

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 or 1,500€** fine (**€3,750** fine in case of aggravating circumstances).

2. DISCRIMINATION

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

There are 26 criteria in the French law:

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|---------------------------|--------------------------|--|
| - 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 | - The fact to be whistleblower or close to a whistleblower |
| - Health issues | - Family status | |
| - Disability | - Surname | |
| - Genetic characteristics | - Customs | |
| | - Living place | |

Discrimination exists in different kinds of situation:

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|--------------------------|---|--|
| - 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.