

# The Defender of Rights

## Executive Summary **Annual Report** **2012**

RÉPUBLIQUE FRANÇAISE

**LE DÉFENSEUR  
DES DROITS**  
defenseurdesdroits.fr



Faire respecter vos droits

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## Foreword

In the two years that it has existed, by its independence and impartiality, the Defender of Rights, an authority having constitutional status, has found its place serving citizens and the common interest, **forging its identity at an equal distance from complainants and from those implicated, the public authority and civil society.**

The effectiveness of its activities is based on dialogue, cooperation and persuasion. **Defender of Rights by law**, with its **recognized legal expertise**, the Institution implements all the resources for action that the law has conferred to it.

In a **society undermined by uncertainties**, the Defender of Rights and its deputies constitute a privileged partner of civil society, the public services, companies, unions and associations, representing those who consider that they have been wronged in their rights and liberties.

In a **society hampered by its complexity**, the Institution's co-workers - permanent and volunteers - are aware that they **daily constitute the last easily accessible resort** to enable everyone, at no cost, to gain access to rights that are essential to guarantee and to make effective.

In a society that gives little interest to anything except the instantaneous and dramatic, the Defender of Rights is willing to act as a **rigorous and attentive guarantor of the citizenship of all**, by implementing the powers conferred upon it by the Constitution to redress those who address it with regards to their rights and freedoms, which are the essence of our democracy itself.



Dominique Baudis  
The Defender of Rights

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The Defender  
of Rights  
**figures**  
& **organisation**

### > over 100,000 requests for intervention or advice

including:

- **82,416 complaint cases representing over 90,000 complainants**
- **31,116 calls** (*azur number 09 69 39 00 00*)

### > ongoing contacts with the public and civil society

- **552,000 Internet visitors for 2.5 million page views**
- **4 periodic newsletters sent to close to 10,000 subscribers**
- **19 meetings of advisory bodies comprised of qualified person**
- **6 permanent discussion committees with civil society, 12 meetings**
- **29 ad hoc working groups with 126 themed meetings**

### > recognised legal expertise

- **82 % amicable settlements incurred by the Institution with favourable conclusion**
- **in 68 % of cases, court decisions confirmed the conclusions in the Institution's findings**
- **90 filings for findings submitted to the courts**

### > successful insertion into the institutional landscape

- **10 hearings conducted before parliament, at its request, in the most varied fields**
- **7 general recommendations sent, in particular, to the Ministry of Justice, the Interior, Social Affairs and National Education**
- **10 memorandums of understanding reached with state prosecutors associated with 54 jurisdictions**

### > staff in the service of rights and freedoms

- **close to 250 co-workers at the headquarters**
- **close to 450 delegates in 650 support/welcome centres throughout the territory**

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## The nature of the Institution's intervention

The Defender of Rights has arranged its modes of intervention around two main functions: PROTECTION of rights and freedoms and PROMOTION of rights and equality.

**“Protect”** is the processing of individual complaints that are submitted to us with the goal of restoring the rights and freedoms of persons who bring them to us.

The duty of Protection of Rights and Freedoms is conducted by the thematic investigation services “Protection of access to goods and services”, “Protection of Persons” and “Social, Labour and Employment Protection” and the transversal departments “Admissibility-Oriented-Access to Rights”, “Legal Expertise and Affairs” and “Territorial Network”.

**“Promote”** is collective and preventive action, the willingness to change practices so that they are in compliance with the law, and even, when justified, changing the law itself, in particular when it contravenes international conventions to which our country is committed.

The duty of Promotion of Rights and Equality is especially associated with the work of the “Promotion of Rights and Equality” department, the “Territorial Network” department and the European and International Affairs Service.

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## The Institution's modes of intervention

The Defender of Rights has set up an organisation of its services and pooled skills among its co-workers, preferring transversality and collaboration between its agents to fulfil its duty.

Complaint files are allocated to thematic clusters based on the departments and depending on the subject of the complaint. It is up to them to proceed with the useful legal qualifications, mobilise the necessary resources for inquiry and propose the most relevant methods of legal intervention.

The clusters are:

- Judicial and criminal affairs
- Access to private goods and services
- Ethics
- Taxation
- Public employment
- Justice
- Private employment
- Health
- Public affairs
- Rights of the Child
- Social protection and solidarity

On completion of the investigation and if applicable after consultation with one of three competent bodies, the Defender of Rights may make an individual or general recommendation, so as to guarantee respect for the rights and freedoms of the aggrieved person, to settle the difficulties raised or to prevent them from recurring, in particular by using its power of proposing reform of practices or legal provisions. These recommendations take the form of decisions.

To read the full texts of decisions by the Defender of Rights: <http://www.defenseurdesdroits.fr/sinformer-sur-le-defenseur-des-droits/espace-juridique>

### **Strengthened investigatory power:**

- Requests for explanations
- The right of communication of information and documents and communication of evidence
- The power to conduct a hearing
- The right to inspect or audit on site
- The power to make a formal demand

Obstacles raised to the Defender of Rights performing its duties may constitute an offense of obstruction.

### **Extremely diverse resources for legal intervention:**

#### **From seeking amicable settlement...**

- mediation
- transaction settlement
- fair settlement

#### **... to support for penalty**

- observations made to the courts
- requests for disciplinary sanctions
- transmission of information to administrative or legal authorities
- recommendations made by the Defender of Rights may be subject to injunctive relief and give rise to public release of special reports
- ability to make proposals for legislative or regulatory reform

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# Presentation

A community institution present throughout the territory through its network of delegates<sup>1</sup>, the Defender of Rights offers its protection to everyone to try to prevent abuses of rights so as to ensure their effectiveness. Thus the message that it brings about the requirement to respect fundamental rights is fuelled by a thousand and one situations, often synonymous with daily obstacles or difficulties, which are brought to its attention by complainants.

A promoter of respect for rights and equality, it uses the significant powers devolved upon it by the organic law of March 29, 2012, in constant care for reparation and appeasement, and also for reaffirmation of the fundamental rights of persons. Thus, the Defender of Rights' activities draw their force and legitimacy from the continuous movement that takes place between handling personal situations on the one hand and on the other hand the discussions and partnerships that it establishes with different partners to which its vast field of intervention is related.

The merger of the four previous authorities has produced an entirely new institution which aims to develop a transversal and specific approach to legal questions raised by the subjects of society to which the Defender of Rights is called, on the initiative of those who call upon it due to their own personal situation and also for the public authorities and civil society in general. This is why, in each of its areas of expertise, the Defender of Rights intends to contribute to the debate by bringing a word imprinted with humaneness, independent and impartial. It relies on the expertise of all its employees, salaried or volunteers, in the service of respect and effectiveness of fundamental rights.

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### **The Defender of Rights, a community institution**

The Defender of Rights is first and foremost an institution at the service of the public, close and accessible.

It has its place close to citizens through a network of nearly 450 volunteer delegates who have office hours throughout the national territory, particularly close to the most vulnerable groups.

Indeed, it is called upon for situations concerning all aspects of life (housing, education, work, health, transport, social relations and recreation...). To best carry out its mission, it is frequently called on to make use of its power of inquiry. This is so that it can properly conduct investigations and visit the scene where the facts described to it occurred, to take into account all the elements necessary for an appropriate response.

Beyond handling individual situations, the Defender of Rights maintains a dialogue with the organisations of civil society, which intervene in support of victims, just as it intervenes to support players in the field (local authorities, companies, donors, etc.) in construction of public access to rights and prevention of discrimination.

Finally, in the light of its experiences, it commits its expertise to suggest or make proposals for legislative or regulatory reforms.

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### **The Defender of Rights, a process of expertise in the service of individual rights**

The diversity of the fields of intervention by the Defender of Rights explains how very different groups call upon it. But it is especially sought out by very vulnerable groups (44% of complainants are single people, complaints from detainees represent 5% of the total of complaints, often brought by isolated people who are welfare recipients, disabled people, single parent families, etc.).

The vulnerability of the people who call upon it naturally raises the question of their ability to assert their rights. The strength of the institution thus resides in its multidisciplinary approach for each situation. Indeed, although a complaint is generally presented by invoking a particular aspect of its field of expertise, the Defender of Rights can arrive at a solution by using an analysis grid that combines a broad spectrum from its other fields of expertise and methods of intervention.

In addition, the transverse crossing of the Defender of Rights' skills also allows identification of subjects and audiences with which the institutions that preceded it were not confronted. These subjects and these audiences must be the subject of special attention and call for intervention that involves new answers.

From this first full year of the Institution's operation, it appears that bets made on complementarity, pooling and transversality in the service of effectiveness of individual rights deserve to be pointed up.

To illustrate, this report of activities is articulated around two main duties of the Defender of Rights which are PROTECTION OF RIGHTS AND FREEDOMS, on the one hand, and PROMOTION OF RIGHTS AND EQUALITY on the other hand.

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1- <http://www.defenseurdesdroits.fr/contacter-votre-delegue>

2- <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000023781167&dateTexte=&categorieLien=id>



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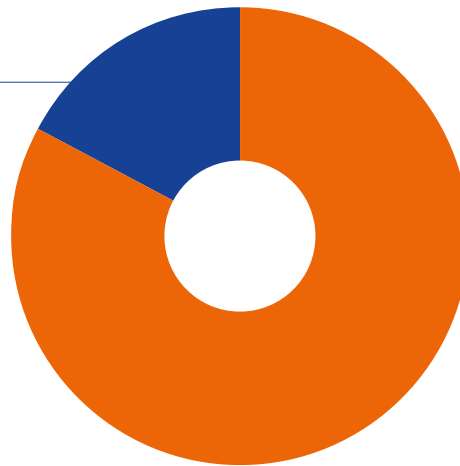
**Protection**  
of rights  
and freedoms

## Global approach

### DISTRIBUTION OF 80,162 COMPLAINTS HANDLED BY THE INSTITUTION IN 2012

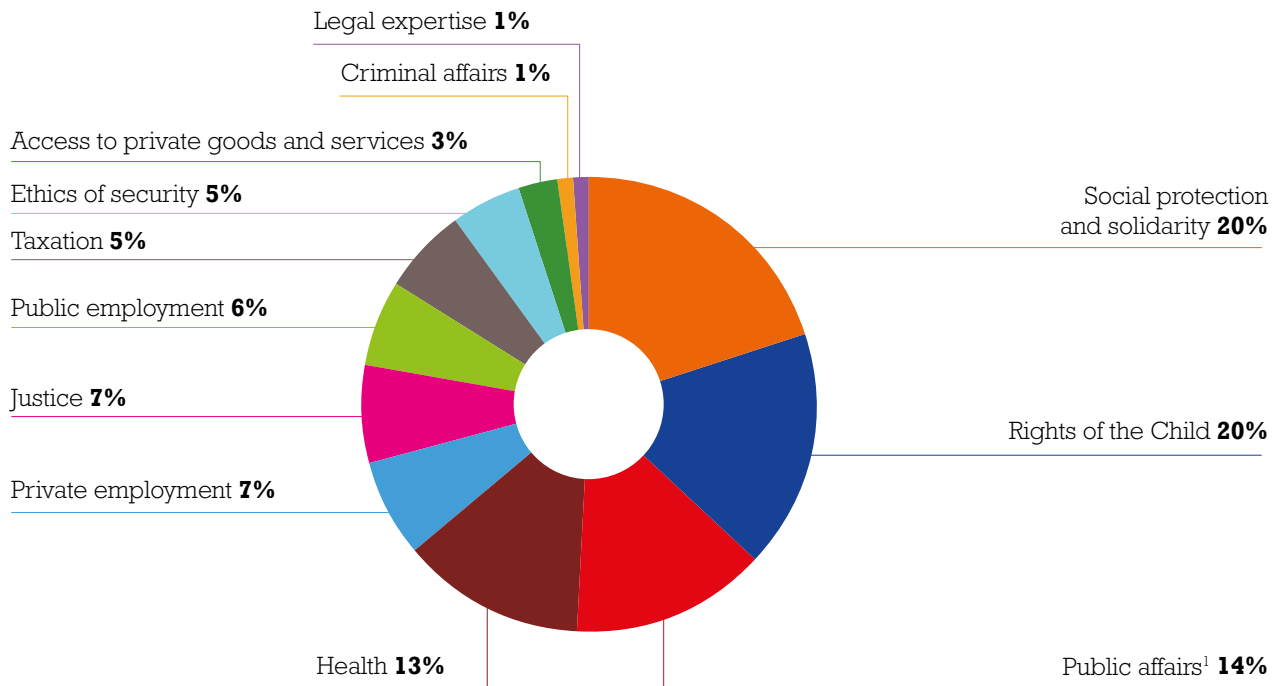
#### Distribution between headquarters and delegates

13,290 cases handled at headquarters (17%)



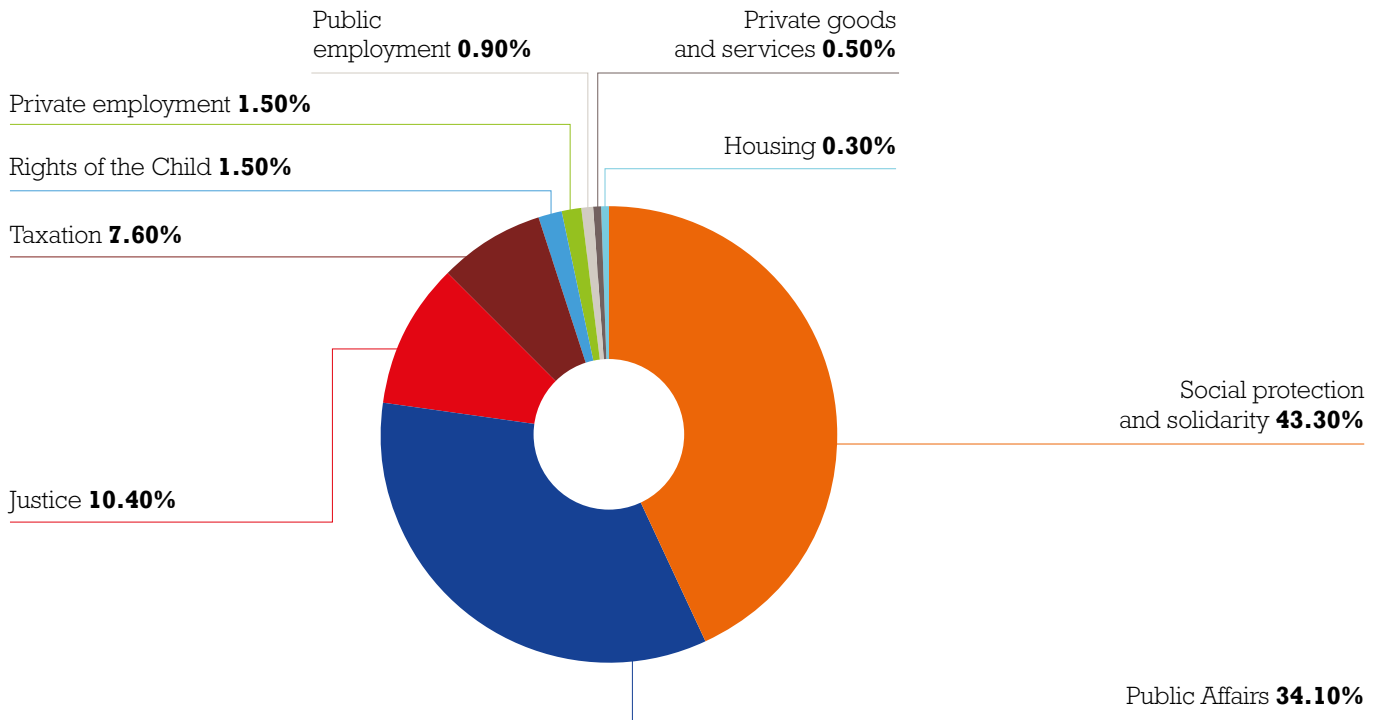
66,872 cases handled by delegates (83%)

#### Distribution by field of intervention (headquarters)



<sup>1</sup> The field "public affairs" combines individual complaints related to disputes primarily arising from public law (except for the rights of foreigners, right to public service and medical liability) and regulations relating to road traffic, involving an administration, local authority or body with a public service duty.

**Distribution by field of intervention (delegates)<sup>2</sup>**



## Methodological details

It should be noted (ref. Defender of Rights Activity Report for 2011) that processing of complaints by the Defender of Rights is no longer arranged around the four duties previously devolved to each of the independent administrative authorities that it has succeeded. To improve the effectiveness of the Institution’s interventions, pool skills and create a common professional culture between its agents, cases involving an investigation are allocated to thematic clusters (see the Organisational Diagram of services in the Resources section at the end of the report) depending on the subject of the complaint.

Similarly, territorially, setting up of a “unified host” took place during 2012: each delegate, regardless of their original network or dominant expertise, is a single entry point into the Institution and able to inform the complainant, analyse the admissibility of his complaint and if necessary redirect it or, within the limits of its remit, deal with it.

The Institution has thus been organised so that all audiences, particularly those encountering more difficulties in their relations with the public services, have an accompanied access to the Defender of Rights.

This approach is based on ensuring the consistency and organisation of the dynamics of an institution which, by the organic law, has acquired a general character that the Defender of Rights, appointed in 2011, wanted to translate into fact: the complainant calls on the Defender of Rights, charging it with supporting them with an appropriate response, from a simple redirection of their request to a more relevant arrangement up to support before the courts through an amicable settlement. A very large number of individual complaints can cumulatively relate to several areas of competence within the meaning of the organic law.

<sup>2</sup> Delegates do not handle cases in the fields of ethics, security or in the criminal field.

Two topical examples illustrate this new understanding of complaints:

- that of the survey on school canteens committed for September 2011. Complaints registered could concurrently raise three areas of competence: the interests of the child, relationship with the local public service, discrimination in registration...
- that of the work carried out on identity checks throughout 2012. Complaints received could concurrently arise in all our areas of expertise: combating discrimination, ethics or malfunction in the security services, the rights of minors...

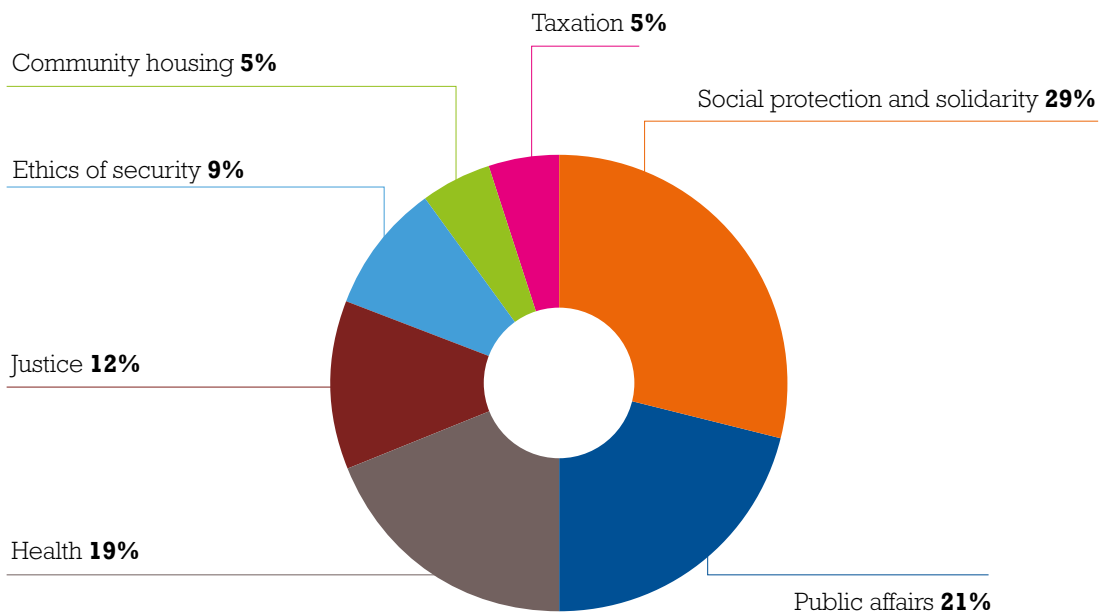
This explains why the records, especially the most difficult, which require the intervention of one of the eleven thematic investigation services from headquarters, are not registered as relating to one of the four fields of expertise set by the organic law but as relating to the scope of a particular specialised ser-

vice: the refusal of registration with a school canteen of a child suffering from a food allergy will be allocated to the "health" service, while the same refusal, based on the fact that one of the parents is not working will be allocated to the "public affairs/ access to public services" service. Similarly, a denial of social benefits, allegedly due to improper operation of the public service or discrimination based on sex, will be allocated to the "social protection" service; a clerical error in processing of a complaint (which, for example, may be resolved by a delegate) or a delay in deletion of an identity in a police file will not be related to the "ethics of security" service, unlike a denial, etc.

However, in order to allow careful observers who had the habit of following a series of statistical trends previously set by the former administrative authorities acting within the Defender of Rights, an exercise in recovery by breaking down by area of expertise was conducted on the dominant claims received at headquarters<sup>3</sup>.

**FOCUS ON CASES PROCESSED IN THE FIELD OF RIGHTS OF PUBLIC SERVICE USERS**

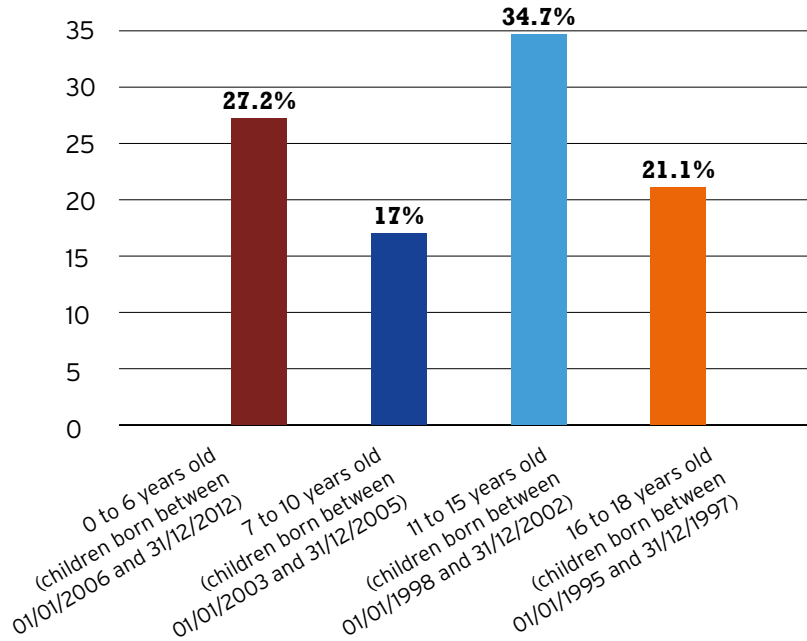
**Distribution by theme of complaint**



<sup>3</sup>- Our computer tool for case management does not allow the same exercise to be conducted from cases received by delegates.

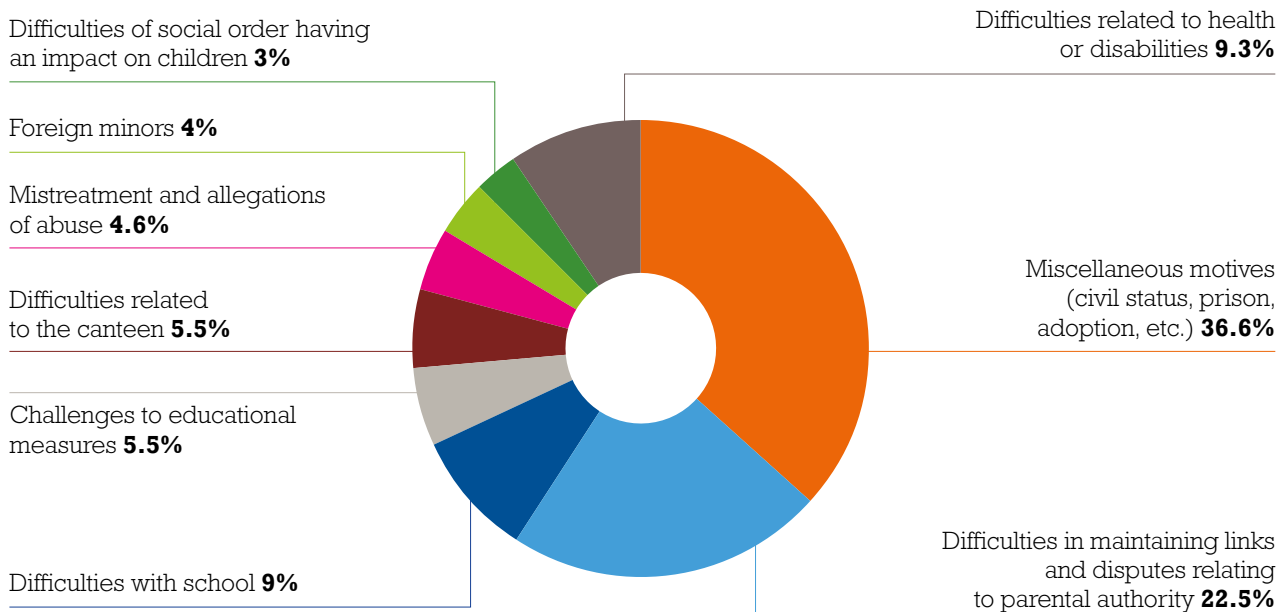
FOCUS ON CASES PROCESSED IN THE FIELD OF THE DEFENSE OF RIGHTS OF THE CHILD

1. Distribution by age of children for which the Institution's intervention was requested



Proportions are largely the same as in 2011 for 0/6 year olds and for the 11/15 year olds. However, the 16/18 age group has increased by more than 6 points (15% in 2011).

2. Reasons for complaints submitted to the Institution in the field of Rights of the Child

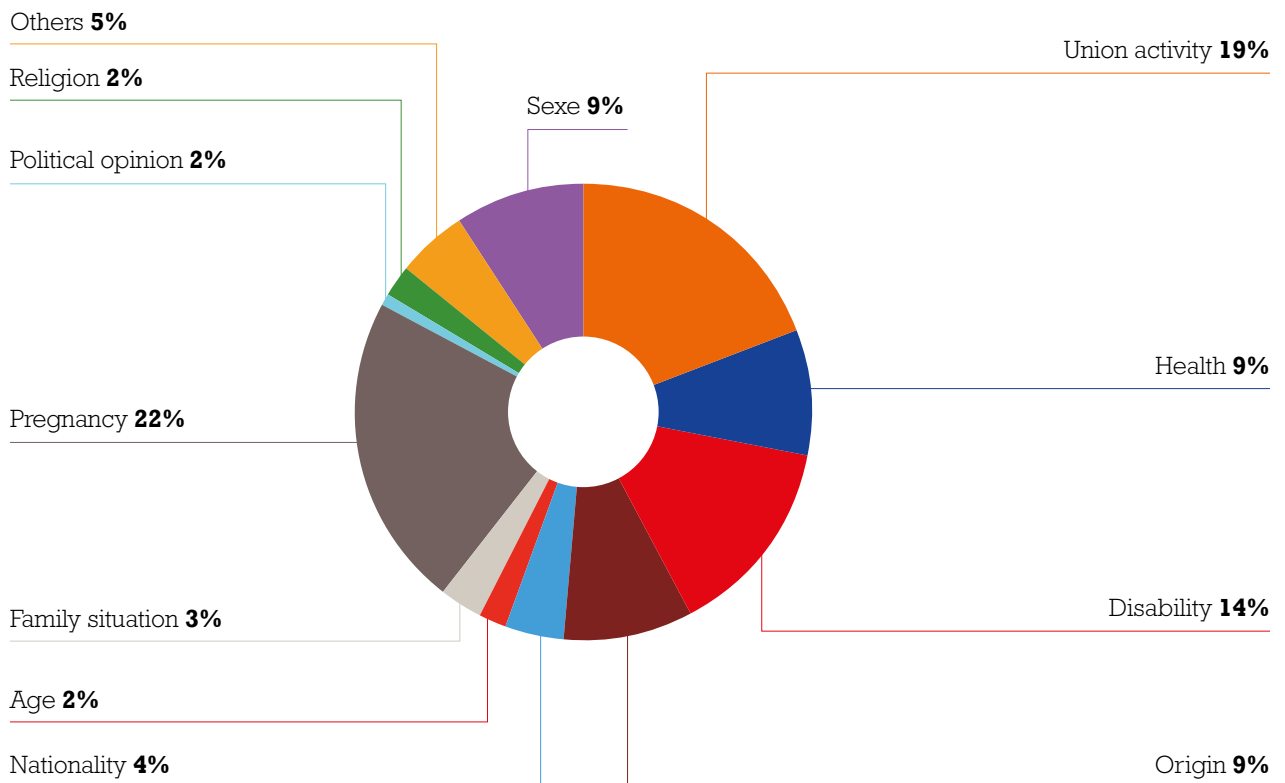


FOCUS ON CASES PROCESSED IN THE FIELD OF THE STRUGGLE AGAINST DISCRIMINATION

1. Distribution of claims by criteria and fields

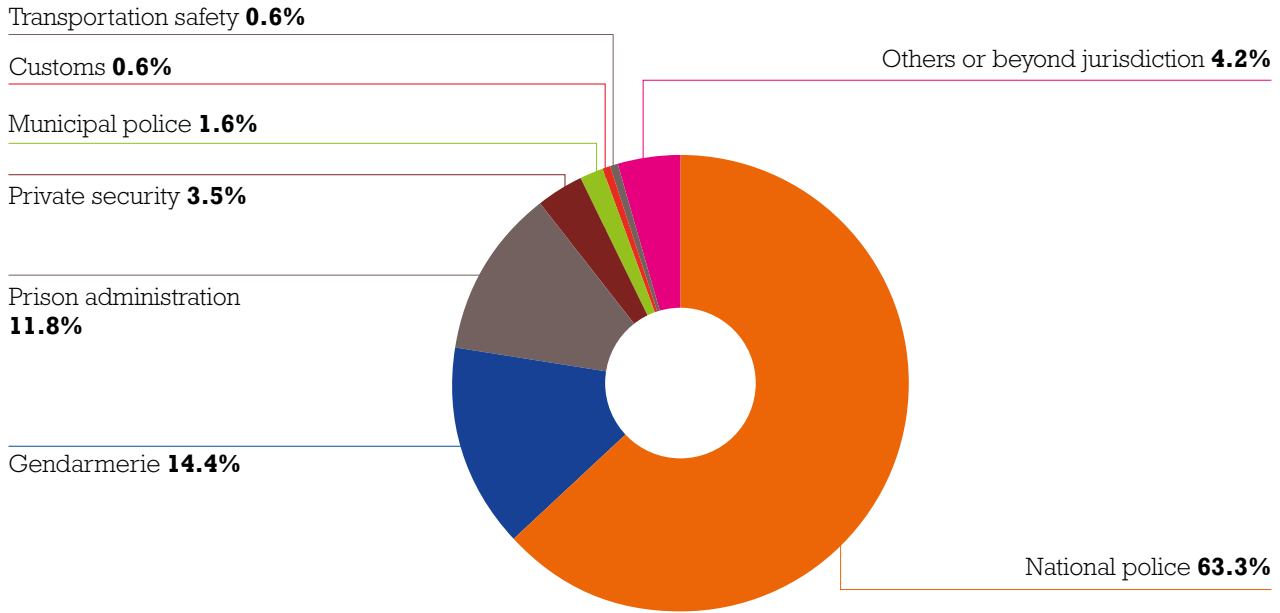
| AREAS                     | CRITERIA       |      |                     |                         |                                |           |        |                   |                    |        |          |      |                  |                              | TOTAL |
|---------------------------|----------------|------|---------------------|-------------------------|--------------------------------|-----------|--------|-------------------|--------------------|--------|----------|------|------------------|------------------------------|-------|
|                           | Union activity | Age  | Physical appearance | Genetic characteristics | State of health and disability | Pregnancy | Morals | Political opinion | Sexual orientation | Origin | Religion | Sex  | Family situation | Different situation - Others |       |
| Goods and services        | 0%             | 0.7% | 0.2%                | 0.03%                   | 4%                             | 0.1%      | 0.1%   | 0.1%              | 0.3%               | 2.6%   | 0.3%     | 0.5% | 0.7%             | 1.9%                         | 11.5% |
| Education                 | 0.03%          | 0.2% | 0.1%                | 0%                      | 2.03%                          | 0%        | 0%     | 0.03%             | 0%                 | 1.3%   | 0.4%     | 0.1% | 0.1%             | 1%                           | 5.2%  |
| Private sector employment | 3.7%           | 2.3% | 0.7%                | 0%                      | 6.4%                           | 3.3%      | 0.1%   | 0.1%              | 0.5%               | 7.4%   | 0.6%     | 1.4% | 1.2%             | 3.4%                         | 31.2% |
| Public sector employment  | 2.03%          | 1.7% | 0.2%                | 0%                      | 7.2%                           | 0.9%      | 0.1%   | 0.4%              | 0.3%               | 3.4%   | 0.5%     | 0.7% | 0.7%             | 2.2%                         | 20.3% |
| Housing                   | 0.3%           | 0.3% | 0.1%                | 0%                      | 2.5%                           | 0.03%     | 0.1%   | 0.03%             | 0.2%               | 3%     | 0.03%    | 0.1% | 0.8%             | 1.5%                         | 8.9%  |
| Public services           | 0%             | 0.2% | 0.1%                | 0%                      | 2.5%                           | 0.1%      | 0.1%   | 0.1%              | 0%                 | 3.1%   | 0.3%     | 0.2% | 0.7%             | 6.7%                         | 14%   |
| Other                     | 0%             | 0.2% | 0.03%               | 0%                      | 1.3%                           | 0.2%      | 0.03%  | 0%                | 0.4%               | 1.6%   | 0.1%     | 0.2% | 0.2%             | 4.7%                         | 8.9%  |
| TOTAL                     | 6.2%           | 5.5% | 1.4%                | 0.03%                   | 25.9%                          | 4.6%      | 0.4%   | 0.7%              | 1.7%               | 22.5%  | 2.2%     | 3.3% | 4.5%             | 21.3%                        |       |

2. Observations before the courts in 2012 by criteria expressed in %

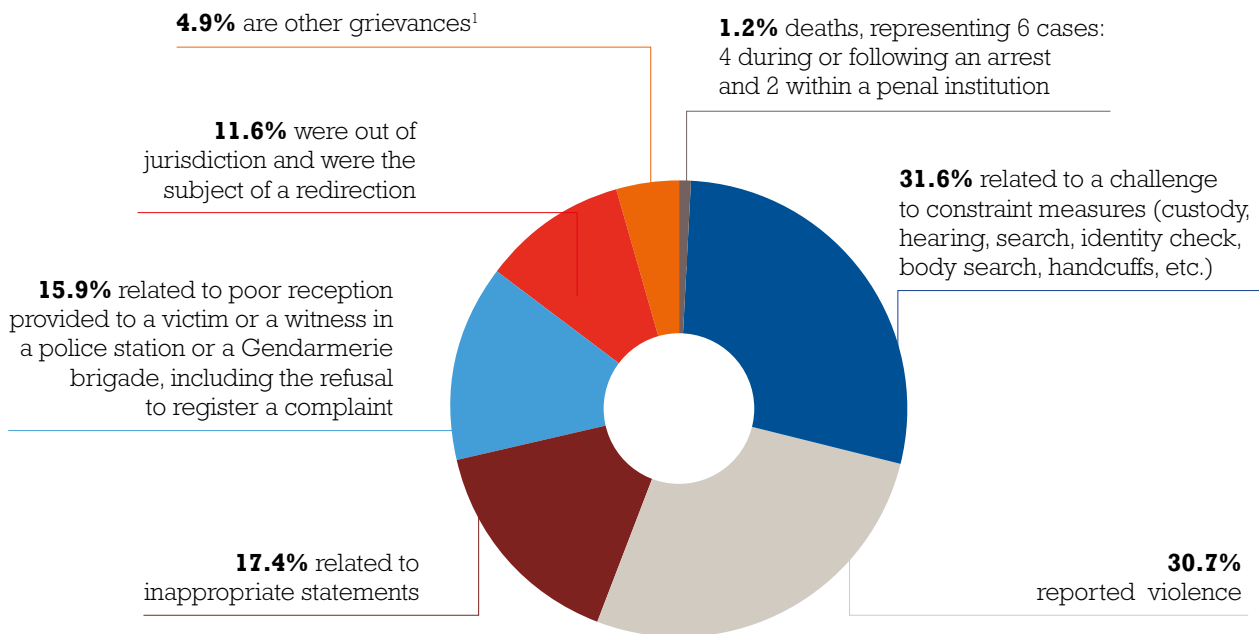


**FOCUS ON CASES PROCESSED IN THE FIELD OF ETHICS OF SECURITY**

**1. Security activity at issue in claims processed in 2012**



**2. Subjects of claims processed in 2012**



<sup>1</sup> It should be noted that 13.3% of claims include several grievances. This is why the total is 113.3% and not 100%.

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**Promotion**  
of rights  
and equality



The emphasis placed on promoting rights and equality reflects the importance of an action that is not exclusively corrective but which allows for changing practices and reforming legal texts, minimizing the risks of inequalities, problems with public services, rights violations, breaches of ethics by security forces and discrimination. It thus aims to guarantee the rights of citizens by ensuring that taking account of the fundamental principles that govern the development of the law and its proper application protects citizens or users from unlawful or unfair actions.

By articulating victim protection and promotion of rights, the Defender of Rights thus aims to prevent rights violations from arising, repeating or continuing, on which it would merely intervene after the fact, to defend the victims. It also has in effect the aim to take advance action for the social, economic, cultural and political players, to guarantee fair application of the law and proper consideration of individual's rights and freedoms, so as to prevent citizens from finding themselves exposed to such shortcomings.

This function of prevention is particularly crucial for the most vulnerable, who are also often those who have the most difficulty knowing their rights and having them recognized. It lets them avoid being further weakened by repeated exposure to infringements of rights, in the face of which renunciation is too frequent.

In the service of citizens, promotion thus consists of preventing attacks on rights and freedoms and is intended to support implementation by public and private sector players of proactive policies that promote access to rights and equality.

Such an action can be based on an analysis of complaints received by the Institution so that, in the light of incidents observed, situations of increased risk emerge or particularly vulnerable groups identified.

The duty of promotion of rights and equality is especially associated with the work of the “Promotion of Rights and Equality” department, the “Territorial Network” department and the European and International Affairs Service.

The mission of promoting rights and equality is inscribed at the core of the organic law that creates the Defender of Rights. Inseparable from its mission of victim protection, it appears in many European and international legal texts such as, for example, European Directive 2000/43 on implementation of the principle of equality without differences in handling between people based on race or ethnic origin<sup>1</sup>, the Convention on the Rights of Persons with Disabilities<sup>2</sup>, or the International Convention of Rights of the Child<sup>3</sup>.

With the Charter of Fundamental Rights<sup>4</sup>, the European Union elevated equality to the rank of a founding value of the Union, with dignity, freedom and solidarity.

Creation of the Defender of Rights enshrined the deployment of the action of promotion of rights and equality in the four missions devolved to it. As such, this preventive action, already carried out within the Halde and the Children’s Ombudsman, has been extended to the ethics of security, as well as promotion of rights and freedoms in relations with public services.

In the service of citizens, the action of promotion thus consists of preventing violations of rights and freedoms and contributes to supporting implementation by public and private sector players of proactive policies that favour equality.

In contrast to handling individual submissions, promotion of equality is based primarily on an analysis of practices and seeks systemic actions, registered over time to allow for a change of practices.

These actions are conducted in a logical partnership, to fully take into account the reality experienced by the players involved in employment, housing, etc.

Benefiting from the transversal mobilization of agents from various departments, these actions are steered by the Department for promoting rights and equality responsible for ensuring the overall consistency within the Defender of Rights.

### **Dialogue with civil society for more effective action**

To identify the difficulties faced by citizens and raise awareness of the law and of its own decisions, the Defender of Rights has implemented a regular dialogue in several forums with civil society players:

- the joint committee with disability associations,
- the liaison committee with the associations campaigning for equality between women and men,
- the LGBT committee (lesbian, gay, Bi and Trans),
- the “Child Protection” committee
- the joint committee with health system users

These are permanent platforms of dialogue enlightening the Defender’s actions and relaying promotion of people’s rights within members and supporters of these organizations.

Thus, for example, discussions within the LGBT joint committee helped to identify the issue of LGBT employment as being too little explored and not allowing managers to have practical tools for combating stereotypes and prejudices on sexual and gender orientation within the company, even though this criterion depends on anti-discrimination and equality policies. On this basis, the working group which was implemented conducted a survey on discrimination in employment, a series of hearings and produced an information and awareness document on homophobia at work.

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1- <http://www.defenseurdesdroits.fr/sites/default/files/upload/raa-2012/directive-200-43-cue.pdf>

2- <http://www.defenseurdesdroits.fr/sites/default/files/upload/cidph-et-pf.pdf>

3- [http://www.defenseurdesdroits.fr/sites/default/files/upload/defense\\_des\\_droits\\_des\\_enfants/Presentation-de-la-convention-internationale-des-droits-del-enfant.pdf](http://www.defenseurdesdroits.fr/sites/default/files/upload/defense_des_droits_des_enfants/Presentation-de-la-convention-internationale-des-droits-del-enfant.pdf)

4- <http://www.defenseurdesdroits.fr/sites/default/files/upload/raa-2012/chartedroits-fondamentaux-ue.pdf>

> the various platforms for dialogue with civil society

JOINT COMMITTEE FOR DISABILITIES

- Association for adults and youth with disabilities (APAJH)<sup>1</sup>
- Association of paralysed persons in France (APF)<sup>2</sup>
- Liaison and Action Committee of parents of children and adults with associated disabilities (CLAPEAHA)<sup>3</sup>
- French Committee for the social promotion of the blind and partially sighted (CFPSAA)<sup>4</sup>
- National Federation of permanently incapacitated (FNATH)<sup>5</sup>
- French Federation of cerebral palsy associations (FFAIMC)<sup>6</sup>
- Group for integration of the physically disabled (GIHP)<sup>7</sup>
- National Union of families and friends of mentally ill and/or disabled patients (UNAFAM)<sup>8</sup>
- National Union of associations of parents of the mentally disabled and their friends (UNAPEI)<sup>9</sup>
- National Union for the social inclusion of the auditory deficient (UNISDA)<sup>10</sup>

JOINT HEALTH COMMITTEE

- Emmaüs France<sup>11</sup>
- Aids<sup>12</sup>
- France popular rescue<sup>13</sup>
- Chronic impatient and associates<sup>14</sup>
- French Red Cross<sup>15</sup>
- CISS<sup>16</sup>
- National League against cancer<sup>17</sup>
- Doctors of the World<sup>18</sup>
- UFC Que Choisir<sup>19</sup>
- UNAF<sup>20</sup>
- UNRPA<sup>21</sup>
- COMEDE<sup>22</sup>
- Sparadrap Association<sup>23</sup>
- ATD Quart Monde<sup>24</sup>
- FNARS<sup>25</sup>
- Alliance of rare diseases<sup>26</sup>
- Catholic Aid<sup>27</sup>
- The Heart Alliance<sup>28</sup>

JOINT COMMITTEE FOR CHILDREN

- Maitre Dominique ATTIAS (Paris Bar)
- CNAPE<sup>29</sup>
- COFRADE<sup>30</sup>
- DEI-France<sup>31</sup>
- Children and Sharing<sup>32</sup>
- FNARS<sup>33</sup>
- Children's Foundation<sup>34</sup>
- National Federation of the ADEPAPE<sup>35</sup>
- National Federation of *ad hoc* administrators
- SOS Group<sup>36</sup>
- SOS Children Villages<sup>37</sup>
- UNIOPS<sup>38</sup>
- Voice of the Child<sup>39</sup>

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- 1- <http://www.apajh.org/>
  - 2- <http://www.apf.asso.fr/>
  - 3- <http://asso.orpha.net/CLAPEAH/>
  - 4- <http://www.cfpsaa.fr/>
  - 5- <http://www.fnath.org/>
  - 6- <http://www.ffaimc.org/>
  - 7- <http://www.gihpnational.org/>
  - 8- <http://www.unafam.org/>
  - 9- <http://www.unapei.org/>
  - 10- <http://www.unisda.org/>
  - 11- <http://www.emmaus-france.org/>
  - 12- <http://www.aides.org/>
  - 13- <http://www.secourspopulaire.fr/>
  - 14- <http://www.chronicite.org/>
  - 15- <http://www.croix-rouge.fr/>
  - 16- <http://www.leciss.org/>
  - 17- <http://www.ligue-cancer.net/>
  - 18- <http://www.medecinsdumonde.org/>
  - 19- <http://www.quechoisir.org/>
  - 20- <http://www.unaf.fr/>
  - 21- <http://www.unrpa.com/>
  - 22- <http://www.comede.org/>
  - 23- <http://www.sparadrap.org/>
  - 24- <http://www.atd-quartmonde.fr/>
  - 25- <http://www.fnars.org/>
  - 26- <http://www.alliance-maladies-rares.org/>
  - 27- <http://www.secours-catholique.org/>
  - 28- <http://www.alliancecoeur.fr/>
  - 29- <http://www.cnape.fr/fr/home.html>
  - 30- <http://cofrade.fr/>
  - 31- <http://www.dei-france.org/>
  - 32- <http://www.enfance-et-partage.org/>
  - 33- <http://www.fnars.org/>
  - 34- <http://www.fondation-enfance.org/>
  - 35- <http://www.fnadepape.org/>
  - 36- <http://www.groupe-sos.org/>
  - 37- <http://www.sosve.org/>
  - 38- <http://www.uniopss.asso.fr/>
  - 39- <http://www.lavoixdelenfant.org/>

LGBT JOINT COMMITTEE

- Inter-LGBT<sup>40</sup>
- Federation of LGBT centres<sup>41</sup>
- SOS Homophobia<sup>42</sup>
- Association of Gay and Lesbian Parents and Future Parents (APGL)<sup>43</sup>
- L'Autre cercle (The Other Circle)<sup>44</sup>
- Homoboulot (at work)<sup>45</sup>
- Flag! <sup>46</sup>
- RAVAD<sup>47</sup>
- Group against LGBTphobias in schools<sup>48</sup>
- IDAHO Committee<sup>49</sup>
- Djenbé Réd<sup>50</sup>
- Coordination of lesbians in France (CLF<sup>51</sup>)
- National Transgender Association (ANT<sup>52</sup>)
- OUTrans<sup>53</sup>
- OrTrans<sup>54</sup>
- GESt<sup>55</sup>
- ADHEOS<sup>56</sup>
- Paris ile-de-France LGBT Centre<sup>57</sup>
- Group against homophobia<sup>58</sup> (Montpellier)
- Gaies Colours<sup>59</sup> (Metz)

W-M EQUALITY CONSULTATION COMMITTEE

- Osez le féminisme (Dare to be a Feminist)<sup>60</sup>
- Femmes solidaires (Women in solidarity)<sup>61</sup>
- National Federation for Women's Solidarity<sup>62</sup>
- Mouvement français pour le planning familial<sup>63</sup>
- Grandes écoles au féminin<sup>64</sup>
- ADIE (Association for the Right to Economic Initiative)<sup>65</sup>
- "la boucle" Association<sup>66</sup>
- Gender Equality Lab<sup>67</sup>
- French Coordination for the European Women's Lobby (CLEF<sup>68</sup>)
- European Association against Violence against Women at Work (AVFT<sup>69</sup>)
- Voix d'elles rebelles (Rebellious Voices)<sup>70</sup>
- Women to say, Women for Action (FDFA<sup>71</sup>)

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40- <http://www.inter-lgbt.org/>  
 41- <http://federation-lgbt.org/>  
 42- <http://www.sos-homophobie.org/>  
 43- <http://www.apgl.fr/>  
 44- <http://www.autrecercle.org/>  
 45- <http://homoboulot.blogspot.fr/>  
 46- <http://flag-asso.fr/>  
 47- <http://www.ravad.org/>  
 48- <http://www.fsu.fr/Le-Collectif-education-contre-les.html>  
 49- <http://www.idahofrance.org/>  
 50- <http://www.tjenbered.fr/>  
 51- <http://www.coordinationlesbienne.org/>  
 52- <http://www.ant-france.eu/ta2-accueil.htm>  
 53- <http://outrans.org/>  
 54- <http://ortrans.org/fr/>  
 55- <http://www.transidentite.fr/>  
 56- <http://www.adheos.org/>  
 57- <http://www.centrelgbtparis.org/>  
 58- <http://www.cch.asso.fr/>  
 59- <http://www.couleursgaies.org/>

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60- <http://www.osezlefeminisme.fr/>  
 61- <http://femmes-solidaires.org/>  
 62- <http://www.solidaritefemmes.org/>  
 63- <http://www.planning-familial.org/>  
 64- <http://www.grandesecolesaufeminin.net/>  
 65- <http://www.adie.org/>  
 66- <http://www.comdesfemmes.com/association-la-boucle-248.html>  
 67- <http://www.laboratoiredelegalite.org/>  
 68- <http://www.clef-femmes.fr/>  
 69- <http://www.avft.org/>  
 70- <http://www.voixdellesrebelles.fr/>  
 71- <http://www.femmespourledire.asso.fr/>

## A PARTNERSHIP APPROACH TO ENGAGING STAKEHOLDERS

**The Defender of Rights supports** the various players in employment, housing, public services, security, etc., to help them secure their practices and implement or evaluate the success of their equality policies.

Avoiding an operation based on stigma or injunction, the Defender of Rights establishes its activities for promotion of rights and equality on a true partnership basis. It takes the form of consultations and work with stakeholders to duly take into account the measure of the complexity of the situations to which they are exposed.

This incentive and collaborative approach relies on a network of more than 700 field partners (administrations, businesses, social partners, employment intermediaries, local authorities, public and private funders, associations, academics and researchers...).

In this context, the **concluding agreements** with organisations such as the Paris Office of the ILO, the National Bar Council, the Mediator of National Education and Higher education, the Mediator of economic and financial departments, the National Family Allowance Fund or the national Council of the College of Physicians, allow for better coordination and implementation of joint actions, contributing to more effective equality.

The National Health Insurance Fund (CNAMTS) was the first to renew its agreement with the Defender of Rights. The National Network of Health Insurance “Conciliators”, met in plenary assembly with the CNAMTS under the aegis of the Defender of Rights and the Director General of the CNAMTS played an important role. The privileged relations maintained with all institutional partners, social organizations and, in particular, the Family allowance funds (CAF), are the primary source of the amicable settlement of disputes.

In public employment, the **Charter for the promotion of equality**<sup>1</sup> (being revised) is the support for joint action undertaken by the Defender of Rights and public employers, within the Common Council of Public service (CCFP) that was convened for the first time in April 2012. The Defender recalled on that occasion that, since the signing of the Charter for the promotion of equality in the public service in 2008, three surveys were conducted with Ministries and public institutions, as well as multiple sessions of sensitization and training.

Within the CCFP, the new configuration of specialised “Equality, Mobility and Career” training is an opportunity to make application of the Charter effective for the three public functions. A collective work of revising the Charter is now underway in order to adapt to new and emerging issues.

In partnership with all stakeholders, the Defender of Rights will seek to provide its expertise and to participate in implementing new methodologies of inquiry and new tools for monitoring, constructed from a diagnosis common to the three public functions and based on accurate and shared indicators.

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<sup>1</sup> [http://www.fonction-publique.gouv.fr/files/files/carrieres\\_et\\_parours\\_professionnel/egalite\\_des\\_chances/Charte\\_egalite\\_fp\\_2dec2008.pdf](http://www.fonction-publique.gouv.fr/files/files/carrieres_et_parours_professionnel/egalite_des_chances/Charte_egalite_fp_2dec2008.pdf)

## PROMOTION OF RIGHTS AND EQUALITY

The Defender of Rights also makes general recommendations, inviting the Government to take measures, legal or relating to changing practices, to put an end to any malfunctions or rights violations.

The Defender of Rights thereby takes on a function of raising an alert on specific risks, as it did for example on the anniversary of the law of 11 February 2005, by submitting recommendations to various Ministers to ensure the implementation of the principle

of **accessibility**. These recommendations (MLD-2013-16<sup>2</sup>) were fed by constant dialogue with disability associations both at the level of the Joint "Disability" Committee and in the framework of the monitoring of the International Convention on the Rights of Persons with Disabilities whose monitoring has been entrusted to the Defender of Rights, with the CNCPH (National Consultative Council of disabled persons).

| GENERAL RECOMMENDATIONS     |  |  |
|-----------------------------|--|--|
| Area                        | Subject  | Primary initiations concerned  |
| <b>Disability</b>           | <b>Decision on accessibility for people with disabilities; MLD/2013-16</b> (date: 11/02/2013) Reaffirmation of the objectives of Law No. 2005-102 of February 11, 2005. on accessibility (launch of a campaign of information and awareness about the objectives of accessibility / Inclusion in the draft organic law on housing, of the illegality of refusal by the lessor for the tenant to carry out accessibility work insofar as the structure is not affected / prohibition by the owner for rehabilitation of the premises at the end of rental). | Social Affairs and Health / Disabled People and Combating Exclusion / Equality of the Territories and Housing / Ecology, Sustainable Development and Energy / Transport / Interior |
|                             | <b>Decision on access of disabled children to co-curricular and extracurricular activities; MLD/2012-167</b> (date: 30/11/2012)<br>The Defender of Rights recommends taking into account the specific needs of persons with disabilities, with regard to the Bill on Redesigning the School - recommends adapting existing legislative and regulatory provisions.  | National Education / Social Affairs and Health / Sports  |
|                             | <b>Decision on the rules for calculating the return to employment allowance (ARE) applicable to persons receiving a 2nd or 3rd category invalidity pension; MLD/2012-91</b> (date: 19/10/2012) The Defender recommends the application of the cumulation rule provided by the unemployment insurance convention of May 6, 2011, to persons receiving a 2 <sup>nd</sup> and 3 <sup>rd</sup> category pension without employment prior to January 1, 2011.   | Employment Centre / UNEDIC   |
|                             | <b>Decision on detention conditions for persons with disabilities; MLD/2013-24</b> (date: 11/04/2013) Restatement to the Prosecutors and Judiciary of the attention that must be paid to the particular situation of persons with disabilities / Need for implementation of alternative measures to pre-trial detention, etc.  | Justice / Social Affairs and Health  |
| <b>Protection of minors</b> | <b>Decision on the situation of foreign unaccompanied minors in conditions of wandering on the national territory; MDE/2012-179</b> (date: 19/12/2012) The Defender considers that the best interest of children (unaccompanied minors) should take precedence over issues of migration control policy (15 recommendations).   | Justice / Associations of the departments of France  |
|                             | Decision on the assessment of the discernment of a minor by the Family Affairs judge; No MDE/2012-158 (date: 13/11/2012)   | Justice  |

<sup>2</sup> <http://www.defenseurdesdroits.fr/sites/default/files/upload/decisions/MLD-2013-16.pdf>

## PROMOTION OF RIGHTS AND EQUALITY

| GENERAL RECOMMENDATIONS  |  |  |
|--|--|--|
| Area   | Subject  | Primary initiations concerned  |
| <b>Insurance;<br/>Ageism;<br/>Access to goods<br/>and services</b> | <b>Decision on an age limit for joining an insurance contract; MLD/2012-150</b> (date: 21/11/2012)<br>The Defender recommends setting up a partnership with insurance stakeholders and other interested parties to consider the issues related to the setting of age limits for personal insurance.  | Finance / Social Affairs and Health / The Elderly and Autonomy / French Federation of insurance Companies, Mutual Insurance Group / National Consumer Associations |
| <b>Migrants</b>  | <b>Decision on the harassment of migrants in the Calaisis by the forces of public order, after September 2009 and the dismantling of the “jungle”;</b> MDS/2011-113 (date: 13/11/2012)   | Prefect of Pas-de-Calais   |
| <b>Traffic<br/>Infractions</b>                                     | <b>Decision on the complexity of the repressive road safety arrangement and the growing paperless processing of infractions that do not allow users to be guaranteed the effectiveness of their rights; MSP/12-R003</b> (date: 12/06/2012)<br>The Defender of Rights recommends the installation of fine payment points in the territory / redesigning forms for requests for exemption to allow users to have clear information on the methods and consequences of a challenge / to change the period for payment of fines for an infraction, with interception of the driver, from three to fifteen days (current period of three days is hard to maintain in rural area, taking into account the reduction of postal service and businesses issuing fines stamps) / recognition of the international bank transfer for payment of fines, several countries having abandoned the use of cheques for payment transactions. Some foreign nationals fined in France can have difficulties making payment once they have returned home / to establish an effective appeals avenue at a court in respect of Cadène, Céline, Josseume judgements (ECHR 8-03-2012).<br>If every admissible challenge must be sent to a judge, who is only able to take a decision on the merits, some PMOs exceed their powers, acting alone to reject admissible applications / recalling the legal framework of the police and Gendarmerie services which must register complaints concerning offences of theft of registration plates. | Interior / Justice   |
| <b>Housing</b>   | <b>Decision No. 2008-221, October 20, 2008</b> (date: 20/10/08)<br>Reminder of the prohibition of age discrimination and emphasizing that the provisions of Mermaz Law protecting disadvantaged seniors can under no circumstances legitimise discrimination.  | Equality of the Territories and Housing  |
|  | <b>Decision on indirect discrimination based on disability by the practice of a real estate group which has the effect of systematically excluding the candidacy of AAH beneficiaries; No. LCD/2011-60</b> (date: 10/11/12)<br>Recommendation to the Minister of Ecology, Sustainable Development, Transport and Housing to take any measure ensuring the respect of the guaranteed right to persons with disabilities by the International Convention of the Rights of Persons with Disabilities to choose their place of residence.  | Equality of the Territories and Housing  |

**PROMOTION OF RIGHTS AND EQUALITY**

| GENERAL RECOMMENDATIONS           |  |                               |
|-----------------------------------|--|-------------------------------|
| Area                              | Subject  | Primary initiations concerned |
| <b>DOM (oversees departments)</b> | <b>Decision on discriminatory treatment based on overseas origin for access to credit and housing; No 2012-81</b>  | DOM, Finance and Housing      |
| <b>Ethics</b>                     | <b>Decision on the circumstances in which a minor has been the subject of a strip search in a police station, after being called for a preliminary investigation for acts of violence; MDS/2010-176</b> (date: 26/03/13)<br>Recommends that systematic medical examination for a minor of 16 years during the placement in custody, prescribed by article 4 of the Ordonnance of February 2, 1945, is also provided in the event of extension of custody.  | Interior / Justice            |
|                                   | <b>Decision on the circumstances in which inspection of a transport document and identity by RATP agents took place; MDS/2011-314 and 2011-355</b> (date: 26/03/13)<br>Recommends a legal framework for security hand search to define both the practical actions with respect to searches and the doctrine of use. This legal framework could result in a legal text written into both the Code of Criminal Procedure and the Common Code of Ethics for the police and the Gendarmerie currently under development.   | Interior                      |
|                                   | <b>Decision relating to the conduct of identity inspection; MDS/2011-290</b> (date: 26/03/2013)<br>Takes note of the statements by the Minister of the Interior regarding the affixing of Badge Number on law enforcement officer's uniforms and calls for a rapid implementation of this arrangement.   | Interior                      |
|                                   | <b>Decision on the conditions under which a minor has had a hearing and been the subject of an anthropometric classification at the Gendarmerie brigade; MDS/2010-152</b> (date: 26/03/13)<br>Recommends an amendment to the provisions of the Decree of April 8, 1987, on the automated digital fingerprint file, so that the situation of minors is taken into account. Recommends calling the attention of the Chief Prosecutors to minors under 10 years old and questions the need to ask the security forces under their authority to be informed prior to any decision concerning them. | Justice                       |
| <b>Mayotte</b>                    | <b>General recommendations on the very alarming situation of children in the Department of Mayotte; MLD/2013-87</b> (date: 19/04/13)<br>Recommendation to conduct a census of the population / the recording and digitization of all vital records / establishment of a permanent conference of children's rights on the island / deployment of a support mission (12 recommendations).  | Government / Parliament       |



## PROMOTION OF RIGHTS AND EQUALITY

Finally, when reports are developed as part of a broad consultation, it regularly makes a **series of recommendations**, to better protect the rights, and ensure compliance with the best interests of the child, the rights or persons and their equality.

| RECOMMENDATIONS            |   |                               |
|----------------------------|---|-------------------------------|
| Area                       | Subject   | Primary initiations concerned |
| <b>Funeral law</b>         | <b>Report on funeral legislation</b> (date: 29/10/12)<br>Need to secure the funeral and burial concessions system / Lack of primary point of contact for the future of graves and the ambiguous status of "funeral agreements" / Confessional Squares (fragile status quo of "clusters in fact" - Need to have more accurate data on the subject) / Funeral Care for deceased carriers of certain infectious diseases.  | General                       |
| <b>Traffic Infractions</b> | <b>Report on actions taken on the MSP/12-R003 decision relating to traffic fines</b> (date: mars 2013)<br>Despite taking into account some of the recommendations of the Defender of Rights, the problems of the right to a fair trial, the difficulties encountered by drivers of rented vehicles to challenge fines, the ARES file and the ticketing of vehicles belonging to legal persons, etc., remain pending.  | Interior / Justice            |
| <b>Children</b>            | <b>Report "Children and Screens: Growing Up in the Digital World"</b> (date: 20/11/12)<br><ul style="list-style-type: none"> <li>- Incorporating the right of deletion, the right to be removed from search engine listing in the European regulation currently being prepared (proposal by the European Commission January 2012 - protection of privacy, strengthening the protection of minor's privacy) (Regulatory).</li> <li>- Amending Law n° 2010-476 of May 12, 2010, (i) on opening the online gambling and games of chance sector to competition, in order to incorporate the obligation of indicating that these games are prohibited to those under 18 years of age in all advertising (Legislative and Regulatory).</li> <li>- Preparing a legislative text to give binding effect to the existing recommendations to protect children from advertisements inserted into video games (Legislative)</li> <li>- Extending to the ARTE channel the provisions established and promoted by the CSA on protection of children and adolescents with regards to "programs of audiovisual communication services likely to affect their physical, mental and moral development".</li> <li>- On all sites, display the methods for reporting illegal content and inappropriate content or behaviour.</li> <li>- Inform young people better about their responsibilities when using the Internet.</li> <li>- Provide better information to Internet users by site publishers by inserting clearer and more visible messages (Amendment of the 2004 Law on Trust for the Digital Economy).</li> <li>- Amend the interState treaty governing ARTE (Legislative)</li> <li>- Oversee new forms of real estate activity on the Internet.</li> </ul> | General                       |
| <b>Ethics</b>              | <b>Report on police-citizen relations and identity checks</b> (date: 10/10/12)<br>Proposal, among others, for national organisation of an ongoing dialogue between security forces and civil society stakeholders.  | General                       |
| <b>School canteens</b>     | <b>Report on the equal access of children to primary school canteens</b> (date: March 28, 2013)<br>The Defender of Rights recommends that territorial authorities cannot base denial of access of a child to the canteen on certain criteria (priority of access to children with working parents / parents availability / place of family residence on the school's community territory) / rules of religious neutrality reiterated when registering at the canteen / if unpaid, updating of various prior penalties before considering a temporary, then final, suspension of canteen service, etc.   | General distribution          |

**Informing Parliament about its decisions**

A player in the democratic debate, the Defender of Rights informs the government and Parliament on the impact of certain decisions on the rights and freedoms that it has the duty to guarantee. The relevance of this contribution to the democratic process, through opinions and recommendations, has been demonstrated in the debate on **sexual harassment**, where the Defender invited the legislator to quickly adopt a new law following abrogation by the Constitutional Council of Article 222-33 of the Penal Code, to not leave victims outside the scope of the law's protection. The hearing before Parliament by the Defender sparked special consideration by legislative debates on rights abuses suffered by homosexual and transsexual victims.

In addition, the contribution by the Defender of Rights to parliamentary consideration in debates on marriage for all allowed the legislator to be informed on the advances in the draft bill on protection of the rights of LGBT persons and also to expand consideration to take into account the best interests of children on any question related to same-sex parents, while the study of the impact took into account this dimension.

Parliamentary hearings could lead to particularly constructive amendments such as that introduced, at the request of the Defender of Rights, in the bill relating to withholding for verification of residency rights for those where the situation of minor children of persons in detention are to be taken into consideration.

Thus, while the initial text provided that (article 2) a person had the opportunity *"4° To at any time warn his family or any person of his choice; if the particular circumstances require, the officer of judicial police himself warns the family or the selected person"*, the text finally voted specified that the person concerned has *"4° The right to at any time warn his family or any person of his choice and to make any useful contact to provide information and, as applicable, care of children for which he normally has care, whether or not they have accompanied him to his place of detention. If special circumstances require, the officer of the judicial police himself warns that family and the selected person. As needed, he informs the Republic's prosecutor for the purposes of information in the interest of children"*.

**HEARINGS OF THE DEFENDER OF RIGHTS IN 2012-BEGINNING OF 2013<sup>1</sup>**

|            |   |  |
|------------|---|--|
| 07/03/2012 | National Assembly - Delegation for Women's Rights | Hearing on the institution of the Defender of Rights (jurisdiction, powers...).  |
| 04/04/2012 | Senate - Committee on Legislation                 | Hearing on the institution of the Defender of Rights (reorganisation of services, location...).  |
| 06/06/2012 | Senate - Working group                            | Hearing by the working group on sexual harassment.   |
| 10/07/2012 | National Assembly - Committee on Legislation      | Hearing on the draft bill on sexual harassment.  |
| 13/09/2012 | National Assembly - Committee on Legislation      | Hearing on combating discrimination in the public service.   |
| 16/10/2012 | National Assembly - Committee on Legislation      | Hearing on ways to combat prison overcrowding.   |
| 17/10/2012 | Senate - Committee on Legislation                 | Hearing on the institution of the Defender of Rights (reorganisation of services, location...).  |
| 06/11/2012 | Senate - Committee on Legislation                 | Hearing on the institution of the Defender of Rights (reorganisation of services, location...).  |
| 15/11/2012 | National Assembly - Committee on Legislation      | Hearing on the draft bill on the deduction for verification of the right of residence and amending the offence of assisting illegal stays to exclude humanitarian and unselfish actions. |
| 13/12/2012 | National Assembly - Committee on Legislation      | Hearing on draft bill opening marriage to same-sex couples.  |
| 15/01/2013 | Senate - Parliamentary Mission                    | Hearing on accessibility for people with disabilities.   |
| 24/01/2013 | Senate - Committee on Legislation                 | Proposal for a law on the elimination of discrimination in the limitation periods provided by law on the freedom of the press of 29 July 1881.   |
| 31/01/2013 | Senate - Parliamentary Mission                    | Hearing on combating discrimination.   |
| 07/02/2013 | Senate - Parliamentary Mission                    | Hearing on elderly immigrants.   |
| 20/02/2013 | Senate - Committee on Legislation                 | Hearing on draft bill opening marriage to same-sex couples.  |
| 28/02/2013 | Senate - Committee on Legislation                 | Hearing on the proposal for a law on the access to care for the poor.  |
| 16/04/2013 | National Assembly - Committee on Legislation      | Opinion on the draft bill for the deletion of the word "race" in our legislation, No. 218.   |

<sup>1</sup> Some hearings were the subject of a contribution by the Defender of Rights.

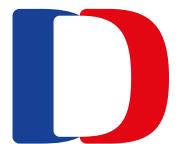
These contributions are available on the Institution's website: <http://www.defenseurdesdroits.fr/sinformer-sur-le-defenseur-des-droits/espace-juridique/avis-au-parlement>

## THE DEFENDER OF RIGHTS IN BRIEF

- > **an institution of the Republic written into the Constitution**
- > **an independent and impartial authority**
- > **a dual mission in the service of the rights and freedoms:**
  - **PROTECT:** process individual complaints
  - **PROMOTE:** prevent attacks on rights and freedoms
- > **a vast field of jurisdiction:**
  - defending the rights and freedoms of users of public services
  - defending and promoting the best interest and rights of the child
  - combating discrimination and promoting equality
  - ensuring respect for ethics by those engaged in security activities
- > **a broad range of interventions:**
  - **to process individual complaints:** information/guidance, amicable settlements, powers of inquiry, formal recommendations, observations in justice, requests for disciplinary proceedings...
  - **to prevent attacks on rights and freedoms:** opinions and recommendations to government and Parliament, proposals for reform, support for changing practices, tools and training...
- > **Simple access, free and direct:**
  - by mail
  - by an online form on the Defender of Rights' website
  - by appointment with the volunteer delegates of the Defender of Rights, available throughout the territory for the public

RÉPUBLIQUE FRANÇAISE

**LE DÉFENSEUR  
DES DROITS**



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