1. Constitution

Constitution of 4 October 1958 and Declaration of human and civil rights of 26 August 1789

Overview

The French Constitution promotes the equality of all citizens before the law and prohibits discrimination on the grounds of origin, race or religious beliefs as provided for in Article 1. The preamble to the Constitution refers to the Declaration of human and civil rights of 26 August 1789, which has been incorporated into French Law: the Declaration is deemed to be part of the national Constitution. In article 1 of the Declaration, it is established that “men are born and remain free and equal in rights” and that “social distinctions may be based solely on ‘common good’ considerations.”

External links:

- Constitution of 4 October 1958
  (http://www.conseil-constitutionnel.fr/langues/anglais/cst1.pdf (in English)

- Declaration of human and civil rights of 26 August 1789
  (http://www.legifrance.gouv.fr/html/constitution/const01.htm)
  (http://www.conseil-constitutionnel.fr/langues/anglais/cst2.pdf) (in English)

Overview: The legislator stresses the importance of education for promoting integration and equality. Articles L.111-1 et seq. recognize the general right to education as well as children's right to access education, regardless of social, cultural or geographical background.

2. Stand-alone "Anti discrimination law" regarding access to education

- Law n° 2004-1486 of 30 December 2004 (as amended by law n° 2006-396 of 31 March 2006) regarding the creation of the High Authority to fight against discrimination and for equality (Haute Autorité de lutte contre les discriminations et pour l'égalité or « HALDE »)

Overview: The law finalized the transposition of the 2004 EU Directive (Council Directive 2004/43 EC). It provides for a general regime prohibiting discrimination on the basis of nationality, affiliation or lack of affiliation, whether actual or presumed, to an ethnic group or race in the field of social protection, healthcare, social advantages, access to education and supply of goods and services […]. It also provides for the shift of the burden of proof to the respondent when factual evidence of discrimination is brought by the plaintiff, except in criminal proceedings. In addition, this law created an independent governmental agency, the "High Authority against Discrimination and for Equality" (HALDE). The HALDE has jurisdiction over all forms of discrimination, whether direct or indirect, prohibited by French law and/or international agreements ratified by the French Republic.

3. Key Role of the High Authority against Discrimination and for Equality (HALDE)

Without challenging or replacing more traditional channels to redress discrimination cases within the judicial system, the HALDE is entitled to conduct investigations:

(i) on its own initiative (provided the victim is notified and consents);
(ii) upon the request of any individual who believes he or she is being discriminated against; or
(iii) upon the request of a Member of Parliament.

When it is notified of discriminatory conduct, the HALDE will lead an investigation, and, depending on the case, will assist the victim in compiling his or her dossier. HALDE is empowered to request information and/or documentation from any person or entity, and if HALDE’s requests are not met, HALDE may demand a reply and/or production of documents within a given timeframe. In the absence of a response, HALDE may, in addition, refer the case to a judge on an expedited basis (juge des référés). The judge may order investigatory measures. The HALDE may also itself resolve disputes brought to its attention and impose sanctions or penalties. When the facts of a case suggest a criminal offence, the HALDE may notify the public prosecutor for further action.

Reporting discriminatory acts to the HALDE is a simple, free and generally efficient process. A motivated letter need only be sent to the HALDE’s attention at 11 rue Saint-Georges, 75009 Paris. Alternatively, a request for assistance can also be notified on-line at halde.fr.

With regard to discrimination in education based on race, the HALDE has handled cases involving, for instance, the registration of a child with disabilities in the high school closest to the child's domicile; the enrolment of a Cameroon national in a French medical school (the
university had refused to enroll her based on the existence of a similar program of study in her native country).

The HALDE also promotes equality generally, and it can recommend modifications of existing laws or rules. It publishes an annual report concerning the performance of its duties, which is available to the public.

4. **Reverse discrimination: “equality of opportunities” measures in French education**

Several programs and initiatives have attempted to open access to certain schools to students located in areas with a lower standard of living. Many of those areas are organized in « priority education zones ». There are no programs which provide access to prestigious schools, for instance, based solely on one’s race or ethnic origin.

**Legal texts**

**Law on Equality of Opportunities dated March 31, 2006**
http://www.legifrance-gouv.fr/texteconsolide/SEEFP.htm

**Overview**

The law creates a « national agency for social cohesion and equality of opportunities » whose purpose will be to contribute to curb discrimination at the local level. The law also creates additional measures designed to curb educational segregation. For instance, a personal tutorship should allow students from certain priority education areas to access the best preparatory schools (e.g., Lycée Henri IV in Paris). The measures currently in place are numerous. We list below a number of helpful websites in that regard:

i) Ministry of Education website, on priority education:
educationprioritaire.education.fr

ii) Association referencing existing measures:
OZP - Observatoire des Zones Prioritaires - le Quotidien des ZEP

(Measures in force in 2006 include: the « New Opportunities » program, the « Open School » initiative, and the « Second Chance School » (July 2006)).

iii) Sciences-po website:
www.sciences-po.fr

Since 2000, the prestigious Paris school of human sciences and politics has signed « priority education agreements » with several high schools located in priority education zones. The objective is to allow qualified students from such zones to take part in a competitive exam and be admitted to follow the traditional «Sciences-Po» curriculum.

iv) Topics covered by the general Ministry of Education website ([Ministère de l’Éducation nationale](http://education.gouv.fr)):

> L'Agence nationale pour la cohésion sociale et l'égalité des chances

Décret n° 2006-945 du 28-07-2006
Journal officiel, 30-07-2006, n° 175
Principes et modalités de la politique de l'éducation prioritaire

Circulaire n°2006-058 du 30-03-2006
Bulletin officiel de l'Éducation nationale, 06-04-2006, n° 14

Mise en œuvre de la charte pour l'égalité des chances aux formations d'excellence

Circulaire n°2005-148 du 22-08-2005
Bulletin officiel de l'Éducation nationale, 06-10-2005, n° 36

Dispositifs d'aide et de soutien pour la réussite des élèves au collège

Décret n°2005-1013 du 24-08-2005
Bulletin officiel de l'Éducation nationale, 01-09-2005, n° 31

Dispositifs d'aide et de soutien pour la réussite des élèves à l'école

Décret n°2005-1014 du 24-08-2005
Bulletin officiel de l'Éducation nationale, 01-09-2005, n° 31