Rapport National France 2023 : Etat de droit et démocratie

1. General estates of Justice: reports and announces of the government

Announced in June 2021 by the President of the Republic, as a continuation of the work on the reform of the Justice system, the aim of the Estates General of Justice is to take stock of the situation of the justice system in our country and to formulate concrete proposals to put Justice at the centre of the democratic debate. Launched by the President Macron in person on October 18, 2021, they are structured around four stages: consultation, expertise, convergence, and a final phase of synthesis and proposals.

A vast national consultation on the "Let's talk about justice" platform[1] has been carried out, making it possible to hear the expectations of some 50,000 people and to identify concrete proposals. At the same time, thematic groups made up of legal professionals worked on the simplification of criminal procedure, the simplification of civil justice, protective justice, penitentiary and rehabilitation justice, economic and social justice, the management of organizations, and the evolution of the missions and status of judges.

An independent Committee of the Estates General of Justice, chaired by Jean-Marc Sauvé, has coordinated this work and will submit a summary report to the President of the Republic at the end of May. Jérôme Gavaudan, President of the CNB, has been appointed a member of this Committee and has participated in its work.

The Conseil national des barreaux (hereafter CNB) was heard by the steering committee and various thematic groups. It submitted a written contribution summarizing the thoughts of the profession and formulating concrete proposals. Emphasis was placed on the importance of rethinking civil and criminal procedures, of engaging in a real reflection on the place of alternative methods, of allowing for a strengthening of the adversarial process and the use of alternatives to custodial sentences.

This report notes the cruel lack of resources for justice in France and the consequences of this structural underinvestment.

It notes in particular that "*The Estates General on Justice confirmed the advanced state of disrepair in which the judicial institution finds itself today. Justice is no longer able to carry out its missions in satisfactory conditions. After decades of deterioration, a breaking point seems to have been reached during the health crisis.*

In particular, the time taken to bring cases to trial has continued to increase over the last twenty years. In civil matters, in 2019, these delays were 13.9 months in first instance and 15.8 months in appeal, while industrial tribunals take more than 16 months to rule. In criminal matters, although, by definition, the time required for trial at immediate appearance hearings is reduced, the physical conditions of these hearings, which are often held well into the night, do not allow for quality justice and contribute to an increase in short prison sentences. Apart from immediate appearances, the delays are high and deteriorating".

With regard to human resources, the report notes that "*Despite the significant efforts made during the current legislature, the committee notes a crying lack of human, material and budgetary resources in the jurisdictions and a strong loss of attractiveness of many judicial professions. On the human level, the committee notes and regrets that no activity benchmark has been established in order to evaluate needs on as objective a basis as possible. It notes that work is in progress within the Directorate of Judicial Services to develop such a tool and considers it necessary that it be completed rapidly. As it stands, the committee believes that at least 1,500 additional judges should be recruited (over and above the replacement of retirements) over the next five years*".

The report formulates important recommendations and notably advocates a reform of the status and missions of the magistrates of the Public Prosecutor's Office, in particular by completing the constitutional reform of 1999 through the attribution to the Conseil supérieur de la magistrature (hereafter CSM) of a power of assent on proposals for the appointment of magistrates of the Public Prosecutor's Office, as well as an assent in disciplinary matters.

With regard to digital strategy, the Committee of the Estates General on Justice calls for a redefinition of the approach to the Ministry's digital policies. In addition to the essential upgrading of infrastructures and

[1] Website of the platform "Parlons justice" (Synthèse contributions - Parlons Justice !)

applications, digital technology is insufficiently taken into account in the design of reforms and can slow down their implementation and success, leading to discouragement in the jurisdictions. To remedy this situation, the committee has formulated proposals to reorganize the project management of IT applications and to strengthen the role of digital technology.

In criminal matters, the committee has pronounced itself on the main orientations that should guide the rewriting of the code of criminal procedure and stresses the need for more in-depth impact studies.

In civil matters, it formulated numerous proposals, in particular concerning the reform of the protection of vulnerable persons and the development of alternative dispute resolution methods

On legal aid, it is proposed to revalue certain acts and to reinforce the filtering role exercised by the legal aid offices.

The conclusions of this report were followed, on January 5, by several announcements by the Minister of Justice in budgetary matters but also in the field of the organization of justice, the reform of criminal and civil procedures and prison policy.

The French Bar remains particularly attentive to the implementation of the report's recommendations.

2. Organic law of December 22, 2021, for the confidence in the judicial institution

The law was published on Thursday, December 23, 2021, in the Official Journal and aimed at restoring confidence in the judicial institution

The application decrees have specified numerous provisions impacting the legal profession.

- Professional secrecy

The law for confidence in the judiciary modifies the provisions relating to the protection of professional secrecy.

Article 3 of the law completes the preliminary article of the code of criminal procedure, reaffirming the secrecy of the defence and the secrecy of counsel. Nevertheless, it provides for exceptions.

Thus, without prejudice to the prerogatives of the President of the Bar or his delegate, the professional secrecy of counsel would not be enforceable against the measures of investigation and inquiry in matters of tax fraud, corruption and influence peddling in France and abroad, as well as the laundering of these offences (articles 1741 and 1743 of the general tax code and articles 42122, 4331, 4332 and 4351 to 43510 of the criminal code) and when the consultations, correspondence or documents, held or transmitted by the lawyer or his client, establish proof of their use for the purpose of committing or facilitating the commission of the said offences.

When the search of a lawyer's office or home is justified by the fact that the lawyer has been implicated, it is subject to the existence of plausible reasons for suspecting the lawyer of having committed or attempted to commit the offence that is the subject of the proceedings. However, the search remains possible even when the lawyer is not implicated.

The judge who conducts the search ensures that the investigations conducted do not infringe on the free exercise of the profession of lawyer and that no document relating to the exercise of the rights of the defence and covered by the professional secrecy of the defence and counsel, is seized and placed under seal.

The document must then be placed under closed seal and be subjected to a separate report. This report, as well as the sealed document, are transmitted without delay to the judge of freedoms and detention (hereafter JLD), along with the original or a copy of the procedure file. The JLD shall rule within 5 days of the referral. When, during a search in a place other than those mentioned above, the person at whose premises these operations are carried out considers that a document protected by the professional secrecy of the lawyer is discovered, he or she may oppose the seizure of this document.

The JLD's decision may be appealed with suspensive effect within 24 hours by the public prosecutor, the lawyer or the president of the Bar or his delegate, the administration or the competent administrative authority, in front of the president of the investigating chamber.

For requisitions concerning connection data corresponding to a lawyer's telephone line, a motivated decision by the JLD is required, both in the investigation and in the preliminary inquiry, stating plausible reasons for suspecting the lawyer. It must be communicated to the President of the Bar for information.

The mobilization of the profession has nevertheless made it possible to avoid the non-opposability of professional secrecy when the lawyer has been subjected to "manoeuvres or actions for the purpose of unintentionally enabling the commission, continuation or concealment of an offence".

The law was completed by the circular of February 28, 2022, presenting the provisions of law n° 2021-1729 of December 22, 2021, for confidence in the judiciary, reinforcing the protection of the rights of the defence, which details the new rules relating to searches, the framework for requisitioning connection data concerning a lawyer and the rules relating to phone interceptions of the lawyer.

This circular partially reverses the guarantees provided by the law. It ignores the principle of indivisibility of professional secrecy enshrined in the case law of the Court of Justice of the European Union and the European Court of Human Rights.

Secondly, by stating that any advice provided prior to the commission of an offence cannot be protected by secrecy, the circular adds a condition that was not provided for by the law and partially empties the new protection granted by the legislator of its substance.

The Paris Bar Association referred this circular to the Council of State for censure, and the CNB submitted a voluntary intervention in its support.

In the context of this litigation, a priority question of constitutionality (hereafter QPC) on the constitutionality of the law for confidence in the judiciary was transmitted to the French Constitutional Council.

The hearing before the Constitutional Council was held on January 10 and a decision was rendered on January 19.

The Constitutional Council declared the following to be in conformity with the French Constitution:

- For article 56-1 CPP:

- the words "plausible reasons" appearing in the fifth sentence of the first paragraph of Article 56-1 of the Code of Criminal Procedure,
- the words "pertaining to the exercise of the rights of the defence" appearing in the second paragraph of the same article.
- the words "within five days" in the fourth paragraph of the same article

- Article 56-1-2 CPP

Concerning 56-1 CPP, the Constitutional Council emphasized that, while the rights of the defence are guaranteed by the Constitution, no constitutional provision specifically enshrines a right to secrecy of lawyers' exchanges and correspondence

It considered that:

- the provisions in question are not intended to allow the seizure of documents relating to a judicial proceeding or to a proceeding for the purpose of imposing a penalty search may, under condition of nullity, only be carried out after having been authorized by a reasoned decision of the liberty and custody judge, who shall indicate the nature of the offence to which the investigations relate, the reasons justifying this measure, its purpose and its proportionality with regard to the nature and seriousness of the facts.

- Where such a measure is justified by the involvement of the lawyer, such authorization shall be subject to the condition, which shall not be imprecise, that there are reasonable grounds for suspecting the lawyer of having committed or attempted to commit the offence which is the subject of the proceedings or a related offence.

- The search may not lead to the seizure of documents or objects relating to offences other than those mentioned in the decision authorizing this measure. It may only be carried out by a magistrate and in the presence of the President of the Bar or his delegate, who may object to the seizure if he/she considers it to be irregular. In this case, the judge of freedoms and detention rules on this challenge, within a period of five days, by reasoned order and subject to a suspensive appeal to the president of the investigating chamber.

It concludes that the contested provisions of article 56-1 of the code of criminal procedure achieve a balanced conciliation between, on the one hand, the constitutional objective of finding the authors of offences and, on the other hand, the right to respect for private life and the secrecy of correspondence.

With regard to article 56-1-2, the Constitutional Council:

- Recalls the constitutional value of the objectives of searching for the perpetrators of offences and combating tax fraud.

- Underlines that:
  - the contested provisions do not apply to documents covered by the professional secrecy of the defence.
  - Among the documents covered by the professional secrecy of counsel, only those that have been used to commit or facilitate the commission of the offences of tax fraud, corruption, influence peddling, financing of a terrorist enterprise or the laundering of these offences may be seized.
  - In addition, the President of the Bar, his delegate or the person at whose premises the search is conducted may object to the seizure of these documents under the conditions provided for in articles 56-1 and 56-1-1 of the Code of Criminal Procedure.

He concluded that the complaint based on the disregard of the rights of the defence and those based on the disregard of the right to privacy and secrecy of correspondence must be dismissed.

- **Discipline**

With regard to the disciplinary procedure for lawyers, the law on confidence in the judiciary makes important changes. A new right is recognized for the complainant, who may now refer directly to the disciplinary body when his or her complaint has not led to conciliation or referral to the disciplinary body.

The disciplinary council of lawyers becomes a real jurisdiction. It is presided over by a magistrate when the disciplinary proceedings follow a complaint from a private individual or when the lawyer in question so requests.

Diversity is also introduced in the composition of the disciplinary court of appeal, in which three magistrates and two members of the Bar Council of the jurisdiction of the court of appeal will sit.

The ethical rules for lawyers are now gathered in a code of ethics, the preparation of which is entrusted by law to the CNB.

- **Executory title of mediation agreements countersigned by lawyer**

The law n°2021-1729 of December 22, 2021, for confidence in the judicial institution modified article 111-3 of the code of civil enforcement procedure which lists the "enforceable titles" by adding a 7th paragraph to the terms of which constitute an enforceable title:

“The transactions and the acts establishing an agreement resulting from a mediation, a conciliation or a participative procedure, when they are countersigned by the lawyers of each of the parties and signed by the clerk of the competent court”.

Article 44 of the law thus allows, when countersigned by lawyers and endorsed with the executory formula by the clerk of the competent court, that transactions and acts agreed upon within the framework of a mediation, conciliation or participatory procedure become enforceable titles.

This modification is important because until then, the law provided that only the homologation by the judge made it possible to confer an enforceable force to the agreements between parties. This reform, by giving the lawyer's deed enforceability, recognizes the essential role that lawyers play in accompanying and advising their clients in mediation matters and at the same time relieves the courts of requests for homologation that were previously made before the judge.

- **Creation of the National Mediation Council (CNM)**

The law n°2021-1729 of December 22, 2021, for the confidence in the judicial institution announced the creation of a National Council of Mediation (CNM) placed under the Ministry of Justice. It is in charge of several missions, among which are to give opinions in the field of mediation, to propose to the public authorities all measures likely to improve it, to propose a collection of ethics applicable to the practice of mediation or to suggest national reference systems for the training of mediators.

The decree n°2022-1353 of October 25, 2022, relating to the composition and the methods of operation of the National Council of Mediation specified the composition of the CNM. It will thus be chaired alternately for 3 years by a State Councillor and a Councillor of the Court of Cassation, both appointed by their Vice-President or First President. The composition of the CNM is multipartite and includes representatives of the central administration of the Ministry of Justice and of another ministry, of the Defender of Rights, of the courts of first degree and of appeal of the judicial order, of the administrative order, of the national fund of family allowances or of qualified personalities trained in mediation, including an academic. The legal professions are also represented and the representative of the CNB is the second vice-president.

Each representative is appointed for a three-year term, renewable once. The CNM meets twice a year at the call of its chairman or at the request of half of its members.

- **Visiting rights of the President of the Bar of places of deprivation of liberty**

The law also institutes the possibility for bar presidents or their specially appointed delegate within the Bar Council to visit at any time police custody facilities, customs detention facilities, administrative detention facilities, waiting areas, closed educational centres and prisons within their jurisdiction. This is an important new skill for the profession, which is currently working on the publication of a guide.

This device, initiated by the Bar, was introduced in article 18 of the law n°2021-1729 of December 22, 2021 for confidence in the judicial institution, thus modifying article 719 of the Code of penal procedure.

In its previous version, this article granted only national and European parliamentarians elected in France the possibility to visit places of deprivation of liberty. This reform thus allows the profession to observe the conditions of execution of the measures of deprivation of liberty that take place there and to alert, if necessary, the public authorities and the judicial authorities if these conditions were to be considered as unworthy and/or constituting inhuman or degrading treatment.

Thus, the interest of the visiting rights of the President of the Bar and his delegates lies in the fact that the Bar, with its network of 163 Bar Associations and as many Presidents and Councils of the Bar spread throughout the country, is likely to generate a real culture of struggle against the indignity of conditions of deprivation of liberty.

It allows possible appeals to be fed by a wealth of information gathered in real time from observations made at the local level, in partnership with the other holders of visiting rights, first and foremost the members of parliament and the Controller General of places of deprivation of liberty (Contrôleur général des lieux de privation de liberté, hereafter CGLPL), but also through recurrent exchanges with the members of the administrations in charge of the execution of measures of deprivation of liberty, whose observations are systematically gathered.

It is therefore a visiting right whose effectiveness lies in its own network, and which is in no way in competition with existing visiting rights, such as that conferred in France on the CGLPL.

In the first year of its existence, this visiting right has already been fully invested by the French bar presidents and has notably allowed more than ten visits to be carried out.

In addition, the CNB and the various Orders centralize and make available to lawyers all the visit reports. In order to respect the adversarial process, they are also sent to the competent ministers, administrations and heads of jurisdictions for their observations and now follow a common methodology thanks to the adoption on October 14,

2022 of a practical guide "Droit de visite des bâtonniers" (Right of visit of the Bar Presidents), prepared within the Human Rights and Public Liberties Commission of the CNB and published under the joint seal of the National Bar Council, the Paris Bar Association and the "Conférence des bâtonniers" (Bar Presidents'Conference). These reports can therefore be used in the context of litigation concerning, for example, the indignity of detention conditions or the ineffectiveness of the fundamental rights of detainees.

Thus, the introduction of a right of visit of the Bar Association or representatives of the legal profession at the European level would be a lever in the fight against the phenomenon of prison overcrowding, which is rampant, with all its consequences at the human level, within many States. It would be a strong vector for bringing States into conformity with the recommendations of the European Commission in the field of deprivation of liberty[2].

3. Etat de droit et accès la justice

- **LOPMI law and the diversion of criminal proceedings**

The French Bar Association has mobilized against several provisions of the Ministry of the Interior's Orientation and Programming Bill and in particular the extension of the fixed fine for misdemeanours.

The fixed fine was created by the law of November 20, 2016, on the modernization of justice in the 21st century to deal with a mass litigation, road traffic offenses.

On September 4, 2021, the Minister of the Interior and the Minister of Justice announced the launch of the experimentation of the fixed fine for "illegal installation on the land of others", made an offence by Article 322-4-1 of the Penal Code, this article having been amended since 2018 by the law of November 7 relating to the reception of travellers and the fight against illegal installations. The operational implementation of this mechanism having been hampered by the implementation of the AFD for other matters (road traffic then use of narcotics), this experimentation began on October 19, 2021, in the jurisdiction of the courts of Créteil, Rennes, Foix, Lille, Reims and Marseille.

Codified in Articles 495-17 of the Code of Criminal Procedure and following, the procedure of the fixed fine for a misdemeanour makes it possible to extinguish public action by paying a fixed fine within 45 days of the discovery of the offence or the receipt of the fixed fine notice. The amount of the fine may be reduced if it is paid directly to the ticketing officer or within 15 days following the discovery of the offence or receipt of the notice.

The fine will be increased if it is not paid within 45 days or if no request for exoneration is made, i.e. if the fine is contested.

The increased fine can be contested within 30 days of its reception, or as long as the sentence is not prescribed (6 years) if it is not shown that the offender received the fine.

The contesting of a fixed fine or an increased fixed fine is necessarily accompanied by a specific motivation and a prior deposit of an amount equal to that of the contested fine.

In light of the request for exoneration or the complaint, the public prosecutor either takes a decision of inadmissibility, which can be contested, or a decision on the public action. If he intends to prosecute, the public prosecutor may refer the matter to the court of judgment, in particular by way of a summons, immediate appearance or penal order.

The fixed fine calls into question, to a greater or lesser extent, at least four established principles of criminal law and procedure. These criticisms apply to both the contraventional and the delictual fixed fine procedure. However, the stakes for misdemeanours appear to be much higher with regard to the amount of the fines and the consequences on the criminal record of the person fined, even though the fixed fine for misdemeanours does not constitute a first term of recidivism.

[2] The Recommendation on Procedural Rights of Suspects and Prosecuted Persons in Pre-trial Detention and Material Conditions of Detention of 8 December 2022 provides, inter alia, that "Member States should facilitate **regular inspections by an independent authority in order to determine whether places of detention are administered in accordance with the requirements of national and international law**" and "that they should also consider **organising regular visits to detention centers and other places of detention for judges, prosecutors and defence lawyers as part of their judicial training**"

This provision violates several fundamental principles of criminal law:

(i) Equality before the criminal justice system

(ii) Cumulation of the prosecution and sentencing functions of judicial police officers

(iii) The exercise of the rights of the defence

(iv) Individualization of the sentence

In conclusion, the fixed fine, a new form of punishment for offences pronounced by the police and the gendarmerie against the person considered guilty, is a correctional sentence without adversarial debate, without a judge, without a lawyer. Its significant extension is not acceptable and would unquestionably constitute a setback in the rights and guarantees of those subjects to trial, in particular the most precarious among them.

- **Immigration law: draft law**

The French Bar Association is very concerned about the bill to control immigration that was presented to the Council of Ministers in January 2023.

This bill, which is still being studied, provides in particular for the possibility for prefects to issue an OQTF as soon as an asylum application has been rejected by the Office for the Protection of Refugees and Stateless Persons (OFPRA). Even though this obligation to leave the country would only be enforceable after a decision by the national court of asylum, this measure calls into question the constitutional principle of the admission of asylum seekers to stay until a final decision is made and weakens the judicial review of administrative decisions by making procedures unnecessarily complex.

- **Prison overcrowding and undignified conditions and implementation of Law No. 2021-403 of April 8, 2021 to guarantee the right to respect for human dignity in detention**

The situation of the prison system is particularly worrying.

A record number of prisoners was again reached on November 1, 2022, with 72,809 prisoners for only 60,698 operational places. The prison density has reached 120% for the entire prison population and 142.8% in the prisons or detention centres, a figure that can exceed 200% in the establishments of Carcassonne, Bordeaux-Gradignan, Foix and Nîmes.

This situation, described as critical by the Minister of Justice in his latest circular on general penal policy, is of long-term concern to lawyers and all unions, associations, independent administrative authorities and international organizations concerned with the prison environment. The European Court of Human Rights, in its press release accompanying the J.M.B. v. France judgment of January 30, 2020, indicated that the occupancy rates of the prisons concerned by the appeal "reveal the existence of a structural problem".

Several recent court decisions have highlighted France's inability to guarantee dignified conditions of detention in prisons: the first handed down by the ECHR on January 30, 2020, which condemned France for undignified detention conditions, the second handed down by the Court of Cassation on July 8, 2020, which recognized the right of persons placed in detention to refer to the judicial judge in order to put an end to their undignified detention conditions, and the third handed down by the Constitutional Council on October 2, 2020, which ruled that it was the legislator's responsibility to guarantee that persons placed in pre-trial detention have the possibility of referring to the judge conditions of detention contrary to human dignity, in order to put an end to them.

It is in this context that a law creating a mechanism to guarantee all detainees the right to dignified conditions of detention was adopted on April 8, 2021. From now on, any person detained in a prison who considers that his or her conditions of detention are contrary to human dignity may apply to the liberty and custody judge, if he or she is in pre-trial detention, or to the sentence enforcement judge, if he or she is convicted and incarcerated in execution of a custodial sentence, in order to put an end to these undignified conditions of detention.

If the allegations in the petition are "detailed, personal and current", the judge declares the petition admissible, makes the necessary verifications and collects the observations of the administration. If the petition appears to be

well-founded, the judge informs the prison administration of the conditions of detention that he considers to be contrary to human dignity and sets a deadline for the prison administration to put an end, by any means, to these conditions of detention. Before the end of this period, the prison administration, which alone is competent to assess the means to be implemented, informs the judge of the measures that have been taken. If the judge considers that these measures are insufficient, he may order the transfer of the person to another prison. If the person is in pre-trial detention, the judge may order his or her immediate release or an adjustment of the sentence if the person has been definitively convicted and is eligible for such a measure.

This new recourse is an important step forward for the respect of fundamental rights in France and the CNB is fully mobilized to train lawyers and ensure that detainees have all the information they need to assert their rights.

The CNB has requested and obtained compensation for lawyers under the legal aid scheme for appeals lodged under this new provision.

- **Vienna Appeal and French Presidency of the European Union' Council**

France held the presidency of the Council of the European Union during the first half of 2022 and built its program around the triptych "recovery, power and belonging".

This political program was strongly marked by the war in Ukraine, the humanitarian crisis that followed, and the political questioning of the rule of law in several member states of the European Union. These elements led the CNB to visit Poland, taking into account the political context of reforms of the Constitutional Court and the disciplinary bodies of the judiciary, with the triple objective of analysing in detail the systemic threats to the rule of law, to initiate a common reflection to try to find solutions to prevent the multiplication of these attacks and to show its solidarity with the judicial professions, which are directly exposed to pressures and threats.

The delegation of the CNB also took advantage of this trip, initially focused on the independence of justice, to meet the new problems posed by the war in Ukraine. It met with representatives of Frontex, the European border guard agency, and was able to discuss the conditions for crossing the border and the implementation of Directive 2001/55/EC on minimum standards for giving temporary protection in the event of a mass influx of displaced persons.

In view of this very special timing and the fact that attacks on the rule of law in Europe are becoming more and more widespread, the CNB has initiated a draft declaration by European lawyers in support of the rule of law, designed to remind the profession of its unwavering attachment to fundamental European values and the urgent need to protect them and adapt them to the technological transformations underway.

This draft declaration was presented at the CCBE standing committee meeting in Dublin in May 2022, then widely circulated among European Bars, before being presented and submitted for signature to European Bars and international organizations representing the profession on the occasion of the 50th Conference of Presidents of European Bars.

This declaration was enthusiastically received and signed by more than 40 Bars and organizations, representing more than one million lawyers, during the official signing ceremony organized on June 11th at the French Embassy and labelled PFUE, thus becoming the "Vienna Appeal".

This Appeal is declined in 5 axes:

- The political questioning of the rule of law and the means to fight effectively against the erosion of fundamental European values
- The digital challenges of the rule of law
- The protection of the legal profession
- The defence of the rights of the most vulnerable
- Environmental law as a corollary of human rights
-

The commitment of the lawyers to support the rule of law has been well received by the national press, the French Ministry of Justice and the French diplomatic authorities.

- **Strengthening European inter-bar cooperation for the defence of the rule of law and the legal profession**

France considers inter-bar cooperation at the European level to be an effective lever in the defence of the rule of law, particularly in the current context of increasing threats to the rule of law and democracy.

It is in this spirit that the Weimar Triangle was launched, a platform for reinforced inter-bar cooperation which brings together the three representative institutions of the legal profession in Germany, France, and Poland, namely the Deutscher Anwaltverein, the Paris Bar Association and the Warsaw Bar Association. The objective of this platform is to carry out actions aimed at defending the values of the rule of law throughout Europe, and in particular the independence of the judiciary, respect for the separation of powers and the rule of law.

The Paris Bar Association, led by Mrs. Julie Couturier, hosted on October 20 and 21 the second edition of the Weimar Triangle Summit organized in joint collaboration with the German Bar Association and the Warsaw Bar Association.

This event was an opportunity for the three bars to define the future orientations of the Triangle, with the aim of acting in an even more concrete way for the defence of the rule of law in a current European context where threats and attacks to the rule of law are multiplying.

The representatives of the three institutions, Julie Couturier, Mikołaj Pietrzak, and Stefan von Raumer, agreed in particular to strengthen the Triangle's actions and position through advocacy, the reinforcement of communication, which will begin with the creation of a website, as well as the implementation of training and awareness programs for institutions, lawyers and the general public.

- **Law and environmental protection**

At a time when the number of avenues for the development of legal instruments in favour of environmental protection are multiplying in France, the Paris Bar Association has seized the opportunity to offer a framework for reflection and relevant exchanges on the issue during its International Conference.

In the wake of the COP 27 on climate change which took place from November 6 to 20, 2022 in Sharm-el-Sheikh, Egypt, the Paris Bar's International Conference, under the aegis of President Julie Couturier, also focused this year on the now urgent issue of environmental protection and the fight against global warming and its devastating consequences. The various speakers were invited to discuss the topic "Nature, a new subject of law?

In order to bring elements of answer to this eminently complex question, Mr. Olivier Christen, magistrate and Director of criminal affairs and pardons, as well as Marie Toussaint, MEP ecologist, founder of the association *Notre Affaire à Tous*, intervened.

Thus, Olivier Christen emphasized the need for a real implementation of existing environmental protection provisions and recalled the work to improve prevention, sanctions and repair of environmental damage with, among other measures, the creation of environmental poles in the Courts of Appeal, and also the establishment of a Judicial Convention of Environmental Public Interest (CJIP).

For her part, Marie Toussaint highlighted the beginnings of the rights of nature in some countries such as Ecuador, New Zealand, India, or even the United States where states have granted rights to ecosystems. For the European deputy, the "rights of the living" will constitute a real upheaval of the traditional conceptions of the law and of human existence. This consecration must have tools allowing the effectiveness of the rights of the living and allow a greater general awareness of these last ones in all the political decisions.

With this in mind, and in the wake of the Vienna Appeal, the profession must work together on issues related to climate change, environmental protection and sustainability, which are increasingly pressing in light of the climate emergency. The environment, as a fundamental and cross-cutting issue directly or indirectly impacting all areas of law, is already the subject of numerous CNB projects, notably in the area of civil environmental litigation, criminal environmental litigation, and the rights of future generations. The CNB and the Paris Bar Association are also committed to the achievement of sustainable development objectives within the framework of an initiative led by the Legal Vice Presidency of the World Bank[3].

[3] Compact & Forum : supporting the UN's sustainable development goals.

The Conseil national des barreaux intends to work on the creation of best practice guides to help lawyers become actors in the fight against global warming, to train the profession to assist companies in environmental compliance, and to communicate on the role of lawyers in assisting their clients in their energy transition.

The profession will also continue its action in the development of the standard through the work of the CCBE and the G7 lawyers[4].

- **Digitalization**

The digitization of justice continues to develop in France

The digitization of justice has continued in France. In this respect, it is worth noting:

- The deployment of the QPC platform

The Constitutional Council has initiated work on the development of a website dedicated to the priority question of constitutionality (QPC), in which the CNB has been involved from the outset with the Ordre des avocats aux Conseils. Co-constructed with the Conseil d'Etat and the Cour de cassation, as well as with the conferences of the presidents of the courts of appeal and judicial tribunals, this reference portal on the QPC will include a number of useful resources for legal professionals and will allow the public to access all the court decisions rendered by the judicial courts and the administrative courts in the context of a QPC procedure.

- the launch of divorce by electronic mutual consent

After five years of joint work, the CNB and the Conseil supérieur du notariat (CSN) signed an agreement in June 2022 formalizing the dematerialized transmission of the e-DCM

The creation of the e-DCM by the CNB provides lawyers, notaries and couples with a fluid and efficient digital solution for the establishment, signature and electronic storage of divorce agreements by mutual consent (DCM).

From now on, lawyers and notaries have the possibility to offer their clients the electronic signature of their divorce agreement by mutual consent thanks to the e-DCM. This is a simple and fast tool, which favours the fluidity of work between these two legal professions but also with the clients

The divorce agreement will thus be signed electronically by the spouses in the presence of their lawyers. The notaries will be able to electronically file the agreement in their minutes, making the divorce effective.

- Digital partnerships

As mentioned in last year's contributions, the CNB is developing a partnership approach to develop the dematerialization of procedures.

This year, the CNB has signed an agreement with the Justice Commissioners.

This agreement aims to make it possible to find a judicial commissioner online in a given geographical area and to send him an assignment letter so that he can issue a summons, serve a court decision or proceed with its execution.

As for the digital strategy, the Committee of the Estates General of Justice calls for a redefinition of the approach of the Ministry's digital policies. In addition to the essential upgrading of infrastructures and applications, digital technology is not sufficiently taken into account in the design of reforms and can slow down their implementation and success, leading to discouragement in the jurisdictions. To remedy this situation, the committee has formulated proposals to reorganize the management of IT applications and strengthen the role of digital technology.

[4] Orientation report on the consideration of the environmental dimension, adopted by the General Assembly of the CNB on January 13, 2023

A partnership project is also being discussed with the clerks of the commercial courts to interconnect the digital court platform with the new e-bar.