

WHAT DOES IT MEAN TO JOIN THE CIVIL SERVICE?

The civil service, body, grade and job:

In France, the civil service is organized around a career system that differs from the employment system applied in the private sector.

Recruited by competitive examination to fill permanent positions, civil servants are expected to make a career within the administration. This system implies that they devote their entire working life to public service. **In return, it guarantees a degree of job stability and protects them from the vagaries of political change.**

The career system is based on the principle of the distinction between grade and job:

Civil servants belong to corps, which group together people who are subject to the same special status and who are destined to reach the same grades.

Grades are a division of the corps to which civil servants belong after recruitment by competitive examination. The grade is defined by the general statute created by the law of October 19, 1946 and by subsequent laws as a legal title attributed personally to civil servants.

It confers on them the right to carry out a job reserved for holders of the grade, i.e. functions at a specific hierarchical level.¹

This grade is distinct from the job held. **The principle of the separation of grade and job means that a civil servant is not recruited to occupy a specific job, but to occupy the jobs to which his or her grade gives access.**

In practice, this means that civil servants belonging to the same grade can perform a **wide variety of functions. They can change jobs without any impact on their career development.**

A career civil service:

It offers civil servants the opportunity to progress throughout their working lives through the various echelons and grades.

The grade confers rights on the civil servant who holds it:

In particular, **it confers a right to a career**, i.e. **benefits** such as advancement in step or grade, as well as the right to exercise administrative and jurisdictional recourse against decisions taken in their regard.

It also determines the financial entitlements of the civil servant, i.e. salary and retirement pension.

¹ Article L. 411-5 of the French Civil Service Code (Code général de la fonction publique - CGFP) stipulates that : "The grade is distinct from the job. The grade is the title that confers on its holder the right to occupy one of the jobs that correspond to it."

As an exception to the principle that permanent jobs must be filled by civil servants, the General Civil Service Code provides for the recruitment of contractual agents.

The rights, obligations and protection of public officials :

Over the years, civil servants have acquired numerous rights and freedoms. They also benefit from "standard" professional guarantees throughout their career, as well as various protections against occupational hazards.

Title I, "Rights and Freedoms", of the General Civil Service Code (CGFP) sets out in its five chapters the rights and freedoms guaranteed to civil servants.

These rights and freedoms include

Freedom of opinion:

Like all citizens, civil servants enjoy complete freedom of opinion, as guaranteed by Article 10 of the 1789 Declaration of the Rights of Man and of the Citizen, by the fifth paragraph of the Preamble to the Constitution of October 27, 1946, and by Article L. 111-1 of the General Civil Service Code.

No distinction may be made between civil servants on the grounds of their political opinions, particularly in terms of access and career development. This right has also long been protected by the administrative courts.

Outside the workplace, civil servants also enjoy freedom of expression. This includes the right to engage in political activity, to join the political movement of one's choice and to be an activist, as well as the right to take part in elections and to campaign. It is limited by the duty of confidentiality.

The right to participation :

The General Civil Service Code enshrines the principle of participation by public employees, through their representatives:

- in the organization and operation of public services,
- in drawing up rules governing the careers of civil servants and conditions of employment
- contract staff,
- defining human resources policy guidelines, and
- reviewing certain individual decisions.

The obligations of civil servants are determined by the values and general principles of public service. They form part of a code of ethics for public action, which applies not only in the performance of their duties, but also outside the workplace.

Duty of obedience, neutrality and impartiality, prevention of conflicts of interest:

In addition to their obligation to perform their duties and to obey their superiors, civil servants are bound to neutrality and impartiality in the exercise of their functions, loyalty to the administration, a certain restraint in their expression (obligation of reserve), probity and disinterestedness.

These obligations, enshrined in Title II of Book I of the CGFP, are accompanied by a rigorous disciplinary regime that includes important guarantees, as well as criminal and civil liability adapted to their participation in public service missions.

Public officials must immediately prevent or put an end to situations of conflict of interest, as defined in article L. 121-5, in which they find themselves or may find themselves (art. L. 122-1):

Article L. 121-5 of the CGFP defines a conflict of interest as "any situation of interference between a public interest and public or private interests which is likely to influence or appear to influence the independent, impartial and objective performance of the public official's duties."

Like all citizens, civil servants are free to hold the religious opinions and beliefs of their choice.

The freedom of conscience of civil servants is guaranteed by article L. 111-1 of the CGFP and protected by article L. 131-1, which stipulates that no distinction, direct or indirect, may be made between civil servants, notably on the grounds of their philosophical or religious opinions, or their origin. No mention may be made, in their personal files or in any administrative document, of the religious or philosophical opinions or activities of employees (article L. 137-2 of the same code).

Like all citizens, civil servants are free to express their opinions outside the workplace. They must, however, respect their duty of reserve when expressing their opinions.

On the other hand, public employees, whether or not they are in contact with users, must respect the obligation of neutrality, under which they must not, in the exercise of their duties, manifest their convictions, whether religious, philosophical or political.

The neutrality of public authorities protects public service employees and users by treating all persons equally.²

² Originating in case law, the principle of neutrality was enshrined in Article L. 121-2 of the General Civil Service Code, which reads as follows: "In the performance of their duties, public employees are bound by the obligation of neutrality. They must perform their duties in accordance with the principle of secularity. As such, they must refrain from manifesting their religious opinions. They receive training in this principle. Public servants treat all persons equally, respecting their freedom of conscience and dignity."

The possibility of concurrent employment:

Article L. 121-3 of the CGFP lays down the principle that civil servants must devote their entire working time to their job.

However, in order to encourage entrepreneurship and enrich career paths, articles L.123-2 to L.123-8 of the Code provide for exceptions to this principle, allowing public servants to combine their employment with another professional activity.

The purpose of this legal framework is to ensure that the activities in question comply with the ethical obligations applicable to civil servants. Indeed, the activities in question must not place the civil servant in a situation of conflict of interest within the meaning of article L. 121-5 of the CGFP, or even of illegal taking of interest within the meaning of article 432-12 of the French penal code.

These activities must also be compatible with the other ethical obligations set out by the CGFP: duties of dignity, impartiality, integrity and probity, in particular.

Protection against discrimination:

Discrimination is characterized by a difference in treatment prohibited by law. It may be direct or indirect, and is assessed objectively, i.e. in terms of its effects and not its intent.

The CGFP prohibits any distinction between civil servants on the grounds of their ideas (political, trade-union, philosophical or religious opinions), their origin (social, territorial), their condition (health, physical appearance, disability, sexual orientation or gender identity, age) or their personal situation (family, pregnancy).

The Code includes a specific section on protection against discrimination on the grounds of sex: it emphasizes the importance of equality, prohibits sexist behaviour and defines the cases in which separate recruitment of women and men may be provided for.

The CGFP protects civil servants who suffer or refuse to suffer discrimination, who appeal to a hierarchical superior or take legal action to denounce it, obtain redress or put a stop to it, or who testify on the subject.

Furthermore, no public employee may be penalized or subjected to any discriminatory measure for having reported to the judicial or administrative authorities facts constituting an offence or crime, or facts likely to be qualified as a conflict of interest of which he or she has become aware in the performance of his or her duties, or for having made a report in application of the "Sapin II" law (article L. 135-4 of the CGFP),

Equivalent protection exists in the event of reports of deliberate attacks on physical integrity, acts of violence, threats or any other act of intimidation (article L. 135-6A of the CGFP).

Protection against harassment (art. L. 133-1 to L. 133-3):

The Code enshrines the right of public employees not to be subjected to sexual or moral harassment in the performance of their duties.

Protection in the performance of duties:

Functional protection is a system whereby the administration protects civil servants against attacks to which they may be subject as a result of their duties. It is also required to

compensate any resulting damage. This protection also applies when the civil servant is the subject of criminal or civil proceedings, where the acts committed constitute an official misconduct on the part of the civil servant. On the other hand, functional protection is not granted in these two situations in the event of personal misconduct on the part of the agent, detachable from the performance of his or her duties.

Functional protection is granted and organized by the public authority which employs or employed the agent concerned at the time of the events in question.

Attacks likely to justify the granting of functional protection include deliberate attacks on personal integrity, violence, harassment, threats, insults, defamation or contempt.

The administration is obliged to protect the civil servant if it is informed, by any means whatsoever, of the existence of a manifest risk of serious harm to his or her physical integrity. In such cases, it must take immediate and precautionary measures to put an end to the risk and prevent the occurrence or worsening of the damage suffered by the public servant.

Health and safety at work:

Public employees must be guaranteed hygienic and safe working conditions that protect their health and physical integrity.

Guarantees concerning personal files:

Civil servants have the right to access their personal files, which must include all documents concerning their administrative situation. These documents must be recorded, numbered and filed without discontinuity.

The employee's personal file may not contain any reference to his or her political, trade union, religious or philosophical opinions or activities, nor may it contain any information, such as criminal convictions, which have been expunged by amnesty.