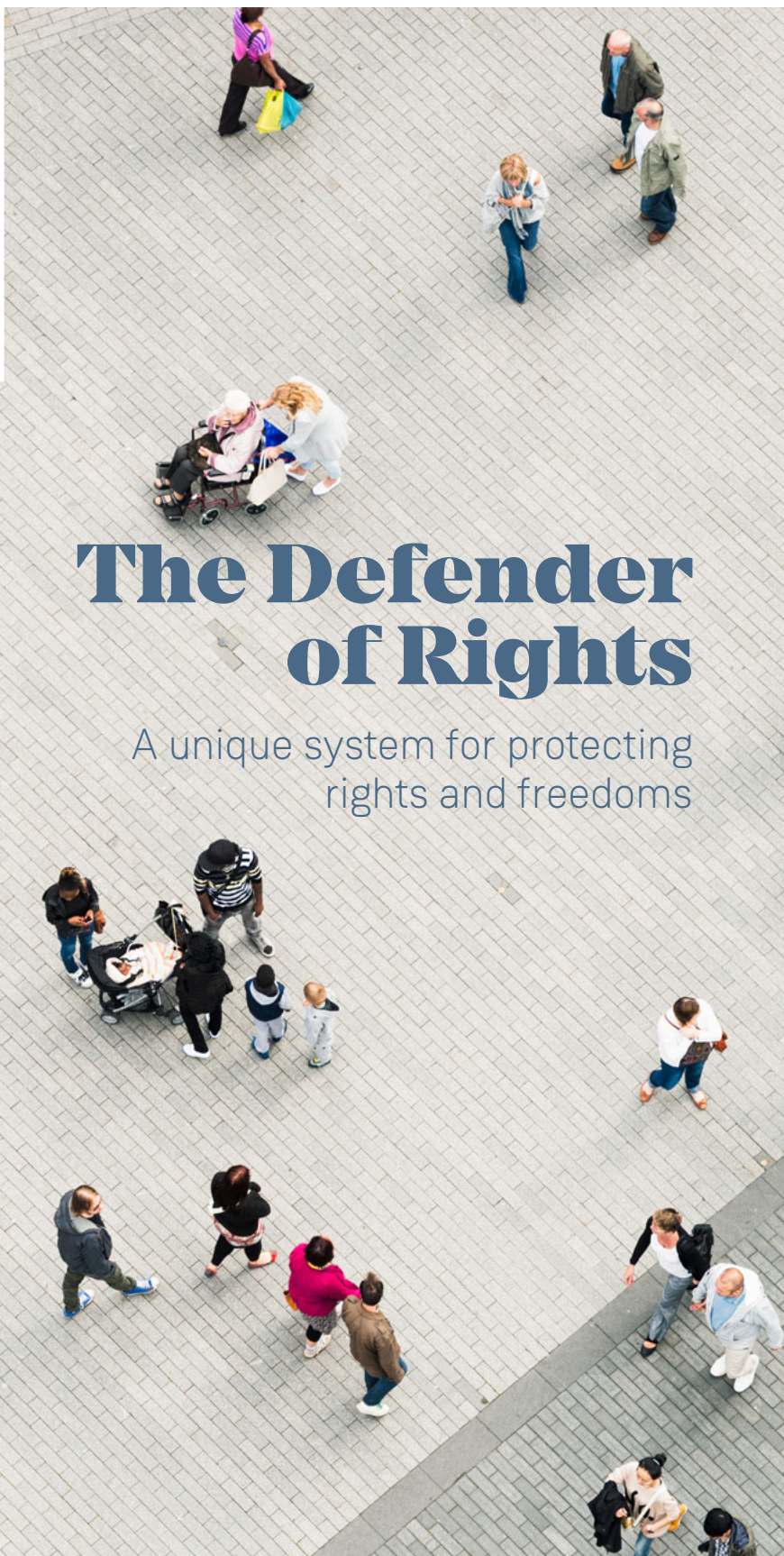


D



The Defender of Rights

A unique system for protecting rights and freedoms

The Defender of Rights

The term 'Defender of Rights' refers both to the institution and its director.

Dominique Baudis was the first Defender of Rights, from 2011 to 2014. Jacques Toubon currently occupies the post for a non-renewable term of 6 years from 17 July 2014.

Deputy Defenders of Rights

The Defender of Rights may delegate certain powers within his area of authority to his three deputies, who represent the institution and are vice-chairmen of the colleges. Chosen for their experience in their field, they are appointed upon the recommendation of the Defender of Rights by the Prime Minister:

- Geneviève Avenard: defence and promotion of children's rights;
- Claudine Angeli-Troccaz: security ethics;
- Patrick Gohet: combatting discrimination and promoting equality;
- The post of general delegate for mediation with public services was also created to ensure monitoring of the defence of rights and freedoms of individuals in their relations with public services. This post is held by Christine Jouhannaud.

One institution, five areas of responsibility

"The Defender of Rights ensures respect for rights and freedoms"
article 71-1, French Constitution

The Defender of Rights is an independent institution responsible for defending individual rights and freedoms in 5 areas defined by law:

- defending the rights of public service users,
- defending children's rights,
- observance of ethics by security personnel (police, gendarmes, private security services, etc.),

- anti-discrimination and the promotion of equality,
- guidance and protection for whistleblowers.

For the due performance of its work, the Defender of Rights:

- deals with the claims it receives by proposing personalised solutions,
- encourages equal access to rights for all members of the public through information, training, developing partnerships and proposing amendments to the law.

An independent constitutional authority

"In exercising its duties, the Defender of Rights, an independent constitutional authority, receives no instruction."
article 2, organic law of 29 March 2011.

The Defender of Rights is an independent constitutional authority. The Defender of Rights, Jacques Toubon, receives no instruction: whether from the government, civil service or pressure

groups. He may not be tried for any remark or act linked to the exercise of his office. His 6-year irrevocable and non-renewable appointment by the President of France is subject to a vote of approval by the National Assembly and Senate. He may not hold any other concurrent office.

Protecting your rights

The effectiveness of action by the Defender of Rights is based on appropriate use of its powers. The diversity of its action results in personalised processing of cases: negotiated settlement, individual or general recommendations, observations made in court, etc.

While the institution has no power to impose sanctions, the strength of its work is based on the quality of its expertise and its impartial decisions.

**120,000 requests
to intervene are processed each year
by the Defender of Rights**

What can the Defender of Rights do?

Investigate

The Defender of Rights has wide powers. Claims are investigated by sworn officers who collect and analyse evidence and then determine the course to be taken by the Defender of Rights.

Propose a negotiated settlement

To obtain a rapid and pragmatic solution while avoiding legal action, the Defender of Rights favours a negotiated settlement. This is in particular the preferred course, especially by delegates in claims challenging procedural errors, misunderstandings, administrative mistakes, etc.

Make recommendations

The Defender of Rights, acting as an expert, may make individual or general recommendations to request resolution of a problem or modification of the practices complained of.

Make observations in court

When legal action has been taken and no solution is in sight, the Defender of Rights may make observations to the court.

Request disciplinary action

The Defender of Rights may also apply to a disciplinary body with power to take proceedings against a defaulting officer or professional.

Make law reform proposals

The Defender of Rights has the power to put forward proposed amendments to laws or regulations. On its own initiative or at the request of MPs, it gives its opinion on draft or proposed laws within its area of competence in the light of its expertise.

Promoting equality and access to rights

In parallel and in tandem with protection of rights, the institution deploys a policy of promotion of equality and access to rights.

This policy sets out to prevent the violation of rights and to develop practices by informing the public and assisting public and private sectors to establish action plans. It also consists in proposing changes to law and regulations.

It thus aims to reduce situations where access to rights is problematic and to enable people to assert their rights when they are not being respected, in particular by applying to the institution. Ultimately, it contributes to practical application of the principle of equality for all, both in access to rights and in their implementation.

Inset: A cooperative approach

The Defender of Rights favours a cooperative approach based on a network of partners on the ground (administrative bodies, businesses, unions and employers, employment agents, local authorities, public and private landlords, associations, universities and researchers, etc.) which may be formalised in partnership agreements enabling joint action to promote rights.

Inset: Joint and liaison committees

Joint committees are discussion groups between stakeholders from civil society and the Defender of Rights and meet twice per year. There are 7 committees:

- Joint Committee on Health
- LGBTI (Lesbian, Gay, Bisexual, Transsexual and Intersex) Joint Committee
- Joint Committee on Gender Equality
- Joint Committee on Child Protection
- Joint Committee of Associations Representing the Disabled

Liaison committees are discussion groups which directly link professionals with the Defender of Rights. They also meet twice per year and discuss two sectors:

- employment agencies,
- private housing.

Europe and worldwide

The commitment of the Defender to promotion of equality and access to rights also extends to its international involvement. It has close ties with certain counterparts abroad and its membership of various international networks enriches its expertise.

Expertise and local presence

Head Office

More than 226 staff apply their skills and expertise for the institution in Paris. Teams investigate and seek solutions to claims sent to the Defender of Rights, while monitoring changes in the law. A multidisciplinary team (sociologists, lawyers, political experts, demographers, etc.) designs and implements the institution's policy of promotion of equality and access to rights.

A national network

The Defender of Rights has a national network of delegates. It is a unique local service with almost 510 volunteers throughout France, including the Overseas Territories.

They hold surgeries in almost 874 centres (prefectures, town halls, law centres and courts, etc.), and in prisons and detention centres.

The delegates are at the heart of the institution's access to rights system: they listen to and help anyone who finds it difficult to establish their rights. They support, advise and direct them in the procedure. They also directly deal with a large number of individual claims via negotiated settlement. Head office only takes over when such a solution has failed or proved impossible.

Delegates also participate in promoting access to rights by awareness campaigns and representing the institution vis-à-vis the general public and local personalities. In certain areas, this promotion work is done by a salaried territorial adviser of the institution.



More than **103,000** files are processed each year

77% of claims are received by delegates

Nearly **80%** of negotiated settlements brought by the institution reach a successful conclusion

Applying to the Defender of Rights

Any person who considers that his or her rights have been prejudiced may apply directly and without charge to the Defender of Rights. It may also examine an issue on its own initiative.

Application may be made via delegates of the Defender of Rights, by internet or post. It is essential to enclose any necessary documents (copies of administrative documents, letters, e-mails, witness statements, etc.) enabling the Defender of Rights to examine the matter.

Indirect referral is also possible.

This is open to:

- representatives of a person whose rights and freedoms are affected;
- French MPs and MEPs;
- the European Ombudsman;
- foreign counterparts of the Defender of Rights

Application or referral to the Defender of Rights has no effect on prescription periods in civil, administrative or criminal proceedings.

It creates a parallel recourse which does not replace any action before an authority or court and gives no exemption from taking the recourse stipulated by law.

Applications to defend individual rights and freedoms vis-à-vis public services must be preceded by preliminary procedures with the authorities or organisations concerned.

The Defender of Rights will not interfere with any final court decision.



Défenseur des droits - Libre réponse 71120 - 75342 Paris Cedex 07

News:



www.defenseurdesdroits.fr



09 69 39 00 00



Défenseur des droits

RÉPUBLIQUE FRANÇAISE