CONSEIL D'ÉTAT

Serving Citizens,
Safeguarding the Rule of Law

A Year in Review



2025 Activity Report of the Conseil d'État

The Conseil d'État rules on disputes between citizens and administrative authorities. It ensures that the rights and freedoms of each citizen are respected by administrative authorities. It also acts as a legal advisor to the Government and Parliament, suggesting improvements to their bills and legislative proposals to ensure the new laws coming into force are lawful, clear and effective. Finally, through its studies, it also has a forward-looking role in improving public policy. Serving citizens, the Conseil d'État safeguards the rule of law.

A Year In Review

2025 Activity Report of the Conseil d'État



“The law exists to organise life in society.” Without it, oppression reigns.”

Interview with **Didier-Roland Tabuteau,** Vice-President of the Conseil d’État.

You took up your duties at the head of the Conseil d’État in January 2022. As you prepare to leave office, how do you view the changing context in which the institution has carried out its duties?

These years have been marked by profound changes.

In 2022, we emerged from the acute phase of the COVID-19 pandemic, marking the end of an unprecedented public health emergency during which the Conseil d’État, like the administrative tribunals and administrative courts of appeal, was placed under immense strain to adjudicate disputes arising from measures taken by the public authorities in response to the epidemic, and also to assist administrations, in its advisory capacity, with the development of exceptional legislative and regulatory frameworks.

Major international crises have also reshaped global balances, especially with regard to energy, economic and migration issues, while climate disruption has continued, bringing consequences of which we are all aware.

Finally, at national level, France has faced a new political situation marked by a succession of governments and significant events such as the dissolution of the National Assembly, the adoption of a motion of no confidence, and the rejection of a vote of confidence.

All of these developments have clearly had a direct impact on the Conseil d'État’s activities and demonstrated the importance of institutions – the judiciary foremost among them – when a country is in the throes of turbulence.

What lessons can be learned from the questions put to the judge, the legal advisor, and the forward-looking role during this period?

The Conseil d’État’s litigation case-load has been particularly heavy, with approximately 10,000 decisions handed down each year. It has ruled on essential issues such as compliance with greenhouse gas emission reduction targets by 2030, the principles governing judicial ethics, and the role of the court when the shortcomings of a public policy are challenged before it. On this last point, the Conseil d'État has solemnly reaffirmed that its role is not to act in place of the public authorities where what is at issue is the very substance of a public policy.

Also worthy of note is the increased recourse to summary proceedings, which allow urgent challenges to be addressed – notably where

fundamental freedoms are at issue.

In its advisory capacity, the Conseil d'État was able to clarify its role when advising a caretaker government responsible for handling current business. On two occasions, it was also called upon to review special laws enacted to ensure the continuity of the State pending the adoption of the budget.

Lastly, it was consulted on a number of private members' bills, as well as requests for opinions on amendments that the Government was considering tabling. These initiatives enabled it to contribute in new ways to the quality of parliamentary work.

As part of its research and forward studies remit, it successfully completed three annual studies forming a triptych aimed at analysing public action: the effectiveness of such action from the first to the last mile, the question of sovereignty in an interdependent world, and anchoring public action in the long term.

We are living in a time when institutions, and now the judiciary, are increasingly questioned and even challenged. How should we address this mistrust?

This is a fundamental question for democracy. There are many ways to build trust. I would like to highlight a few of them. First and foremost, education. Schools and the educational work they carry out are a fundamental prerequisite for a confident, peaceful and democratic life in society. It is through access to knowledge and the effort of learning that shared values, critical thinking and civic-mindedness are transmitted.

I also believe – and this must be constantly reiterated – that the law and science, in other words, the spirit of reason, are pillars of democracy.

Through the law, we collectively define the legal framework within which we wish to live. It is essential that this framework be respected by all, including by the public authorities, hence the importance of the administrative tribunals and courts; and when a dispute arises, it is an independent and impartial judge who derives the appropriate solution from laws and regulations.

The Conseil d'État has solemnly reaffirmed that its role is not to act in place of the public authorities where what is at issue is the very substance of a public policy.

As for science, it must be at the heart of public decision-making. Whilst political objectives must clearly be determined by the authorities elected through democratic processes based on universal suffrage, the conditions for their implementation must be grounded in the objective knowledge and research findings that are accessible to all and upon which the common good can be founded.

At the same time, administrative litigation continues to grow. How do you interpret this apparent paradox between expressed mistrust and growing recourse to the judiciary?



Didier-Roland Tabuteau during this interview.

The trend in administrative litigation is indeed striking. For the administrative tribunals, the number of applications rose from 240,000 in 2022 to over 334,000 in 2025. If we look at summary proceedings alone, the increase is even more remarkable, rising from 47,000 to 73,000 applications. In 2025 alone, there was a 20% increase in overall applications and an increase of nearly 30% for summary proceedings.

These figures, of course, bear witness to the trust placed in the administrative tribunals and courts, which can only be welcomed. Litigants know they can turn to an independent and impartial judge to ensure that the law and their rights are upheld.

However, these figures also highlight administrative shortcomings that drive our fellow citizens to seek judicial intervention – such as delays in issuing certain permits, which can often be attributed to a lack of resources.

The growing recourse to the judiciary is also a product of the ever-increasing complexity of legislation and regulation. Many factors contribute to this, and despite the efforts made to simplify the law, much remains to be done. The administrative courts will meet this increased demand for justice; but will not be able to do so without additional resources.

I should add that artificial intelligence (AI) poses formidable challenges for the administrative courts, which will make full use of this powerful tool to enable them to fulfil their role with even greater efficiency, whilst obviously ensuring that decision-making remains entirely in human hands, in accordance with the AI charter they have adopted. But AI also raises the prospect of greater numbers of increasingly lengthy and needlessly unwieldy applications that are characterised by what are known as "hallucinations" – that is, the invention of non-existent case-law precedents. The judiciary's workload will be even heavier in the coming years.

Finally, the judiciary has been the subject of sometimes sharp criticism in recent times – some of it wholly unacceptable. In a democracy, it is perfectly natural and healthy for debate to extend to a given judicial decision. But two things are unacceptable: calling into question the very role of the judge, and subjecting judges or court clerks to pressure or threats.

What message would you wish to pass on to younger generations about the role of the law and the institutions of the French Republic?

I believe one must always return to the foundations of the social contract. The law exists to organise life in society, protect the most vulnerable, and ensure public peace. Without it, the law of the strongest, the richest, or the most powerful will prevail. That is the reign of oppression.

I can only recall the marvellous definition of the rule of law given by the Académie française, which we reproduced on our New Year's greetings card for 2026: the rule of law is *"the situation of a society subject to a legal order from which all arbitrary power is excluded"*. The rules of law chosen democratically by the people establish what unites us, for those rules apply to and are binding upon everyone – citizens, businesses, associations, and government authorities alike. And, of course, the courts are on hand to verify, in complete independence, that these rules are respected on a daily basis.

Allow me to add that beyond this fundamental function, the law in itself embodies the expression of our collective vision. In a democracy, it falls to the law, particularly through legislation, to express and shape our shared future.

Two things are unacceptable: calling into question the very role of the judge, and subjecting judges or court clerks to pressure or threats.

In conclusion, do you have a memory, or a defining moment, that marked these four years?

Beyond the opening of the Conseil d'État's judicial year, inaugurated in September 2022, which has now become a yearly occasion at which the supreme administrative court solemnly addresses the representatives of the institutions of the Republic and all our fellow citizens, I would single out the introduction by the legislator of the oath-taking ceremony within the administrative tribunals and courts. This oath, taken by all judges of the administrative tribunals, administrative courts of appeal, and the members of the Conseil d'État, reflects a pre-existing obligation that is now enshrined in law. It also reflects the unity of the administrative tribunals and courts and the solemnity of the commitment, made by all of its members when they join it, to dispense Justice "in the name of the French people." ●

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MISSIONS AND KEY FIGURES

A look back at 2025

10,693
cases decided,
610 in urgency
(summary proceedings)

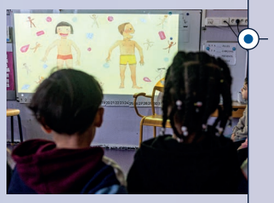
ADJUDICATING AGAINST PUBLIC AUTHORITIES

The Conseil d'État hears disputes between citizens and public authorities (the State, local authorities, hospitals, etc.). It verifies that these authorities comply with the law and respect the fundamental rights of every individual.



7 March
The reintroduction of controls at internal borders is consistent with the new European framework. (*see p. 42*)

25 April
The measures taken to comply with air pollution thresholds have produced results. (*see p. 32*)



27 June
The school curriculum for education in emotional, relational and sexual life complies with the law. (*see p. 24*)

4 July
Arcom's remit is to ensure that there is no manifest and sustained imbalance in the expression of opinions on television. (*see p. 22*)



1st October
Prohibition on the sale of tobacco and vaping products to minors: concrete steps have already been taken to ensure compliance. (*see p. 11*)

22 July
In the absence of an income tax return, the law authorises the tax authority to assess the tax liability itself, but any penalties must take individual circumstances into account. (*see p. 47*)



17 October
Ineligibility with immediate effect: only a final conviction brings a Member of the European Parliament's term of office to an end. (*see p. 52*)



30 December
Recourse to legislation to approve the Franco-British migration agreement is unnecessary. (*see p. 40*)

DELIVERING LEGAL OPINIONS

The Conseil d'État examines the Government's bills and draft regulations, as well as certain legislative proposals from Parliament. It takes no view on policy choices: it ensures that the draft text is consistent with the law, coherent and applicable.

869
opinions delivered
52 on government bills and 5 on legislative proposals

6 March
Opinion on a legislative proposal concerning the criminal law definition of rape and sexual assault. (*see p. 20*)

13 March
Opinion on a proposed Government amendment to Article 16 of the bill aimed at extricating France from the grip of drug trafficking. (*see p. 44*)



17 July
Opinion on a bill for an autonomous Corsica within the French Republic. (*see p. 54*)



11 September
Opinion on a bill to tackle social security and tax fraud. (*see p. 49*)

23 July
Opinion on a bill concerning the modernisation and regulation of higher education. (*see p. 27*)

11 October
Opinion on the Finance Bill for 2026. (*see p. 50*)

19 December
Opinion on a Special Finance Bill authorising the Government to continue levying existing taxes pending the adoption of the Finance Law. (*see p. 51*)

Five studies completed by the Conseil d'État

1
Annual Study
"Anchoring Public Action in the Long Term" (*see pp. 56-59*)

3
studies
on simplification, including one on the regulatory framework for private higher education (*see p. 26*)

1
study
at the request of the Defender of Rights

PUBLIC HEALTH: FROM PREVENTION TO CARE

Prevention, diagnosis and treatment: public health is a key public policy field.
It mobilises a wide range of stakeholders and raises essential issues, from access to care nationwide to the safety of treatment pathways.
Through its opinions and decisions, the Conseil d'État contributes to upholding patients' rights and ensuring the accountability of public bodies.



Valenciennes.
A tobacconist checks the age of a young woman.

Sale of tobacco to minors: no further measures required

Studies indicate that more than half of tobacco retailers are prepared to sell tobacco to minors. Yet since 2003, the sale or supply of cigarettes – and, by extension, vaping products – to minors has been prohibited. Was the action taken by the State to enforce this prohibition sufficient?

The Alliance contre le tabac (Alliance Against Tobacco) considered that it was insufficient. The association brought proceedings before the Conseil d'État, asking the court to verify that the necessary steps had been taken to ensure compliance with the statutory prohibition. In November 2025, the Conseil d'État held that there were no grounds to order the administration to implement additional measures.

Concrete steps taken...

The Conseil d'État first noted that the association is not seeking the definition of a new public policy – which would fall outside the court's jurisdiction – but is simply requesting the introduction of enhanced measures within the framework of the existing public policy.

In reaching its decision, the Conseil d'État observed that the prohibition on sales to minors is indeed, at present, very widely disregarded. According to a survey conducted by the French Observatory of Drugs and Addictive Trends (Observatoire français des drogues et des tendances addictives), three out of four 17-year-olds report obtaining tobacco most frequently from a tobacconist. However, whilst it is the State's responsibility to enforce the prohibition, doing so is particularly complex. The implementation of the 2003 prohibition depends exclusively on the compliance of tobacconists, and breaches can only be established when they are caught in the act.

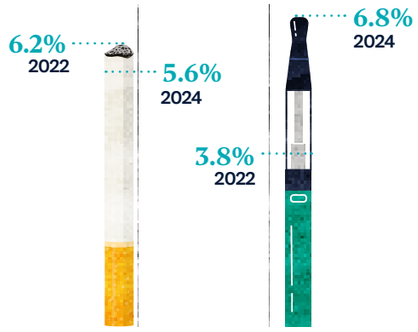
Moreover, in recent years the public authorities have taken steps beyond the monitoring of tobacconists to strengthen enforcement of the law.

... which are expected to produce results

Under the national tobacco control programme and the inter-ministerial strategy for tackling addictive behaviours 2023–2027, measures to raise awareness among tobacconists and provide them with information have been stepped up. The ban on sales to minors has also been incorporated into the new dedicated training on tobacconists' legal obligations.

At the same time, the enforcement regime and applicable penalties were reinforced in June 2025: a tobacconist who sells cigarettes or vaping products to a minor now faces automatic disciplinary proceedings, together with a fine whose amount has been increased from €135 to €1,500, rising to €3,000 for repeat offenders. Accordingly, having noted the steps taken and the concrete effects that can reasonably be expected to flow from them, the Conseil d'État dismissed the Alliance Against Tobacco's application. ●

Tobacco experimentation
among secondary school pupils



Whilst cigarette use is declining among young people, a rise in vaping was observed between 2022 and 2024.

Source: EnCLASS 2024 Survey, French Observatory of Drugs and Addictive Trends (Observatoire français des drogues et des tendances addictives)

LEGAL DECISION
Decision No. 498453 of 1st October 2025, "Ban on the sale of tobacco and vaping products to minors"



Haute-Vienne. The "Médicobus" brings local consultations to several municipalities in the Haut-Limousin area, a scheme rolled out as part of the France Ruralités plan.

Healthcare "deserts": the courts cannot alter a public policy

LEGAL DECISION

Decision No. 489511 of 1st October 2025, "Public policy on tacking healthcare deserts"

The right to healthcare is a fundamental right, yet access to care remains unequal nationwide: 87% of France is classified as a "healthcare desert" (*désert médical*, i.e. lacking adequate access to healthcare). In 2023, the consumer association UFC-Que Choisir requested that the Ministry of Health take action, demanding in particular a change to the conditions governing where doctors may set up practice. Receiving no response from the Minister, the association brought proceedings before the Conseil d'État.

Under the current system in France, self-employed doctors may choose to enter into a contract with the national social security scheme (Sécurité sociale). Practitioners in "Sector 1" apply the fees set by that contract without additional charges (except in exceptional circumstances). Practitioners in "Sector 2" may, in contrast, charge above the contracted rate, subject to regulated limits if they choose to join the controlled fee practice scheme (OPTAM). UFC-Que Choisir considers that this freedom to set fees does not promote equal access to self-employed doctors nationwide, and binding measures must be introduced.



87%

of France is classified as a "healthcare desert" (*désert médical,* i.e. lacking adequate access to healthcare)

Source: SNIIIRAM – FNPS (February 2025)

Determining a public policy falls outside the court's jurisdiction

The association therefore asked the Conseil d'État to order the Government to amend the contracting arrangements with the national health insurance scheme (Sécurité sociale). It sought to prevent doctors from setting up in practice in areas that already benefit from better than average service, to prohibit unregulated fees for practitioners in Sector 2 who are not enrolled in the OPTAM scheme, and to withdraw public subsidies from practising doctors who fail to comply with the health insurance scheme's rules on fee levels. In the Conseil d'État's view, implementing the requested measures would mean altering choices of health policy. It is not, however, for the administrative courts to substitute their judgment for that of the public authorities in redefining a public policy. UFC-Que Choisir's application was dismissed. ●

Harm caused by medical treatment: what compensation for people close to the victim?



Paris. A couple at a medical consultation.

Where a person suffers harm – whether as a result of medical negligence, a medical accident, a hospital-acquired infection, an adverse reaction to treatment, or a serious complication following a medical procedure – they may seek compensation. But what about the people close to them – loved ones who may themselves be indirect victims? Where such persons suffer personal losses of a financial nature (loss of earnings, for instance) or non-financial losses arising from emotional or psychological suffering, they too may seek compensation.

The case of people who became close to the victim after the harm occurred

However, is this right to compensation reserved for those who formed ties with the victim before the harm occurred? The Administrative Tribunal of Bordeaux heard the case of a man who had entered into a relationship with a woman who had suffered harm following a medical procedure, but whose relationship had begun after the procedure and the onset of the harm.

Before ruling on this novel point of law, the tribunal referred the matter to the Conseil d'État, which provided a clear answer: the fact that a relationship was formed after the harm occurred does not in itself preclude entitlement to compensation. However, close emotional ties need to have been established before the date on which the victim's state of health can be considered to have stabilised – known as the date of "consolidation of the harm". In cases where the harm worsens after this "consolidation", those who formed ties after consolidation but before the deterioration occurred may seek compensation for losses arising from that deterioration. The Conseil d'État further specified that where the administrative tribunal were to hear the case of a refusal to award compensation, it should assess each situation individually, having regard to the nature and duration of the ties between the parties. ●

LEGAL DECISION

Decision No. 500904 of 6 November 2025, "Compensation for people close to the victim of personal injury"

IN BRIEF

Endocrine disruptors and plastics: a mandatory public consultation

In February 2020, the "Anti-Waste Law for a Circular Economy" Law provided, from 1st January 2025, for the prohibition of the use of plastic food containers in the canteens of crèches, schools and universities, as well as – other than by way of exemption – in certain hospital wards (paediatrics, obstetrics, maternity units and perinatal centres as well as in maternal and child health centres (PMI)). A draft decree was drawn up by the Government in order to set out the conditions for implementing this prohibition. The Conseil d'État was consulted for its opinion and noted that the Law pursues a twofold objective: to prevent the health risks associated with the presence of endocrine disruptors in plastic containers, and to reduce plastic waste. It observed that the draft specifies which containers are to be prohibited and which may still be used for medical, scientific or technical reasons. The decree would determine the actual impact of the prohibition on the quantity of plastic used, and therefore on the environment. The Conseil d'État invited the Government to consult the public before publishing the decree, as required by law and the Charter for the Environment for any measure having a "direct and significant" impact on the environment. A consultation held in February 2025 received nearly 15,000 responses from members of the public. ●

ADVISORY OPINION

Opinion of 7 January 2025 on a draft decree concerning the prohibition on the use of certain plastic food containers in crèches, schools, universities, hospitals and maternal and child health centres (PMI)

EMPLOYMENT: KEY HEALTH, SAFETY AND EQUALITY ISSUES

Working time arrangements, employee health and the retention of experienced workers: the changing nature of the workplace raises important questions of law. The Conseil d'État's decisions and opinions provide practical answers and contribute to clarifying the applicable rules.



Flamanville. An EDF employee at the entrance to the nuclear reactor building

Any accident suffered by a civil servant, whatever the cause, occurring during working hours and at the workplace, whilst carrying out [...] their duties [...], shall be presumed to be work-related, provided there is no personal fault or other special circumstance

Source: Article L. 822-18 of the French Civil Service Code

A reliable system for **recording working time**

Where employees within a workshop, department or team do not all work the same hours, their employer must keep an accurate record of their daily and weekly hours. To meet this requirement under the French Labour Code and simplify day-to-day management, EDF uses software in which scheduled hours are entered in advance and then corrected by employees to reflect the hours actually worked. During an inspection, the Labour Inspectorate imposed an administrative fine on the company, taking the view that the system was insufficiently reliable because the hours displayed might be inaccurate until corrected. In April 2025, the Conseil d'État held that this pre-completed system is consistent with the Labour Code, which requires the implementation of a system that is "objective, reliable and accessible."

A record may be pre-completed and then corrected

The Conseil d'État emphasised the essential point: to be lawful, a pre-filled recording system must allow any discrepancy between the scheduled hours and those actually worked to be corrected promptly, for each day and each week. Employment law does not require an immediately accurate record, but a system capable of reliably establishing the hours actually worked. The mere fact that the hours provisionally entered may not correspond to the number of hours actually worked is not sufficient to render the system unlawful. The Conseil d'État referred the matter back to the Administrative Court of Appeal of Nantes, which was required to reconsider the case in the light of this decision. On 26 February 2026, the court quashed the administrative fine imposed on EDF by the Labour Inspectorate. ●

LEGAL DECISION

Decision No. 492418 of 17 April 2025, "Recording of working time"

A stroke sustained at work may be recognised as a workplace accident

Can a heart attack or stroke suffered by a person at their workplace – where no specific event such as a fall, impact or unusual physical exertion has been identified as the cause – be classified as an occupational or workplace accident? In a 2025 decision, the Conseil d'État reiterated the law as it applies to civil servants: any accident sustained at the workplace and during working hours, while carrying out one's duties, is "presumed to be work-related", except in cases of personal fault or where there is evidence to suggest that the accident is not work-related.

Was a pre-existing medical condition the sole cause of the accident?

In March 2018, a civil servant working at a secondary school in Essonne suffered a heart attack in her office. She applied to the State for recognition that the incident was work-related, but the education authorities refused. She then brought proceedings before the Administrative Tribunal of Versailles, which found in her favour. The Administrative Court of Appeal of Versailles, however, quashed that judgment, taking the view that an accident could be attributed to the service only where there was a direct, certain and determining link with the work carried out. The court noted that the employee had pre-existing risk factors and that she had not engaged in any violent or unusual physical effort on the day of the accident during the course of her duties. The Conseil d'État considered that the court had committed an error of law: as the accident had occurred at the workplace and during working hours, it was presumed to be work-related. The court should then have determined whether the civil servant's pre-existing medical condition was the sole cause of the heart attack. The Conseil d'État asked the Administrative Court of Appeal to review the case. ●

LEGAL DECISION

Decision No. 476311 of 18 July 2025, "Cardiovascular and cerebrovascular accidents at the workplace"

Measures to promote the employment of experienced people: who is concerned?

To promote the employment of workers approaching retirement age, a bill provides for a number of new schemes. Consulted for its opinion, the Conseil d'État examined these measures and recommended the clarification of certain concepts in order to ensure their clarity and enforceability.



Saint-Louis. At a branch of France Travail (French employment agency), an advisor helps an older jobseeker to search through job vacancies.

Against a backdrop of an ageing population, the question of older workers' employment has become central. In 2024, 60.4% of 55- to 64-year-olds were in employment – the highest level since records began in 1975.*. However, this rate remains below the European average of 65.2%**. Above all, it falls sharply after the age of 60: only 42.4% of 60- to 64-year-olds are still in work.

Easier recruitment but to be provided for without undermining equality

In May 2025, the Conseil d'État was consulted by the Government on a bill designed to promote the employment of "experienced workers". The text sought to transpose agreements reached by the social partners into law. The proposed measures included the creation of "experience recognition contracts". Their purpose was to facilitate the recruitment on permanent contracts of unemployed people approaching retirement, whilst allowing the employer to terminate the contract when the employee reaches the age of entitlement to a full pension.

The Conseil d'État noted, however, that the draft text excludes from the scheme persons already entitled to a full pension, whilst including persons in receipt of a phased retirement pension without any actuarial reduction. Yet these two situations are comparable in terms of the scheme's purpose. The Conseil d'État took the view that such a difference in treatment did not comply with the principle of equality and could not be maintained.

A term requiring clarification

The Conseil d'État also pointed out that the term "experienced employee" used in the bill could be misleading. As formulated, it might simply refer to a person with extensive professional experience, regardless of their age. Yet it plainly refers to persons approaching retirement age – around sixty years old – those formerly known as "seniors". Since the Law creates obligations and sanctions, it must be clear in order to be enforceable. The Conseil d'État recommended specifying that it refers to "workers deemed experienced in view of their age". The Government accepted this recommendation, which appears in the text as passed and promulgated on 24 October 2025.

*Source: Les seniors sur le marché du travail en 2024, DARES.

** Source: Eurostat.

ADVISORY OPINION

Opinion of 30 April 2025 on a bill transposing national cross-industry agreements on the employment of experienced workers and concerning the development of social dialogue

Sick leave and return to work: measures to be supplemented to protect employees' health



Briançon. A doctor fills in a sick leave certificate.

At the end of 2025, the Conseil d'État was consulted on the Social Security Financing Bill, which sets out all the revenue and expenditure targets for the French social security system for 2026. Several measures concern employment law and employee health.

Providing for exceptions to the standard durations of sick leave

Some periods of sick leave are longer than the standard durations recommended by the national health insurance scheme (assurance maladie), which places a burden on social security expenditure and complicates the medical monitoring of patients. In its draft, the Government therefore provided for the possibility of regulating the duration of such periods of leave by subsequently setting a maximum duration by decree. However, the Conseil d'État recommended that provision also be made for doctors to depart from this duration where justified by the patient's state of health, based on the recommendations of the Haute Autorité de Santé [French National Health Authority] . The Government incorporated this point into the draft, which was retained in the text as passed and promulgated in December 2025.

Protecting employees returning from sick leave

The bill also provided for the return-to-work medical examination following maternity leave – hitherto mandatory – to be made optional. The aim was to allow for a swifter return to work, in a context of medical staff shortages, which makes it difficult to comply with the statutory eight-day deadline for arranging this examination. In practice, this constraint sometimes leads to the extension of periods of sick leave whilst awaiting the appointment. The Conseil d'État took the view that the measure raises no constitutional obstacle, but invited the Government to verify that it would not reduce the protective measures guaranteed to women exposed to specific occupational risks or required to work at night. Ultimately, this provision was not adopted by Parliament when the text was voted on: the return-to-work examination remains mandatory.

ADVISORY OPINION

Opinion of 22 October 2025 on the Social Security Financing Bill for 2026

IN BRIEF

Extreme heat: measures to protect all workers

According to Météo-France, the frequency of heatwaves in France will double by 2050. They will be more frequent, longer and more intense, with consequences for employees' health. Consulted for its opinion on a draft decree aimed at strengthening the protection of workers exposed to heat, the Conseil d'État found no legal obstacle to defining episodes of extreme heat by reference to a Météo-France warning system. It noted, however, that the existing system is only implemented in metropolitan France, whereas overseas territories may also experience such episodes As work is currently underway to define systems suitable for these territories, the Conseil d'État proposed using a more generic formulation – "a system developed by Météo-France to signal the heat-related danger level" – to ensure that these rules apply throughout French territory. This formulation was incorporated into the decree published on 1st June 2025.

ADVISORY OPINION

Opinion of 6 May 2025 on a draft decree concerning the protection of workers against risks associated with episodes of extreme heat

FUNDAMENTAL FREEDOMS TO PROTECT AND RECONCILE

Through its opinions and decisions, the Conseil d'État ensures respect for fundamental rights and freedoms, notably those enshrined in the French Constitution. Where a restriction is contemplated, it verifies that it is justified and proportionate, having regard to the other freedoms at stake and to the public interest.
In this way, it safeguards the balance between the protection of freedoms and the requirements of public action.



Lyon. A membership card for the "La Traboule" association.

Having regard to the seriousness of the infringement of freedom of association, a fundamental principle recognised by the laws of the Republic, caused by a dissolution measure, the provisions of Article L. 212-1 of the French Internal Security Code must be interpreted strictly and may only be implemented to prevent serious disruptions to public order.

Decisions Nos 462981 and 497252

Dissolution of associations: application of the rules

The "Law of 1901" allows anyone to establish an association freely, without prior authorisation. Whilst this right is protected by the Constitution, the Government has had the power, since 1936, to dissolve an association or unincorporated group where it poses a serious threat to public order. In practice, how does the court reconcile the protection of public order with freedom of association?

The French Internal Security Code specifies the criteria that may justify the dissolution of an association. These include explicit calls for violence, hatred, discrimination, armed demonstrations and acts of terrorism. In 2025, the Conseil d'État received applications from several groups contesting their dissolution by the Government: the de facto group "Collectif Palestine Vaincra", and the de facto group "Les Remparts" together with two associations.

Hateful comments must be moderated

The Conseil d'État held that the dissolution of Collectif Palestine Vaincra was lawful. It took the view that expressions of sympathy towards the Popular Front for the Liberation of Palestine – an organisation recognised as terrorist by the European Union – and of indignation at the listing of Hamas as a terrorist organisation, did not constitute conduct aimed at provoking acts of terrorism. However, the Conseil d'État considered that the collective had failed to moderate numerous hateful and aggressive comments – some of an explicitly anti-Semitic nature – that these positions had generated on its social media accounts. The Conseil d'État accordingly held that these incitements to discrimination, hatred and violence were attributable to the group. The appeal against the dissolution of the collective was dismissed in February 2025.

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dissolutions of groups since 2017

Repeated incitement to hatred and violence

The dissolution of the Lyon-based group "Les Remparts" by the Government was also found to be lawful. The Conseil d'État noted that numerous acts encouraging discrimination, hatred or violence could be attributed to the group and its members or supporters: an attack on an association's premises, the amplification of calls for "punitive expeditions", and the dissemination of xenophobic, homophobic or anti-LGBT messages on social networks. Hateful comments submitted beneath these posts were neither moderated nor removed by the group.

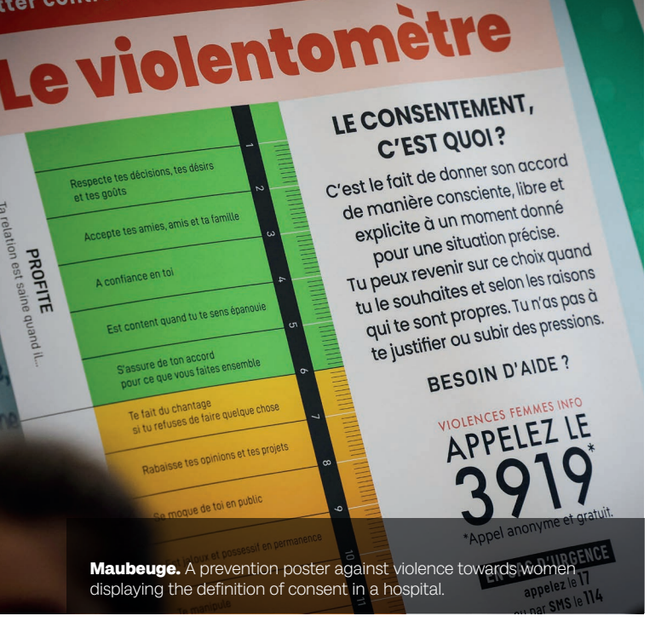
Three entities forming an indissociable whole

The Conseil d'État further confirmed that "Les Remparts" formed, together with the associations "La Traboule" bar and "Top Sport Rhône" sports club, a single entity presented as "a community, cultural and sporting complex" driven by a common spirit and underpinned by a shared ideology. The two associations admitted only the group's members, supporters and activities, and contributed to promoting discourse inciting hatred, violence or discrimination. Whilst the dissolution decree did not identify any acts or conduct directly and specifically attributable to these two associations, the Government was entitled lawfully to dissolve them jointly, given that the three entities were inseparable.

LEGAL DECISION

Decisions No. 462981 of 20 February 2025, "Dissolution of the Palestine Vaincra Collective"

and No. 497252 of 31 July 2025, "Dissolution of the 'Les Remparts' group"



Maubeuge. A prevention poster against violence towards women displaying the definition of consent in a hospital.

Criminal law definition of rape: consent must be unambiguously enshrined

In March 2025, the Conseil d'État examined a Private Member's Bill incorporating the absence of the victim's consent into the definition of rape and other sexual assaults – a development aimed at clarifying criminal law and ensuring that this central notion of consent is better taken into account in the investigation and judgment of such offences.

Consent is free and informed, specific, prior and revocable.

Law of 6 November 2025 amending the criminal law definition of rape and sexual assault

In January 2025, the parliamentary fact-finding task force of the National Assembly's Delegation on Women's Rights published its report on the criminal law definition of rape. According to the report, current law is insufficient in cases of sexual assault. Perpetrators are inadequately sanctioned, victims inadequately protected, and a central notion – consent – is not explicitly enshrined in the French Criminal Code. The law does not clearly state the prohibition on imposing a sexual act without the person's agreement. This is the shortcoming that the bill aiming to amend the criminal definition of rape and sexual assault in the Criminal Code sets out to remedy. It was submitted to the Conseil d'État for its opinion by the President of the National Assembly.

Providing a precise definition of consent

The absence of consent was already a key element in judicial proceedings. In the Conseil d'État's view, enshrining it in the law makes it possible to state clearly that sexual assaults infringe two fundamental rights: personal and sexual freedom, and people's right to respect for their physical and psychological integrity. To ensure that consent could be incorporated into the legislation without any ambiguity, the Conseil d'État notably recommended that consent be defined as needing to be "free and informed, specific, prior and revocable", and that it cannot be inferred from silence or the absence of any reaction. It considered that the reference to the four circumstances already characterising assault – violence, coercion, threat or surprise – should be retained It proposed adding "of whatever nature" after the four circumstances in order to emphasise their variety (direct or indirect, physical or psychological, abuse of authority, family and emotional pressure, and so forth) and to enable more effective prosecution. These recommendations were accepted and are reflected in the law enacted on 6 November 2025.

No presumption of guilt

The Conseil d'État reiterated that this change in the law does not create a presumption of guilt, nor does it require proof of formalised consent. It remains for the courts to establish, on a case-by-case basis, the facts and the perpetrator's intention to act without the victim's free and informed consent. In its opinion, the Conseil d'État also highlighted the difficulties faced by victims in the course of judicial proceedings, from the lodging of a complaint to trial, and stressed the importance of adequate investigative resources to better protect them and combat such violence.

ADVISORY OPINION

Opinion of 6 March 2025 on a Private Member's Bill seeking to amend the criminal law definition of rape and sexual assault



Valence. A man standing beside a mobile stand presented by the Jehovah's Witnesses organisation.

"Administrative documents [...] which disclose the conduct of a person shall only be communicated to the person concerned where the disclosure of such conduct could cause them harm."

Article L. 311-6 of the French Code Governing the Relationship between Citizens and the Administrative Authorities

Reports of sectarian abuses may not be disclosed to third parties

The Inter-Ministerial Mission for Vigilance and Action against Sectarian Abuses (Mission interministérielle de vigilance et de lutte contre les dérives sectaires – Miviludes) is responsible for observing and analysing sectarian movements whose conduct infringes human rights and fundamental freedoms, and for informing the public accordingly. In this capacity, it receives reports from victims and witnesses. Where warranted by the facts, it may pass on this information to the relevant ministries or to the public prosecutor if it may constitute a criminal offence.

In 2023, the federation representing the associations of Jehovah's Witnesses in France asked Miviludes to disclose the reports concerning the federation. The association relied on the French Code Governing the Relationship between Citizens and the Administrative Authorities, which provides that citizens may access, on request, documents held by the administrative authorities. Miviludes refused the request, taking the view that disclosure of these documents could be prejudicial to those who had made the reports, or even expose them to a risk of reprisals. The federation therefore referred the matter to the Conseil d'État.

The right of access to administrative documents may be refused

In March 2025, its application was dismissed. The court reiterated that the law does indeed permit the administrative authorities to refuse access to a document where its disclosure could endanger individuals In principle, it is possible to transmit such documents after removing information enabling the direct or indirect identification of the persons concerned – names, contact details, or any information which, when combined with other data, may enable identification. However, in the case of reports submitted to Miviludes, ensuring the safety of the witnesses would require the removal of all such identifying information, rendering the documents unintelligible.

The Conseil d'État also observed that disclosure of these reports to third parties could discourage individuals from reporting sectarian abuses in the future, whereas this reporting mechanism contributes to the protection of fundamental freedoms in France.

LEGAL DECISION

Decision No. 490743 of 26 March 2025, "Access to reports of sectarian abuses"

Control of pluralism on television: clarification of the rules



In France, the Law of 30 September 1986 requires television channels and radio stations to ensure pluralism – that is, a diversity of points of view on air. Protected by the French Constitution, pluralism is one of the means of guaranteeing "the free communication of thoughts and opinions" enshrined in the Declaration of the Rights of Man and of the Citizen of 1789, and of enabling citizens to form an informed opinion. Compliance with this principle of pluralism in the media is monitored by the Audiovisual and Digital Communications Regulatory Authority (Autorité de régulation de la communication audiovisuelle et numérique – Arcom). In a decision handed down in February 2024 at the request of Reporters Without Borders, the Conseil d'État had held that pluralism of opinion is not limited to the airtime given to political figures. Arcom must take account of the diversity of schools of thought and opinion expressed by all contributors to programmes.

An overall assessment rather than an individual classification

In July 2025, four associations brought proceedings before the Conseil d'État after their complaints had been dismissed by Arcom. They had sought to urge the authority to order France 2, France 3, France 4, France 5, France info, France Inter, France Culture, Arte, M6, TF1, TMC, BFM, RMC and RTL to modify the list of their contributors – other than political figures – so that different schools of thought would receive airtime "proportional to their importance in French society." The Conseil d'État clarified, however, that Arcom's remit is to verify that there is no manifest and sustained imbalance in the expression of opinions, and that to this end the authority must assess programmes as a whole, over a sufficiently long period. It is not required to classify or categorise programme contributors according to schools of thought and opinion. The Conseil d'État concluded that Arcom had no choice but to reject the requests submitted to it.

LEGAL DECISION

Decision No. 494597 of 4 July 2025, "Pluralism on television and radio"

IN BRIEF

The right to strike and continuity of public service

The right to strike is guaranteed by the French Constitution. In public services, however, it must be reconciled with another constitutional principle: continuity of service. In March 2025, an internal memorandum at Radio France set out the rules governing the exercise of the right to strike. For certain essential posts, employees wishing to join a strike action are now required to declare themselves on strike at the start of their working day. They may no longer cease work in the middle of their shift. Several trade unions challenged this rule before the Conseil d'État. The court recalled that the law places responsibility on the President of Radio France for organising a minimum service on air. It noted that the contested memorandum does no more than set out the practical arrangements for doing so. The memorandum is designed to prevent disruption where employees leave their posts mid-shift, without preventing employees from taking part in strike action should they wish to do so. The measure does not impose a disproportionate restriction on the right to strike. The application was dismissed.

LEGAL DECISION

Decision No. 504268 of 1st December 2025, "The right to strike and continuity of public service"

Access to a social network may be suspended, but only subject to conditions



Nouméa. Residents in front of a barricade blocking and controlling access to the capital of New Caledonia in May 2024.

In May 2024, serious riots broke out in New Caledonia. The Government declared a state of emergency and decided to suspend access to the social network TikTok, on the basis that it was facilitating the spread of disorder. But was such an interference with fundamental freedoms lawful? Several associations and private citizens challenged the measure before the Conseil d'État.

In April 2025, the Conseil d'État invoked a principle of case law dating back to the First World War: in an exceptionally grave situation, where the administrative authorities are unable to act in accordance with the rules of law in force, they may take urgent measures that are indispensable to address the situation. This is the "doctrine of exceptional circumstances". Such measures nonetheless remain subject to review by the administrative courts. In its decision handed down in April, the Conseil d'État held that, even where a state of emergency has been declared and already confers specific powers on the Government, this does not preclude the Government from taking additional measures – not provided for under existing law or the state of emergency regime – if required by exceptional circumstances.

The restriction of certain rights under "exceptional circumstances"

In the case of the blocking of the TikTok social network in New Caledonia, the Conseil d'État reiterated that such a suspension interferes with several rights and freedoms: the freedom of expression, the free communication of thoughts and opinions, the right to privacy, and the freedom of trade and industry. Such interference with these freedoms is permissible only where expressly authorised by the law or under "exceptional circumstances." And even then, a suspension is permissible only if three strict conditions are met: it must be essential to meeting current needs; no less restrictive measures are available; and it must be temporary, pending the identification of alternatives.

The safeguards were not observed in this particular case

The Conseil d'État acknowledged that the situation in New Caledonia did indeed constitute "exceptional circumstances", including intense unrest resulting in several deaths, numerous injuries and extensive damage. The Prime Minister was therefore entitled to suspend access to TikTok on a temporary basis. However, the safeguards were not observed. The measure was imposed for an indefinite period, tied solely to the persistence of public disorder, without making its continuation conditional upon the impossibility of implementing alternative measures. In the court's view, the blocking interfered disproportionately with the rights and freedoms of citizens and was therefore unlawful.

The free communication of thoughts and opinions is guaranteed by Article 11 of the Declaration of the Rights of Man and of the Citizen of 1789 and implies the freedom to access [online public communication services] and to express oneself thereon.

Decision No. 494511

LEGAL DECISION

Decision No. 494511 of Tuesday 1st April 2025, "In exceptional circumstances, the government may temporarily suspend access to a social network"

EDUCATION, THE QUESTION OF KNOWLEDGE TRANSMISSION

Guaranteeing “equal access to education for children and adults”: this principle, affirmed by the Constitution, encompasses all stakeholders in the educational system, from nursery school through to higher education, nationwide. In 2025, the Conseil d'État ensured, through its opinions, decisions and studies, that this principle is upheld, that pupils' rights are respected, and that the reforms undertaken are lawful.



Metz. A session on education in emotional and sexual life at a nursery school

At least three sex education and information sessions are provided in primary and secondary schools per year, in homogeneous age groups These sessions present an egalitarian vision of relations between men and women They contribute to learning respect for the human body and raise awareness of gender-based or sexual violence as well as female genital mutilation.

Article L. 312-16 of the French Education Code

The programme on education in emotional life is lawful

In February 2025, the curriculum for education in emotional, relational and sexual life (éducation à la vie affective et relationnelle et à la sexualité – EVARS) was introduced to raise pupils' awareness of mutual respect and equality between individuals. It also aims to prevent discrimination and certain forms of physical or psychological violence. Under what conditions may this programme be taught in schools?

The EVARS programme is provided for in all schools for the 2025–2026 academic year, by an order of the Minister for National Education and a circular setting out the detailed arrangements. This new programme provides for education in emotional and relational life in nursery and primary schools. From lower secondary school onwards, sexual education is added. The sessions notably cover knowledge of the body, relationships with others, and questions relating to emotional, relational and sexual life. Associations and private individuals challenged this programme before the Conseil d'État, on the grounds that it infringes the rights of parents and pupils.

Sex education is provided for by law

In its decision, the court reiterated that sex education is provided for by law. This legislation provides that pupils must receive age-appropriate information at least three times a year, as part of citizenship and social education, in addition to the instruction provided within their family. The Minister for National Education is indeed responsible for setting the curriculum.

An objective programme, tailored to each level

The Conseil d’État noted that the content had been developed by the Higher Council for Curricula, which brings together academics, education specialists, Members of Parliament and representatives of civil society. The content is grounded in the current state of scientific knowledge and the law, and is specifically tailored to each year group. The programme content must be presented to pupils in a neutral and objective manner, with due respect for their privacy and without encouraging them to adopt any particular behaviour.

The rights of parents and pupils guaranteed

The circular implementing EVARS asks schools to design sessions collaboratively. Where a specialist association is involved, sessions must be prepared and delivered in conjunction with teachers. It also provides that parents must be informed of the programme's objectives each year. The Conseil d'État further reiterated that the French Education Code allows parents to request a meeting with the school should they need to discuss their child's specific situation.

Having regard to the content of the programme and the manner in which it is to be delivered, the Conseil d'État held that the Minister's order and circular comply with the principle of neutrality of public services, the freedom of conscience of pupils and parents, and the right of parents to educate their children in accordance with their convictions. ●

LEGAL DECISION

Decision No. 501820 of 27 June 2025, “School curriculum for education in emotional, relational and sexual life”



Die. A Year 9 pupil with a disability and his learning support assistant (AESH) during a French lesson.

Allowances for **learning support assistants at schools in priority education networks**

At schools located within a priority education network (réseau d'éducation prioritaire – REP) or a reinforced priority education network (REP+), certain categories of education staff receive a specific allowance in addition to their salary. Introduced in 2015, this hardship allowance is designed to compensate for the more demanding working conditions in these schools. Learning support assistants (accompagnants d'élèves en situation de handicap – AESH), who support pupils with disabilities, were not added to the list of eligible staff until 2022. Several learning support assistants challenged this initial exclusion from the scheme in proceedings brought before the Conseil d'État.

Learning support assistants are part of the educational community

Learning support assistants (AESH) support pupils with disabilities in order to facilitate their schooling. Depending on each child's needs, these professionals may assist them with mobility, participation in school activities, or integration into social life at the school. The Conseil d'État emphasised that AESH are fully part of the educational community. In REP and REP+ schools, their working conditions are the same as those of other staff and they experience comparable constraints. It was for this reason that the decree of 8 December 2022 included them in the list of staff entitled to the hardship allowance.

An unjustified difference in treatment

The Conseil d'État held that the exclusion of AESH from the scheme between 2015 and 2022 did indeed create an unjustified difference in treatment, contrary to the principle of equality. The State must pay the applicant learning support assistants the allowance for the entire period during which they worked in REP or REP+ schools since 2015, together with statutory interest, subject to the applicable limitation rules. ●

LEGAL DECISION

Decision No. 500427 of 16 July 2025, "Hardship allowances for AESH in REP or REP+"

IN BRIEF

Simplification proposals for **private higher education**

As part of its **Simplification Workshops**, the Conseil d'État put forward a series of concrete proposals in March 2025 to improve and simplify the legal framework applicable to private higher education, which lacks clarity and has become overly complex. In its study, the Conseil d'État proposals included replacing the current procedure for State recognition of private institutions with a simpler time-limited accreditation system, with quality controls on the programmes offered.

It proposed introducing minimum conditions for the opening of an institution and providing for an administrative closure procedure in cases of non-compliance with the regulations. It also suggested simplifying the qualifications system and drawing clearer distinctions between the different types of qualifications conferred. Finally, to better inform students and their families, it recommended improving the clarity of programme offerings on Parcoursup [web portal organising access to places on higher education programmes] and of the conditions for obtaining grants. ●

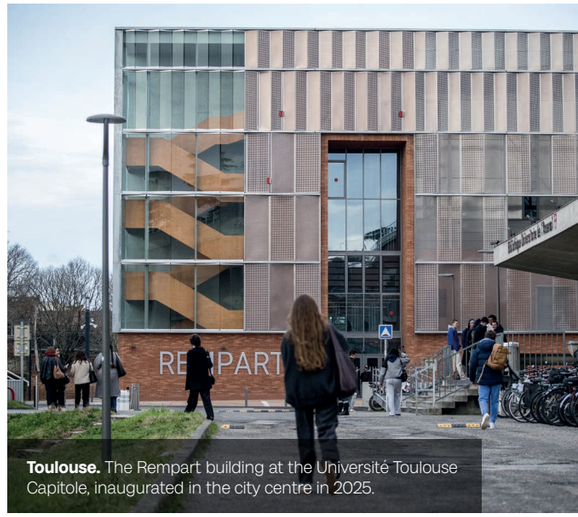


STUDY

Study of 13 March 2025 on simplifying the regulatory framework for private higher education

Higher education: recommendations to to place the planned reforms on a sound legal footing

Regulation of the private sector, university autonomy, changes to Parcoursup: the Conseil d'État examines a landmark bill on higher education and delivers an opinion to place the principal measures on a sound legal footing and clarify the conditions for their implementation.



Toulouse. The Rempart building at the Université Toulouse Capitole, inaugurated in the city centre in 2025.

In 2025, the Government sought to strengthen the regulation of private higher education operators whilst modernising the operation of public universities. In July 2025, it submitted a bill on these matters to the Conseil d'État before tabling it in the National Assembly in the autumn.

Clarifying the accreditation principle to guarantee the quality of study programmes

For public institutions, the bill aims to strengthen universities' autonomy in creating and managing their programme offerings. In particular, it provides for the blanket accreditation of institutions, enabling them to award national qualifications or any qualification in the fields in which they already offer courses. The Conseil d'État found no legal obstacle to this. However, it recommended specifying that accreditation will be based on the quality of the institution's organisation and on the range of study programmes on offer. It also emphasised that this should only take place following an assessment by an independent national body.

Limiting the time of the experimental scheme

The Government is considering extending by five years the experimental scheme for the grouping or merging of universities, which has already been running for ten years. The Conseil d'État reiterated that, in accordance with the Constitution, experimental schemes are intended to run for a "limited period" in order to be evaluated and then either extended, modified or discontinued. It took the view that, considering the disruption caused by COVID-19, an extension of three years would be possible.

Placing measures relating to private institutions on a sound legal footing

With regard to private institutions, the bill largely incorporates proposals arising from the Conseil d'État's study (see opposite), but it goes much further. In particular, it provides that accredited private institutions may award State-recognised qualifications. This development is consistent with both the Constitution and European law, but does require legislation, as the Conseil d'État emphasised. The bill also makes the inclusion of private study programmes on the Parcoursup web portal conditional upon obtaining accreditation, and the Conseil d'État recommended making it clear that only courses leading to State-recognised qualifications or awards may be listed. Finally, the bill guarantees a right of withdrawal to students who have enrolled with a private institution before the publication of Parcoursup results – a measure the Conseil d'État considered to be justified on grounds of public interest. ●

ADVISORY OPINION

Opinion of 23 July 2025 on a Bill concerning the modernisation and regulation of higher education

ENVIRONMENT: SAFEGUARDING BALANCES

Protecting the environment and biodiversity has become a priority in addressing damage to natural habitats, the effects of climate disruption and risks to human health. This is now reflected in rules and commitments enshrined in international, European and French law. In 2025, the Conseil d'État ensured, through its opinions and decisions, that these rules and commitments are upheld, taking local and economic realities into account.

Folschviller. Two gas extraction sites are located near a former mine shaft. The "Bleue Lorraine" concession covers 190 square kilometres spanning 40 municipalities in eastern Moselle, around the village.

Mining: the court scrutinises environmental risks

In 2023, the State refused to grant La Française de l'Énergie the "Bleue Lorraine" concession to extract coalbed methane in Moselle. The company challenged this decision before the Administrative Tribunal of Strasbourg, which found in its favour and directed the Prime Minister to grant the concession. A decree was issued on 20 November 2023. However, in 2025, an association for the defence of the Lorraine coalfields applied to the Conseil d'État to quash this decree.

The company is not in a position to operate the concession in accordance with the applicable rules

The court recalled that in order to obtain a mining concession, a company must demonstrate that it has the technical and financial capacity to operate the deposit and comply with the legal obligations pertaining to that activity. The inquiry revealed, however, that the "Bleue Lorraine" project is particularly complex and that Française de l'Énergie encountered major technical difficulties during exploratory works. Defective cementing of the boreholes caused cement, water and drilling mud to leak into underground aquifers, whose protection is a crucial environmental issue. Taking account of the sensitivity of the local subsoil and the uncertainties surrounding the reliability of the extraction process, the Conseil d'État held that the company had not demonstrated its capacity to operate these deposits. The decree was vitiated by illegality and was quashed. ●

LEGAL DECISION

Decision No. 490266 of 16 December 2025, "Bleue Lorraine Concession"

Transposing European climate commitments into French law

In response to the climate emergency, the European Union is adopting increasingly stringent rules to reduce greenhouse gas emissions and achieve carbon neutrality by 2050. In 2025, the Conseil d'État issued an opinion on a bill adapting a body of texts into French law in order for them to take full effect.



Poitiers. Insulation work during the thermal renovation of subsidised housing in outlying urban neighbourhoods.

The bill containing various provisions adapting French law to European Union law (known as the "DDADUE Bill") provides in particular for the transposition of two directives and one regulation relating to the fight against climate change. Consulted by the Government, the Conseil d'État issued its opinion on the text in October 2025.

Decarbonisation of transport: a new strategy to be assessed

The European "RED II" Directive of December 2018 set a decarbonisation target of -14.5% by 2030 for electricity and fuels sold by suppliers to the transport sector. To this end, the Government has planned to replace the existing incentive-based levy with a system of obligations and penalties. The Conseil d'État considered that an impact assessment must be carried out to explain the reasons for such a change of strategy and to evaluate the expected results. However, it noted that the European directive allows for a degree of flexibility: fuel suppliers may implement their obligations progressively or in a differentiated manner (e.g. according to fuel type), provided that the overall target is not called into question.

CO_2 storage: justified disclosure periods

In order to identify suitable areas and develop underground CO_2 storage therein, the European "Net Zero" regulation of June 2024 requires the disclosure of geological data obtained from exploratory works. The Conseil d'État took the view that reducing the disclosure period from ten to five years (or even one year) allows those who carried out the works to recoup their costs, does not infringe property rights, and meets the regulatory requirements.

Energy performance rules: alignments consistent with European law

With regard to the Building Energy Performance Directive of April 2024, the Conseil d'État noted that it requires the amendment of French law, as it currently contains requirements or exemptions that frequently differ from those in the directive, despite pursuing the same objectives. For instance, the Conseil d'État considered it necessary to revise the national scheme in force for the renovation of existing buildings: it applies only to buildings of more than 1,000 square metres, whereas the directive targets the least energy-efficient buildings, regardless of their size. With regard to the production of renewable energy on rooftops, the Bill provides for a complete overhaul of French law to align it strictly with the European directive – an option the Conseil d'État considered to be consistent with European law, even though it leads to a reduction of certain requirements currently in force. ●

ADVISORY OPINION

Opinion of 23 October 2025 on a bill containing various provisions adapting French law to European Union law in the economic, financial, environmental, energy, information, transport, health, agricultural and fisheries sectors

Greenhouse gas emissions: the reduction target on course to be met

In July 2021, following an application by the municipality of Grande-Synthe and several associations, the Conseil d'État ordered the Government to take all necessary measures to bring the greenhouse gas emissions reduction trajectory back on track before 31 March 2022. The objective was to obtain a 40% reduction in emissions by 2030 compared with 1990 levels, thereby honouring France's commitments under the Paris Agreement as transposed into national law. In May 2023, the Conseil d'État found that its decision had not been fully implemented: despite progress, the measures taken remained insufficient and the risk of failing to meet the target persisted. It therefore directed the Government to strengthen its measures before 30 June 2024. In 2025, it re-examined the situation.

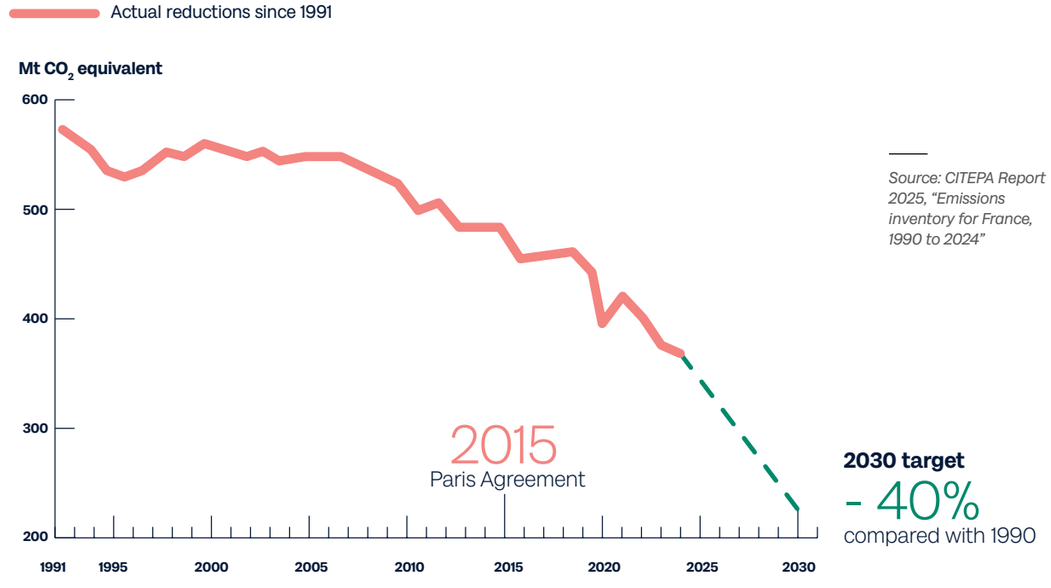
An emission reduction trajectory that is now credible

Drawing notably on data from the Cross-Industry Technical Centre for Air Pollution Studies (Centre interprofessionnel technique d'études de la pollution atmosphérique – CITEPA) and on the reports of the High Council for the Climate (Haut Conseil pour le climat – HCC), the Conseil d'État found that the interim targets for the 2019–2025 period had been met. Greenhouse gas emissions are in fact lower than the levels initially projected in the adopted reduction trajectory According to the Government's projections, the measures taken should enable a reduction of approximately 39.5% in emissions to be achieved by 2030. The Conseil d'État also noted that the new policies introduced since 2024 should further consolidate this trajectory. The court recalled, however, that in 2023 a more ambitious target was set at the European level: a reduction of 55% in emissions by 2030. Its decision concerns only compliance with the previous targets, set at a reduction of 40%. ●

LEGAL DECISION

Decision No. 467982 of 24 October 2025, "Greenhouse gas emissions"

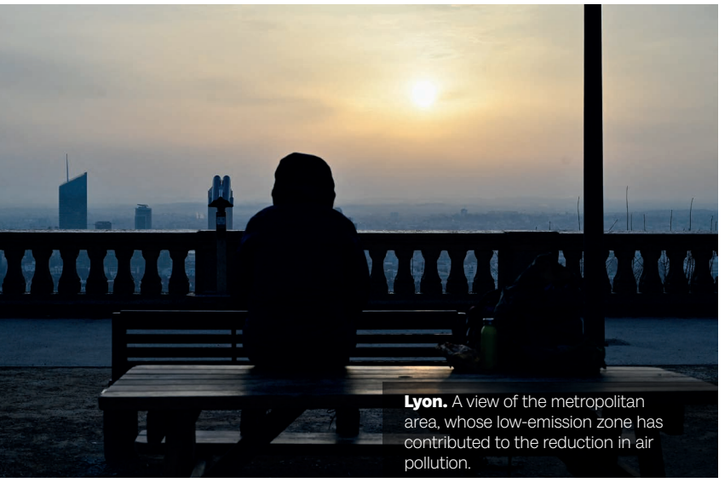
Emissions reduction: outcomes and targets



Source: CITEPA Report 2025, "Emissions inventory for France, 1990 to 2024"

Air pollution: the measures taken have produced results

In 2017, the Conseil d'État ordered the State to take action in order to comply with air pollution thresholds in several major cities. Between 2020 and 2023, it found the measures taken to be insufficient and imposed substantial periodic penalty payments on the State. By 2025, however, the situation had improved, and the Conseil d'État found that the State had complied with its 2017 decision.



Lyon. A view of the metropolitan area, whose low-emission zone has contributed to the reduction in air pollution.

Each year, around 40,000 deaths in France are linked to air pollution. The principal pollutants in question are fine particulate matter (PM10) and nitrogen dioxide (NO_2), whose levels are strictly regulated by European and French law. In 2017, following an application by the association Les Amis de la Terre, the Conseil d'État found that these thresholds were being exceeded in sixteen French urban areas.

LEGAL DECISION

Decision No. 428409 of 25 April 2025, "Air quality"

Progress required since 2020

In 2020, it ordered the State to take prompt measures to address this non-compliance, subject to a periodic penalty payment of €10 million per half-year of delay. Between 2021 and 2022, several periodic penalty payments were imposed, owing to insufficient results. However, the situation gradually improved: in 2023, overshoots attributable to fine particulate matter disappeared throughout all the urban areas concerned, and those attributable to nitrogen dioxide were recorded only in Paris and Lyon. In the spring of 2025, the Conseil d'État re-assessed whether the measures taken had succeeded in improving the situation.

Thresholds met, but only just, in Lyon

In the Lyon metropolitan area, the annual average nitrogen dioxide thresholds were met in 2023–2024. However, one monitoring station still recorded an overshoot of the 40 µg/m³ threshold in 2023. The Conseil d'État took the view that the concentrations observed did not make it possible to conclude with certainty that the situation had stabilised. The State did, however, present precise and credible measures that make it reasonable to consider that this was now the case. For instance, an atmospheric protection plan provides for dedicated car-pool lanes and a reduction in the maximum speed limit on certain roads. Lyon's low-emission mobility zone (zone à faibles émissions mobilité – ZFE-m) has already contributed to the reduction of transport-related air pollution and incorporates new measures, such as restrictions on the circulation of highly polluting vehicles.

A marked improvement in air quality in Paris

In the Paris metropolitan area, the picture is similarly positive. Whilst several overshoots were recorded in 2024, their number is declining progressively and projections indicate that they should disappear by 2026. A number of measures have been introduced, particularly under the Île-de-France atmospheric protection plan 2025–2030, which provides, amongst other measures, for speed limits on certain roads and restrictions on the circulation of the most polluting vehicles. In the light of these developments, the Conseil d'État considered that its 2017 judgment had been complied with across all the areas concerned. The proceedings are closed. ●

A look back at the "Air pollution" decisions

12 July 2017
Application by Les Amis de la Terre: the Conseil d'État orders the State to act to comply with the pollution thresholds set by a European directive in 2008.

10 July 2020
The required measures have not been taken. The Conseil d'État ordered the State to act, subject to a periodic penalty payment of €10 million per half-year of delay.

4 August 2021
First periodic penalty payment of €10 million for insufficient action in the first half of 2021.

17 October 2022
Two periodic penalty payments of €10 million for insufficient action in the second half of 2021 and the first half of 2022.

24 November 2023
Two periodic penalty payments of €5 million for the second half of 2022 and the first half of 2023, reflecting the improvements made despite the persistence of pollution.

25 April 2025
The Conseil d'État found that the State had put in place the necessary measures to improve air quality in France and had fully complied with its 2017 judgment.

Species protection: better consideration of the local level

In 2025, the Conseil d'État clarified the conditions under which harm to animal species may be authorised. In two decisions, it emphasised the need to take local circumstances into account when assessing the risks to the conservation of species.



Orcines. A fox in a snow-covered field at the foot of the Puy de Dôme.

Assessing conservation status

In December 2025, the prefect of the department of Hautes-Pyrénées authorised a livestock farmer to shoot wolves in order to protect his flock. Nature conservation associations challenged this decision before the administrative courts. The Conseil d'État specified that the conservation status of a species must be assessed not only at the national level but also at the local level. Whilst the wolf population in France is now estimated at more than 1,000 individuals, the situation is very different in the department in question, where only a single wolf has been identified In the Conseil d'État's view, killing it would be liable to jeopardise the conservation of the species in the region. The authorisation to shoot was therefore suspended.

Regulating the destruction of "pest" species

Also in 2025, several associations applied to the Conseil d'État to challenge the classification of certain species – the fox, weasel, stone marten and the jay – on the list of animals "liable to cause damage". The Conseil d'État reiterated that this list, drawn up by the Minister for the Environment, must specify the periods and conditions under which the animals may be destroyed. It held that the inclusion of a species on the list must be based on precise evidence demonstrating the damage caused locally. However, the state of populations must also be taken into account. Where a species is threatened or in decline, the administration must assess the risk this poses to its conservation having regard to the precautionary principle. The Conseil d'État quashed the inclusion of several species on the list in the departments where it has not been demonstrated that they are widespread or responsible for significant damage. ●

LEGAL DECISION

Decisions No. 480617 of 13 May 2025, "List of animals liable to cause damage" and No. 506263 of 12 December 2025, "Authorisation to shoot wolves in defence of livestock"

THE CONSEIL D'ÉTAT: 150 YEARS AT THE HEART OF THE PALAIS-ROYAL AND THE FRENCH REPUBLIC

The Conseil d'État moved into its premises at the Palais-Royal in 1875, from where it has exercised its functions as administrative court and legal advisor to the Government and Parliament. The one hundred and fiftieth anniversary of this occasion is an opportunity to recall how, through its decisions, opinions and studies, the Conseil d'État has accompanied the major developments in law and society and contributed to upholding the rule of law in France



An exhibition to mark 150 years at the Palais-Royal

To mark the one hundred and fiftieth anniversary of the Conseil d'État's move to the Palais-Royal, a public exhibition open to the public was held in the Galerie d'Orléans in the summer of 2025. It looked back on the Conseil d'État's move to the Palais-Royal, the great figures of the institution, and landmark decisions, opinions and studies since 1875.

EXHIBITION

The Conseil d'État at the heart of the Palais-Royal and the French Republic for 150 years

As a seat of power and an arena for exchanging ideas, the Palais-Royal has been the symbolic home of the Conseil d'État for one hundred and fifty years. Its history reflects that of an institution acting in service of the law.

An exceptional site marking the history of France

Before becoming the seat of the Conseil d'État, the Palais-Royal already occupied a singular place in French political and intellectual history. Built in the seventeenth century at the initiative of Cardinal Richelieu, it became, over time, an open and lively space for debate and exchanging opinions. In the eighteenth century, discussion and contestation took place beneath its arcades. On 12 July 1789, this was where Camille Desmoulins called for insurrection in a speech that hastened the storming of the Bastille.

The Palais-Royal then weathered successive regimes, upheavals and crises. Set ablaze during the Paris Commune in 1871, it was subsequently restored. In November 1875, an institution – the Conseil d'État – took up lasting residence there.

The seat of an institution at the heart of the Republic

For one hundred and fifty years, this is where the Conseil d'État has exercised a singular function, as both court and advisor. In this dual capacity, it lies at the heart of the Republic – not at the centre of power, but at the heart of what confers legitimacy upon it: justice, the public interest, and the imperative of accountability.

These values are also embodied in the men and women who have shaped the institution's history. This is where Léon Blum, a member of the Conseil d'État between 1895 and 1919, championed workers' rights. After the dark days during which the Conseil d'État acted in service of the Vichy Government, René Cassin, Vice-President in 1944, brought the spirit of the Resistance into the institution in the aftermath of the war. In 1953, Louise Cadoux and Jacqueline Bauchet became the first women to be appointed to the Conseil d'État.

An institution that safeguards the rule of law

Since 1875, the Conseil d'État's case law has accompanied the major developments in law and society. In 1895, through the "Cames" decision, the Conseil d'État recognised for the first time the right of an injured worker to compensation even in the absence of fault – marking the birth of the right to compensation without fault. In 1933, through the Benjamin decision, it affirmed the protection of civil liberties by subjecting police measures to rigorous scrutiny of necessity and proportionality. More recently, in the field of environmental law, it has sanctioned the State's inaction relating to non-compliance with air pollution thresholds.

Through its opinions, it has also accompanied major advances. Following the "Grenelle" agreements of May 1968, it recommended redefining the remit of trade unions so that they could represent all workers, not merely their own members. In 1972, it held that the principle of equal pay between women and men must also apply to the civil service. Two years later, in connection with Simone Veil's bill on contraception, it recommended removing the requirement for parental consent for minors.

Lastly, through its studies, it has anticipated new challenges. The 1988 study on bioethics contributed to the incorporation into law of principles such as human dignity, the regulation of research and informed consent. The Tricot report of 1975 on computing and civil liberties, meanwhile, laid the groundwork for the protection of privacy in response to the development of information technology, leading to the Law of 1978 and the creation of the French Information Commissioner's Office (CNIL). ●





1875-2025: the administrative tribunals and courts yesterday and today

A conversation with CHRISTOPHE CHANTEPY, President of the Litigation Section of the Conseil d'État.

When the Conseil d'État moved to the Palais-Royal in 1875, what was its situation?

It was a decisive moment. The Law of 24 May 1872 had brought the system of retained justice to an end and made the Conseil d'État an independent court for settling disputes between citizens and administrative authorities. Following its creation in 1799 by the Constitution of the Consulate – in a form very different from the one we know today – the Conseil d'État had survived the frequent changes of regime that marked the first three quarters of the nineteenth century. This Law made the Conseil d'État what it still is today, and it did so at a moment when France was gradually adopting the republican system of government. Its history, from that point on, has been inseparable from the Republic and from democracy.

How did this judicial role become established over time?

The Conseil d'État gradually forged administrative case law through what are known as its "landmark judgments" (grands arrêts). The driving thread of this process has been the strengthening of judicial oversight of the administration, the affirmation of fundamental civil liberties, and the definition of public service. It is essential to note that the Conseil d'État is broadly accessible to litigants as the rules on the admissibility of applications are very permissive. I am often asked which is my favourite landmark judgment. This is a difficult question to answer, since choosing one risks being seen as implying that all the others are of lesser importance. I must confess, however, to a particular fondness for the Benjamin judgment of 1933, which set out, in terms that remain as relevant today as ever, the balance between the protection of civil liberties and the requirements of law and order.

But this account of an administrative justice system informing the development of democracy and fundamental rights was – and this must never be forgotten – interrupted and tarnished by the Vichy period, during which the Conseil d'État disgraced itself.





How have the administrative tribunals and courts adapted to changes in society?

The demand for justice – and especially for administrative justice – has grown enormously over the past fifty years. Adaptation was necessary. The first fundamental reform was the creation of the administrative courts of appeal under the inspired Vice-Presidency of Marceau Long. This was indispensable in order to create a genuine three-tier court system and prevent the Conseil d'État from becoming so congested with appeals that litigants could no longer have their disputes determined within a reasonable time frame. Then came the power to issue injunctions, the power to impose periodic penalty payments on the administrative authorities, and the creation of summary proceedings, under the Law of 2000. The administrative tribunals and courts have learned to work in a timely manner – and therefore with urgency – because citizens want a justice system that is both properly administered and swift. The administrative tribunals and courts have also adapted to new forms of administrative action, by fully recognising the possibility of challenging soft-law instruments. They have, of course, entered the digital age, and bringing proceedings before them has become even more straightforward via the "Télérecours" online platform.

What role do the administrative tribunals and courts play in society today?

An essential role in a democratic society: that of independently and impartially settling disputes between citizens and administrative authorities, in accordance with the law. Upholding the rule of law, which is – regrettably – under challenge today, is the guiding principle of the administrative tribunals or courts, and of course also of the ordinary courts and the Constitutional Council. Without judges there can be no civil peace. Judicial decisions may legitimately be commented upon, including critically. But calling into question the very role of the judge is not admissible in a democratic society, where the separation of powers is the rule. ●

IMMIGRATION LAW: APPLICATION OF THE LAW AND INTERNATIONAL AGREEMENTS

Derived from national, European and international rules, immigration law governs the conditions for the entry, stay and removal of foreign nationals. In 2025, the Conseil d'État ensured, through its decisions and opinions, that these rules were correctly applied having regard to the various situations brought before it.



Menton. At the Pont Saint-Louis, a young Afghan at the border between Italy and France.

Age verification at the border is regulated

Since 2015, border controls have been re-established at the Franco-Italian border. In this context, the authorities of the department of Alpes-Maritimes put in place a protocol to organise the reception of unaccompanied foreign minors. Where a person declares themselves to be a minor at the border, the protocol empowers specially trained officers to conduct a specific interview to inform the decision of the border police. Associations have challenged this arrangement on the grounds that it could lead to certain minors being wrongly treated as adults and thus deprived of the protective measures provided for by law. Following the dismissal of their application by the administrative tribunal of Nice, these associations brought proceedings before the Conseil d'État.

Verifying that the person is not manifestly an adult

The Conseil d'État first reiterated that, under the applicable law, the authorities may refuse entry into national territory to a foreign national who does not meet the conditions laid down by law. Minors nonetheless benefit from special protection at the border. However, doubt about the declared minority status may arise in a number of situations. In this case, the Conseil d'État held that the authorities may refuse entry to foreign nationals who declare that they are minors, when this is manifestly not the case. To this end, they may supplement the information available to them by seeking the opinion of officers of the department, which is the authority responsible for child welfare and the protection of children at risk. These specially trained officers may issue their opinion following an interview with the person claiming to be a minor The Conseil d'État specified that this arrangement may only be used to verify that foreign nationals claiming to be unaccompanied minors are not manifestly adults.

On this basis, the Conseil d'État considered the protocol implemented in the Alpes-Maritimes to be lawful.

LEGAL DECISION

Decision No. 500285 of 1st July 2025, "Protection of unaccompanied foreign minors"



Gravelines. Migrants aboard a rigid inflatable boat departing from a French beach for England.

No parliamentary authorisation required for the **UK-France Migration Agreement**

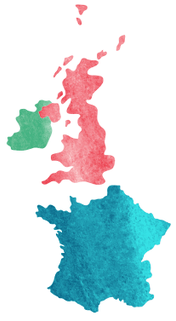
In July 2025, France and the United Kingdom concluded an agreement to deter dangerous Channel crossings. The text notably provides for an experimental "one-for-one" scheme whereby certain persons who have arrived in the United Kingdom or been rescued at sea may be returned to France, whilst an equivalent number may enter the United Kingdom legally and apply for a visa. However, when the agreement was published by decree, several associations brought proceedings before the Conseil d'État. They argued in particular that ratification of the agreement should have been authorised in advance by Parliament through primary legislation.

No modification of a matterfalling within the scope of the law

The Conseil d'État recalled that, under the Constitution, Parliament must authorise the ratification of an agreement or treaty if it covers matters falling within the scope of the law or modifies rules laid down in a law. This is not the case of the UK-France agreement, which is limited to permitting the entry of foreign nationals into France but does not govern the conditions under which they may exercise their fundamental rights and freedoms of constitutional value – such as the right to a normal family life or the right to seek asylum. Recourse to legislation to approve this agreement was therefore unnecessary.

Regarding the content of the agreement, also contested by the associations, the Conseil d'État recalled that it is not for the court to verify whether an international agreement is consistent with the Constitution, or whether it complies with France's international commitments. The application was dismissed. ●

In 2024



85

deaths and disappearances on this migration route

+ 9%

attempted Channel crossings compared with 2023

LEGAL DECISION

Decisions No 508947 and 508948 of 30 December 2025, "Decree publishing the UK-France Agreement on the Prevention of Dangerous Journeys"

The Franco-Algerian Agreement of 1968: an exception to the renewal of residence certificates

Six years after the Évian Accords, on 27 December 1968, France and Algeria signed an agreement governing the movement, employment and residence of Algerian nationals in France. This text provided for a regime derogating from ordinary law. For example, the residence permit for Algerians in France was a "certificate of residence", valid for one to ten years and, in principle, renewed automatically.

Where law and order is threatened, the general rules apply

In 2025, the Prefecture of Paris refused to renew the residence certificate of an Algerian national, on the grounds that he posed a serious threat to law and order. The individual brought proceedings before the Administrative Tribunal of Paris, arguing that this ground is not provided for in the 1968 agreement. Before ruling, the tribunal referred the novel point of law to the Conseil d'État, which responded in October 2025 that whilst the Franco-Algerian agreement does not expressly provide for any restriction on the renewal of a residence certificate, this does not prevent the administrative authorities from applying the general rules of immigration law and refusing to renew a residence permit in order to protect law and order. ●

"Renewal of a resident's permit may be refused to any foreign national whose presence constitutes a serious threat to law and order."

Article L. 433-2 of the French Code on the Entry and Stay of Aliens and the Right to Asylum



Prades. Nationality application forms and residence permit application forms at a sub-prefecture in the Pyrénées-Orientales.

LEGAL DECISION

Decision No. 504980 of 28 October 2025, "Refusal to renew a ten-year residence certificate"

IN BRIEF

Acquisition of nationality: recommendations for reform of the rules

In 2025, the Conseil d'État was consulted by the Government on a draft decree concerning the conditions for acquiring French nationality, whether by marriage or by naturalisation. The Government's draft provided in particular for spouses of French nationals to be required to provide an attestation of their knowledge of French history, culture and society. The Conseil d'État rejected this measure: the law requires only a sufficient knowledge of the language. Under the Constitution, rules on nationality fall within the scope of the law. The Government may not therefore add a condition not provided for by law. The Conseil d'État did, however, allow for one change: in the context of a naturalisation procedure, a personal interview with the applicant will no longer be mandatory where it is apparent from the file that naturalisation will not be granted. It reiterated that naturalisation is not an automatic right and remains a discretionary act of the State. The interview is designed to assess the applicant's degree of integration, not to provide an adversarial exchange. If, having regard to the documents on file and the findings of the inquiry, the prefect considers that naturalisation should not be granted, the interview serves no useful purpose. Even in the absence of an interview, the applicant's rights remain guaranteed: a refusal decision may be challenged before the administrative authorities and, where appropriate, before the administrative tribunals and courts. ●

ADVISORY OPINION

Opinion of 24 June 2025 on a draft decree amending Decree No. 93-1362 of 30 December 1993 on declarations of nationality and decisions on naturalisation, reinstatement, loss, forfeiture and withdrawal of French nationality

SECURITY: AN IMPERATIVE TO RECONCILE CIVIL LIBERTIES

Terrorism, organised crime, drug trafficking... In response to threats to the safety of persons and property, public authorities and administrative authorities are adapting their means of action. When proceedings were brought before it in 2025, the Conseil d'État ensured that the measures taken were necessary, proportionate and strictly suited to the circumstances.



Perpignan. Border police checking passengers on a train arriving from Spain.

A new European framework for the **reinstatement of border checks**

Following the terrorist attacks of November 2015, France reinstated controls at its internal borders, by way of derogation from the principle of free movement guaranteed within the Schengen Area. Renewed every six months since then, this arrangement was extended again in October 2024. – at a moment when new European rules had just been adopted.

In October 2024, the French government reintroduced controls at the internal borders of the Schengen Area, for six months, from 1st November 2024 to 30 April 2025. Several associations considered that this decision was contrary to a new regulation adopted by the European Union in June 2024, which provides for a maximum duration of three years for derogations from the principle of free movement. In their submission, since controls had been in place since 2015, the maximum duration had already been exceeded. The associations brought proceedings before the Conseil d'État.

LEGAL DECISION

Decision No. 499702 of 7 March 2025, "Reinstatement of border checks"

A fresh reintroduction, not an extension

The Conseil d'État first reiterated that the new Schengen Regulation applies only to decisions taken after its entry into force on 10 July 2024. For this reason, it held that the Government's decision of October 2024 constituted a fresh reintroduction of border controls for six months within this new framework, and not an extension of the controls reintroduced since 2015. The three-year maximum period therefore runs from 1st November 2024.

A reinstatement justified by the severity of the risks

The court further noted that the Government had decided to reintroduce border controls in response to two serious threats to law and order and national security: the terrorist threat and the activities of criminal people-smuggling networks organising illegal immigration. These threats are explicitly mentioned in the European regulation as grounds permitting the reintroduction of border controls. Taking account of the severity of the risks – especially in relation to the international situation – the Conseil d'État held that the Government's measure was justified. It also observed that the manner in which the controls are implemented makes it possible to limit their impact on the movement of persons and the transport of goods, as required by the Schengen Regulation.

IN BRIEF

2030 Winter Games: justified and regulated measures

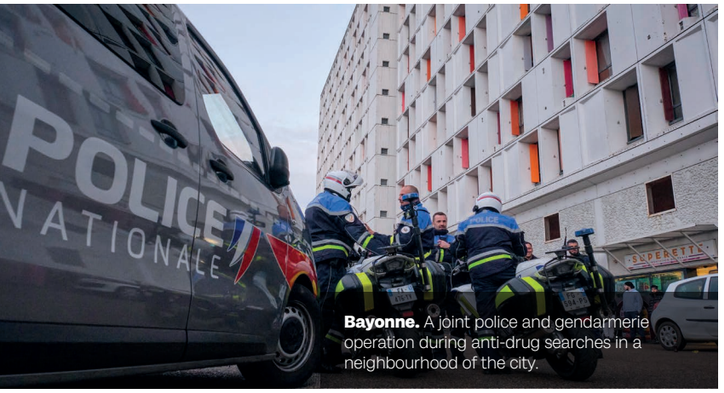
The 2030 Winter Olympic and Paralympic Games will be held in the French Alps. To ensure their security, a bill proposed extending certain arrangements put in place for the Paris 2024 Games, including the power to prohibit certain individuals from accessing venues hosting major events. In the Conseil d'État's view, this measure is sufficiently circumscribed: it is designed to prevent terrorist acts, applies for a maximum of two months and to specific locations. Provision is also made to take account of individuals' personal and professional circumstances, and each access ban may be challenged individually on an urgent basis before the administrative tribunals and courts The Conseil d'État also considered that the experimental use of artificial intelligence-assisted video surveillance to detect high-risk situations at major events may be extended until 2027. This will make it possible to decide whether to maintain or discontinue the system for the 2030 Games in particular Whilst its effectiveness remains inconsistent, the system has demonstrated genuine operational utility in certain cases and is subject to strict regulations, notably with regard to the protection of data and civil liberties.

ADVISORY OPINION

Opinion of 13 May 2025 on a Bill concerning the organisation of the 2030 Olympic and Paralympic Games and making permanent certain arrangements introduced for the 2024 Olympic and Paralympic Games

Combating drug trafficking and organised crime: improving the regulation of the proposed measures

In response to the growth of drug trafficking and organised crime, a bill debated in Parliament in Parliament in early 2025 aims to equip the authorities with new tools. The Government consulted the Conseil d'État for its opinion on two proposed amendments it was considering tabling.



Bayonne. A joint police and gendarmerie operation during anti-drug searches in a neighbourhood of the city.

On 13 March 2025, the Conseil d'État set out its recommendations to ensure that the two texts comply with the French Constitution and European law, and strike the right balance between the preservation of law and order and the rights of the defence.

A "sealed file" to be strictly limited

The first proposed amendment provided, in the context of criminal investigations, for certain information relating to the use of special investigative techniques (interception, data capture, etc.) not to be included in the case file. This information would instead be recorded in a separate record, or "sealed file", which the accused and their defence team would be unable to access. In the Conseil d'État's view, this arrangement may be permitted provided it is strictly regulated and clearly defined: its sole purpose must be to protect the identity of those who participated in the special investigative operations. The number of items of information it contains must be very limited and all other information must remain accessible to the defence. Recourse to this exceptional arrangement must also be explicitly justified in the application for judicial authorisation. The Conseil d'État accepted that, in wholly exceptional circumstances, items from the sealed file may be used as the basis for a prosecution, provided a judge so authorises by a reasoned decision, and only where this is absolutely necessary to establish the truth and protect individuals. In June 2025, following the passage of the law, the Constitutional Council upheld the principle of the "sealed file" but ruled out the possibility of a conviction based on items from that file.

High-security wings: an scheme requiring clarification

The second proposed amendment provides for the creation of high-security wings for the most dangerous prisoners. The Conseil d'État recommended clarifying that these wings are designed to prevent prisoners from maintaining or establishing links with criminal and organised crime networks. It recommended reducing the initial period of assignment to two years rather than four, whilst permitting the renewal of this period. It also emphasised the need to clarify that communications with legal counsel are not affected by the restrictions on communications.

The Conseil d'État also took the view that video-conferencing may be carried out systematically for hearings and court appearances, given the risks of escape or public disorder during transfers, but only for prisoners held in high-security wings. However, it specified that the judge must always retain the power to require a physical appearance, and that the technical arrangements must fully guarantee the rights of the defence.

ADVISORY OPINION

Opinion of 13 March 2025 on a proposed Government amendment to Article 16 of the bill aimed at extricating France from the grip of drug trafficking

Opinion of 13 March 2025 on the management of detained persons who are members of organised criminal networks and on the increased use of audiovisual telecommunications



Saint-Ouen-sur-Seine. A curfew for minors under 16 has been in force since July 2025.

A curfew to tackle juvenile delinquency

In July 2025, the Mayor of Saint-Ouen-sur-Seine in Seine-Saint-Denis imposed a ban on the presence of unaccompanied minors under 16 in certain neighbourhoods of the town between 11.30 p.m. and 6.00 a.m. Introduced until 31 October of the same year, this curfew measure was designed to address a rise in juvenile delinquency. The Ligue des droits de l'homme applied for its suspension on an urgent basis, but the Administrative Tribunal of Montreuil dismissed the application. The association therefore referred the matter to the Conseil d'État.

A regulated and circumscribed measure

The Conseil d'État first reiterated that mayors may exercise their police powers to protect minors and prevent public disorder. In Saint-Ouen, the data shows a rise in violence: the rate of violent offences stood at 19 per 1,000 inhabitants in 2024 in the commune, compared with a national average of 6 per 1,000. According to the data, minors are increasingly involved in criminal acts and offences related to drug trafficking or criminal damage, leading to a significant increase in arrests over the past two years. Between 2024 and 2025, 40% of arrests of minors took place at night. The Conseil d'État further noted that the curfew measure is regulated: it applies only to unaccompanied minors, covers only the public thoroughfares most affected by violence and criminal damage, is limited to specific hours, and is of a defined duration. In the Conseil d'État's view, the applicant association cannot maintain that the curfew is unnecessary, ill-suited or disproportionate. The application for suspension was dismissed.

The lawfulness of measures restricting the freedom of movement of minors for this purpose is conditional upon their being justified by the existence of particular risks of public disorder to which those minors would be exposed or of which they would be the perpetrators [...].

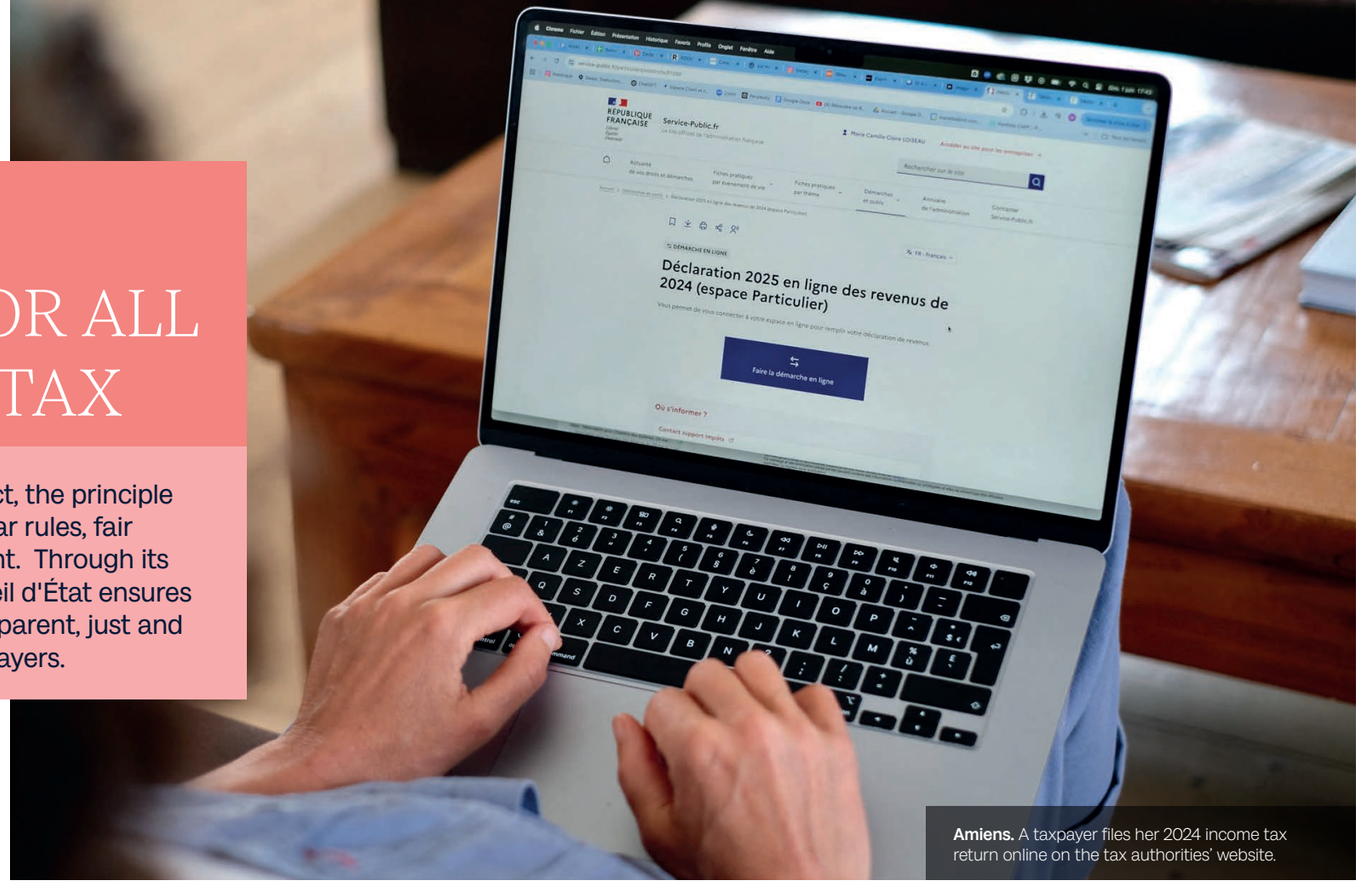
Source: Decision No. 507078

LEGAL DECISION

Decision No. 507078 of 09 October 2025, "Curfew for minors"

TAXATION: EQUALITY FOR ALL UNDER THE TAX

At the heart of the republican pact, the principle of consent to taxation implies clear rules, fair procedures and effective oversight. Through its opinions and decisions, the Conseil d'État ensures a tax system that is at once transparent, just and respectful of the rights of all taxpayers.



Amiens. A taxpayer files her 2024 income tax return online on the tax authorities' website.

All citizens have the right, either personally or through their representatives, to ascertain the necessity of public taxation, to consent to it freely, to oversee its use, and to determine its apportionment, basis, collection and duration."

Article 14 of the Declaration of the Rights of Man and of the Citizen of 1789

Income tax: applying the rules rigorously but fairly

Failure to file a tax return on time exposes the taxpayer to penalties. The tax authorities, for their part, has a duty to warn the taxpayer. In what circumstances may a taxpayer contest a penalty? And how far may the administration impose penalties without taking personal circumstances into account?

In 2025, the Conseil d'État examined two cases concerning taxpayers who had been penalised for failing to comply with their reporting obligations. In both cases, it clarified the rules to be followed in order to ensure a procedure that is both rigorous and fair.

A burden of proof shared between the tax authorities and the taxpayer

In the first case, a taxpayer brought proceedings before the administrative courts, claiming never to have received a formal notice to file the missing return or to remedy the failure to file. This step is essential: it is a condition precedent to the administration's power to impose penalties. The Conseil d'État specified that where a taxpayer claims that the registered letter containing the formal notice was not received, it is for the tax authorities to prove that the letter was duly presented by the postal service at the taxpayer's address and that, if it could not be delivered, it was held available at the post office for fifteen days, with the taxpayer having been duly notified. The tax authorities must rely on specific evidence: a delivery notice, an acknowledgement of receipt, a postal certificate, etc. If such evidence has been provided, it is incumbent on the taxpayer to prove that they have attempted, unsuccessfully, to collect the letter within the relevant period – for example, by means of a certificate from the postal service.

In this case, the Administrative Court of Appeal of Nantes – which had ruled before the Conseil d'État – had found that the formal notice had not been properly served, but without verifying that the taxpayer had in fact attempted to collect the letter. The court had erred in law and must reconsider the case.

Penalties that must take account of individual circumstances

In the second case, a taxpayer had failed to file a return despite two formal notices. The administration applied an automatic tax assessment procedure together with a 40% surcharge. The Conseil d'État confirmed that in the absence of a return by the taxpayer, the law authorises the tax authorities to assess the tax themselves by way of the ex officio assessment procedure.

However, it reiterated that penalties cannot be automatic. In this case, the taxpayer was suffering from a mental impairment that prevented him from managing his personal affairs and administrative procedures unaided. He could not be held responsible for his failure to respond, as evidenced by a medical certificate drawn up during that period, which would moreover contribute to his being placed under enhanced legal guardianship a few weeks later. The ex officio tax assessment was upheld, but the Conseil d'État quashed the penalties.

79%

of French people regard the payment of taxes as a civic act

Source: Barometer of tax and social levies in France, 2nd edition, 2023, Conseil des prélèvements obligatoires

LEGAL DECISION

Decision No. 493127 of 18 February 2025, "Formal notice to the taxpayer"

and No. 495374 of 22 July 2025, "Ex officio taxation in cases of non-filing"

FIND OUT MORE

Consent to taxation: a pillar of the republican pact

The principle of consent to taxation was born of the French Revolution, in response to the arbitrary taxation of the Ancien Régime. It is enshrined in the Declaration of the Rights of Man and of the Citizen of 1789, which provides that no tax may be levied unless decided upon by citizens through their representatives.

Today, any creation, modification or abolition of a tax must be voted on by Parliament. No tax or tax relief is possible without legislation — this is the principle of fiscal legality. Each year, Article 1 of the Finance Law authorises the State to collect taxes.



The collection of taxes is one of the responsibilities of the Ministry of the Economy and Finance.

"CumCum" schemes: stronger measures **to combat tax avoidance**

Dividends paid by a French company to foreign investors are subject to withholding tax. However, arrangements known as "CumCum" arrangements enable the avoidance of this obligation by temporarily transferring the securities to intermediaries not subject to this tax. To address this problem, the Senate adopted several measures during the debates on the 2025 Finance Law. The Government consulted the Conseil d'État on their scope in January.

Recommendations to consolidate the measures adopted

In its opinion, the Conseil d'État noted that these measures make it possible to target the "beneficial owner" of the dividends, i.e. the person who actually profits from them. They also strengthen the anti-avoidance mechanism by making it possible to treat as dividends income that has been disguised in another form. These two instruments must, in the Conseil d'État's view, be used in conjunction to prevent circumvention. The Conseil d'État considered that the concept of "transfer of value" – introduced by the Senate to target complex financial arrangements – must be defined more precisely so as to cover all transactions, whether direct or indirect, resulting from a single transaction or a chain of transactions.

It also recommended specifying that where withholding tax is applied on a precautionary basis to investors benefiting from an exemption under a double taxation treaty concluded with France, they must be able to obtain a refund if they satisfy the relevant conditions. Lastly, it clarified that for transactions carried out on regulated markets, withholding tax applies in particular where the transaction was organised in advance or where concrete evidence reveals a CumCum arrangement.

ADVISORY OPINION

Opinion of 27 January 2025 on a draft reinforced mechanism concerning the application of withholding tax to dividend arbitrage transactions known as "CumCum" schemes.

Combating fraud: new measures that are circumscribed and justified

Information sharing, access to sensitive data, stronger sanctions: a bill on tax and social security fraud expands the range of oversight tools. Having been consulted for its opinion, the Conseil d'État defined the limits of these measures to ensure a balance between effectiveness and the protection of rights.

In 2024, €16.7 billion of tax fraud was detected and reclaimed. In October 2025, the Conseil d'État was consulted on a bill aiming to strengthen the prevention, detection and prosecution of tax and social security fraud.

Regulated information sharing with the supervisory authorities

The bill provides for a strengthening of information exchanges between administrations, notably to enable customs officers and tax officials to transmit relevant information obtained during the course of criminal investigations to supervisory authorities. The Conseil d'État considered that this breach of investigative confidentiality is justified on grounds of public interest and remains proportionate.

The bill also allows certain social security bodies to access tax and asset data (such as property registers and life insurance files) for the purposes of oversight and recovery, through authorised officials. However, the Conseil d'État recommended that the traceability of data access be guaranteed and that it be made clear that information collected must be destroyed after a specified period.

A further measure provides for the transmission of information by the judicial authorities to the French Financial Markets Authority (Autorité des marchés financiers). The Conseil d'État considered that this transmission is aimed at identifying the perpetrators of offences and preventing breaches of law and order, that it is limited to relevant information only, and that it is subject to the favourable opinion of the investigating judge.

Penalties justified by their objectives

The Conseil d'État noted that the Bill also provides for income presumed to derive from illegal activities to be subject to the general social contribution (contribution sociale généralisée – CSG) at a rate of 25%. Since this specific tax is designed to deter unlawful transactions, it cannot be regarded as a breach of the principle of equality before the tax laws.

At the same time, the bill proposes increasing the penalty for the offence of fraud committed by an organised gang to the detriment of the public finances to fifteen years' imprisonment. The Conseil d'État considered that this sentence is proportionate to the seriousness of the offence but noted that its effectiveness is not guaranteed, given the difficulty experienced by the recently established departmental criminal courts in adjudicating the large number of cases brought before them.

Finally, the bill provides for the authorisation of special investigative techniques for the investigation and prosecution of tax fraud offences. In view of the seriousness and complexity of the offences, as well as the framework provided for these special techniques, the Conseil d'État considers that this authorisation does not constitute an excessive infringement of the rights and freedoms guaranteed by the French Constitution.

Tax fraud in 2025



ADVISORY OPINION

Opinion of 11 September 2025 on a bill to tackle social security and tax fraud

DEMOCRATIC LIFE: AN ESSENTIAL FRAMEWORK TO BE UPHELD

Democratic life is underpinned by a legal framework designed to guarantee the integrity of elections, the proper functioning of institutions and respect for the principles of the French Republic. This framework governs the conduct of elections, the exercise of representative democracy and the institutional organisation of the territories. In 2025, the Conseil d'État ensured, through its opinions and decisions, that these rules were upheld.



Paris. A show of hands during the debate on the 2026 Finance Law November 2025.

70 days

The time available to the National Assembly and the Senate to discuss and adopt the Finance Bill each year

Adoption of the Finance Law: what solutions are available when the timetable is disrupted?

The Finance Law sets the State budget each year. Its adoption follows a strict timetable, but this framework may be put under strain in periods of political instability. Consulted on two occasions, the Conseil d'État clarified the possible room for manoeuvre. How can continuity of public action be guaranteed if this timetable is disrupted?

Each year, the Finance Bill must be tabled by the Government in the National Assembly no later than the first Tuesday in October. Parliament then has seventy days in which to examine and adopt it. This timetable is set by the French Constitution and by the Organic Law on Finance Laws (Loi organique relative aux lois de finances – LOLF). In 2025, this timetable could not be met: the Government resigned on 6 October, on the eve of the tabling deadline. The Prime Minister was reappointed on 11 October and formed his second Government on the following day. Could the Finance Bill be tabled late, thereby shifting the parliamentary debate schedule?

An additional period for tabling the Finance Bill

Consulted by the Prime Minister on 11 October, the Conseil d'État examined this question. It noted that the case law of the Constitutional Council confirms that the early-October deadline is designed to allow Parliament sufficient time to examine the text, and that what matters above all is preserving the overall seventy-day period for the quality of the budgetary debate. It emphasised that the constitutional objective is not so much strict adherence to a deadline as the guarantee of a substantive and informed parliamentary debate.. The possibility of allowing the Constitutional Council eight days to rule if the matter is referred to it must also be guaranteed.

In view of these requirements, the Conseil d'État accepted that a short delay in tabling is permissible, provided that it does not call into question the overall balance of the budgetary procedure: tabling on 13 or 14 October would allow the examination and adoption process to proceed within the framework provided for by the Constitution. It invited the Government to act as swiftly as possible to table the Bill and all its annexes in the National Assembly, which was done on 14 October.

A special law pending the adoption of the 2026 budget

At the end of the year, following the parliamentary debates, the joint committee tasked with proposing a common text was unable to reach agreement. The debate continued and the adoption of the 2026 Finance Law before 1st January was jeopardised. Without an approved budget, the State would be unable either to collect taxes or to meet its expenditure in 2026. The Government therefore sought the opinion of the Conseil d'État on a Special Finance Bill that would allow it to continue collecting taxes pending the Finance Law.

The Conseil d'État took the view that whilst the situation does not correspond exactly to that provided for by the Constitution – namely, the late tabling of a bill – the Government may draw on the established rules and propose to Parliament the adoption of such a special law. It considered in particular that this mechanism reconciles compliance with constitutional requirements with the principle of continuity of national life, by preventing an interruption to the State's revenue and expenditure. The arrangement thus guarantees continuity of public services whilst allowing parliamentary debates to continue. The Special Law was adopted on 23 December 2025, and the 2026 Finance Law was definitively adopted on 19 February. ●

ADVISORY OPINION

Opinion of 11 October 2025 on the Finance Bill for 2026

Opinion of 19 December 2025 on a Special Finance Bill authorising the Government to continue levying existing taxes pending adoption of the 2026 Finance Law

Ineligibility with provisional enforcement: should a Member of the European Parliament be stripped of their seat?

Certain convictions resulting in ineligibility are accompanied by provisional enforcement and apply immediately, without suspension in the event of an appeal. An elected representative currently in office may lose their seat during their term. In 2025, the Conseil d'État clarified the rule applicable to Members of the European Parliament.



Strasbourg. Plenary session of the European Parliament in the chamber where Members of the European Parliament sit.

A non-final conviction

In March 2025, two French Members of the European Parliament were convicted by the Paris Court of Justice and sentenced to periods of ineligibility with provisional enforcement. A voter brought the matter before the Conseil d'État, requesting that the Prime Minister issue a decree to have them immediately stripped of their seats. The Conseil d'État recalled first that whilst these sentences of ineligibility take immediate effect, they are not final, as both individuals had appealed against their convictions.

A regime aligned with that applicable to national parliamentarians

The Conseil d'État then examined the applicable rules of law. It noted that the 1977 Law on the election of representatives to the European Parliament sets out to apply the same rules on ineligibility to Members of the European Parliament as to Members of the French National Assembly and Senators. The Conseil d'État also noted that Members of the European Parliament participate in the development of European Union law and exercise supervisory functions, in particular vis-à-vis the European Commission. They also enjoy an immunity scheme that is identical to that recognised for national parliamentarians.

In this context, the Conseil d'État held that a sentence of ineligibility with provisional enforcement is not sufficient to terminate the term of office of a Member of the European Parliament. Only a final judicial decision can result in the loss of a seat. The application was dismissed and the two elected representatives retained their seats pending a final conviction. ●

Where a person is sentenced to disqualification from standing for election with immediate effect, the penalty applies at once, even if the person appeals against the decision. That person may then no longer stand for election. They may also lose their local mandates, such as that of a councillor. For members of the National Assembly and the Senate, the rule is different. As the Constitutional Council has consistently held, such a penalty does not automatically terminate their current term of office. Due to the specific institutional role of these elected representatives, only a final conviction can lead to them being stripped of their seat. But what about Members of the European Parliament?

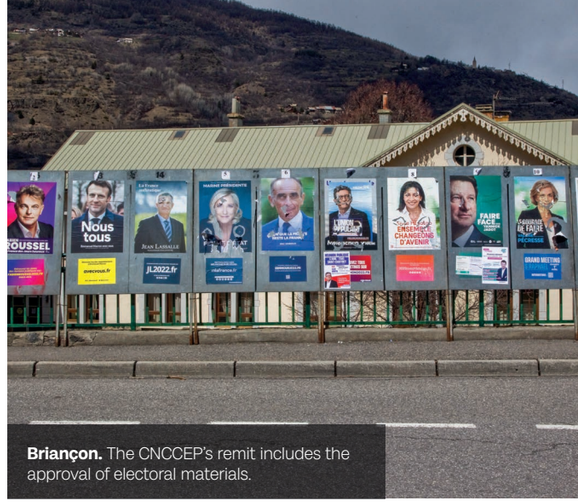
15,723

sentences of ineligibility handed down in France in 2024

LEGAL DECISION

Decision No. 505689 of 17 October 2025, "Ineligibility with provisional enforcement"

Oversight of the electoral campaign and transparency



Briançon. The CNCCEP's remit includes the approval of electoral materials.

The National Commission for the Oversight of the Presidential Election Campaign (Commission nationale de contrôle de la campagne électorale en vue de l'élection présidentielle – CNCCEP) is responsible for ensuring that the campaign is conducted properly. In particular, it intervenes to prevent or put an end to situations that could undermine equality between candidates. Are documents relating to its work accessible to the public? In 2025, the Conseil d'État clarified the applicable rules.

On 9 April 2022, the eve of the first round of the presidential election, the Commission asked a media outlet to remove a text published on its website, on the grounds that it appeared to constitute the electronic dissemination of electoral propaganda material, which is prohibited in the hours preceding the vote. It also contacted a social network to have it cease displaying posts linking to texts critical of candidates in the election, published by the media outlet and its journalists. A journalist applied for access to the exchanges and correspondence that had led the CNCCEP to take these measures. The Commission refused to provide them. The journalist brought proceedings before the Conseil d'État.

Administrative documents that must be disclosed

The Conseil d'État held that documents produced or received by the CNCCEP in the exercise of its public service remit constitute administrative documents. These documents are not covered by any legally protected form of confidentiality, and their disclosure would not be liable to jeopardise the detection or prevention of offences. They must therefore be made available to any person who requests them, as provided for by the Code Governing the Relationship Between the Public and the Administrative Authorities.

This disclosure must, however, be subject to appropriate safeguards: certain information must be redacted, especially that identifying the individuals who submitted reports, or containing personal data. The Conseil d'État ordered the CNCCEP to disclose the documents requested by the journalist. ●

LEGAL DECISION

Decision No. 474032 of 7 February 2025, "Documents relating to the CNCCEP's activities must be disclosed"

IN BRIEF

French, **the language of public authorities**

Does the Constitution prohibit the use of any language other than French in the proceedings of a public authority? In 2021 and 2022, the Assembly and the Executive Council of Corsica adopted standing orders providing for the use of both Corsican and French in their various activities. The prefect challenged these texts before the Administrative Tribunal of Bastia, which quashed them. The Corsican authority appealed against this decision and then brought proceedings before the Conseil d'État. In June 2025, the Conseil d'État upheld the tribunal's decision. The court reiterated that the purpose of the standing orders adopted by the Assembly to set out the arrangements for its operation is not to determine which language may be used in its proceedings. Above all, Article 2 of the Constitution is unambiguous: "*The language of the Republic is French.*" The case law of the Constitutional Council is equally clear on the subject: French is the required language of public authorities. The obligation to use French in the proceedings and decisions of a public authority, which derives directly from the Constitution, does not infringe the other rights and freedoms it guarantees, such as freedom of expression or the principle of local self-government. ●

LEGAL DECISION

Decision No. 500720 of 5 June 2025, "Use of French in the proceedings of a public authority"



Ajaccio. The President of the Corsican Assembly, Gilles Simeoni, speaking prior to the vote on Corsica's autonomous status within the French Republic on 27 March 2024.

Towards autonomous status for Corsica?

The Government is considering enshrining autonomous status for Corsica in the Constitution, in order to better reflect the island's specific characteristics. How can this autonomy be reconciled with the principles of the Republic?

In May 2025, the Government submitted to the Conseil d'État a draft constitutional amendment creating a new Article 72-5 of the Constitution. The text aims to grant Corsica autonomous status, taking account of "its specific interests, linked to its Mediterranean insularity and its historical, linguistic and cultural community, which has developed a unique bond with its land".

Recognising "inhabitants" rather than a "community"

The Conseil d'État first examined the compatibility of this status with the organisation and principles of the Republic. The draft constitutional amendment provides that Corsica would remain a decentralised authority with a status governed by law and subject to European law but endowed with extended powers. Whilst this is an unprecedented model, it is not in itself contrary to the fundamental principles of the Republic.

The Conseil d'État nonetheless recommended clarifying some wording. In particular, it highlighted that the reference to a Corsican "community" raises questions. This concept could conflict with the universalist principles underpinning the Republic, such as equality before the law, the indivisibility of the Republic and the unity of the French people, as well as with European Union law. It proposed wording focusing on the historical, linguistic, cultural and social "characteristics of its inhabitants".

Clarifying the scope of the transfer of powers

Another key point concerns the extent of the powers to be conferred on Corsica. The draft provides for an organic law to enable the authority to adapt national laws and regulations, beyond the powers ordinarily available to local authorities. The Conseil d'État drew attention to the very broad scope of this measure. It noted that in the absence of sufficient precision, this would amount to an unlimited transfer of powers that could create uncertainty as to the respective prerogatives of the national and local authorities, and cause significant disruption to the rule of law.

Since this does not appear to correspond to the Government's intention, the Conseil d'État invited it to circumscribe this transfer of powers more precisely in its draft. The Conseil d'État recommended specifying that an organic law will determine the fields and conditions in which the Corsican authority may be empowered, by law or regulation, to lay down rules. It also recommended defining the fields that must be excluded from this empowerment, such as civic rights and nationality, the organisation of justice, foreign policy and electoral law. ●

ADVISORY OPINION

Opinion of 17 July 2025 on a constitutional bill for an autonomous Corsica within the French Republic

A new institutional framework **for New Caledonia?**

In July 2025, the Bougival Accord established the basis for a new status for New Caledonia. Its implementation requires a constitutional amendment. The Conseil d'État, consulted by the Government, examined its coherence, clarity and the conditions for consulting the populations concerned.

Building on the Noumea Accord of 1998, the Bougival Accord provides for the creation of a State of New Caledonia integrated into France, a Caledonian nationality, further transfers of powers and the opening up of the electoral roll. Consulted in 2025, the Conseil d'État examined the constitutional bill giving effect to the agreement. It first recommended revising the wording considered ambiguous in relation to the two agreements and providing a more comprehensive reference to the guiding principles they set out.

This agreement constitutes a new step on the path to decolonisation and emancipation, in accordance with democratic principles and the rule of law. The right to self-determination remains guaranteed by international law.

Accord de Bougival, Le pari de la confiance, 6 September 2025

A precise and legally sound electoral and political framework

The Conseil d'État noted that the Bougival Accord would be approved only by a restricted electoral body, corresponding to the special electoral list already used in previous consultations. This type of derogation has previously been held to be consistent with the Constitution and compatible with France's international commitments. The Conseil d'État noted that the creation of the "State of New Caledonia" is accompanied by a significant extension of local powers. It took the view that the use of the term "State" raises no objection, provided the text clearly states that this refers to a specific form of organisation within the overall French national framework.

Ensuring coherence of powers and placing Fundamental Law on a sound footing

The Conseil d'État indicated that the organic law responsible for implementing the reform will need to settle the allocation of sovereign and, where applicable, non-sovereign powers. It emphasised the need to preserve the coherence of this allocation and to make clear that these transfers must be approved by the electorate.

The Conseil d'État then examined the future "Fundamental Law" (Loi fondamentale) to be adopted by the deliberative assembly of New Caledonia. Its inclusion in the Constitution seeks to enshrine the territory's capacity for self-organisation in matters of governance, the adoption of identity symbols, Caledonian values and a civic code. The Conseil d'État reiterated, however, that this "Fundamental Law" must comply with the French Constitution, the Noumea and Bougival Accords, the applicable international commitments and the Organic Law. It considered that mandatory review by the Constitutional Council prior to publication was justified.

The granting of Caledonian nationality to be clarified

Finally, the Conseil d'État emphasised that Caledonian nationality may only be attributed to persons of French nationality, upon application. It recommended specifying the authority responsible for verifying that the conditions are met in the Organic Law. It is nationality that will, in future, determine eligibility for inclusion on the electoral roll. ●

ADVISORY OPINION

Opinion of 1st October 2025 on a draft constitutional bill establishing the State of New Caledonia and setting out its political and institutional organisational framework

HOW SHOULD PUBLIC ACTION BE ANCHORED IN THE **LONG**

Beyond its roles as a court and as a legal advisor to the Government, the Conseil d'État also carries out a forward-planning role. Drawing on its legal expertise and its knowledge of public policies, it produces studies proposing practical and readily implementable solutions for decision-makers. In 2025, it devoted its annual study to the question of anchoring public action in the long term, at a time when day-to-day concerns and the urgency of successive crises often take precedence over long-term challenges.



Orly. Opening of a new Greater Paris Express station. Delivery of the project, which has been in the pipeline since 2008, will continue until 2030.

The study entitled "Anchoring Public Action in the Long Term", published in 2025 by the Conseil d'État, assesses the difficulties faced by the State in long-term planning. It sets out twenty proposals designed to ensure that long-term considerations are given their proper place in public action.

The Conseil d'État points out that although the need for swift action has always been a democratic imperative, dating back to the French Revolution itself, the natural scope of public policy is to anticipate major trends. Today, however, more than ever before, public action is caught up in the flow of day-to-day events and the unpredictable urgency of crises, which require immediate responses and reinforce the natural tendency to focus on managing the present. The advent of social media and 24-hour news channels has intensified this pressure for short-term responses and has made public policy even more centred on immediacy and reactivity. The growing polarisation of public debate is making it increasingly difficult to achieve compromise and consensus, even though it is essential to establish objective and shared assessments in order to define durable policy directions.

Reconnecting with the long term in the age of immediacy

Given this crisis in long-term planning, how can a steady course be maintained? The study highlights a number of public policies that have succeeded in standing the test of time, achieving long-term objectives and ensuring continuous monitoring over an extended period:

- **The France Très Haut Débit** (Very High-Speed Broadband France) plan was rolled out between 2013 et 2025, bringing about a lasting transformation in digital access nationwide. Its success was based on substantial funding commensurate with the scale of the challenges involved, together with a partnership between the State, local authorities and private operators.

- **The Greater Paris Express project,** setting out to create 200 kilometres of new automated metro lines and 68 stations around Paris, was intended both to improve transport and to structure the development of the Île-de-France metropolitan area. It was launched in 2008 with a view to full commissioning in 2030, and debt management is scheduled to continue until 2070. The project is still currently being rolled out.

2025 Annual Study



5
conferences with debates



200
French and international figures heard



"
RÉMY SCHWARTZ,
President of the Studies, Prospective Studies and Cooperation Section of the Conseil d'État

To produce this study, we interviewed more than 200 experts and stakeholders from all walks of life, both in France and internationally, in order to compare analyses and identify the conditions for public action over the long term. The result is a precise assessment and some twenty concrete, primarily operational recommendations, with a single aim: to make public policy more effective.

Three studies analysing three dimensions of public action



The Conseil d'État's 2025 annual study concluded a three-year cycle of reflection devoted to the fundamental dimensions of public action. After examining the territory in which public action unfolds in 2023, and the space in which it asserts sovereignty in 2024, the Conseil d'État turned its attention to the temporal dimension of public action in 2025.

THE USER

The effectiveness of public policy depends on its ability to reach those for whom it is designed – the users – nationwide, down to the last kilometre.

- The user, from the first to the last mile, 2023 study

SOVEREIGNTY

Sovereignty refers to the State's capacity to act on behalf of the population and across the national territory in a world characterised by interdependence and conflict.

- Sovereignty, 2024 study

TIME

Public action must combine a tangible impact on the daily lives of the French people, and responses to urgent crises, with a long-term vision.

- Anchoring public action in the long term, 2025 study



CHRISTINE LAVARDE,
Senator for Hauts-de-Seine (since 2017) and President of the Senate Forward Studies Delegation (since 2023)

Members of Parliament are subject to the vagaries of the short term and to the need to respond to the political, economic or social urgencies of the moment. The work of the Senate Forward Studies Delegation enables them to adopt a long term perspective. We reflect collectively on how society may evolve in light of ongoing technological and societal developments. We analyse the opportunities and risks arising from these changes, so that legislators and citizens can make the right decisions.



PATRICE VERGRIETE,
Mayor of Dunkirk and President of the Dunkirk Urban Community (since 2014)

In response to the difficulties Dunkirk was experiencing ten years ago, we brought together all the local stakeholders to jointly develop an industrial project that would create jobs. We knew this would not happen overnight and that we needed to anticipate the industry of tomorrow. The results we are seeing today are the fruit of a long-term strategy: a shared vision and ambition, and a commitment from both the business community and the local population.

- **Road safety policy** is based on a shared consensus regarding the objective of reducing road deaths, strong public awareness measures and ongoing coordination of national and local public stakeholders. This approach has borne fruit over time: the number of road deaths has fallen from 18,034 in 1972 – the year the Interministerial Committee on Road Safety was established – to 3,190 in 2024.

Twenty proposals for public decision-makers

To better address the challenge of long-term policymaking, the Conseil d'État has drawn up twenty methodological proposals focusing on three key areas.

First, it calls for democratic institutions to be given their full role. Parliament in particular must play its part fully in defining long-term orientations, using on new tools and procedures. The executive is also called upon to better integrate long-term issues at the upstream stage of its activities and to debate them regularly in the Council of Ministers and subsequently in Parliament. Greater involvement of stakeholders, social partners and citizens in the development of public policy is, for its part, essential.

Several proposals are aimed at making better use of science and expertise to inform long-term choices. The Conseil d'État recommends wider dissemination of scientific knowledge throughout society, from schools to public decision-makers. It calls for more effective use of the specialist advisory councils (haut conseils), in conjunction with the academic and research communities. Developing training in forward studies for as many people as possible would also help to better inform the work of public administrations and public debate.

Lastly, the study calls for public policy to be structured in such a way as to better anticipate and evaluate its implementation. It points to the need to strengthen research and analytical functions within administrative authorities, in order to improve decision-making processes at the ministerial and inter-ministerial levels. It also emphasises the importance of guaranteeing continuity of State action over time, in particular through the introduction of a forward-looking approach to workforce and skills management. Finally, it stresses the importance of the regular evaluation of public policies in developing a qualitative, long-term approach. To provide the necessary stability for public action, the Conseil d'État also proposes that public decision-makers set long-term strategic priorities by sector in education, research, defence, ecological and energy transition, health, and industrial and digital policy. This would help the State to set a clear course and plan for the long term, whilst enabling all citizens to better understand the broad orientations of public policy and to look to the future with greater certainty. ●

STUDY
Annual Study "Anchoring Public Action in the Long Term"



ROSELYNE BACHELOT-NARQUIN,
Minister for Ecology (2002-2004), Health and Sports (2007-2010), Solidarity and Social Cohesion (2010-2012), Culture (2020-2022)

"To place public policy within a long-term perspective, we must build our policies on firm legislative procedures, sometimes raising them to the highest level of the hierarchy of norms – as we have seen with the incorporation of the Charter for the Environment into the constitutional framework. Professionalised expertise in diagnosis and foresight is also necessary. And we need stable political stewardship that is not undermined by repeated changes of government."

PORTFOLIO

BEHIND THE **SCENES** AT THE **CONSEIL D'ÉTAT**

From court hearings and section sittings to the Night of Law and European Heritage Days, including events for younger audiences, discover a selection of photographs capturing everyday moments and highlights from the Conseil d'État's year in 2025.



Litigation Assembly session, 28 November 2025. During the court hearing, the consultant judge presents his conclusions before the judges, lawyers and the public on a case concerning a collective agreement in the civil service.



Annual sitting of the Conseil d'État, 10 September 2025. Didier-Roland Tabuteau, Vice-President, reviews developments in administrative justice and presents the Conseil d'État's 2025 Annual Study *(see pages 56-59)* **to representatives of the Republic's major institutions**



Oath-taking ceremony, 7 May 2025. Before the Vice-President of the Conseil d'État, a newly appointed administrative judge swears to "fulfil [her] duties with complete independence, probity and impartiality, to uphold the secrecy of deliberations, and to conduct [herself] in general with honour and dignity."



Emergency hearing, 4 December 2025. The urgent applications judge questions the parties – an association and its counsel, and the administrative authorities – in a case concerning the reimbursement of electric wheelchairs by the national health insurance scheme.



Finance Section session, 12 December 2025. A reporting judge from the Finance Section presents her analysis of a draft ordinance on the re-codification of VAT.



Third conference in the "Long-Term Perspectives and Public Action" series, 12 February 2025. As part of the preparation of the annual study, a conference entitled "Long-Term Perspectives and Climate Emergencies" was dedicated to the theme.



"Let's Talk Democracy", 20 January 2025. High-school pupils in their final two years at the Lycée Léon Blum in Créteil engage in a discussion with the Vice-President of the Conseil d'Etat following the signing of a partnership agreement with an association named "Parlons démocratie" (Let's Talk Democracy).



Opening of the exhibition entitled "The Conseil d'État at the Heart of the Palais-Royal and the French Republic for 150 Years", 3 July 2025. Consisting of 36 presentation panels, the exhibition invited passers-by to discover how the Conseil d'État has transformed the Palais-Royal and left its mark on the French Republic through its decisions, opinions and studies.



European Heritage Days, 19–21 September 2025. Over three days, 3,650 visitors discovered the Conseil d'État "in a new light" through guided tours, by day and by night, led by members of the institution's staff.



Night of Law, 2 October 2025. Taking part in activities including a careers forum, immersive workshops and mini-debates, nearly 500 students spent an entire evening immersed in the world of administrative justice and exchanged views with practitioners of public law.

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