



# REPORTING AND PREVENTING WORKPLACE DISCRIMI- NATION

— A HANDBOOK FOR FESTIVAL  
D'AIX-EN-PROVENCE STAFF



In an effort to implement its overall Non-Profit Social Responsibility (NSR) approach, the Festival is working to **raise the awareness of, and inform all its co-workers and partners about, situations of workplace discrimination.**

Following the “Reporting Sexist and Sexual Violence in the Workplace” handbook, designed and distributed last year, we are proud to offer you this second instalment, devoted to discrimination in the workplace. Created by specialists in the fight against discrimination, this guide is the culmination of discussions and reflection conducted all year long with the Festival staff through the NSR steering committee and various technical committees — including a committee devoted to gender equality — and in dialog with employee representatives. We extend our warmest thanks to all of those who have participated.

This handbook, a useful tool to **help each of us identify and react** when faced with situations of workplace discrimination, is intended for **victims and/or witnesses** of such discrimination, to provide them with vital solutions to help guide them through procedures in place at the Festival. The handbook, which reflects the Festival’s human resources policy for a fair and respectful treatment of all, is addressed to the entire Festival staff and to artists and service providers who work at our side.

Please feel free to share this handbook with those around you.

François Vienne  
Deputy General Director

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# DEALING WITH THE SITUATION

## — WHAT ARE WE TALKING ABOUT?

The law distinguishes two types of discrimination: **direct discrimination and indirect discrimination.**

### > DIRECT DISCRIMINATION

Direct discrimination is defined as a situation in which one person is **treated less favourably than another is, has been, or would be treated in a comparable situation, on grounds that are prohibited by the law.** In the workplace, direct discrimination may occur in diverse situations, such as obtaining employment for a job applicant (during recruitment) or exercising one's job once hired.

There are **25 criteria for discrimination that have been identified<sup>1</sup> and are prohibited:**

- Origins
- Age
- Presumed race
- Religion
- Ethnicity
- Physical appearance
- Lifestyle
- Pregnancy
- Union activities
- Sex
- Gender identity
- Genetic characteristics
- Sexual orientation
- Ability to speak a language other than French
- Social precarity
- Nationality
- Last name/First name
- Health
- Place of residence
- Marital status
- Disability
- Bank domiciliation
- Political opinions
- Philosophical opinions
- Loss of autonomy

**Examples:** Ruling out an individual's application for employment due to their presumed origins; refusing to promote an employee due to their maternity or paternity leave.

### > INDIRECT DISCRIMINATION

"A situation in which **a provision, criteria, or practice appears neutral but results, for one of the biases prohibited by law, in a specific disadvantage for persons, as compared to other persons.**"

Art. 1 of law no. 2008-496 of 27 May 2008.

**Example:** Only full-time employees receive bonuses. This would be an example of indirect discrimination if the majority of the persons working part-time in the business in question belonged to a category with a distinguishing factor (e.g. age, sex, union activity, marital status).

### > DISCRIMINATORY HARASSMENT

According to French law, discriminatory harassment is a form of harassment, and is defined as "Any act related to [a prohibited ground and] conducted towards a person with the purpose or effect of **offending the dignity of that person or of creating an intimidating, hostile, degrading, humiliating or offensive environment.**" Art. 1 of law no. 2008-496 of 27 May 2008

Three elements must be present for there to be discriminatory harassment in the workplace.

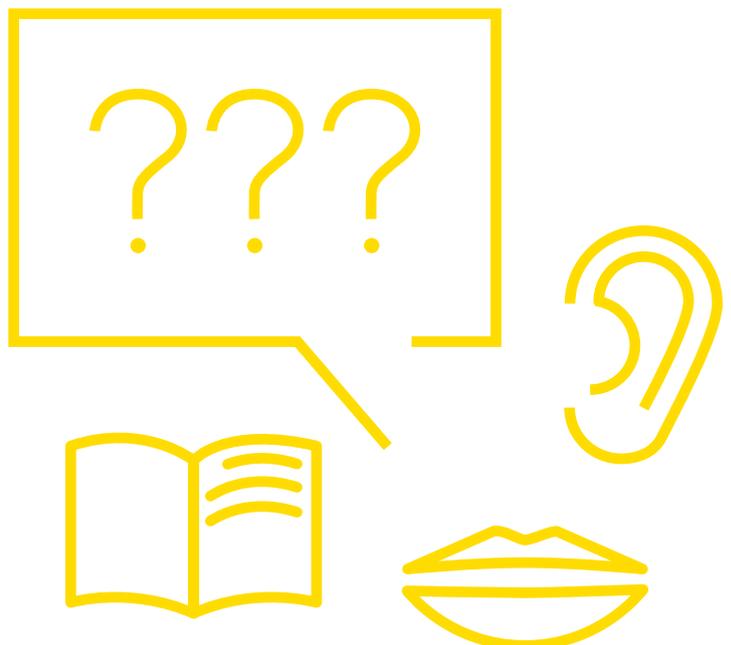
There must be:

- **an act directed at an employee or a job applicant**
- **related to a ground prohibited by law (see box on left) and**
- **whose purpose or effect is to offend the dignity of that person or create a degrading work environment.**

**Discriminatory harassment must meet these specific criteria** in order to qualify as such (professional stress or a dispute between an employee and their head of department for professional reasons cannot be qualified as discriminatory harassment if these three criteria are not met).

**Example 1:** A racist text message is sent and presented as "merely a joke" by its author. If the comment is deliberately offensive, then it can be defined as an insult. The insult may be sexist, homophobic, racist or anti-Semitic, for example.

**Example 2:** "What you're saying is gay."  
Note: Unlike so-called "classic" harassment situations, the actions need not be repeated for a situation to be qualified as discriminatory harassment: a single act may suffice.



## — WHAT ARE THE EMPLOYER’S OBLIGATIONS IN PREVENTING DISCRIMINATION?

The employer has a duty to adhere to a policy of non-discrimination and must ensure that workplace practices, especially in terms of human resources (recruitment, training, career management, etc.), are not directly or indirectly discriminatory.

**“Any measure or act by an employer that does not respect the principle of non-discrimination is void.”**

Article L. 4121-1 of the French Labour Code

In addition, as part of their duty to ensure the safety

and protection of the physical and mental health of staff,<sup>2</sup> the employer is required to prevent acts of discrimination. If such acts are brought to their attention, the employer must react quickly, ensure the protection of the person concerned and carry out a serious and impartial investigation. If the discrimination is confirmed, the employer must put an end to and sanction the discrimination in question (through a disciplinary procedure).

## — HOW SHOULD YOU REACT IF YOU ARE A VICTIM? WHAT SHOULD YOU DO?

### ✓ VICTIM

On the issue of discrimination, the employer is bound by an obligation towards the staff, but also, for example, towards external candidates applying to the Festival.

**Therefore, the “victims” may also be employed “outside” the Festival.**

### ✓ ASK FOR HELP AND PROTECT YOURSELF

If a member of staff believes that a line has been crossed or feels uncomfortable in a situation, it is important that they be able to talk about what they have gone through with their colleagues and/or close friends and relatives, including persons outside the Festival.

### ✓ COLLECT EVIDENCE

Any employee who believes they are a victim of discrimination must do their best to collect and keep elements allowing to assess the situation and to be used as relevant proof, in particular in writing, even if the employee does not wish to take action at this stage (e.g. emails, text messages, testimony from a doctor or psychologist to whom they have spoken about the situation).

### ✓ NOTING DOWN EVERYTHING THAT HAS HAPPENED

can help you assess what you have suffered.

#### HOW?

- The account must be **chronological, coherent and context-based**: specify the dates for each act suffered if you know them (if not, it is better to specify a period whenever you are not sure of the exact date);
- The account must **describe the acts as precisely as possible**, i.e. write down the exact words and gestures;
- The account must **chart the consequences of these acts**, in particular on your health; and
- The account must **reproduce all formal and informal actions you have taken** (exchanges with loved ones, medical certificates and documents, written evidence, etc.).

## — HOW SHOULD YOU REACT IF YOU ARE A WITNESS?

If you witness discrimination directly or if these acts have been brought to your attention, you should **inform the parties in the company responsible for collecting information and dealing with such acts** (see below).

As an in-house witness, you can:

- inform the contact persons from the anti-discrimination listening and alert unit about the situation and identify the people involved, and
- Make a signed and dated context-based account of **the acts you witnessed** and transmit that account to the victim.

If you have not witnessed the acts directly, you are advised not to undertake any procedures without the consent of the victim or the direct witnesses, whom you should refer to the listening and alert unit. During your exchanges with the victim, **provide a listening ear and show sympathy**: it is actually often very hard to recount and explain instances of discrimination. Also, don’t hesitate to talk about the law to help the victim identify and describe the situation as one of discrimination.<sup>3</sup> This may also help the person see themselves as a victim and, as such, take proactive action.

<sup>1</sup> Art. 1 of law no. 2008-496 of 27 May 2008 and Law no. 83-634 of 13 July 1983. <sup>2</sup> Article L. 4121-1 of the French Labour Code <sup>3</sup> [www.antidiscriminations.fr](http://www.antidiscriminations.fr), the new site of the Défenseur des droits (in French)

# WHO SHOULD YOU TURN TO?

If you are a victim of discrimination, there are people on hand to help you. Do not hesitate to turn to a trusted person among the people mentioned below. All of these people are able to collect reports and witnesses' statements of discriminatory acts and to provide you with guidance. They must respect your expectations, in particular with regard to anonymity. You may contact these people together or separately.

## — IN-HOUSE SUPPORT

### > THE ANTI-DISCRIMINATION LISTENING AND ALERT UNIT

The listening and alert unit is made up of two contact persons who have been trained for this position and whose role is to:

#### — Receive

When receiving reports of discrimination, the contacts share a mutual roadmap and are committed to providing a listening ear, showing sympathy and remaining neutral

#### — Inform

They will inform a victim of their rights, of actions that may be taken, and of resources that may be mobilized.

#### — Provide guidance

Depending on the victim's expectations and/or needs, the contact persons will refer them to in-house and/or external support professionals. They will accompany the victim through any action the victim decides to take.

#### — Act

In certain cases, they can act directly to help resolve the situation (example: *to report discrimination involved in the refusal to hire a job applicant, the contact persons may ascertain the reasons that led to the refusal of the application and transmit this information to the applicant*).

### CONTACTS

Anne-Laure Fouchier / Siham Eryucel, HR contacts  
[anne-laure.fouchier@festival-aix.com](mailto:anne-laure.fouchier@festival-aix.com)  
+33 (0)6 72 21 04 94

Marie-Laure Stephan, CSE contact  
[marie-laure.stephan@festival-aix.com](mailto:marie-laure.stephan@festival-aix.com)  
+33 (0)6 72 21 16 04

### > SPECIAL EMAIL ADDRESS FOR REPORTING ACTS OF DISCRIMINATION

The Festival has also created a special email address for employees to express issues in writing. This system is designed to complement the reporting of information and alerts for acts of discrimination. It is managed solely by the two contact persons mentioned above.

### CONTACT

[stop.discriminations@festival-aix.com](mailto:stop.discriminations@festival-aix.com)

### > SOCIAL AND ECONOMIC COMMITTEE (CSE)

#### — Receive

The employee representatives can receive reports of acts of discrimination and refer you to the contact persons.

#### — Alerte

In severe cases, the CSE can exercise its right to alert the employer if an employee's rights have been undermined through acts of discrimination. It can request the advice of a legal expert and can initiate an investigation on psycho-social risks and damage to people's health.

### CONTACT

[dp-ce@festival-aix.com](mailto:dp-ce@festival-aix.com)

The CSE's email account is managed by all employee representatives of the Festival.

### > TRUSTED PERSONS IN YOUR PROFESSIONAL COMMUNITY

Trusted persons in your professional orbit have no specific prerogatives as regards to discrimination, but can nevertheless provide a listening ear and guidance.

## — EXTERNAL SUPPORT

### > OCCUPATIONAL HEALTHCARE PROFESSIONAL

The victim may request a consultation with the occupational healthcare professional (visit initiated by the employee, arranged directly with the doctor and without advance notification from the employer). Based on the severity of the situation in question, the occupational healthcare professional can:

- offer support to the victim provided by external support professionals and bodies;
- propose measures to the employer for safeguarding the victim's health; and/or
- declare an incapacity if keeping the employee on the job is seriously detrimental to their health.

### CONTACTS

— STP (For Aix-en-Provence and Venelles):  
Dr. Charles Soler / [c.soler@stprovence.fr](mailto:c.soler@stprovence.fr)  
His assistant:  
[assistante-dr-soler@stprovence.fr](mailto:assistante-dr-soler@stprovence.fr)  
+33 (0)4 42 91 33 75  
His nurse: [f.lehucher@stprovence.fr](mailto:f.lehucher@stprovence.fr)

— CMB (For Paris):  
Dr. Claude Markus / [cd.markus@cmb.asso.fr](mailto:cd.markus@cmb.asso.fr)  
+33 (0)1 49 27 60 36 / +33 (0)6 99 35 96 94  
Dr. Markus's assistant is Sonia Doukhan  
[s.doukhan@cmb.asso.fr](mailto:s.doukhan@cmb.asso.fr) / +33 (0)1 53 63 10 36

> **EXTERNAL SUPPORT LINES**

You also have the possibility of contacting external bodies, such as the French Labour Inspectorate (*Inspection du Travail*) and the French Defender of Rights (*Défenseur des Droits*).

**CONTACTS**

[www.antidiscriminations.fr](http://www.antidiscriminations.fr)

Online: IM / services for the deaf and hard of hearing

By telephone:

3928 (from France — price of a local call)

Monday–Friday, 9 a.m. to 6 p.m.



# WHAT HAPPENS ONCE DISCRIMINATION HAS BEEN REPORTED?

- The **alert is received and managed** by the listening unit
- Either the victim has contacted the unit directly,
- Or a trusted person has contacted the unit on the victim's behalf

## > A FIRST EXCHANGE WITH ONE OF THE TWO CONTACT PERSONS WILL BE ORGANIZED

### > COMPLEMENTARY ENCOUNTERS MAY BE SET UP TO DEVELOP EVIDENCE OF THE ACTS

Based on the exchanges, the contact persons may **set up complementary encounters** with the victim, but also with the person against whom the allegations have been made, any witnesses, and the victim's co-workers and managers.

### > ACTION

Based on the assessment of the situation, the contact persons may work towards resolving the reported problem, by

- **intervening/mediating between the victim and the alleged perpetrator**; and
- **Alerting** management if necessary.

### > ALERTING MANAGEMENT

Based on their assessment of the gravity of the situation, the contact persons may alert management so that they may assess the situation themselves and **take appropriate action**.

The employer's actions and possible remedies are described in the Festival's handbook on reporting and preventing sexist and sexual violence, accessible [here](#).

### SANCTIONS AGAINST THE PERPETRATOR OF DISCRIMINATION

The perpetrator of an act or acts of discrimination may face:

- **a disciplinary sanction**, if the perpetrator is an employee of the company, and/or
- **criminal sanctions** (three years' imprisonment and a fine of €45,000).

Legal entities may also be held liable for acts of discrimination.

The penalties are those prescribed by article 225-4 of the French Criminal Code.

