

Preventing and fighting discrimination,  
gender-based and sexual violence,  
moral and sexual harassment at ENS de Lyon

Legal definitions (French Penal Code and Labour Code)

1. SEXIST OR SEXUAL BEHAVIOUR

Any conduct related to a person's gender that has **the purpose or the effect** of:

- either **compromises the victim's dignity**
- or creates an **intimidating, hostile, degrading, humiliating or offensive environment** for the victim.

Penalties incurred (Labour Code): disciplinary sanctions ranging from a warning, a reprimand to a dismissal.

Penalties incurred (Penal Code): **€750 fine** (**€1,500 fine** in case of aggravating circumstances).

2. DISCRIMINATION

A **prejudicial treatment** between people or groups of people based on **illegal criterion**.

There are 25 criteria in the French law:

- |                           |                          |  |
|---------------------------|--------------------------|--|
| - Age                     | - Sexual orientation     | - Physical appearance                  |
| - Sex                     | - Gender identity        | - Loss of autonomy                     |
| - Origins                 | - Political opinions     | - Vulnerability due to economic issues |
| - Ethnicity or race       | - Philosophical opinions | - The level of proficiency in French   |
| - Nationality             | - Union membership       | - Bank address                         |
| - Pregnancy status        | - Religion               |  |
| - Health issues           | - Family status          |  |
| - Disability              | - Surname                |  |
| - Genetic characteristics | - Customs                |  |
|                           | - Living place           |  |

**Discrimination exists in different kinds of situation:**

- |                          |   |  |
|--------------------------|---|--|
| - Access to work         | - Access to private goods and services (housing, credit, leisure)                       | - Access to a public place (city hall, shops, restaurants) |
| - Career                 | - Access to public goods and services (school, health, civil services and social helps) | - Access to social protection                              |
| - Disciplinary sanctions |   | - Education and training                                   |
| - Dismissal              |   |  |
| - Pay                    |   |  |
| - Social benefits        |   |  |

A discrimination can be **direct** or **indirect** if a rule, which is supposed to be neutral, has a prejudicial effect on people, based on one of those criteria.

Penalties incurred: **3 years' imprisonment** and a **€45,000 fine**. The penalty can be up to **5 years' imprisonment** and a **€75,000 fine** if the discrimination occurs in public place.

### 3. HAZING AND SEXUAL HAZING

Apart from cases of violence, threats or sexual abuse, the fact that a person causes another person, against his/her will or not, to undergo or commit **humiliating or degrading acts** and/or to **consume alcohol excessively**, during events or meetings related to the school, sports and socio-educational environment.

Some of those acts **can be sexist or have a sexual connotation**.

Penalties incurred: **6 months' imprisonment** and a **€7,500 fine** (**1 year's imprisonment** and a **€15,000 fine** in case of aggravating circumstances).

### 4. HARASSMENT

Illegal behaviour towards a person that causes mental or emotional suffering, which includes **repeated unwanted contacts** when such conduct:

- either **compromises the victim's dignity** through demeaning or humiliating words or actions,
  - or creates an **intimidating, hostile or offensive environment** for the victim.
- In case of relationship of **authority, subordination, the repetition is not necessary**. One time is enough.

Harassment can occur **online**. It concerns both of **public and private communications**.

Penalties incurred: **2 years' imprisonment** and a **€30,000 fine**.

### 5. SEXUAL HARASSMENT

The act of **repeatedly** subjecting a person to **unwelcome verbal or physical conduct** of a **sexual nature** when such conduct:

- either **compromises the victim's dignity** through demeaning or humiliating words or actions,
  - or creates an **intimidating, hostile or offensive environment** for the victim.
- Any form of **intense pressure, even if not repeated, with the actual or perceived goal of obtaining sexual favours**, whether for the offender or for a third party, is also considered as sexual harassment.

Penalties incurred: **3 years' imprisonment** and a **€45,000 fine**.

### 6. SEXUAL ASSAULT

**Sexual abuse committed with the use of violence, coercion, threat or surprise.**

It implies a physical contact, in general, in one of those part of the body: from the top of the thighs to the waist, breast and the mouth.

Penalties incurred: **5 years' imprisonment** and a **€75,000 fine**.

## 7. RAPE

Rape differs from other forms of sexual aggression in **that it involves sexual penetration**, regardless of the exact nature of such penetration, **or oral-genital act**, as well as the use of violence, coercion, threat or surprise.

Penalties incurred: **15 years' imprisonment** (or more in case of aggravating circumstances).

## 8. ARTICLE 132-77 OF THE PENAL CODE

The Penal Code provides for an aggravated penalty for acts with a **homophobic or transphobic motive**, whether or not the victim is lesbian, gay, bi or trans.

In criminal law terms, homophobic or transphobic behaviour can be:

- a discrimination,
- an offence where the homophobic or transphobic motive is an aggravating circumstance (e.g. physical violence),
- a public expression.