommended that tax forgiveness should be provided and that recipients of survivor's pensions should be regularly reminded of the obligation to clarify changes in their situation in order to prevent new difficulties from reappearing, pending amendment of the laws (Decision No. 2020-061 of 26 February 2020).

SOCIAL BENEFIT FRAUD

For several years now, the Defender of Rights' office has been concerned about excesses in the fight against social benefit fraud, whether in terms of its classification, especially the burden of proof, or the application of the related sanctions, which are at the heart of the Defender's concerns.

It pointed out, in a claim relating to a dispute of the amount of a penalty imposed due to a failure to declare a resource by a user receiving universal supplementary health cover (CMU-C), that it is for the primary health insurance funds to characterise, in law and in fact, the intentional element, in the present case, the intent to conceal a resource in order to unduly receive a benefit. In order to be established, fraud presupposes the combination of two elements, one material



and the other intentional, without which fraud cannot be established. It also noted that the penalty imposed did not comply with the requirements set out in the applicable circulars, as the penalty imposed did not respect the maximum amount provided for.

THE ARE PAYMENT FOR PEOPLE DISMISSED FROM THE CIVIL SERVICE

Many public employers refuse to pay the Return to Employment Assistance Allowance (ARE) to contract workers they have separated from. Although case law treats, with few exceptions, the refusal to renew a fixed-term contract by an employee as a voluntary loss of employment, thus excluding payment of the ARE, the employer cannot argue that the contract was tacitly renewed, as it sometimes does, to avoid this obligation and deprive the employee of the allowance (Decision No. 2020-182 of 22 October 2020). Nor can it be based on the incapacity of a local employee as established by the departmental medical committee to refuse payment of this allowance, since this committee only rules on suitability for public-sector employment and not for private-sector employment (Decision No. 2020-181 of 19 October 2020).

THE DISCRIMINATORY NATURE OF THE REFUSAL OF PATERNITY LEAVE FOR THE FATHER'S HUSBAND

The Defender of Rights received a complaint from an adoptive father regarding the refusal of his right to paternity and foster care leave by a primary health insurance fund on the grounds that it had already been granted to his husband, the child's second adoptive father, who was born in the United States.

The claimant and his husband both adopted a child, as evidenced by the adoption decree and birth certificate issued by the U.S. authorities. Entitlement to paternity leave and childcare leave, as well as the corresponding daily allowances, were granted to the claimant's husband but denied to the claimant. The body rejected his application on the basis of the combined provisions of Articles L. 331-8 of the Social Security Code and L. 1225-35 of the Labour Code, from which it follows that the second potential beneficiary of paternity and childcare leave for the same child, after the father, must be either the mother's spouse, the person linked to her by a civil solidarity pact (PACS) or the person living in a marital relationship with her. The rejection was confirmed by the Amicable Appeals Board.

Paternity and childcare leave is currently open to any spouse of the mother, irrespective of their gender and regardless of parentage of the child. The Defender of Rights' office considered that the CPAM's refusal to grant this leave to the claimant, husband of the child's father, infringed his rights as a user of the public social security service and constituted discrimination on the grounds of gender and sexual orientation. It recommended that the body open up the right to paternity leave and childcare leave to the second adoptive employed father (Decision No. 2020-036 of 9 October 2020).

THE GUIDE FOR SOCIAL ACTION INTERVENERS:

THE DESIRE TO REACH OUT TO EVERYONE

The Defender of Rights is approached too infrequently by professionals in the social sector and the people they accompany. The action of social workers and that of the institution are nevertheless complementary, in that they aim to promote access to rights and to fight against non-use: the people who have the greatest difficulty in accessing their rights are also those who are the furthest removed from public services and in particular from the Defender of Rights. In order to facilitate collaboration with these professionals, the Defender of Rights has published a practical guide for social workers. This guide aims to raise awareness of the role, areas of expertise, powers and the different ways of approaching the Defender of Rights.

This new tool has been developed in collaboration with the Federation of Solidarity Actors (FAS), the National Union of Communal Social Action Centres (UNCCAS), the National Union of Social Intervention Training and Research Actors (UNAFORIS) and two social work schools: the Regional Institute of Social Work (IRTS) of the Paris metro region and the Southeast Social Health School (ESSSE) of Lyon. In 2021, the guide is to be adapted in the form of a training module for trainers working with third-year students preparing for the social work professions.

DIFFICULTIES RELATED TO THE RECEPTION OF PERSONS WITH DISABILITIES

THE ABRUPT TERMINATION OF CARE FOR A DISABLED ADULT

The Defender of Rights' office received a complaint concerning a decision by the Commission for the Rights and Autonomy of Persons with Disabilities (CDAPH) which resulted in the sudden termination of the reception of a young adult with severe disabilities in a specialised reception centre (MAS).

The departmental home for disabled people (MDPH) concerned, recognising both the irregularity of this decision and of the exclusion procedure that followed, revised the compensation plan for the person concerned, retroactively, by granting an increase in the volume of hours allocated to the family carer under the disability compensation benefit (PCH), as of the date of leaving the MAS. It has also planned to implement a comprehensive support plan to encourage the claimant to return to the MAS.

The Defender of Rights' office took note of these measures and recommended to the MDPH the implementation, without delay, of a comprehensive support plan in order to propose appropriate measures to ensure effective reception of the person concerned in a medical-social institution (Decision No. 2020-020 of 22 January 2020).

THE QUOTA OF ABSENCES FOR PERSONAL REASONS IN A CHILDCARE FACILITY

The father of a young disabled adult approached the Defender of Rights' office about day-care scheme for his son in a residential home, which treated his absences due to illness as absences for personal reasons, the former being deducted from the quota for authorisation of absences for personal reasons, and the Defender of Rights' considered that this scheme, which stems from the departmental social assistance regulations (RDAS), led to discrimination based on health condition and disability.

The Defender of Rights' office recommended to the relevant departmental council to amend its departmental social assistance regulations so that days of absence due to sickness are subject to the same regime as days of absence due to hospitalisation and do not reduce the quota of authorised absences for personal reasons enjoyed by persons housed in a medical-social institution (Decision No. 2020-104 of 6 May 2020).

FOREIGN PERSONS' ACCESS TO PUBLIC SERVICES

DIFFICULTIES OF ACCESS TO PREFECTORAL COUNTERS DUE TO DEMATERIALISED PROCEDURES

For more than two years, the Defender of Rights' office has received a large number of complaints from persons who are unable to apply for a residence permit. As some prefectures have decided to impose appointment scheduling on the Internet, such steps are made impossible when the online schedules are booked solid. In some departments, a large number of people are thus forced to log on every week for several months, or even go to court, before obtaining an appointment. Without a residence permit, they are exposed to the risk of being expelled from the territory at any time and may also suffer disruption of their rights or lose their jobs.

The Defender of Rights' office took the view that such procedures were in contradiction with the rules governing the referral of cases to the administration by electronic means and the rights of its users, but also with the main principles governing public services, namely mutability, continuity and equality, as well as with the right to respect for private and family life (Decision No. 2020-142 of 10 July 2020). It has made several recommendations to the Minister of the Interior and calls, in particular, for the systematic introduction of channels of access to counters as alternatives to dematerialised procedures. In the meantime, it has also questioned each prefect concerned and requested communication of the decisions relating to such teleservices. It also continued to report every individual situation of which it was aware.

TAKING INTO ACCOUNT THE PRIOR RESIDENCE EXCEPTIONS ENJOYED BY NATIONALS OF CERTAIN STATES WITH REGARD TO ASPA

Article L.816-1 of the Social Security Code requires non-European foreign nationals to prove that they have been resident for at least ten years under a residence permit authorising them to work in order to benefit from the Solidarity Allowance for the Elderly (ASPA). On the basis of that provision, the Pension and Occupational Health Insurance Fund (CARSAT) refused to pay the ASPA to a Tunisian national, a former worker.

However, with regard to the ASPA, Tunisian nationals must, pursuant to Article 65 of the EU-Tunisia Agreement, be treated as if they were nationals of a European Union Member State, which implies in particular the exclusion of any condition of seniority of residence or previous residence.

Other nationalities have been exempted from the condition of prior residence, first by case law and then by the practice of the Funds, in application of international commitments entered into by France. The Defender of Rights' office noted that the practices of the Funds that pay the ASPA are not harmonised, especially for Tunisians, but also for Moroccans and Algerians.

It recommended that the director of the National Old-Age Insurance Fund (CNAV) remind their departments that the condition of having a residence permit authorising work for at least ten years, provided for in Article L.816-1 of the Social Security Code, is not opposable to Moroccan, Tunisian and Algerian nationals (Decision No. 2020-107 of 20 May 2020). In response to these recommendations, the CNAV Director indicated that a new circular on the ASPA would soon be issued.

UNLAWFUL REFUSAL TO ENROL IN A JOBS CENTRE TRAINING COURSE BECAUSE OF THE INSUFFICIENT VALIDITY PERIOD REMAINING ON THE RESIDENCE PERMIT

The claimant, a Congolese national holding a temporary residence permit, applied for enrolment in a training course offered by the Jobs Centre. The validity period remaining on his residence permit did not cover the entire training period and he was therefore refused.

The Defender of Rights intervened and, after exchanges with the organisation, took note of the favourable resolution of the claimant's situation. He recalled that in order to be registered with Jobs Centre and to benefit from access to the organisation's services, the foreign national must be looking for a job and hold a valid residence permit authorising them to work (Decision No. 2019-312 of 23 September 2019). The refusal by Jobs Centre therefore lacked a legal basis. Moreover, by adding a condition of validity of the residence permit for the entire training period, the Jobs Centre substituted itself for the prefecture, which alone is competent to rule on the right of a foreigner to reside in France. Furthermore, this practice constitutes discrimination on the basis of nationality.

The Jobs Centre Director General confirmed the Defender of Rights' analysis and took steps to prevent such situations from recurring in the future.

MATERIAL RECEPTION CONDITIONS OF ASYLUM SEEKERS

The Defender of Rights is very regularly petitioned with complaints highlighting shortcomings in the material reception conditions (CMA) for asylum seekers in France, both with regard to the saturation of the National Reception System (DNA) and the effectiveness of the collection of the Asylum Seeker's Allowance (ADA).

Today, the changes to the ADA's payment methods, through the introduction of a payment card instead of a cash withdrawal card, is creating new difficulties for asylum seekers.

Faced with this observation, the Defender of Rights recommended to the Ministry of the Interior, in two decisions of the same day, that it:

- Ensure effective access to material reception conditions is guaranteed and provide a dignified reception for asylum seekers by ensuring that the reception capacities of the National Reception System (DNA) are adequate and appropriate with regard to the asylum request and by ensuring the effective receipt of the Asylum Seeker's Allowance (ADA) (Decision No. 2020-150 of 10 July 2020);
- Amend the regulatory provisions of the Code on the Entry and Residence of Foreigners and the Right of Asylum (CESEDA), which provide for the possibility of paying the ADA by using a withdrawal or payment card in order to set up a system better suited to the situation of asylum seekers, i.e. a mixed card or the possibility of paying into the applicant's bank account if they hold one, or otherwise in cash (Decision No. 2020-147 of 10 July 2020).

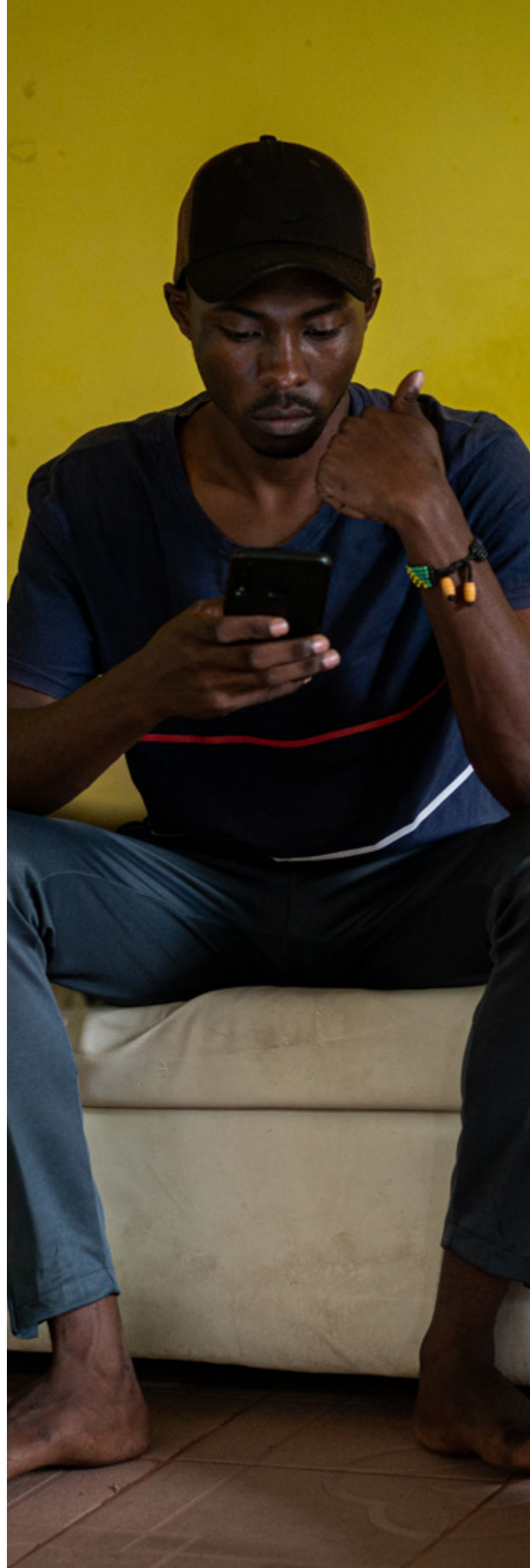
DIFFICULTIES EXPERIENCED BY USERS IN THE OVERSEAS TERRITORIES

THE DEFENDER OF RIGHTS' REPORT ON MAYOTTE

On 2 and 3 October 2019, in parallel with the “Place aux droits (Room for Rights)” operation carried out on Reunion Island, the Children's Ombudsperson, the Secretary General of the Defender of Rights' office, and several of its agents travelled to Mayotte to meet with the decentralised State services, and local administrations and actors. They were accompanied by the head of the regional centre and the delegates of the Defender of Rights in Mayotte. The report entitled, “*Establishing Mayotte in its rights*”, made public on 11 February 2020, gives an account of the mission's findings, which focused on violations of children's rights, the obstacles to accessing healthcare as well as violations of the rights of foreigners, particularly those resulting from the intensification of the fight against illegal immigration.

DISCRIMINATION BASED ON ORIGIN AND PLACE OF RESIDENCE OF THE REUNIONESE GENDARMES EXCLUDED FROM THE DEPLOYMENT BONUS

Article R14-C of the Civil and Military Retirement Pensions Code provides for the allocation of deployment bonuses to military personnel deployed to the overseas departments provided they “originate from Europe or were born in an overseas territory or country, Morocco and Tunisia, passing through these regions and not having settled there definitively”. The State pension service specified, in a Note No. 79221 of 7 November 2014, that a soldier deployed overseas in a territory from which he originates could only receive these campaign benefits if they did not live there continuously until their recruitment. The Defender of Rights, considering that this interpretation is based on a differentiated treatment taking into consideration place of birth and/or residence up to enlistment and therefore origin, a criterion prohibited by the provisions of the third paragraph of Article 2-3(3) of Act No. 2008-496, and recommended in particular that the State Pension Service repeal Note 79221 of 7 November 2014 (Decision No. 2020-217 of 29 October 2020).



The department in question has informed the Defender of Rights that it has amended the fact sheet on deployment bonuses and is prepared to consider claims for compensation on a case-by-case basis, if necessary.

ACCESS TO RETIREMENT BENEFITS IN GUADELOUPE

The Defender of Rights was approached by a number of insured persons belonging to the same pension insurance organisation in Guadeloupe, some of whom had been waiting for several years to liquidate their rights to a retirement pension, survivor's pension, or old-age solidarity allowance (ASPA). Abnormal processing times, in terms of their extent and repercussions, attest to worrying shortcomings, such as the failure to acknowledge receipt of pension applications, lack of knowledge of the documents to be provided, and failure to examine the merits of the claims lodged with the Amicable Settlement Board (CRA). The Defender of Rights considered in this case that the shortcomings of a public service faced by the population of a specific territory could constitute a discriminatory situation because of residence, within the meaning of the provisions of Act No. 2008-496 of 27 May 2008 on the fight against discrimination, compared to insured persons residing in another department.

The Defender of Rights reminded the fund in question of the obligations imposed on all social security bodies to ensure and guarantee equal quality of service to all their users. In response, the organization indicated that it would put in place measures to improve the management of retirement cases.

The Defender of Rights' office took note of the measures announced for efficient and qualitative management of cases and asked the organisation (Decision No. 2020-014 of 6 March 2020) to provide it with internal instructions and memoranda attesting to the implementation of the new instructions, the information needed to justify the regular meeting of the Amicable Appeal Board, in particular the minutes of the Board's last meeting, together with the schedule of forthcoming meetings, and the figures for the progress of cases awaiting settlement (personal rights, secondary rights, and ASPA).

E

GUIDANCE AND PROTECTION OF WHISTLEBLOWERS

The Defender of Rights' office is responsible for the guidance and protection of whistleblowers since the Sapin 2 Act of 9 December 2016.

Its experience over the past 4 years clearly shows that the complexity of the legal framework laying down the conditions for legally protected whistleblowing is a considerable source of vulnerability for citizens who engage in the process of whistleblowing.

The Defender of Rights has been particularly active in the recasting of the protection mechanism that will accompany the transposition of Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law.

THE VULNERABILITY OF WHISTLEBLOWERS IN THE FACE OF RETALIATION

When a whistleblower is the victim of retaliation (sanctions, dismissal, refused promotion, etc.), the Defender of Rights' office, petitioned with an individual complaint can mobilise its various means of intervention to defend them (individual recommendations, observations before the courts).

For instance, a department head informed the Defender of Rights' office of the many difficulties encountered with his employer and of his dismissal, considering that it was a case of retaliation related to the report he had made concerning the potentially criminal practices of one of his employees.

At the end of its investigation, the Defender of Rights' office was able to establish, on the one hand, that the facts underlying the report for forgery of private documents and bribery of private persons established by the claimant were potentially criminal and, on the other hand, that the person concerned was acting in good faith and disinterestedly and, lastly, that he had followed the reporting procedure provided for by law.



With regard to the alleged retaliation, although the employer argued that interpersonal difficulties had arisen between the claimant and his managers prior to his reporting, and that his dismissal was justified by professional and behavioural breaches unrelated to the reporting, the overall assessment of the information submitted to the Defender of Rights' office led it to conclude that the interpersonal difficulties between the claimant and his managers may have arisen from the reports issued as soon as he took up his position.

Indeed, protection against retaliation, if it arises from the "formal" report issued by the employee in writing, must extend to the employer's decisions taken previously, as long as they are the consequence of the informal reporting that preceded the report.

The Defender of Rights submitted observations in summary proceedings before the Nanterre Industrial Tribunal to challenge the legality of the unfavourable measures taken against the claimant (Decision No. 2020-205 of 22 October 2020). In its interim order, the industrial tribunal recognised the claimant's status as a whistleblower. However, the court held that there was no "clear and unequivocal link of cause and effect" between the employee's dismissal and his reporting. Consequently, the industrial tribunal did

not conclude that it was appropriate to rule in summary proceedings on the existence of retaliation.

This complaint illustrates the particularly vulnerable situation in which whistleblowers may find themselves following reporting.

THE NETWORK OF EUROPEAN AUTHORITIES IN CHARGE OF THE WHISTLEBLOWER SYSTEM

In 2020, the Network of European Integrity and Whistle-blowing Authorities (NEIWA), created in 2019, met for the third and fourth times on 26 June and 3-4 December 2020 during two seminars organised in view of the transposition of the Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law. These two seminars provided an opportunity to exchange views on the various articles of the directive, particularly on:

- The missions, statutes, and powers of the competent authorities;
- The need for a national authority responsible for providing full and clear information on rights and able to provide effective support against retaliation while, *at a minimum*, monitoring the handling of alerts;

- The implementation of support measures (legal, jurisdictional, financial, and psychological);
- Penalty regimes;
- Concrete procedures for protecting the anonymity of individuals and the confidentiality of reports;
- Lastly, listing the responsibilities between different competent authorities present in the same Member State.

Two declarations, the Rome declaration in June and the Brussels declaration in December, enabled the members of the network to formulate a set of common recommendations aimed at improving the readability of national systems and strengthening the rights of whistleblowers.

THE OPINION OF THE DEFENDER OF RIGHTS ON THE TRANSPOSITION IN FRANCE OF THE DIRECTIVE ON THE PROTECTION OF PERSONS WHO REPORT BREACHES OF UNION LAW

By 17 December 2021, all European Union member states must have introduced into their legislation the common set of minimum standards set out in the European Directive 2019/1937 on whistleblowers of 23 October 2019.

In France, the adoption of the law transposing the directive offers a unique opportunity that the public authorities must seize in order to change the protection regime for whistleblowers resulting from the Sapin II Act, in order to improve the readability of the system and significantly strengthen the rights of whistleblowers.

The Defender of Rights recommended preserving the advances resulting from the Sapin II Act, in particular the broad definition of whistleblower including persons who are not in an employment relationship as well as the broad material scope of the report including any violation of the law, threat or serious harm to the general interest.

It also advocated going beyond the strict transposition of the directive by allowing all legal entities to issue a report and to be recognised as facilitators and by setting up a specific reporting mechanism at the national level relating to issues of national security and defence secrecy.

In order to secure whistleblowers in their journey, the handling of reports must be improved by better monitoring compliance by public or private bodies with the obligation to set up internal reporting procedures and by extending the powers of the Defender of Rights' office so that it can play a pivotal role in transmitting and following up on the report.

In order to break the isolation of whistleblowers, better protection and exemplary support measures must be provided, in particular by allowing them to benefit from direct financial aid through the creation of a support fund and the granting of legal aid without any means testing, based where appropriate, on a certification issued by the Defender of Rights' office.

Finally, it is recommended that an evaluation of the Sapin II Act be carried out in order to correct its many loopholes and uncertainties, to make the legal framework significantly more readable and operational and to carry out training and awareness campaigns to make this new law better known.

In any event, regardless of the changes envisaged, the Defender of Rights recalled that it was important to devote sufficient human and budgetary resources to make the system for reporting, monitoring and protecting whistleblowers effective (Opinion No. 2020-12 of 16 December 2020).

PART 4

COMMITTED TEAMS

A·

HUMAN RESOURCES

WORKING AT THE DEFENDER OF RIGHTS' OFFICE

If the institution's human resources policy has once again in 2020, and for obvious reasons, favoured the supervision of the working conditions of its staff, particularly in terms of distance, it has not forgotten its classic management and recruitment activity.

In addition to the 536 delegates representing the institution closest to citizens and claimants, nearly 230 staff members work at the Defender of Rights' head office and in the regions since the establishment of a network of regional centre managers, which is now complete and operational despite the context of the health crisis. The institution also welcomed, in conjunction with the IT teams and on behalf of the business divisions, more than 70 interns in 2020, in two stages

BREAKDOWN OF AGENTS IN 2020

OFFICIAL	Category A+	14
	Category A	22
	Category B	11
	Category C	6
	Sub-total	53
CONTRACT WORKERS		173
TOTAL		226

over the year, despite the difficult conditions, continuing its tradition of supporting students in the professional environment.

In 2020, the job cap was increased from 219 to 226 full-time equivalents (FTEs), but this does not reflect a net recruitment capacity, since it includes technical adjustments to the staff made available to the institution following pooling with the Prime Minister's office (17 staff in total since the pooling in 2017). It is to be crossed with the net employment

BREAKDOWN BY HIERARCHICAL CATEGORY AND GENDER IN 2020

	WOMEN			MEN			OVERALL WORKFORCE	ACTUAL BREAKDOWN
	NO.	% F	% F/F	NO.	% M	% M/M	NO.	%
A+	25	58%	14%	18	42%	35%	43	19%
A	108	82%	62%	24	18%	47%	132	58%
B	33	89%	19%	4	11%	8%	37	16%
C	9	64%	5%	5	36%	10%	14	6%
TOTAL	175	77%	100%	51	23%	100%	226	100%

scheme authorised in 2020 for the Defender of Rights' office, which has been respected this year again. The institution was able to maintain a recruitment effort: three new posts were created to strengthen the investigative services and the Defender's network and to respond in part to the extension of the Defender's missions.

However, the increase in the areas of expertise of the Defender of Rights' office since its creation has not been offset by the creation of jobs commensurate with its needs. The institution is now struggling to ensure that its activity can be carried out under optimal conditions, which, in terms of referral figures alone, has increased by almost 40% over the last five years.

GENDER EQUALITY AT THE DEFENDER OF RIGHTS' OFFICE

Act No. 2019-828 of 6 August 2019 on the transformation of the civil service makes it mandatory to adopt an action plan on professional equality.

The institution had not waited to act in the field of equality within its teams, with the adoption of an initial plan several years ago, the results of which were achieved in 2020. While some actions have not been successful, progress has been made, for example:

- Improvement of comparative information on occupational data and the working environment between women and men (social assessment, comparative situation report);
- The generalization of gender point clouds to analyse pay gaps;
- The generalization of HR interviews before maternity or parental leave;
- The online publication of occupational risk prevention documents, pending the publication of the prevention guide (occupational health and safety register, memo on suffering at work, guide to ergonomics at work).

BREAKDOWN OF WOMEN/MEN IN 2020

	NO. OF AGENTS	%
Women	175	77%
Men	51	23%
TOTAL	226	100%

At the same time, and in order to comply with the 2019 legislative obligation, a new, even more ambitious action plan has been drawn up, which will include, in addition to the appointment of an equality referent within the institution, 15 actions centring around the 5 focuses specified by law. This reflection will make it possible to begin the work over the next three years.

MODERNIZING DIGITAL WORKING TOOLS AND MAKING THEM MORE RELIABLE

The health crisis has accelerated the upgrading of digital tools to enable the institution to continue its activities in times of crisis. The Defender of Rights' office was able to draw on its experience in the field of teleworking (at the beginning of 2020 before lockdown, nearly 140 agents out of 230 already benefited from a teleworking measure) and an organisation partly adapted to working remotely.

The pandemic has had an accelerating and generalising effect on that organisation.

With regard to network reliability, although connection difficulties may have appeared at the time of the first lockdown due to network sharing with other administrations, corrective actions were implemented over the year, based in particular on a new solution, Céleste, specific to the institution, guaranteeing it a large autonomy and a bandwidth dedicated to its activities alone.



This development has also required the migration of the teleworking platform on which the agents' workstations are based.

Enterprise software, mainly Agora, has been able to ensure that the investigative procedures are carried out in total dematerialisation, which required heavy systems administration work, with the creation of a dematerialised remote validation circuit.

The institution has also equipped itself with solid communications software to maintain a high level of interpersonal relations and to cultivate collective and interdepartmental exchanges, including simple telephones but also and above all audio and video conferencing devices (on site but also on each computer station), while ensuring an optimal level of communications security.

This equipment has profoundly changed the working conditions of the IT teams, in their preparation, in their work orders, or in the duration of their interventions, sometimes in emergencies, to assist the various users of the institution.

INTERNAL COMMUNICATIONS

As soon as the President of the Republic announced the March lockdown, the institution wished to implement an internal information tool in order to maintain professional cohesion between the teams of the Defender of Rights' office. Every week, the digital newsletter "Gardons le contact (Keeping in touch)" was sent out to all agents and delegates until the end of May.

These new, more digitised communication methods were continued and adjusted throughout the autumn of 2020, in order to maintain a physical and digital link for all agents, whether they are present on site or teleworking.

This period of health crisis will have been a revelation of requirements. Among them, it is clear that the working conditions of the institution are of paramount importance and have led to strong constraints on the organisation of management.

The support system is based on several players in the Defender of Rights' office. In addition to preventive medicine and the intervention of a psychologist when necessary, in clearly identified and announced time slots, the institution set up Filomaide, a confidential listening and counselling

system, in March 2020. More broadly, the human resources teams worked throughout the year to provide support to agents or structures that might need it.

In addition, the Defender's prevention assistants also played an essential role, both face-to-face on site and remotely, in listening to staff, anticipating situations or participating in consultative bodies.

All those prevention actors, often in the shadows but indispensable, have contributed to a better understanding of the new working conditions imposed by the health context.

GUARANTEEING THE CONTINUITY OF SUPPORT FUNCTIONS AND THE QUALITY OF SERVICES WITHIN THE INSTITUTION (HR, SOCIAL DIALOGUE, IT, END OF MANAGEMENT)

In 2020, the support functions were heavily involved in their practices, in the demands they had to face and in maintaining service quality despite the health crisis and the constraints of remote solutions. They were successful in all areas.

They were responsible for day-to-day management as well as for the management of fundamental issues, as part of a multi-year approach. A few examples are given below to illustrate this:

- Ongoing social dialogue, with almost fifteen consultative bodies (technical committees, CHSCT, CCP), most of them organised in a dematerialised format;
- The implementation of the changes to the management framework initiated in 2019, with analysis, support – often individualised – and status reclassifications for nearly 170 of the institution's contract staff;
- The changes to the modalities for evaluating agents with a view to dematerialising the process in 2021;
- Continuing the work to overhaul the institution's directory of trades, in conjunction with an external service provider;
- The sustainability of the offering and training modalities by using remote modes;

- The IT management of nearly 1,000 user accounts (agents, interns, and delegates combined), the environment, configuration and maintenance, usually remotely, of more than 300 workstations (screens, computers, and, where appropriate, telephones);
- The mapping of budgetary and accounting risks for the Defender of Rights' office, as part of the start of internal financial oversight work;
- The participation of the Defender of Rights' office in the implementation of the financial management centre and, more broadly, in the process of dematerialised validation of expenses has made it possible to reduce payment times for vendors.

B

AN INTEGRATED TERRITORIAL NETWORK AT THE INSTITUTION

With nearly 536 delegates working at 872 reception points, the institution relies on a vast territorial network covering all French departments, both in metropolitan France and the overseas territories.

Every year, the institution trains around sixty new delegates, who attend a training course led by their heads of regional units (CPR) and staff from the head office, during which they learn about the institution, its organisation, its missions and exchange views with the Defender of Rights herself.

Men and women, working and retired from the public service or the private sector, put their expertise and commitment to work in defence of rights, together forming a network of varied and high quality skills, able to receive claimants, take charge of requests that can be dealt with amicably, direct them towards the necessary steps, or help to compile a case to be processed by the Institution's head office.

The network's effectiveness also relies on the support provided by the delegate facilitators and the heads of regional units.

To ensure effective collaboration, collegial working meetings are organised during which delegates, facilitators and CPRs discuss their practices and experiences. The main mission of the delegate facilitator is to organise the work of unifying the responses of the delegates through experience exchanges called “significant cases” and to increase direct contacts between delegates in order to encourage the pooling of their skills.

SETTING UP A VIRTUAL DELEGATES OFFICE

In order to enable delegates to comply with the requirements of the General Data Protection Regulation (GDPR), the institution wanted to implement a dedicated solution that could be fully funded in the 2020 financial year and which is based on the implementation of a dedicated, secure IT space for each delegate.

This project mobilised the IT teams as well as the finance division and the institution's data protection officer.

This true virtual "desktop" is a working environment running under Windows 10 with an office suite. Centralised on a physical server, it will be accessible from each delegate's computer workstation. The data cannot be stored locally and will be saved on the servers of the Defender of Rights' office.

To enable this project to be carried out, specific servers have been acquired and installed as well as various computer licences. In addition, a virtual infrastructure has been created.

The project is in the test phase at the end of 2020 and in 2021 delegates will therefore have an IT solution enabling them to work in complete security and confidentiality.

C

BUDGETARY RESOURCES

In 2020, the appropriations made available to the Defender of Rights' office, under the programme 308, “Protection of Rights and Freedoms”, amount to €21,945,718 in commitment authorisations (CA) and €22,304,707 in payment appropriations (PA).

€21,322,756 in EA and €21,678,460 in CP were expended, i.e. an implementation rate of 97% in CA and PA compared to the available budget. More than 70% of the appropriations consumed were spent on staffing costs.

The expenditure structure remains stable (72% devoted to the wage bill; 11% to territorial delegates, i.e. 41% of the operating budget).

In addition, €1,881,890 in operating appropriations have also been allocated to it by the Prime Minister's Administrative and Financial Services Department to cover expenses shared with the Prime Minister's other departments.

The budget, excluding wage bill expenditure, is essentially made up of fixed expenses necessary for the proper functioning of the institution (nearly 80% of the operating budget). As a result, budget execution was barely affected by the health crisis. In addition, the dematerialisation of the financial function, which has been in progress for several years, has enabled the institution's budget management to function continuously throughout the lockdowns. Other expenditures were spent on communications accompanying the arrival of the new Defender of Rights and her deputies.

Following on from the actions initiated in previous years and while continuing its strong policy of promoting rights, the Defender of Rights' office has endeavoured to rationalise its operating costs with a view to controlling public spending and ensuring transparency of purchases by using, whenever possible, the inter-ministerial and pooled public contracts of the Prime Minister's departments as well as the Union des groupements d'achats publics (UGAP) (Union of Public Purchasing Groups).

But more broadly, what has been observed with regard to staff resources also applies to operating resources, which are no longer sufficient to effectively support the objectives

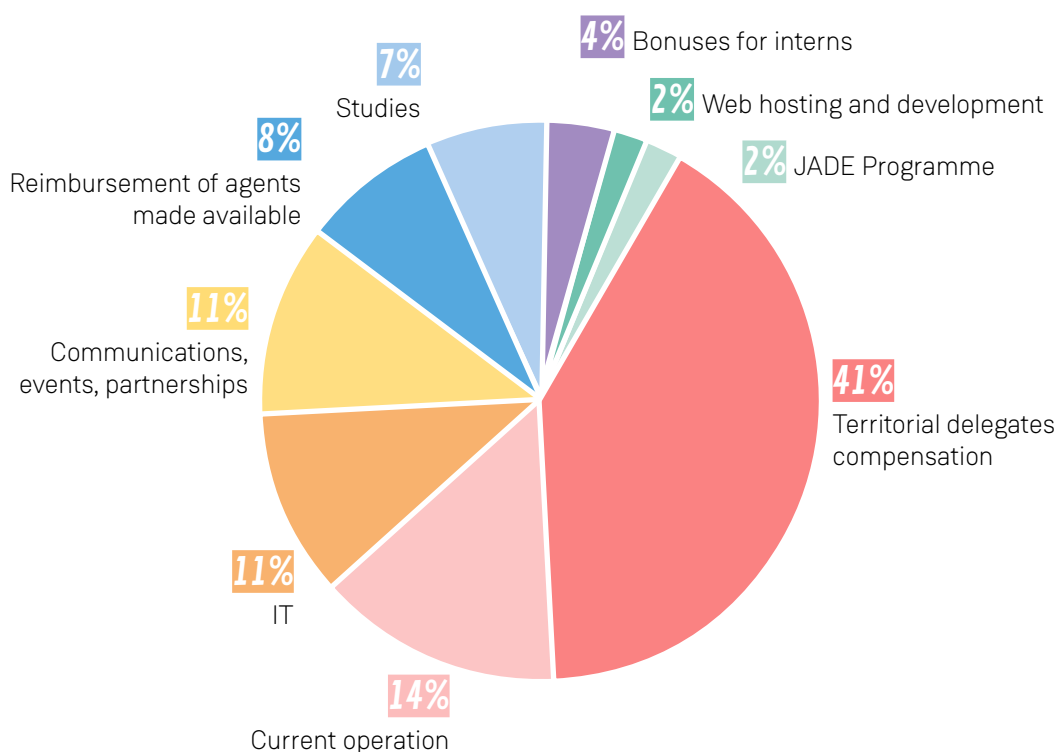
and ambitions that the Defender of Rights' office must implement to cope with the expansion of its activity.

Q2/Q3 CONSUMPTION IN 2020

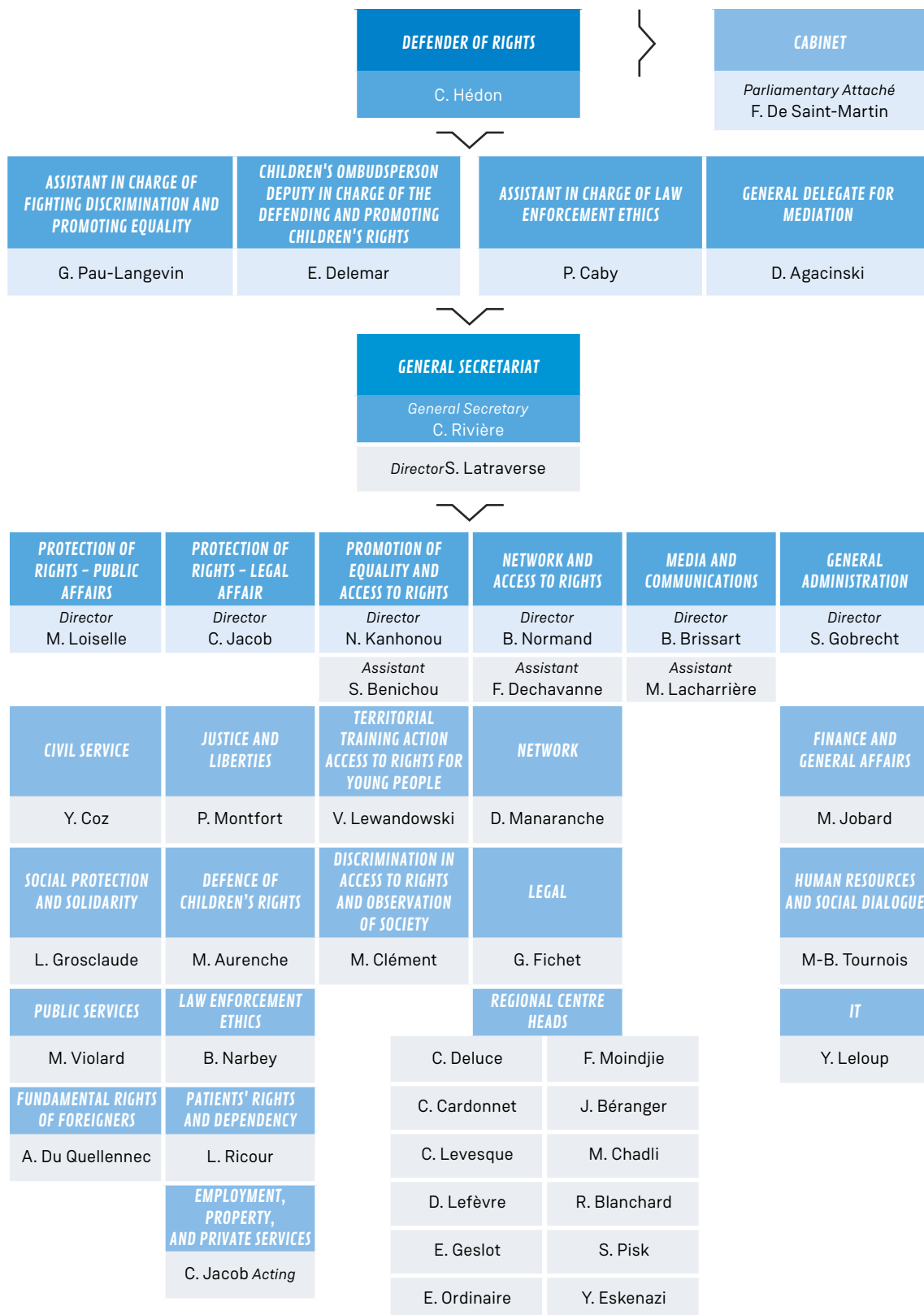
	STAFF EXPENDITURE (TITLE 2)	OTHER EXPENSES (EXCLUDING TITLE 2)		TOTAL BUDGET	
	CA=PA	CA	PA	CA	PA
LFI budget	16,706,815	6,194,082	6,194,082	22,900,897	22,900,897
Available budget	16,123,281	5,822,437	6,181,426	21,945,718	22,304,707
Budget consumed (1)	15,501,727	5,821,029	6,176,733	21,322,756	21,678,460
Execution rate	96%	100%	100%	97%	97%

(1) in CA, actual consumption restated for the effect of withdrawals of legal commitments from previous years.

BREAKDOWN OF OPERATING EXPENDITURES 2020



ORGANISATION CHART OF THE INSTITUTION AS AT 31 DECEMBER 2020



D.

WORDS TO THOSE WHO MAKE THE DEFENDER OF RIGHTS' OFFICE

Lawyers, computer scientists, executives, documentalists, managers, researchers, and project managers, assistants,... the 230 agents and the 536 women and men delegates of the Defender of Rights' office all contribute, in their functions and with their skills, to the institution's capacity to ensure that the rights of those who call upon it are respected. What follows is an anthology of those people who make up the Defender of Rights' office.



ISABELLE PRUD'HOMME

MANAGER OF THE TELEPHONE PLATFORM OF THE DEFENDER OF RIGHTS' OFFICE

This year, with the lockdown periods in particular, we recorded a 50% increase in telephone calls, which represents about 80,000 calls. Many people could not reach public administrations and organisations, but our institution has made a point of keeping its platform open in order to ensure its public service mission.

Our telephone counsellors have found solutions to all difficulties, with remarkable dedication.



RATIBA ABOUFARES

LAWYER IN THE FUNDAMENTAL RIGHTS OF FOREIGNERS UNIT

What are your duties at the Defender of Rights' office?

I have been a lawyer in the Fundamental Rights of Foreigners Unit since its creation in 2016. Before that, I worked in two other units on issues of access to public and private services.

Today, I mostly work on accommodation issues. The situations I deal with involve people in very vulnerable situations, living in camps and or squats. I am also an asylum referent.

How do you see 2020?

When it comes to accommodation, and housing in general, we are talking about basic needs, guaranteed by fundamental rights. In particular, with regard to accommodation, the situations referred to us by the associations are always urgent. Our role as the Defender of Rights' office is to ensure that people's rights are respected. However, this year with the pandemic, the administrations had to reorganise in order to continue to maintain their activity and, even though we had to act quickly in the interests of people, we were faced with a slowdown in proceedings. We have had to redouble our efforts to ensure that situations continue to be addressed.



AVRIL DUPRAT

LAWYER IN THE LAW ENFORCEMENT ETHICS UNIT

What are your duties?

People who have been injured, emotionally or physically, need to understand in order to rebuild themselves and move forward.

Today, my work as a lawyer with the Defender of Rights' office consists of examining a problematic situation that is before us, reconstructing the facts to establish whether the professional behaviour of the law enforcement officer involved complies with the Code of Ethics.

Five years ago, when I joined the Law Enforcement Ethics Unit, after a master's degree in criminal law and criminal sciences, followed by six years in the courts and two years in the office of the Minister of Justice, I already liked my job. But I have to say that today, when I get answers, when I find solutions, I have, on my small scale, the impression that I am participating in a process of rebuilding people who are injured and often deprived. That is the meaning of my commitment.

How do you see 2020?

Of course, we have all worked this year with new restrictions associated with the pandemic, the changes in relations with my colleagues and in our working methods could have created frustration. However, I am surrounded by high-quality people, my colleagues and managers are attentive and, although we are working on our respective cases, I have never had a feeling of loneliness.



PASCAL LAFFITTE

DOCUMENTALIST

What are your duties?

I am a documentalist, my duties consist in making available to internal agents, but also to external persons thanks to the legal area of our website, documents of all kinds relating to the subjects dealt with by the Defender of Rights' office.

Beyond the 5 areas of expertise entrusted to us by law, we maintain a watch on all subjects of interest to the Defender of Rights.

Why did you choose to work for the Defender of Rights?

After a postgraduate degree in private law and experience in a law firm, I wanted to join the Defender of Rights' office because it is an institution that is both deeply rooted in the legal world and also interested in the contributions of social sciences to the development of its decisions and recommendations.

The Equality and Access to Rights Department to which I am attached is made up of sociologists, political scientists, or topical specialists who need up-to-date information on developments in society for their projects.



AGNÈS BONNEVIE

HUMAN RESOURCES OFFICER

What is a gender equality plan?

The Defender of Rights' Gender Equality Plan is a document drawn up by the institution in conjunction with the trade union bodies, which provides a framework for the actions we wish to take to reduce inequalities between women and men.

What does it consist of?

The plan we will adopt in 2021 will be rolled out over the next three years. The first phase, which is very important, consists of determining relevant indicators: pay, responsibilities, work organisation, etc. The plan will then allow for the implementation of a series of actions, all of which will aim to reduce structural inequalities between women and men agents. We will rely as much as possible on agents, some of whom have very solid expertise in this area.

In the long run, we hope that the measures implemented in the service of greater equality, a value that is already very present in the institution's culture, can be of use to other organisations.



GAËTAN GOLDBERG

DIGITAL, RIGHTS AND FREEDOMS OFFICER IN THE DISCRIMINATION, ACCESS TO RIGHTS AND OBSERVATION OF SOCIETY UNIT

What are your duties?

My position as project manager is marked by a strong cross-functionality since I participate in the Institution's work relating to artificial intelligence in particular. Deployed in all sectors, it concerns all of our areas of expertise and raises major new issues, whether it be discriminatory biases in algorithms or, more broadly, the exercise of fundamental rights. My work consists in informing the institution's reflections on such new uses. As a lawyer by training specialising in personal data protection, I also contribute to the relations that our institution maintains with the CNIL, the French Data Protection Authority, the Defender of Rights being an ex officio member of the board of the data protection authority.

What projects will you be working on in 2021?

In 2021, we plan to develop the training of agents on algorithms and discrimination. We also wish to continue the work undertaken on the subject following the seminar that the Defender of Rights' office organised jointly with the CNIL in May 2020. Facial recognition, digital identity, police records are all particularly topical themes around which it is important to continue thinking.



ELISE GESLOT

HEAD OF THE GRAND-EST REGION UNIT

GILLES BARBIER

DELEGATE FROM MOSELLE

The arrival of the of heads of regional units has strengthened our presence in the territories. How did the implementation of this reform go?

GB In Moselle there are 7 of us delegates and we work in 11 reception points throughout the department. The people who come to us have very different problems and, although I have been a delegate since 1986, I sometimes need legal advice!

EG Yes, the creation of this regional level responds to a need expressed by the delegates to rely on legal expertise. I answer at my level but sometimes I ask the head office when it comes to more complex subjects.

GB With the arrival of Elise, it is somewhat “the expertise of the head office in the territories”, one has the feeling that the head office has moved closer to the delegates.

With the closure of the offices, have you managed to maintain your activity?

EG The delegates of the Defender of Rights' office receive people physically, at a time when more and more public services are renouncing to a face-to-face reception of citizens.

When the offices were closed from March to May, I noticed that the delegates found their “plan B” to continue their missions and guarantee access to the Defender of Rights' office, in particular by activating their networks or informing the public through the media. Finally, despite the difficulties encountered by everyone, the activity has never ceased and I have sometimes noticed an increase in requests.

GB I took people's requests by phone to keep moving forward. And then we leaned on each other, as we always do. I believe in the logic of the network, when we can't find a solution, we can count on the other delegates, the facilitator or the head of the regional unit.

EG I would add that the period was also significant from the standpoint of feedback from the field: the head office was very attentive to the way things were going concretely in the territories, for the delegates and for the people. Delegates managed to adapt to new issues related to the health crisis and the Defender of Rights regularly organised meetings to deal with difficulties specific to each region: processing delays in prefectures, closures of structures for access to rights, etc. With the pandemic, where it was necessary to act quickly, our territorial organisation proved to be particularly well adapted.



MARIE LAUDIJOIS

LAWYER IN THE PUBLIC SERVICES UNIT

What are your duties at the Defender of Rights' office?

I have been a lawyer in the Public Services unit since I joined the institution in 2011. Within this unit, which deals with complaints in many areas concerning access to public services, including town planning, taxation, public aid, higher education, public procurement, and administrative liability, I am in charge of complaints relating to local public services and energy. My field of intervention is very much focused on everyday life disputes, through relations with local authorities; moreover, the unit was responsible for two reports by the Defender of Rights' office, concerning household waste and school cafeterias.

How do you see 2020?

Our team remained fully mobilised despite the health crisis, in the face of demands that have not diminished. We handle over a thousand claims per year, not including support for delegates in the regions.

In addition to its usual areas of intervention, our unit has been at the forefront of COVID-related difficulties, such as the reorganisation of examinations in higher education, the allocation of aid from the Solidarity Fund, or, in the case of local authorities, the distribution of masks to residents or the application of health protocols in the context of extracurricular activities.

When such measures have caused difficulties of application and conflicts, we have had to find, in the face of contradictory demands, proposals for amicable settlement adapted to this particular year, without abandoning the defence of the rights of users of public services, which is our core job.



LOUIS YOUSSEF

SYSTEMS AND NETWORK ENGINEER

The year 2020 was a special year: with the widespread use of teleworking, connecting staff with their cases and colleagues depended on the proper functioning of IT. They needed our support very much.

The year 2020 was therefore a very “human” year, we were in more contact with the agents, the opportunity to make them better understand our constraints but also our job: many were unaware that beyond “troubleshooting”, the work of a systems and networks engineer consists above all in maintaining the IT system and ensuring its security and reliability. They install, supervise, and monitor the equipment that controls the entire computer system. This is essential because if IT breaks, everything breaks!



JULIE JEZEQUEL

LAWYER IN THE JUSTICE AND LIBERTIES UNIT

You joined the Defender of Rights during the lockdown, how did you approach your position?

I joined the Defender of Rights in April, a few weeks after the announcement of the lockdown, as a prison lawyer in the Justice and Freedoms unit. My computer was delivered to me by courier and I met my colleagues remotely.

Starting a job during lockdown surely requires being more proactive in one's professional approach, both to create a bond but also to be identified on a new team. My colleagues were very attentive, we were even able to meet on a Friday evening by video so that I could get to know everyone.

What were your missions?

I arrived at the time of the creation of the platform dedicated to prisoners. As a criminal lawyer and having handled numerous cases involving sentence adjustments, I am familiar with the prison environment. Therefore, as soon as it was set up, I devoted myself entirely, with the invaluable help of the Law Enforcement Ethics team and the Network and Access to Rights Department, to making this hotline work.

What kind of difficulties did prisoners face?

In prison and on the outside, the lockdown has created an astonishing effect. Prisoners had many questions, both about the measures taken by the government but also about living conditions inside the institutions: medical care, isolation measures for contact cases, maintaining professional activities... It should be noted that in detention, things are lived in an accentuated way, stress rises quickly. Thanks to the platform, we were able to give out a lot of information, explain the measures and instructions. Wherever possible, we listened, reassured and when necessary, we asked our delegates to intervene at their respective institutions so that they could find solutions to the difficulties that we had heard about from the detainees.

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