

# Cada

Commission d'accès  
aux documents administratifs

# ACTIVITY REPORT 2024





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# Summary



Bruno LASSERRE

***Increasing referrals, new topics, transformations within it: the Commission for Access to Administrative Documents has had its own 2024 Olympic Games.***

The Commission's undoubtedly deserves the gold medal. With a total of 11,361 referrals, the CADA's activity has never been more supported. It is up almost 10% compared to 2023, and this proportion rises to 27% when you look at the figures for the last four years.

Of course, we can see in these figures an increased thirst for administrative transparency on the part of our citizens, to which the CADA, as a guarantor of the right of access, intends to respond - and I am very proud of this. There are also malfunctions or a lack of cultural integration within the administrations, which are however familiar, regarding certain communication requests on which CADA doctrine and administrative case law have been established for a long time - and I am a bit concerned about this. Finally, it should be noted that this steady increase in referrals creates a real challenge for the CADA teams, who, with a constant workforce, must absorb the impact so as to manage the processing time as much as possible.

Competition does not stop at the figures; it also concerns the nature of the requests addressed to the CADA, which evolves according to the political, economic and social context, but also technical and technological advances. The context of the Olympic and Paralympic Games has led to requests - in moderate numbers - relating to this event, and in particular to the contracts awarded by the Olympic Games Organising Committee, ministerial circulars relating to systems for the prevention of certain threats, or documents relating to the deployment of "augmented cameras"

# Foreword

## from the President

I note that it is above all requests concerning new technologies that are repeatedly reaching the CADA office. The increasing use of digital applications by the administrations raises the question of the communication of the source codes they integrate or any algorithms they may use. The CADA, which has already established clear doctrine in this area, ensures that the right of access to these new administrative documents is guaranteed, while taking into account their specificity due to their creation cycle and the necessary protection of the administrations' IT systems. While requests relating to artificial intelligence remain modest, it is very likely that the roll-out of the use of this technology within the administrations will quickly lead to new questions for the CADA.

The success of the CADA's activity in 2024 is also based on the successes of coordination of the network of people responsible for access to administrative documents (PRADA). This network currently has 2,028 people across the entire territory, all administrations combined. That's almost 5% more than last year. An officer from the General Secretariat is now responsible for the day-to-day management of this network, which I am convinced represents an important asset in working towards administrative transparency. With this in mind, PRADAs benefit from training, provided by CADA staff, aimed at raising their awareness of both the issues of the right of access and the doctrine of the Commission. Six training days were thus organised in Paris, including two themed days (urban planning and public procurement). We also met with PRADAs in Hauts-de-France and Nouvelle-Aquitaine.

Finally, a stadium wouldn't be anything without its athletes... and 2024 saw some changes in the CADA teams. Rozen Noguellou, Deputy President since October 2022, left at the end of the year. I would like to thank her very warmly for the mission she has carried out within the CADA with so much drive, determination and talent, and I have no doubt that the flame she has led will continue to shine at

the Commission for a long time to come. Suzanne Von Coester succeeds her; I am looking forward to her joining the CADA and hope she flourishes in these exciting roles. Also, Caroline Gabez, General Rapporteur, left the CADA in the summer of 2024 after three intense and rich years; I would like to extend my heartfelt thanks to her for the immense work she has done, always with great care. As of September, a new pair of general rapporteurs, Laetitia Guilloteau and Jeanne Ménéménis, has been appointed and I wish them success in their new roles.

Beyond the general summary for 2024, this activity report is aimed at addressing certain topics in particular. The question of the sharing of skills between the CADA and the *Commission nationale de l'informatique et des libertés* (CNIL) regularly arises, as a request for access to an administrative document is sometimes very similar to a request for access to personal data. The nature of requests for access by way of derogation to public archives allows their access to be extended; the request concerning the archives of Michel Rocard's cabinet is an example of this. Referrals concerning public officials, in particular their careers, remain particularly numerous, while the 2023 Senate elections, followed by the snap legislative elections in 2024, led to an increase in requests for communication relating to electoral registers and campaign accounts.

I hope you enjoy reading this.





# Composition of the CADA

## THE COLLEGE<sup>1</sup>

### President

Bruno LASSERRE, Honorary Vice-President of the Council of State

### Deputy President

Rozen NOGUELLOU, State Councillor\*

### Judges of the Court of Cassation

Bénédicte FARTHOUAT-DANON, incumbent  
Nicolas MAZIAU, deputy

### Judges of the Court of Auditors

Jean-François COLLIN, incumbent  
Corinne HERBET, deputy

### Members of Parliament

Marie-José ALLEMAND, incumbent  
Arnaud BONNET, deputy

### Senators

Lauriane JOSENDE, incumbent  
Marie-Pierre de LA GONTRIE, deputy

### Elected members of a local authority

Philippe LOCATELLI, incumbent  
Josiane FISCHER, deputy

### Higher education professors

Hélène PAULIAT, incumbent  
Benoit LE BLANC, deputy

### Individuals qualified in archiving matters

Jean-Charles BEDAGUE, incumbent  
Mireille JEAN, deputy

### CNIL representatives (alternating)

Laurence FRANCESCHINI  
Sophie LAMBREMON  
Isabelle LATOURNARIE-WILLEMS

### Individuals qualified in competition and pricing matters

Chantal CHOMEL, incumbent  
Umberto BERKANI, deputy

### Individuals qualified in public dissemination of information

Anne DUCLOS-GRISIER, incumbent  
David SARTHOU, deputy

### Member with advisory role:

Claire HEDON, Défenseur des droits [ombudsman]

A government commissioner appointed by the Prime Minister in accordance with Article L. 341-1 of the CRPA

<sup>1</sup> - As at 31 December 2024

\* - Appointment of Suzanne VON COESTER, State Councillor, by decree of 28 January 2025



## THE CADA TEAM<sup>1</sup>

### General Rapporteurs:

**Laetitia GUILLOTEAU**, general rapporteur  
**Jeanne MENEMENIS**, deputy general rapporteur

### Rapporteurs

#### and project managers:

**Edouard ALLEGRE**, senior CA and ACA judge  
**Barbara AVENTINO**, senior CA and ACA judge  
**Vivien BEAUJARD**, CA and ACA judge  
**Félicie BOUCHET**, senior CA and ACA judge  
**Vincent BUREAU**, CA and ACA judge  
**Ophélie CHAMPEAUX**, Maître des Requêtes at the Council of State  
**Yann COZ**, senior CA and ACA judge  
**Cyril DAYON**, CA and ACA judge  
**Katia DE SCHOTTEN**, senior CA and ACA judge  
**Frédérique GASPARD-TRUC**, senior CA and ACA judge  
**Rémi GRAND**, senior CA and ACA judge  
**Géraldine GRANDJEAN**, senior CA and ACA judge  
**David HELM**, State administrator  
**Sarah HOULLIER**, senior CA and ACA judge  
**Julien ILLOUZ**, senior CA and ACA judge  
**Michaël KAUFFMANN**, senior CA and ACA judge  
**Ardéchire KHANSARI**, CA and ACA judge  
**Iliada LIPSOS**, senior CA and ACA judge  
**Jeanne MALLET**, heritage curator  
**Muriel MERINO**, senior CA and ACA judge  
**Eve PERENNEC-SEGARA**, general inspector of the administration  
**Alexis QUINT**, senior CA and ACA judge  
**Gaël RAIMBAULT**, senior CA and ACA judge

**Didier RIBES**, State judge  
**Joël SEYTEL**, CA and ACA judge  
**Sylvie STEFANCZYK**, Presiding Judge of the CA and ACA  
**Manon VAN DAËLE**, CA and ACA judge  
**Hélène ZETTEL**, heritage curator

**Adrien CANE**, legal editor  
**Maria GRIGORIOU**, legal editor

### General Secretariat:

**Hélène SERVENT**, general secretary  
**Jean-Claude CLUZEL**, deputy general secretary

**Caroline DREZE**, head of communication and training  
**Joël THIBEAU**, administrator of the document management system  
**Madeleine BAHLOUL**, coordinator of the PRADA network

**Pascale BROIX-MARTIN**, editor  
**Caroline DIMAKUIZA**, editor  
**Claire DUXIN**, editor  
**Anita EKLOU**, editor  
**Amina EL AÏFATE**, editor  
**Lucien EUPHROSINE**, editor  
**Bernard NGANGO**, editor  
**Valérie VAUDON**, editor

**Frédéric ALLOUCHERY**, secretary  
**Monique JEAN**, secretary  
**Christine MERCIER**, secretary  
**Thibault BERGER**, apprentice



## Composition of the CADA

# Cada

Commission d'Accès  
aux Documents Administratifs

La CADA est une autorité  
administrative indépendante  
chargée de veiller  
à la liberté d'accès aux documents  
administratifs et à la réutilisation  
des informations publiques

Transparence  
Accès Secrets  
Commission  
Loi Documents  
Archives Algorithme  
Code PRADA  
Open data  
O source Réutilisation  
Liberté Citoyens  
Numérique

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



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O source Réutilisation  
Liberté Citoyens  
Numérique

## Key figures



## Breakdown of cases by topic

**11,361**  
referrals  
received

↗ + 27%<sup>2</sup>

**8,226**  
opinions and  
advice given

↗ + 4%<sup>2</sup>

**58%**  
favourable  
opinions

**56%**  
of opinions  
delivered by order



**Average  
processing time**

~ 66 days

- Health and Social Affairs
- Economy, industry, agriculture
- Education, culture, leisure
- Environment, sustainable development
- Public finances and taxation
- Justice, public order and security
- Access procedures
- Reuse of public information
- Work and employment
- Urban planning and land use
- Public life

2 - Compared to the 2020/2023 period

# Key figures

# ALBANIA

## ICIC XV



# ALBANIA

## ICIC XV



# Highlights



"Meeting" of PRADAs in the Hauts-de-France region



ICIC International Conference (Albania)

## January to April

"Meeting" of **PRADAs in the Hauts-de-France region** (seminar and training)

**Training days** on the general principles of rights of access and access to public procurement documents

Presentation of the legal framework for the right of access to the **PRADAs of URSSAF**

## May to August

Participation and intervention of the president at the **International Conference of Information Commissioners (ICIC)** in Tirana (Albania)

**Training day** on access to planning documents



Training Day



**Appointment of Laetitia GUILLOTEAU**, general rapporteur, and **Jeanne MENEMENIS**, deputy general rapporteur

**Training days** on the general principles of the right of access and access to documents relating to public procurement

«Meeting» of **PRADAs from the Nouvelle-Aquitaine region**

September to December



*Appointment of general rapporteurs*

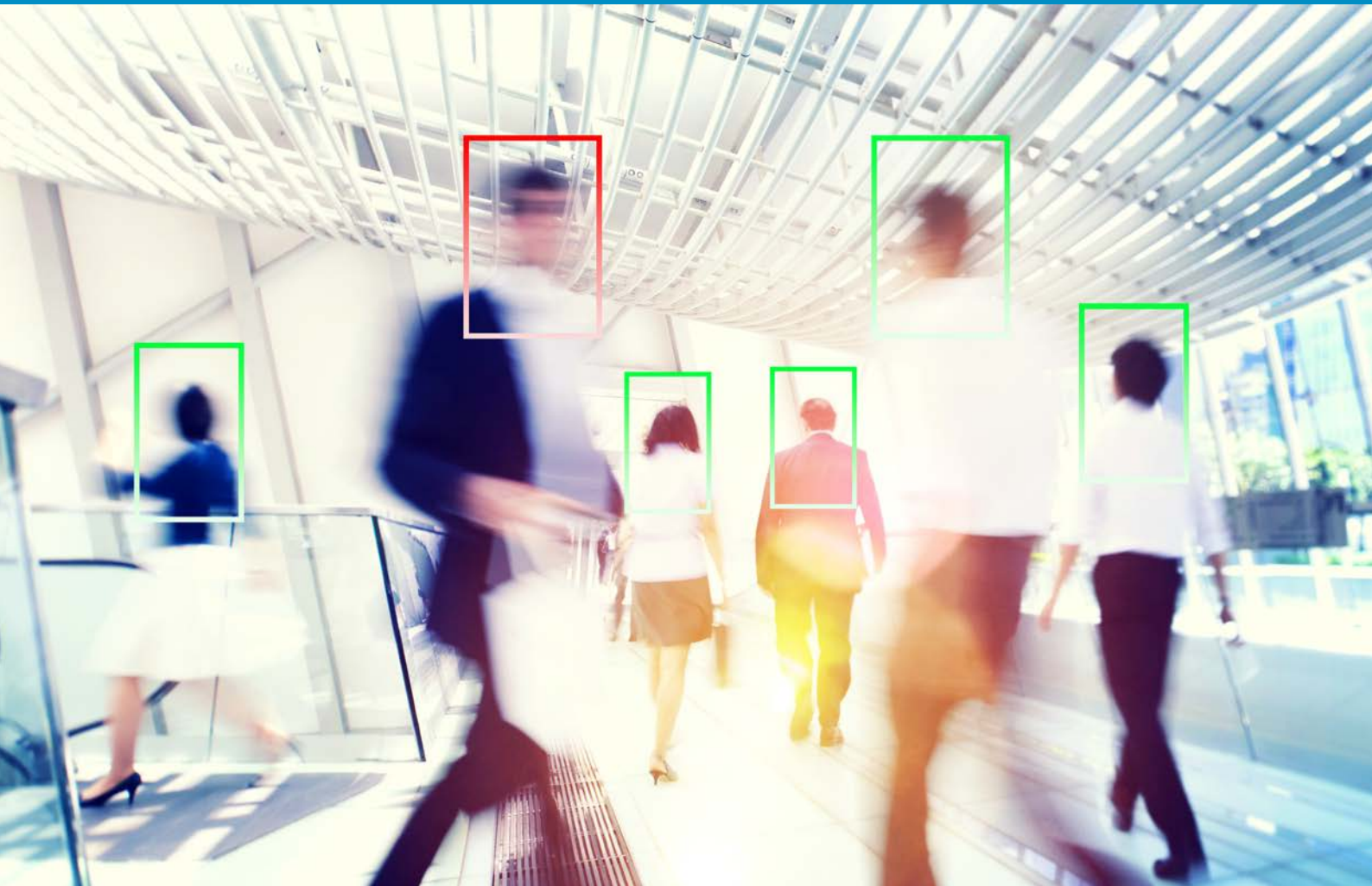
## Highlights





# Thematic analyses





**Administrative  
documents  
and personal data:  
distinct yet  
complementary  
legal frameworks**

3- Notice II no 20237246  
of 11 January 2024

4- Notice II no 20245710  
of 31 October 2024

5- Notice II no 20244499  
of 19 September 2024

6- Article 4 of the GDPR  
and Article 2  
of Act no. 78-17  
of 6 January 1978

The Commission for Access to Administrative Documents (CADA) ensures compliance with the freedom of access to administrative documents as guaranteed by the French Code of Relations Between the Public and the Administration (CRPA); while the *Commission Nationale de l'Informatique et des Libertés* (CNIL) ensures compliance with the provisions of the French Data Protection Act of 6 January 1978 and the General Data Protection Regulation (GDPR) in the implementation of personal data processing. These two legal systems pursue different objectives - transparency of public action for one, protection of privacy and individual freedoms for the other - but which are complementary. The question of their relationship regularly arises in the files submitted to the CADA.

These two schemes relate to seemingly different purposes. Administrative documents are defined as all documents produced or received, in the context of their public service missions, by public entities (State, local authorities, public institutions, etc.) and private entities entrusted with such a mission, regardless of their form or medium: administrative decisions,

correspondence, files, reports, studies, minutes, statistics. They may also be databases - for example, those held by a public interest group relating to a preventive shark fishing programme<sup>3</sup> or those held by the Minister of the Interior relating to the use of firearms by law enforcement<sup>4</sup> – or even source codes - for example, that of the France Identité application<sup>5</sup>.

The processing of personal data is defined as any operation or set of operations, whether or not carried out by automated means, applied to personal data or sets of personal data, regardless of the method used<sup>6</sup>.

In view of these broad definitions, on both sides, the same information may be found in a document falling within the scope of the right of access to administrative documents and of the processing of personal data falling within the scope of the Act of 6 January 1978.

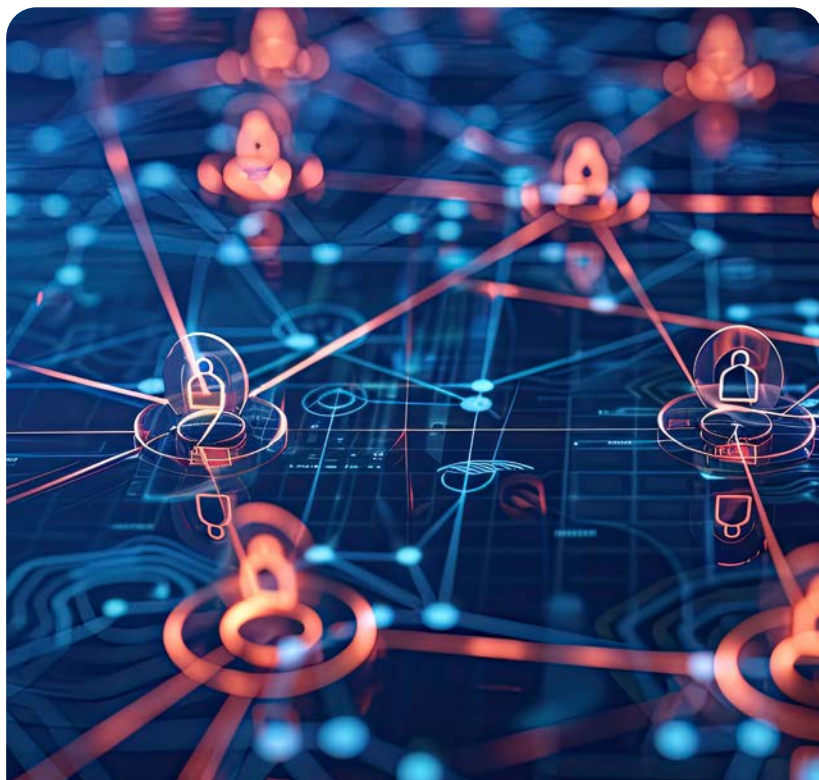
## Criteria determining the applicable legal regime

Several criteria can be used to determine the framework within which an access request must be analysed.

- **Applicant**

The Act of 6 January 1978 and the GDPR provide for rights in favour of natural persons with regard to personal data concerning them contained in files and processing.

These provisions do not provide for a right of access for legal entities with regard to the data concerning them. They also do not govern the access of third parties to data contained in files and processing.



Legal entities and third parties may therefore invoke the right of access to administrative documents or public archive documents<sup>7</sup>, under the conditions and subject to the reservations provided respectively by Book III of the French Code of Relations between the Public and the Administration and by Articles L. 213-1 et seq. of the French Heritage Code.

By way of illustration, the CADA is regularly called upon to issue an opinion on the communication to a representative of a company of the list of bank accounts opened in the name of that company, as recorded in the record of bank accounts and similar - FICOBA<sup>8</sup>.

- **Identification of the purpose pursued by the access request**

Book III of the French Code of Relations between the Public and the Administration organises the right for any person to request the communication of administrative documents but not the communication of information; it also does not confer any right to modify or draw up a document.

Thus, a request submitted by the data subject that relates, for example, to access to the information concerning him or her contained in files and processing, or to the rectification of this personal data, is considered as the exercise by this person of the rights guaranteed to him or her by the Act of 6 January 1978 and the GDPR. Such a request is not within the competence of the CADA.

However, even when the request is made by the individual concerned by the processing of personal data, the CADA does not rule out assessing, on a case-by-case basis, whether the applicant has framed their approach as a request for access to an administrative document based on the French Code of Relations between the Public and the Administration, or as part of a request for access to personal data concerning them that is contained in a file, taking into account in particular the wording of the request, the purpose pursued and the circumstances of the case<sup>9</sup>.

Thus, the fact that an administrative document is kept in digital form within software or a database held by an administrative authority does not necessarily prevent the person concerned from invoking, as a data subject within the meaning of Article L. 311-6 of the French Code of Relations between the Public and the Administration, the right of access provided for by this code.



*The fact that an administrative document is kept in digital form within software or a database does not necessarily prevent the person concerned from invoking the right of access provided for by the CRPA.*

7- Article 7 of the Act of 6 January 1978

8- See also the legal representative of an association - Notice III no. 20240705 of 28 March 2024; the provisional director of a company - Notice III no. 20241413 of 18 April 2024; the legal representative of a company victim of identity theft - Notice III no. 20245496 of 10 October 2024

9- Notice II no. 20221760 of 21 July 2022 on the communication of a decision concerning a detained person, appearing in the GENESIS software of the Ministry of Justice

## Administrative documents and personal data: distinct yet complementary legal frameworks

## Protection of privacy and personal data in the CRPA

When the request is analysed as a request for access to administrative documents, the conditions and reservations provided for in the French Code of Relations between the Public and the Administration shall apply.

The request may initially relate only to an existing administrative document or to a document that may be obtained by automated processing in common use.

### FIND OUT MORE

Documents that can be established by simple extraction from databases held by the administration constitute administrative documents, provided that this does not impose an unreasonable workload on it, which must be assessed objectively, particularly if it requires modifying the organisation of a database, developing search tools, or altering those currently available to it (Council of State, 13 November 2020, no. 432832; Council of State, 17 June 2024, no. 470620).

In addition, communication may only take place with respect for the secrecy protected by Articles L. 311-5 and L. 311-6 of the French Code of Relations between the Public and the Administration. In particular, the latter article only permits the communication of documents containing information relating to a person's privacy to that person: it prevents such information from being communicated to a third party. The date of birth, address and contact details of a person, his/her family situation, income, wealth, education, political or religious opinions, etc. are protected.

It should be noted that privacy has a narrower scope than personal data, which includes all information relating to a natural person who could be identified, directly or indirectly. By way of illustration, the name and signature of a natural person are personal data, while they do not, in themselves, constitute information protected by Article L. 311-6.

Thus, an applicant may access an administrative document on condition that all information contained therein relating to the privacy of a third party has been redacted beforehand.

*Privacy has a narrower scope than personal data.*



The potential presence of personal data in this document does not, in principle, prevent the consultation or communication of a copy of the document<sup>10</sup>.

In this respect, the entry into force of the GDPR has not led to a general change in the right to access administrative documents or the right to access public archives. However, Article L. 312-1-1 of the French Code of Relations between the Public and the Administration now provides that an administrative document may, in principle, only be published online after it has been processed in such a way as to make it impossible to identify the individuals concerned if that document contains personal data<sup>11</sup>.

Finally, any potential reuse by the applicant of an administrative document that has been communicated to them must itself comply with the provisions of the French Data Protection Act of 6 January 1978<sup>12</sup>. The CADA therefore regularly reminds applicants who refer requests to it with a view to reuse of their responsibility.

10- Notice II no. 20242506 of 30 May 2024 for the communication of copies of annual gift declarations sent to the ethics officer of a local authority



11- Notice II no. 20242506 of 30 May 2024



12- Article L. 322-2 of the French Code of Relations between the Public and the Administration



#### FOR FURTHER INFORMATION:

The CADA has been given jurisdiction to issue an opinion firstly on the communication to the person subject to a decision taken on the basis of algorithmic processing of the rules defining this processing and the main characteristics of its implementation (Articles L. 311-3-1 and R. 311-3-2 of the French Code of Relations between the Public and the Administration).

Secondly, administrations employing at least fifty agents have been required to publish online the rules governing the main algorithmic processes used in the performance of their tasks, when they are used to take individual decisions (Article L. 312-1-3 of the French Code of Relations between the Public and the Administration).

In its Notice no. 20240645 of 18 April 2024, the CADA commented on this online publication. It highlighted the particular interest for the public of complying with this obligation, which, by requiring the administration to define publicly, and outside of any request, the rules governing its main algorithmic processes, reinforces the transparency of public action. It also stressed that compliance with this obligation, introduced by the legislative power specifically for individual decision-making processes based on such processing, constitutes a guarantee of democratic trust.

This is why, by way of derogation from the principle that the right of access does not oblige administrative authorities to create a new document in order to provide the information requested by an applicant, the CADA has deemed that in the event that the authority concerned does not already possess a document outlining the rules defining these main algorithmic processes, it would be required to draft this document (to be compared with the council decision no. 20231374 of 20 April 2023 concerning the directory of public information provided for by Article L. 322-6 of the French Code of Relations between the Public and the Administration).

# Administrative documents and personal data: distinct yet complementary legal frameworks

# Interview with...



Anne DEBET,  
Professor of Private Law,  
Vice-President of the CNIL

## **Can you present your current role?**

As professor of private law at Paris Cité University, I teach digital law, data protection and health law. I am also Vice-President of the CNIL in charge of European affairs. In this capacity, I represent the CNIL on the European Data Protection Board (EDPB), in which the CNIL and all the data protection authorities of the European Union member countries meet to define common positions relating in particular to the interpretation of the GDPR.

## **You have been a member of the CNIL college since 2019: can you briefly describe the missions of this independent administrative authority in terms of personal data protection?**

The CNIL is an independent administrative authority created in 1978. Its mission is to protect the rights of individuals, guarantee their information and help them exercise their rights. It has a dual role with regard to those involved in the processing of personal data. On the one hand, it supports them to facilitate their compliance with regulations (publication of recommendations, responding to requests for advice, sandboxes<sup>13</sup>, etc.). On the other hand, the CNIL carries out checks and imposes sanctions of up to 4% of companies' global turnover for structures that do not comply with the GDPR.

13- The CNIL's "sandbox" of personal data is a support system aimed at innovators in a sector on emerging issues.

***You also served as a representative of the CNIL on the CADA college from 2019 to 2023. Have the roles you have performed within the CADA college appeared comparable, different or complementary to those you perform at the CNIL (type of referrals, office, reasoning, functioning, etc.)?***

The roles of member of the CNIL and the CADA seemed comparable to me, with certain nuances. The CNIL and the CADA are authorities in which the very diverse number and backgrounds of members always enable fruitful debates, seeking balanced solutions that protect citizens' rights. At the CADA, as at the CNIL, the members of the college study, before the meeting, the files on which a discussion will take place with the attention of a rapporteur. However, the CNIL may ask members to participate in sanctions procedures, either as a member of the restricted panel in charge of pronouncing sanctions, or as a rapporteur to request the pronouncement of fines against data controllers or data processors who do not comply with the GDPR.

***The right of access to administrative documents and the protection of personal data pursue different objectives, which may, a priori, seem incompatible. How do you view this in the light of your double experience?***

Indeed, on the one hand, the objective of the right of access to administrative documents is the transparency of the administration, which may require the communication of documents containing personal data; while the aim of the GDPR is to protect them by limiting in particular the persons able to have access to them. The tension between the two rights is even greater when it comes to publishing open data documents, which is an obligation for some administrations. The reconciliation of these two contradictory objectives is sometimes provided for by law. In addition, the CNIL and the CADA are working together, in particular by publishing a guide or recommendations, to inform administrations on how to respect a fair balance between the data sharing objectives pursued by open data and the protection of personal data.

## **Administrative documents and personal data: distinct yet complementary legal frameworks**

***Have you identified any difficulties in reconciling the right to access administrative documents with the protection of personal data? How do you explain them?***

There are indeed some difficulties relating to this relationship. The first is probably overlapping competencies. Indeed, it is not always easy for a person exercising their right of access to documents with regard to an administration to know whether they are doing so on the basis of Book III of the French Code of Relations Between the Public and the Administration (competence of the CADA) or on the basis of Article 15 of the GDPR (competence of the CNIL). However, the two authorities are working together to set clear lines of division. This specific difficulty can be explained by the fact that competing rights exist and that the legislator has been able to settle the issue in some areas but not in all.

***Since the adoption of the Law for a Digital Republic, the CADA and the CNIL have been able to meet in a joint college and are represented in each of the colleges. In your opinion, how is this development beneficial for both institutions?***

The need for regulatory authorities to work together on common issues requires close relationships between them. The meeting of a joint college allows these relationships to develop and strengthen. As rapporteur of a CNIL guide on the opening and reuse of data published on the Internet, I was able to present the draft guide to the joint college. This allowed the members of the two authorities to collaborate and tackle their positions on this subject at the intersection of the two rights. In addition, the presence of the President of the CADA within the CNIL college and, vice versa, a representative of the CNIL within the CADA college, also allows these authorities to strengthen exchanges and make essential comparisons (e.g. in the event of automated decision-making, access to the algorithms provided for in the French Code of Relations Between the Public and the Administration and access to the underlying logic of the processing provided for in Article 15 of the GDPR).

***The CADA and the CNIL will celebrate their 50th anniversary in 2028. In your opinion, what are the prospects for evolution of these two institutions and the legislation they support?***

The activity of these two independent administrative authorities has been growing steadily for many years. The CNIL received 17,000 complaints in 2024 and the CADA recorded more than 11,000 referrals in the same year. As regards access to administrative documents, successive reports show that the administrations are not sufficiently aware of these issues and that a large number of referrals could be avoided. We could therefore question whether it is necessary to increase the powers of the CADA to encourage administrations to better respect citizens' rights. Additional material resources are also essential in order to respond to changes in the European legislative framework, sometimes resulting in the broadening of the powers of both authorities. The CNIL, like the CADA, must be able to carry out the essential missions conferred on them.

# **Administrative documents and personal data: distinct yet complementary legal frameworks**





# Accessing public archives by derogation

14-Notice II no. 20245856 of 12 December 2024 for a request for access to hearing notes

15-Notice I no. 20243538 of 19 September 2024

16-Notice I no. 20243538 of 19 September 2024 relating in particular to birth registers

17-Articles L. 311-5 and L. 311-6 of the French Code of Relations Between the Public and the Administration and Article L. 213-2 of the French Heritage Code

Shortly after the establishment of the right to access administrative documents and the creation of the Commission for Access to Administrative Documents (CADA) to ensure compliance, the Law of 3 January 1979 enshrined a general regime for access to archives, the conservation of which is organised «in the public interest both for the needs of management and justification of the rights of natural or legal persons, whether public or private, and for the historical documentation of the research». However, it was only nearly twenty years later that the Law of 12 April 2000 extended the competence of the CADA to matters of access to public archives. While these two schemes have moved closer together, access to public archives has specific features in terms of its purpose and procedures.

### A broader field than that of administrative documents

All administrative documents, within the meaning of the French Code of Relations Between the Public and the Administration, also meet the definition of public archives given today by Article L. 211-4 of the French Heritage Code. One could think that the age of the document would be a criterion for distinguishing the administrative document from that of public archives: not at all. Whether or not an administrative document has been filed with the archive services also has no effect on the access arrangements for it.

By contrast, documents that are not administrative, including those relating to court decisions<sup>14</sup> and civil status documents<sup>15</sup>, fall within the scope of public archive documents.

Thus, while the CADA is incompetent to rule on the issuance of extracts and copies of such acts authenticated by civil registrars on the grounds of the decree of 6 May 2017 relating to civil status, it regularly considers requests for the communication of “simple” copies of birth, marriage, and death certificates, in their capacity of public archives<sup>16</sup>.

### Special access arrangements

The system of public archives includes the unusual possibility of allowing an applicant, on a personal basis, to consult documents that are still covered by secrecy. As they are administrative documents, documents from public archives are generally freely accessible. Nevertheless, some of them only become so after a period of twenty-five to one hundred years, depending on the sensitivity of the information they contain. During these periods, the French Heritage Code thus protects documents whose consultation would infringe upon interests and secrets protected by law<sup>17</sup> (privacy, medical confidentiality, trade secrets, national defence secrets, public safety, etc.).

However, unlike the right of access to administrative documents organised by this Code, the system of public archives provides for the possibility of consultation by way of derogation, before these periods have expired, provided that one condition is met: consultation of the document must not lead to excessive infringement of the interests that the law intended to protect.

The CADA, referred by a person to whom this permission has been refused, undertakes a very different exercise to that which it undertakes under the system of access to administrative documents. It strikes a balance between the specific motivation of the applicant and the extent of the infringement of the secrets in question. The legitimate interest of the applicant is also assessed in light of the right to demand

*The system of public archives provides for the possibility of consultation by way of derogation, before the non-disclosability periods have expired.*

accountability from any public official of their administration, a principle established by the Declaration of the Rights of Man and of the Citizen, and the freedom to receive and communicate information protected by the European Convention on Human Rights and Fundamental Freedoms<sup>18</sup>.

The interests pursued by applicants who refer to the CADA are varied: to learn about their personal and family history, to assert rights in court<sup>19</sup>, to conduct university research<sup>20</sup>, to support journalistic investigative work<sup>21</sup>, etc.

In a more original manner, the CADA ruled in 2024 on a request made by a research laboratory that wished to access documents, on the grounds of the French Heritage Code, not because they constituted its subject of study but because they allowed it to contact individuals to propose including them in its study on the development of newborns and young children<sup>22</sup>. This request also had the special feature of covering very recent documents, dated from 2016 to 2024. Notably given the scientific interest of the work carried out and the undertakings made by the applicant, the CADA issued a favourable opinion.

It was also referred, in a painful context, by the lawyer of the family of a South African national murdered in France, who had requested access to archive documents from the Prime Minister's office at the time of the events<sup>23</sup>. The applicant indicated that, with a view to reopening the investigation, he was seeking information on the relations between France and South Africa which, in his opinion, could clarify the circumstances surrounding this murder.

In this case, the CADA considered that the applicant's legitimate interest was such as to justify the early consultation of documents, which did not contain information of particular sensitivity at the time the Commission made its decision. However, it considered that this legitimate interest was not sufficient to justify the consultation of documents relating to the fundamental interests of the State in the conduct of France's foreign policy in nuclear matters, which, at the date of its meeting, remained particularly sensitive.

Access by way of derogation to public archives thus leads the CADA to reconcile, on a wide range of documents, the interests relating to the imperatives of public action and the protection of persons with the interests borne by an applicant, which are specific to it but which also frequently contribute to the democratic debate.

18-Council of State,  
12 June 2020,  
nos. 422327  
and 431026;  
Notice I no. 20216004  
of 17 February 2022  
for public archives  
relating to Rwanda

19-Notice II no. 20245856  
of 12 December 2024

20-Notice II no. 20241180  
of 28 March 2024

21-Notice II no. 20240184  
of 7 March 2024

22-Notice I no. 20243538  
of 19 September 2024

23-Notice I no. 20236961  
of 25 January 2024



*The CADA strikes  
a balance between the specific  
motivation of the applicant and  
the extent of the infringement  
of the secrets in question.*

## Accessing public archives by derogation

# Interview with...

*Jeanne MALLET,  
Director of the Aveyron  
Departmental Archives*

***You have been CADA rapporteurs since 2023.  
What are your responsibilities?***

*Hélène ZETTEL,  
Head of the Archives  
Mission within the Ministries  
of Regional Planning and  
Ecological Transition*

***Hélène ZETTEL:*** As for each rapporteur, it involves examining requests for opinions (or advice) made to the CADA, and drafting opinions which will then be examined in session by the College or be the subject of an order taken by the President of the Commission. As the "archives" rapporteur, the requests we are examining relate more specifically to refusals to requests for access made on the basis of the French Heritage Code and/or concerning access to documents held by the public archive services.

***Jeanne MALLET:*** This involves discussions with the administrations that keep the documents, as well as with the France Interministerial Department of Archives, to find out the nature of the documents and their content, as well as a great deal of legal research.

***What types of requests do you have to process  
(requests from researchers, individuals, etc.)?***

***JM:*** The requests I handle are "archive" cases. Specifically, this concerns all requests for opinions relating to documents primarily held by departmental archive services, as well as certain requests regarding documents held by the local council.

Applicants may therefore be researchers, most often historians but sometimes lawyers, statisticians, or even geneticists, who wish to consult documents that cannot be freely communicated for their research.

A significant number of requests also come from individuals seeking to prove a right or to understand a personal history: these are often the longest to process, as they regularly involve very sensitive information, and the impact of the communication is often very strong.

Finally, a certain number of professionals require this access as part of their jobs, such as notaries, professional genealogists, or lawyers.

***HZ:*** One observes a diversity of profiles, which are nonetheless representative of the audiences that use archive services.

***What questions do you ask about the processing of the cases entrusted to you?  
What particular challenges might you face?***

**JM:** The first thing to check is whether the documents are still protected by one of the time limits set by the French Heritage Code, of which Article L. 213-2 allows us to determine how long the secrets that the law intended to protect last.

**HZ:** I question the date of the documents and the nature of the legally protected information they contain. Requests relating to refusals of early access to public archives which are not freely disclosable are examined on a case-by-case basis. Indeed, unlike requests based on the right to access administrative documents, the Commission's opinion must take into account the applicant's motivations, his status, the interest in consulting the documents for his approach, etc., and balance them with the nature of the protected information and the scope of its disclosure to the applicant. The main challenge, in order to carry out this balancing of the interests in question, is to be able to collect the necessary information from the administration but also from the applicant himself in order to be able to support the proposed opinion.

**JM:** The main challenge is where to set this cursor: you have to be as objective as possible in the response, trying not to let your personal biases influence you. Finally, another difficulty can sometimes be linked to the content of the files themselves: some cases, which are very hard or painful for the people concerned, leave a mark.

***Do you think your duties as rapporteurs at the CADA complement your functions as heritage curators?***

**HZ:** They provide different approaches to accessing public archives and are complementary in this respect. The mission of rapporteur at the CADA makes it possible to secure my daily practice, being required, in the context of my professional functions, to respond to requests for communication of documents held by my department. On the other hand, working in an archive department provides better knowledge of documents and a certain distance in respect of the functioning of the administration.

**JM:** These two missions are completely complementary. As part of my current duties as director of the Aveyron Departmental Archives, I decide on the disclosability of documents requested for consultation, and decide whether or not to grant consultations by way of derogation from the time periods of the French Heritage Code. This is therefore the step prior to an appeal before the CADA, which is only referred in the event of refusal. This dual experience therefore allows a more objective vision to be created: through my job as an archivist, I know the sensitivity of the information contained in the files for which the CADA is referred, since I am required to consult them; and conversely, my role at the CADA fuels my responses to the access requests I receive.

Being a CADA rapporteur is a very rewarding experience. This is a logical follow-up to my first position: for just over three years, I was responsible for answering questions from archivists about disclosability, distribution of archives, reuse, etc. All the questions I had the opportunity to ask or to ask myself in this first position have helped me fulfil my role with the CADA.

### **How does access to public archives contribute to administrative transparency?**

**JM:** Access to archives is a fundamental element of administrative transparency. Without the possibility for citizens to have access to information produced by the administrations, there is no transparency. Access rules therefore try to reason for this access, protecting certain secrets but providing for a period of time after which all information becomes accessible. However, these periods of time are, deliberately, much longer when they protect citizens (privacy, medical secrecy, etc.) than when they protect State secrets, for which the maximum period is 50 years.

**HZ:** Public archives are automatically disclosable by default. The right of access to public archives, like the right of access to administrative documents, arises from Article 15 of the Declaration of the Rights of Man and of the Citizen, which recognises the right of society to demand accountability from any public official of its administration.

The provisions provided for in the French Heritage Code for access to public archives are entirely complementary to the provisions provided for in the French Code of Relations Between the Public and the Administration: firstly because they provide that restrictions on free disclosability have, except in exceptional cases, a limited period of validity; secondly because they open up the possibility of early access, with permission, to documents that are not yet freely disclosable.

## **What do you think are the upcoming challenges of access to public archives?**

**HZ:** Requests for access to public archives have been increasing steadily for several years, which has had a rebound effect on the number of referrals to the CADA. Nevertheless, the need to raise the awareness of administrations and to familiarise them with the legal framework for access to public archives still holds true today, in order to improve the effective application of the right of access.

We are also seeing the emergence of requests for access to recent public archives that have not yet been inventoried or that, like email, cannot be freely communicated in their entirety. One of the upcoming challenges is to improve the processing of these requests, which currently involve a significant research burden for the services and put pressure on the exercise of the right of access and the proper functioning of the administration.

**JM:** Archive services are becoming more and more known and identified. As a result, they have been facing an explosion in the number of requests by mail over the past few years, but the reading rooms on site are becoming emptier. At the same time, the websites of the departmental archives are the most consulted institutional websites of the departments. It is therefore crucial to implement remote access so as to continue to provide access to all and to continue to reach a broad, or even new, audience, particularly for access to administrative documents that we hold but which are usually only accessible on-site and during office hours.

The development of information technologies is leading to a better overall competency of citizens on the risks associated with the publication of information, and may generate some mistrust or even closure on the part of decision-makers. There is therefore a strong challenge of maintaining the openness of data, in a reasoned manner, in order to continue to provide the necessary administrative transparency.





# Accessing documents relating to political elections

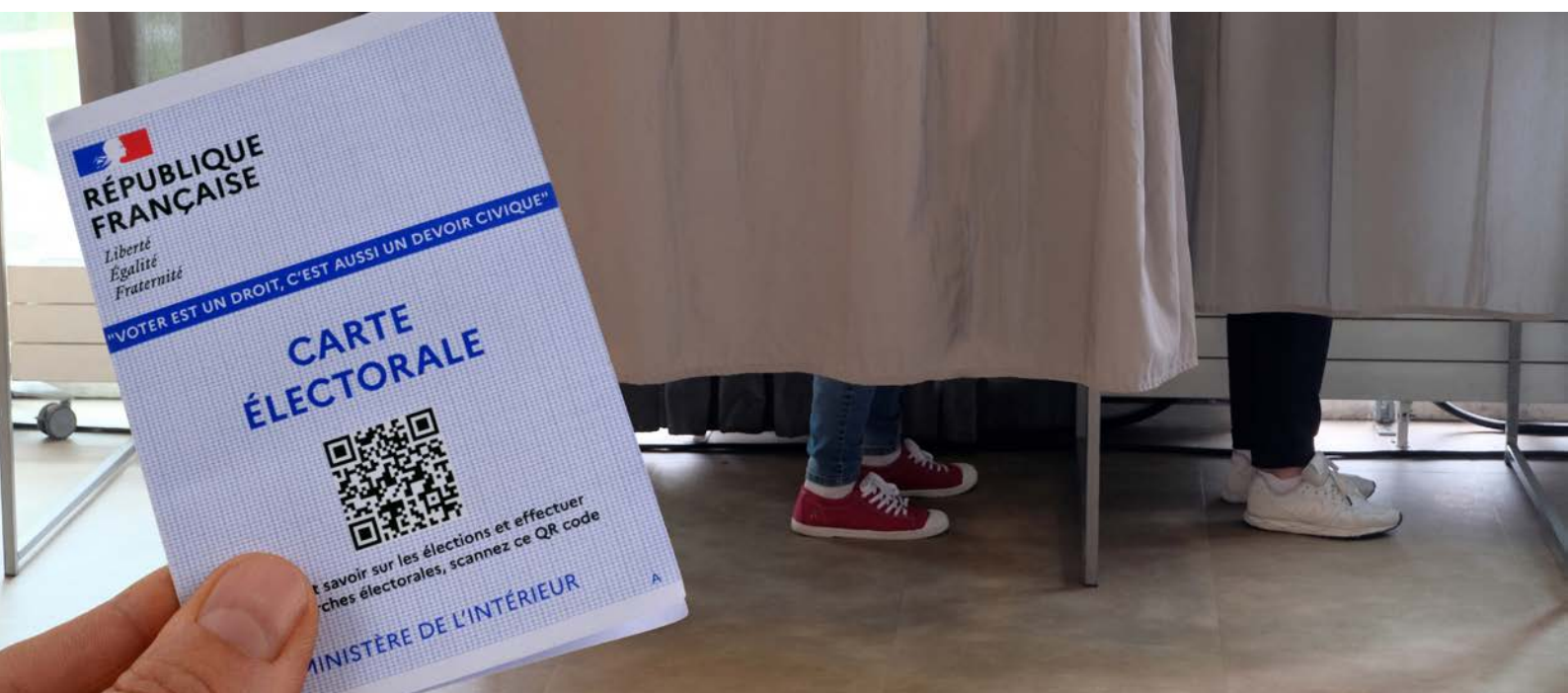
**W**hile 2024 was a year full of elections - European elections in June, then legislative elections in June and July -, these were not however the main ones that caught the attention of the CADA this year, referred particularly regarding the communication of documents relating to the local elections of 2020, a partial legislative election in April 2023, and the partial renewal of the Senate in September 2023.

### ***A special access regime introduced by the French Electoral Code***

The electoral field has a special place within the right of access to administrative documents, since the French Electoral Code itself provides for special communication procedures for certain documents relating to elections. Article L. 37 of the French Electoral Code relates to the communication of electoral registers, Article L. 68 deals with the communication of lists of voters present in each polling station and the records of voting operations, excluding legislative and Senate elections, Article LO 179 relates to the records relating to legislative and Senate elections, and lastly Article R. 76-1 relates to the register of proxies.

The CADA is competent to deal with refusals to communicate such documents on the basis of the provisions of the French Electoral Code. Indeed, Article L. 342-2 of the French Code of Relations Between the Public and the Administration, which lists the specific schemes known to the CADA, refers to the articles of the French Electoral Code that have just been mentioned. A special system of communication therefore applies to these documents, separate from the conventional system of the right of access provided for in Book III of the French Code of Relations between the Public and the Administration.

In 2024, the CADA was able to develop or modify its doctrine on these three types of documents: electoral registers, the register of proxies and election records.



## Communication of electoral registers

Regarding electoral registers first of all, the principle of communication is simple: any voter can obtain them, provided that they undertake not to make commercial use of them.

This access regime is both stricter - the applicant must justify a particular capacity, that of voter - and more favourable - the lists can be communicated in their entirety, even though there are privacy notices - than that organised conventionally by the French Code of Relations between the Public and the Administration.

As for the restriction relating to the use of the requested document, this reflects another difference compared to common law, in which the reuse that the applicant intends to make of the document whose communication is being sought has no impact on the right to communication. The CADA traditionally considers that the commercial nature of the use of an electoral register is assessed in particular with regard to the purpose of the intended reuse and the activity in which it is involved<sup>24</sup>.

The referred authority may, despite the undertaking made by the applicant, refuse to communicate an electoral register if it has serious grounds to believe that the use may be of a commercial nature. It can legally request that the applicant provide information that would allow it to ensure the sincerity of their undertaking, and failure to respond to such a request may be taken into account, alongside other elements<sup>25</sup>.

The Commission considered that, in the case of an applicant who specified the purely personal purpose pursued in requesting access to an electoral register, the mere fact that he is a private detective was not sufficient to presume that he intended, in reality, to make commercial use of it<sup>26</sup>.

## Access to the register of proxies

As for the register of proxies, the CADA ruled for the first time - as the number of referrals concerning such requests is very low - on the communication of this document, which must be kept by the mayor of each municipality and made available to any voter<sup>27</sup>. As provided for in Article R. 76-1 of the French Electoral Code, this register can be freely communicated to any voter.



*This access regime is both stricter and more favourable than that organised conventionally by the French Code of Relations between the Public and the Administration.*

# Accessing documents relating to political elections

## **Communication of the minutes relating to the conduct and results of a poll**

Finally, with regard to election records, the CADA consistently considers that their communication is governed by the provisions of Article R. 70 of the French Electoral Code for non-legislative elections. They may thus be communicated to any voter until expiry of the periods prescribed for lodging appeals against the election. For legislative elections, special provisions for the communication of records are provided for in Article LO 179 of the French Electoral Code, which refer to Article 32 of Ordinance no. 58-1067 of 7 November 1958: these records may be freely communicated for a period of ten days; after this period, they can only be communicated to the Constitutional Council, at its request.

An unprecedented question arose for the CADA: what about communication of the minutes relating to the conduct and results of the Senate elections? It considered that the communication system was the same as that governing legislative elections: the records are kept available to people registered on electoral registers and people who have filed nomination papers for a period of ten days, after which they can only be communicated to the Constitutional Council, at its request. Thus, once the ten-day period has expired, the administration has related competence to refuse communication of the records, and the CADA can only issue an unfavourable opinion upon request.



## **Documents relating to the financing of an electoral campaign and the nomination tables: application of the common law system**

The documents relating to the elections also include those relating to the financing of the electoral campaign and the related checks, carried out in particular by the National Commission for Campaign Accounts and Political Financing (CNCCFP). These documents are not subject to a system of communication organised by the French Electoral Code and may therefore be subject to the common law system organised by the Public Relations and Administration Code.

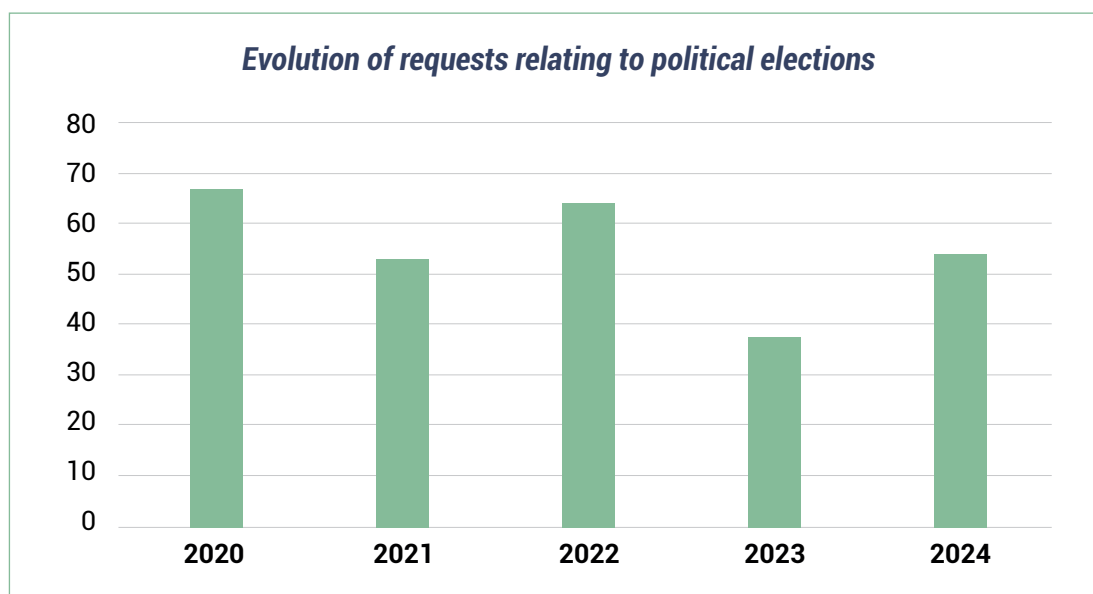
The CADA recently had the opportunity to consider the issue of communicating a decision made by the CNCCFP regarding the campaign account of a candidate in a by-election, when the matter had been referred to the election court<sup>28</sup>. It considered that such a decision was disclosable as soon as it was issued, subject to the reservations provided for in Articles L. 311-5 and L. 311-6 of the French Code of Relations Between the Public and the Administration, in particular privacy, trade secrets, and the reservation relating to the disclosure of a person's behaviour under conditions likely to harm him.

This opinion thus makes a distinction between the decision taken by the CNCCFP and the documents on which this decision is based. The CADA considers that those documents cannot be communicated until the decision of the CNCCFP, due to their preparatory nature, and that, once this decision has been made, they can only be communicated after expiry of the period for appeal against the decision of the CNCCFP or, where applicable, until the decision has been made by the election court on the appeal against this decision, in order to avoid any risk of prejudice to the course of the proceedings initiated.

Finally, the CADA also ruled on the communication of the tables of candidacies for the 2024 legislative elections, held by the Ministry of the Interior and notably showing the affiliation to a political party declared by the candidates for public funding of the parties and their access during the campaign to audiovisual broadcasts<sup>29</sup>. It considered that the information contained in these tables, taking into account the necessary democratic transparency for the roles to which the candidates apply, can be communicated in full to any person making the request. The only circumstance that may preclude communication is temporary and relates to the preparatory

nature of these documents: the decisions they prepare must have been made in order for the right of access to be exercised.

Ultimately, the new questions asked of the CADA regarding the right of access to election-related documents have made it possible firstly to clarify the outlines of the special access regime provided for in the French Electoral Code, and secondly to decide on the communication of new types of documents. A stable doctrine that is constantly evolving guarantees administrative transparency that is expanding and adapting to changes in the legal framework and to new types of requests.



### AT A GLANCE

*In addition to administrative documents relating to political elections, many referrals addressed to the CADA relate to the communication of documents relating to the exercise of their office by local elected representatives.*

*For the first time in 2024, the CADA thus ruled on statements made by elected officials to the ethics body of their local authority (Notice II no. 20242506 of 30 May 2024 regarding declarations of gifts received) or on opinions issued by the Ethics Committee of their local authority (Notice III no. 20241747 of 6 May 2024).*

# Accessing documents relating to political elections

# Different perspectives...



*Tatiana ROLET,  
PRADA  
of the Oise prefecture*

## *Can you present your current roles and tasks as PRADA?*

**Tatiana ROLET:** I am the Deputy Head of the Office of Legal Affairs and Urban Planning of the Prefecture of Oise. In this capacity, I am responsible for managing most litigation, school affairs, compensation on BOP 216 (unrecoverable costs, rental evictions, etc.), and also authorisation applications for projects subject to commercial operation authorisation.

As PRADA, my tasks are, on the one hand, to provide the link between the prefecture and the CADA when it is referred (relationship with the departments concerned, follow-up of access requests, responses to requests for observations and to follow-up of opinions from the CADA, etc.), and, on the other hand, to advise the departments that are dealing with requests for communication of documents and are questioning the rules of disclosability, the procedure, etc.

**Jean-Baptiste LAGOUANELLE:** I am a legal consultant in the litigation and legal expertise office of the Val-d'Oise Prefecture's Citizenship and Legality Department.

My tasks mainly consist of producing submissions in defence of the interests of the State in the context of litigation, and advising the prefectural departments on legal matters.

Initial requests for access to administrative documents are handled directly by the relevant departments, such as the Regulatory and Election Office for requests for access to electoral registers. The PRADA only intervenes when it is referred directly via the dedicated functional mailbox, or at the CADA referral stage.



*Jean-Baptiste LAGOUANELLE,  
PRADA  
of the Val-d'Oise prefecture*

**What proportion of requests for access to electoral registers and documents relating to political elections are representative of all requests for access to administrative documents that you receive elsewhere? Do they increase as an election approaches?**

**T.R:** Requests for access to electoral registers and documents relating to political elections only represent 15% of the requests for access to administrative documents received by the prefecture. In general, I have seen a slight increase in requests over the past few years, particularly after an election, regardless of the type of elections concerned.

**J-B.L:** Requests for access to electoral registers submitted to the prefectural services represent around twenty requests per year. Requests sent directly to the local councils are not recorded by the election office, which may, however, be required to intervene on these issues in support of the municipal departments requesting them or at the request of a voter.

These requests increase particularly as local elections approach, especially council elections. The prefecture has thus observed that there have been more requests since September 2024, undoubtedly in view of the local elections in 2026.

**Who is submitting these requests? Have you noticed a change in the use of the right of access organised by the French Electoral Code over the past few years?**

**T.R:** Access requests come mainly from voters. The French Electoral Code does not require them to be reasoned, so most applicants simply certify that they will not make commercial use of the electoral register that will be sent to them. This restriction linked to the use of the documents is well known. However, the resources available to the prefectures to ensure the sincerity of the undertaking thus made by voters and the absence of any risk of commercial reuse are not efficient.

When specified, the reasons invoked are diverse, such as the desire to check certain entries on registers, or research carried out by a student as part of their studies.

**J-B.L:** The special system of communication introduced by Article L. 37 of the French Electoral Code is very liberal and allows a wide audience to access electoral registers.

Half of the requests therefore come from political parties and elected representatives, while the other half come from voters.

The former are mainly motivated by checking the regularity of the lists. The latter are based on more personal motives, such as genealogical research or the organisation of a "family reunion". These requests, which are not money making but are moving away from the objective of citizen control of electoral registers pursued by the legislator, have been increasing in recent years.





# Facilitating access to documents relating to public officials

Every year, requests for access to documents relating to public service represent a significant share of the CADA's activity (around 15% of requests submitted to it). They come from both public officials themselves, wishing to access their administrative or medical records, and from citizens, curious about the functioning of public institutions or even wishing to check their proper administration.

CADA doctrine on this issue is well established and built around a balance between respecting the privacy of officials and the public's right to information. Nevertheless, the Commission is regularly required to clarify its doctrine in the light of new questions that are asked.

### A quest for a balance between respecting the privacy of officials and the public's right to information

Like any citizen, public officials have the right to the protection of their privacy. As a result, certain information cannot be disclosed to third parties, either because it relates to the official's personal situation (date of birth, home address, family situation, social security number, holiday dates, working hours, etc.)<sup>30</sup>, or because it reflects an assessment of their way of serving (performance bonus, professional appraisal report, etc.)<sup>31</sup>.

Nevertheless, the CADA considers that the roles and status of public officials justify that other information concerning them can be communicated to anyone making a request, such as their status as a public official, their administrative address, their appointment order and, regarding their remuneration, the fixed components thereof (grade and rank, pay index, new index bonus, hardship allowances, elements of remuneration that result solely from the application of the rules governing the employment concerned, etc.)<sup>32</sup>.

30-Advice II no. 20210746  
of 11 February 2021

31-For application to  
a particular case:  
Notice II no. 20242407  
of 20 June 2024

32-Advice II no. 20210741  
of 11 February 2021

*Like any citizen,  
public officials have the right  
to the protection of their privacy.*

## Access to competition eligibility and admission lists

This quest for balance is also reflected in CADA doctrine on the communication of an admission list to an examination, competition or administrative selection process.

The principle of administrative transparency requires that this list be made available to anyone who requests it, even if it reveals the ranking of candidates in order of merit<sup>33</sup>. Indeed, the CADA considers that such a list is not, in itself, likely to reveal an assessment carried out on candidates (which assessment is protected pursuant to the provisions of Article L. 311-6 (2) of the French Code of Relations Between the Public and the Administration). On the other hand, the protection of privacy as well as the respect for the “assessment” require that this list reveals neither a score nor a literal assessment of the candidates<sup>34</sup>. Moreover, for the same reasons, documents concerning persons not admitted to an exam or a competition cannot be communicated to a third party.

The CADA was recently asked to clarify its doctrine on the occasion of a request for advice concerning the list of candidates for a competition or a selection process. Thus, after noting that the communication of this list would allow third parties to work out, through cross-referencing, the names of those not selected, the Commission believes that the list of candidates authorised to compete, or who have merely been declared eligible or ineligible for this competition, is only disclosable to the interested parties, each concerning their own situation<sup>35</sup>.




# Facilitating access to documents relating to public officials



36-Notice II no. 20231499  
of 11 May 2023




37-Advice II no. 20240807  
of 28 March 2024



38-Members of a polling station, as well as staff representatives, also have a right to information relating to the performance of their duties, based on special communication regimes that the CADA has not been given competence to interpret.



39-These messages identified as personal are of a private nature which excludes them from the scope of competence of the CADA.



40-Notice II no. 20184184  
of 6 December 2018;  
Notice II no. 20144863  
of 5 March 2015

## Participation in professional elections

In the field of professional elections, the CADA traditionally considers that the list of persons who have volunteered to take on responsibilities in the interests of agents through the organisations to which they belong is not covered by privacy since the persons mentioned therein have agreed, by choosing to stand for office, to make public their trade union affinities. This list is therefore freely disclosable, without the need to distinguish between persons who have finally been elected and those who have not. On the other hand, lists declared inadmissible and which have therefore not actually been submitted to the vote are only accessible to the individuals listed, each concerning their own information, and not to third parties<sup>36</sup>.

The CADA also specified that the attendance list for professional elections, as it reveals the choice of specifically named voters to exercise or not their right to vote, contains information covered by the privacy of the individuals registered to vote<sup>37</sup>. It therefore considers that the necessary transparency of the conduct of professional elections does not justify this list being disclosed to third parties on the basis of Book III of the French Code of Relations between the Public and the Administration. The CADA considers in this regard that a person performing the role of a polling station member or holding a staff representative mandate remains a third party to the attendance list<sup>38</sup>.

## Access by public officials to their professional emails

Finally, 2024 was an opportunity for the CADA to develop its doctrine on access by public officials to their professional emails.

The CADA has long recognised that emails held or sent by public officials in the course of their duties (excluding messages identified as personal<sup>39</sup>) on their professional devices constitute administrative documents<sup>40</sup>.

Referred by an applicant wishing to access the professional emails he had received or sent from his professional email account, the CADA determined that when a public official has left the position that justified the provision of their professional email account, they no longer have the status of an interested person within the meaning of the aforementioned article L. 311-6<sup>41</sup>.

His request must therefore be examined like that of any citizen, under the conditions of common law, such that secrets protected by law can be enforced on him. The same reasoning applies to a request from an official who is suspended or temporarily excluded from service, for the entire duration of their suspension from duties<sup>42</sup>.



*When a public official has left the role that justified the provision of his professional email, he no longer has the status of an interested party.*



## AT A GLANCE

The CADA was first referred in 2024 with a request from a public official requesting the communication of "essential information and rules relating to the exercise of his duties" provided for in Article L. 115-7 of the French General Code of Public Office.

It considered that these provisions establish a special legal system of communication, and it did not have jurisdiction to decide on its application.

Notice II no. 20241374 of 18 April 2024

# Facilitating access to documents relating to public officials





**Clarifying  
the scope  
of our action**

- **Regional seminars are continuing**

The CADA continues its travels to meet elected representatives and people responsible for access to administrative documents (PRADA) in order to raise their awareness of the right of access and administrative transparency. These “meetings” with PRADAs are also an opportunity to showcase local players who are working in favour of open data.

In 2024, these events were held in Lille and Bordeaux in partnership with the administrative courts and local CNFPT delegations. They brought together **120 participants**.



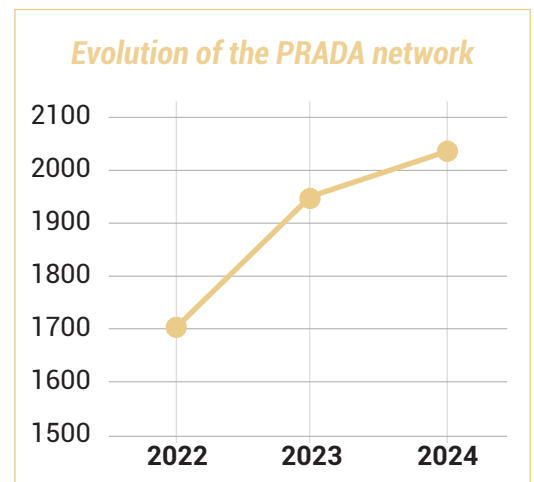
- **The training offering is expanding**

In 2024, the CADA strengthened its commitment to training by providing six training days in Paris, bringing together 138 participants. It has also enriched its range by offering training courses on new topics such as public procurement and urban planning. These initiatives aim to meet the needs of PRADAs and support them in their missions.

This dynamic will continue in 2025, with the launch of an **e-learning project** that will provide all administrative authorities with training on the general principles of the right of access to administrative documents.

- **The PRADA network continues to grow**

The work to update and identify administrations subject to the obligation to appoint a person responsible for access to administrative documents (PRADA), initiated in 2022, continued in 2024. It is already bearing fruit, as **the number of PRADAs recorded has increased by 19% in two years**. In 2025, this dynamic will continue with a dual objective: to continue these appointment campaigns so as to strengthen the network and develop its activities. The aim is to promote cross-functionality by encouraging dialogue between PRADAs and the exchange of best practices.



- **The CADA joins the ICIC**

At the end of 2023, the CADA joined the International Conference of Information Commissioners (ICIC), marking a further milestone in its commitment to transparency and the right to access public information. As early as 2024, it took part in the work of the ICIC, an organisation that brings together information commissioners, ombudsmen and other bodies responsible for ensuring the proper application of legislation relating to access to public information worldwide. This organisation aims to promote and improve citizens' right to public information and to empower them to demand greater transparency and accountability from institutions. In this context, the President of the CADA participated in the **international conference of the ICIC, which took place from 2 to 5 June 2024 in Tirana, Albania**. He was able to exchange views with his peers and spoke at a panel discussion on open data and administrative transparency, thus illustrating the Commission's willingness to actively engage in international strategies on access to information.

- **Cada.fr remains the main communication tool**

The cada.fr website is the main communication tool of the Commission for Access to Administrative Documents (CADA). It plays a central role in relations with users and administrations, in particular by enabling them to refer matters directly to the Commission. Since April 2024<sup>43</sup>, the site has recorded **766,664 visits**, demonstrating its usefulness and sustained traffic. In order to improve its accessibility and the user experience, work has begun to redesign it. It will be completed in 2025 with a new presentation of the site, designed to be clearer, more inclusive and more functional.

43-Beginning of recording of statistical data

Top 3 most viewed pages:

- ▶ The referral form
- ▶ Search for an opinion
- ▶ Is the document administrative? (special procedure)

**Cada** | Commission d'accès aux documents administratifs

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La CADA | Un particulier | Une administration

### Qu'est-ce que la CADA ?

La Commission d'accès aux documents administratifs est une autorité administrative indépendante chargée de veiller à la liberté d'accès aux documents administratifs et aux archives publiques ainsi qu'à la réutilisation des informations publiques.

Elle est compétente pour se prononcer sur l'exercice de ce droit au sens de la loi du 17 juillet 1978 aujourd'hui codifiée au **livre III du code des relations entre le public et l'administration** (CRPA).

La commission rend des avis sur le refus opposé par l'administration aux demandes de communication. Elle conseille les administrations sur le caractère communicable d'un document administratif.

La saisine de la CADA est obligatoire avant tout recours contentieux.

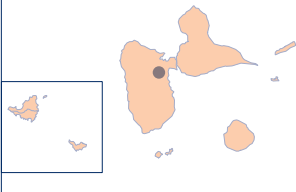
## Clarifying the scope of our action

# PRADA Network 2024

## 2028 PRADAs appointed

|                            |     |
|----------------------------|-----|
| Auvergne-Rhône-Alpes       | 332 |
| Bourgogne-Franche-Comté    | 93  |
| Bretagne                   | 62  |
| Centre-Val-de-Loire        | 68  |
| Corse                      | 10  |
| Grand Est                  | 178 |
| Hauts-de-France            | 321 |
| Ile-de-France              | 321 |
| Normandie                  | 141 |
| Nouvelle-Aquitaine         | 246 |
| Occitanie                  | 140 |
| Pays de la Loire           | 84  |
| Provence-Alpes-Côte d'Azur | 113 |
| Guadeloupe                 | 17  |
| Martinique                 | 5   |
| Guyane                     | 3   |
| La Réunion                 | 20  |
| Mayotte                    | 1   |

### Guadeloupe



### Martinique



### La Réunion

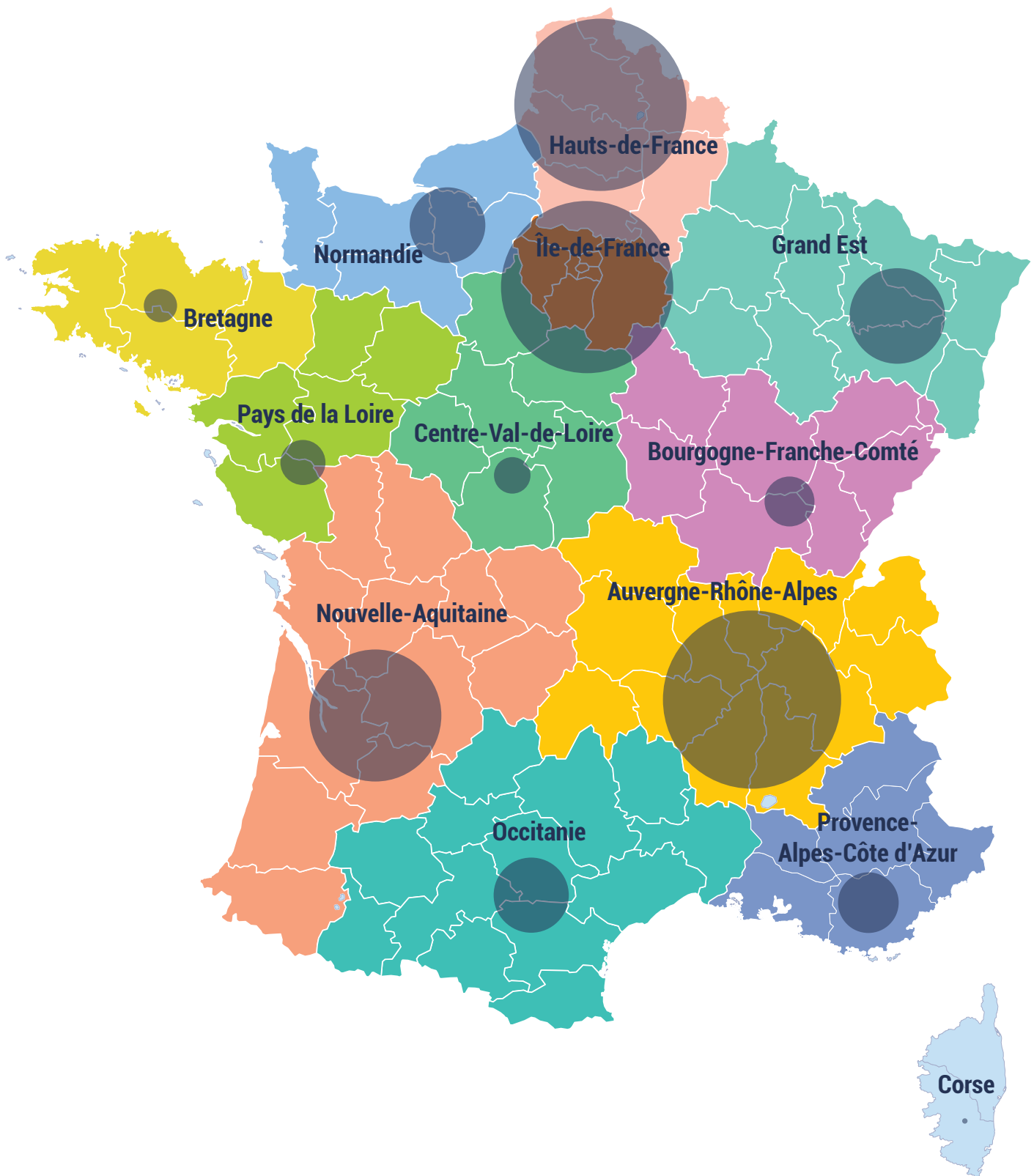


### Guyane



### Mayotte





## Clarifying the scope of our action

# Viewpoint of a PRADA

On the occasion of this activity report, the CADA wished to give the floor to a person responsible for access to administrative documents (PRADA) to present the procedure for processing requests for access to administrative documents put in place within his ministry to ensure administrative transparency, while mentioning the major developments observed in recent years.

## *Can you present your current roles and tasks as PRADA?*

I have been the Deputy Director of General Legal Affairs and Litigation at the Ministry of Justice since August 2021. My sub-directorate (SDAJGC), which is attached to the expertise and modernisation department within the General Secretariat, has the main task of dealing with litigation proceedings on behalf of the Ministry and, in particular, is responsible for representing the Lord Chancellor before the administrative courts. It also performs a legal advisory role as well as coordinating and steering the standards activity.

The SDAJGC consists of three offices: the Administrative and Advisory Litigation Office (BCAC), the Judicial and European Litigation Office (BCJE) and the Office of Standards Programming, Coordination and Litigation (BPCCAN), and comprises 43 agents.

Furthermore, as part of my role, I have been appointed as the person responsible for access to administrative documents and questions relating to the reuse of public information (PRADA) of the Ministry and, in this capacity, I am the correspondent of the Commission for Access to Administrative Documents (the CADA) for the entire administration of the Ministry.

This competence represents an increasingly important part of my activity since the Ministry of Justice, like other ministries, receives an increasing number of requests for the communication of administrative documents and, as a result, referrals of the CADA.

As an example, we received:

**2021:** 370 referrals

**2022:** 562

**2023:** 528

**2024:** 525



*Gérald CONTREPOIS,  
PRADA of the Ministry of Justice*

As a PRADA, I have many tasks. They are mainly aimed at:

- ▀ advising, as necessary, the management or department referred with a request for communication of administrative documents on the possible actions that may be taken;
- ▀ when the request is referred to the CADA, overseeing the examination of this request by the department concerned, following the various steps and liaising with the CADA;
- ▀ contributing to exchanges between ministerial PRADAs on serial requests or subjects of common interest;
- ▀ offering training on access to administrative documents to departments expressing the need.

### ***What are the main topics covered by the access requests submitted to your ministry?***

Over 2023 and 2024, applications for the communication of administrative documents mainly concerned the prison administration departments: 75% of the CADA referrals received by the Ministry of Justice concerned the communication of individual decisions relating to detained persons (decisions of isolation, transfer, searches, seizure of personal effects, special custody regime or even video surveillance images).

The other field that also generates quite numerous and regular communication requests is that of human resources. They relate, in particular, to documents relating to workplace accidents, salaries, medical records, pension records, progress tables or administrative records.

### ***What practical organisation have you put in place within your ministry to respond to requests for access to administrative documents?***

In carrying out my PRADA duties, I rely on one of the offices of my sub-department: the Office of Standards Programming, Coordination and Litigation (BPCCAN), where access to administrative documents is one of its tasks. This represents an important part of the activity of this office and mobilises several of its agents on a daily basis. Given the multitude of its tasks, this office has a functional mailbox dedicated to requests for communication of administrative documents.

In practice, applicants generally refer their requests for communication of a document to the department they believe is holding it. The department referred is responsible for processing the request. Of course, from this initial phase, the department can contact us if it wants advice or inform us if it is of a sensitive nature.

## **Clarifying the scope of our action**

On the other hand, we centralise all CADA referrals, for which we are the sole point of contact on behalf of the Ministry of Justice. When we receive a CADA referral, we contact the department concerned by the subject matter of the request in order to obtain its observations on the follow-up it may have or intends to give to this request and to inform it, as necessary, on the legal framework that may apply to it. We deal with responding to the CADA. As soon as we receive the opinion of the CADA, we notify the department concerned, accompanied, if necessary, by an analysis and recommendations. We will then inform the CADA of the action taken by the department concerned.

If the request ultimately becomes the subject of a dispute, we will also process it, in conjunction with the department concerned, and defend the ministry before the administrative courts.

Special channels have also been set up for requests which, by their subject matter or by their author, may be sensitive and therefore also require processing in connection with, for example, the press department or the minister's office.

Moreover, communication requests common to several ministries are increasingly frequent. Faced with the expansion of this type of request, the ministerial PRADA network has been structured under the impetus of the General Secretariat of the Government (SGG) in order to better share our information and coordinate our responses.

As regards training in access to administrative documents, we have implemented a course that we provide to the departments that so wish. We have already organised, for example, a session for members of the General Inspectorate of Justice and also for officers of the prison administration.

### ***Have you identified any changes in the referrals submitted by users since you took up your role?***

I have indeed observed a twofold change since I took up my position in 2021, with firstly an increase in the number of referrals, which mainly concerned the field of prison administration, and secondly a diversification of the subject matter of the requests and their authors, with an increase in requests from journalists and non-governmental organisations, associations or trade unions, some of which may be sensitive, cover a large number of documents and be sent to several ministries.

As an illustration of this trend, we had to deal, like other ministries, with a request from journalists in the newspaper *Le Monde* for the communication of documents relating to public contracts concerning consultancy firms, which had some resonance. For the Ministry of Justice, this involved 27 contracts and hundreds of documents that had to be identified, analysed and partially redacted. Many departments and agents spent several weeks processing this request.

Faced with these developments, we have had to upgrade our internal processing circuit since 2021. The challenge was twofold: firstly, to respond quickly to the numerous requests concerning the prison

administration, and secondly to reserve treatment on a case-by-case basis, with specific follow-up of sensitive requests, which are on the rise.

### ***How do you handle requests for access to emails, and more generally mailboxes?***

The Ministry of Justice regularly receives requests comprising communication of emails. Like all requests, they are first examined by the relevant department. They can be quite complex to handle, depending on the accuracy of the request and the volume of emails and mailboxes to be analysed, especially since we do not have specific search tools to identify the requested documents. This difficulty is exacerbated when the request concerns old emails whose senders and recipients are no longer in office, because there is no systematic archiving of all the email boxes of all the ministry's agents.

### ***What proposals would you make to foster administrative transparency?***

Although efforts still need to be made in terms of administrative transparency, significant progress has been made in recent years. More and more administrative documents are being disseminated, made public, placed online on the websites of the administrations, etc.

However, there is probably still an educational effort to be made within the administration. This issue of access to administrative documents could benefit from greater awareness in the context of induction training provided in public service schools and continuing professional development.

Furthermore, the development of tools relying on artificial intelligence will most likely require us to re-examine our approach and practices, while nevertheless integrating the risks that these tools may involve, as it will be more difficult to control the uses that may be made of the administrative documents that will be communicated.

## **Clarifying the scope of our action**

# Litigation concerning the right of access:

## a review of the latest positions of the Council of State



*Bertrand DACOSTA,  
President of the 10<sup>th</sup> chamber  
of the litigation section  
of the Council of State*

### *Opinion of Mr DACOSTA*

#### *You are President of the tenth chamber of the litigation section of the Council of State: can you describe its functions in connection with the exercise of the right of access to administrative documents and public archives?*

Litigation in the tenth chamber is very diverse: public freedoms, personal data, refugee law, urban planning, overseas law, culture, etc. Within this litigation, the right of access to administrative documents and public archives has a significant dimension, in terms of both the volume of cases and the complexity of certain files. In practice, the Council of State is referred by the avenue of the action to set aside judgments of administrative courts that have ruled on requests for communication (the avenue of appeal is closed for these judgments), either by the applicant if he has not been or has only partially been successful in the first instance, or by the public entity (or private entity in charge of a public service mission) in the opposite case. In the latter case, the appeal is frequently accompanied by an application for stay of execution of the judgment. Indeed, once the document has been communicated pursuant to the judgment of the administrative court, the dispute is no longer relevant...

**The chamber you chair deals with disputes relating to the right to access administrative documents, disputes relating to access to public archives, and also disputes relating to the protection of personal data. In your opinion, are these different legislations complementary, sources of synergy or complexity?**

These two legislations are, in principle, complementary. However, the very large scope given to the notion of administrative documents is likely to create overlapping areas between the two rights, with similar requests being possible, depending on the applicant's choice, either on the basis of the CRPA or the French Heritage Code, or on that of the GDPR and the Act of 6 January 1978. There is an additional complexity factor for some cases.

**Can you paint us a picture of the litigation relating to the right of access that the chamber you chair hears?**

The tenth chamber is faced with a regular increase in this type of litigation, as evidenced by the following figures:

2021: 50  
2022: 64  
2023: 85  
2024: 77

However, not all of these appeals result in decisions ruling on the merits after examination: a significant proportion of them do not pass the filter of the procedure for admission of actions to set aside.

Thus, in 2024, 33 cases led to a decision made after admission of the appeal.

The majority of requests are for "traditional" communication and not for online publication.

The range of topics covered, on the other hand, varies from year to year.

The Council of State was thus required to rule, in 2024, on the disclosability (or lack of disclosability) of applications for functional protection (EC, 11 March 2024, M.B., no. 454305 on the tables), the aggregate results of pupil assessments (EC, 11 March 2024, Minister for National Education and Youth v. CCM Benchmark Grup, no. 488227, in the Tables), the diaries of local elected representatives (EC, 31 May 2024, *Association Ensemble pour la planète*, no. 474473, in the Tables), the documents required to draw up civil status documents (EC, 8 November 2024, M. A., in the Tables), and documents liable to infringe the conduct of France's foreign policy (EC, 30 December 2024, *Association Greenpeace France*, no. 476336).

Furthermore, the reconciliation between the right of access to administrative documents and the various secrets protected by law, or the protection of public security, remains a common problem (see, in terms of statistical secrecy: EC, 31 May 2024, Minister of the Economy, Finance and Industrial and Digital Sovereignty v. *Association Ouvre-Boîte*, no. 472883, in the Tables; for the issue of communication of the names of police officers: EC, 18 October 2024, M. A., no. 475283, in the Tables).

**What are the new principles that have recently emerged from the chamber you chair?**

The Council of State has been required to clarify the conditions under which the administration must process requests for communication of documents consisting of extractions of computer processing. It was thus judged, by the decision *Minister of the Interior and Overseas Territories v. Association Ouvre-Boîte* of 20 December 2023, that these provisions "only require the administration to provide access to the requested documents by making use, where appropriate, of the IT tools available

## Clarifying the scope of our action

to it at the time it makes its decision and using the functionalities that these tools possess, (but that they) are not obliged either to use software that may be made available to them by the applicant or to develop a new IT tool or to develop new features on the tools they already have." In the same logic, the Council of State specified that "administrative documents are documents that can be drawn up by simply extracting from the databases available to the administration, if this does not place an unreasonable burden on it, in particular by requiring it either to modify the organisation of a database or to develop research tools or to modify those currently available to it, for the extraction of the information requested" (EC, 17 June 2024, INRAE, no. 470620, in the Tables).

The *Département de l'Essonne* decision, issued on 27 September 2022, deals with a case in which the requirement for administrative transparency had to be reconciled with the need not to excessively disrupt the functioning of the administration. The request for communication concerned the "budget ledgers" of a department for several years, the applicant wishing to have the list of expenditure mandates and receipts issued by the department, i.e. six tables showing a total of more than 300,000 payment mandates and 75,000 revenue vouchers. The difficulty was that each of these accounting operations could be associated with data protected by privacy. It was therefore unthinkable to require the administration to carry out a line-by-line verification. However, the documents in the file showed that it was possible to delete from the tables the columns likely to contain non-disclosable data, so the department was instructed to carry out this redaction.

The Association *Ensemble pour la planète* decision, already cited, deals with a particularly sensitive question: is the diary of a local elected representative a disclosable administrative document? Yes, in principle, as long as it is owned by the local authority in which the elected representative serves and relates to activities that fall within

the scope of his/her duties in this authority. However, mentions relating to private activities or the free exercise of the elective mandate, and those whose communication would infringe one of the secrets and interests protected by law, must be redacted. And the request may be refused if this redaction work, given its scale, places a disproportionate burden on the administration. Finally, the M.A. decision of 18 October 2024, which has also been cited, is part of case law that focuses on ensuring that the right to communication of administrative documents does not result in risks to individual safety or public security. It therefore prevents communication of the surnames and first names of certain categories of officers (in this case police officers), at least when these surnames and first names appear on a document drawn up by these officers in the performance of their duties.

***There appears to be a great deal of current case law on this subject, even though the law guaranteeing the right to access administrative documents was adopted in 1978. In your opinion, is this the sign or result of an increasing demand for transparency, increased recourse to the courts, a complexification of the law, the need to update the texts, etc.?***

The 1978 Act, now codified in the CRPA, potentially allows for an extremely broad scope, certainly broader than its creators had imagined, not least because of the eminently flexible and evolving nature of the notion of "administrative document". In a context where, indeed, the requirement for transparency is increasing and where access to the courts is, at least in the first instance, very easy (refusal of communication of an administrative document can be the subject of an appeal for ultra vires, without the need for representation by a lawyer), all the potentialities of the law are now

exploited, even if it appears that the legal framework established almost half a century ago, despite some occasional changes, may not always be suitable for handling certain requests...

### **How do you analyse the complementarities between administrative case law and CADA doctrine regarding the right of access?**

The administrative court is obviously very attentive to the solutions provided by the CADA, which plays an absolutely key role in very restricted conditions of flows and deadlines. On many subjects, CADA doctrine is developed before, or even well before, the court is seised of the matter, and it serves as an absolutely essential “compass” for both administrations and individuals.

Indeed, it must be kept in mind that the court can only deal with a new legal issue if a dispute arises requiring it to give a response: it is not the master of its jurisprudential agenda!

It may occur that, at the end of the debate at issue, it comes up with solutions calling into question, on one or another point, the positions taken by the CADA

If this is the case, the CADA in turn incorporates these developments into its doctrine.

In this sense, we can indeed talk about complementarity.

### **What is your view of the role of the administrative court to ensure the effectiveness of the right of access and thus contribute to administrative transparency?**

The administrative court plays an important role in ensuring, in the last instance, the effectiveness of the right of access. As you have seen, the administrative court is an easily accessible jurisdiction (and even more so thanks to the Telerecours application). Moreover, the court is not limited, where appropriate, to revoking a refusal of communication; it has the power to instruct the administration to do so, subject, where appropriate, to the necessary redactions, by setting a deadline for the administration.

The court is thus a vector of administrative transparency, while, of course, ensuring that the secrets or exemptions provided for by the legislator itself are respected, and preventing abusive requests from jeopardising the proper functioning of the administration.

This being said, given the number of requests for communication of documents sent to the administrations each year, there are fortunately few referrals of the court. The opinions issued by the CADA make it possible to resolve most of the difficulties.

## **Clarifying the scope of our action**

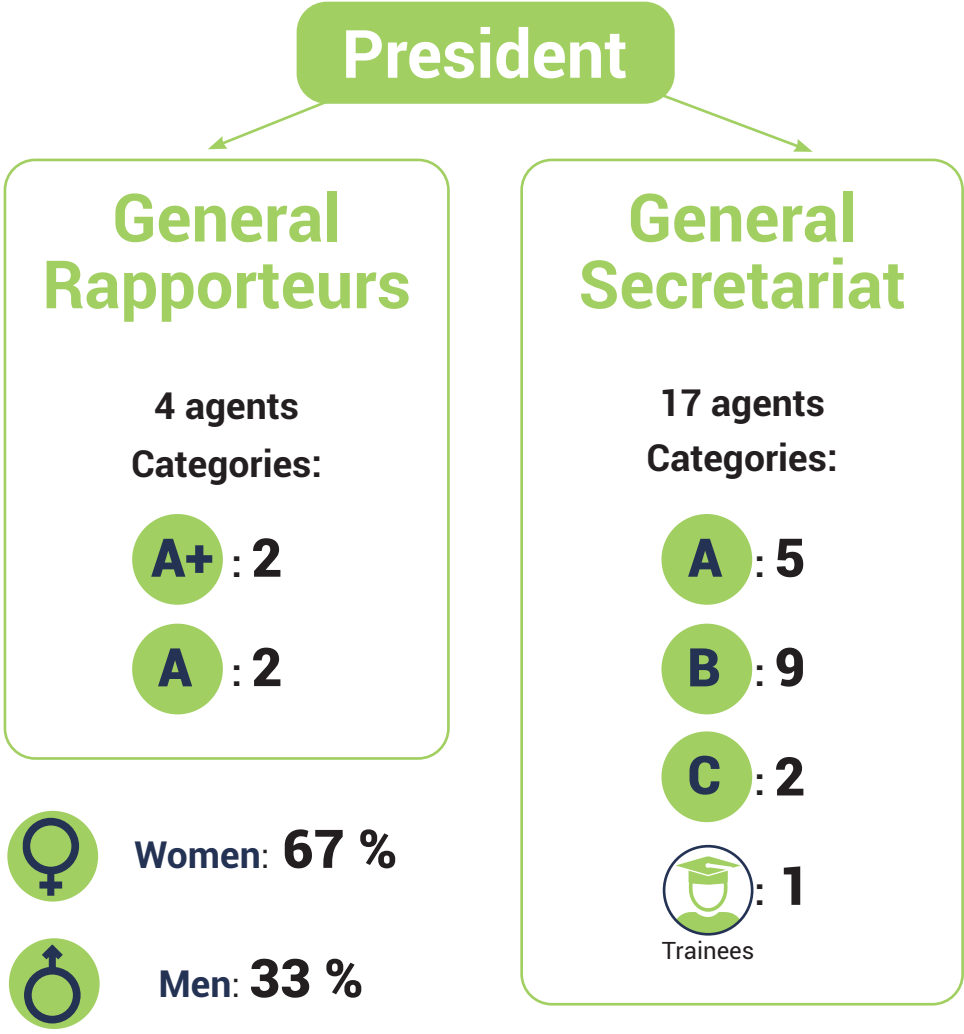




# Behind the scenes of the CADA



# CADA resources



|  | 2020      | 2021      | 2022      | 2023      | 2024      | LFI 2025  |
|--|-----------|-----------|-----------|-----------|-----------|-----------|
| <b>Heading 3:<br/>Operating expenses</b> | 99,659    | 99,081    | 98,585    | 293,585   | 253,585   | 241 592   |
| Heading 2:<br>Personnel expenses         | 1,388,120 | 1,440,799 | 1,304,255 | 1,582,253 | 1,641,765 | 1,801,313 |
| Employment ceiling                       | 17        | 17        | 17        | 18        | 21        | 21        |
| Employment scheme                        | 16        | 16        | 16        | 17        | 20        | 20        |

## Behind the scenes of the CADA

# Examination of requests for access to administrative documents

A plenary session of the CADA

## Examination of requests

- Citizens or administrations refer to the CADA.
- The General Secretariat checks the admissibility of requests and formats the files.
- The rapporteurs examine the requests and draw up a draft opinion or advice.
- The general rapporteurs review the draft opinions and advice and identify the cases to be submitted to the College.



## Session opening

- The meeting is opened by the President or his/her deputy.



The President or his/her deputy



The General Rapporteur or his/her deputy



The college

## Presentation of the cases

- The rapporteur-general or his/her deputy presents the cases identified before the meeting.
- Members of the college discuss these cases and those they wish to discuss.



## Deliberation

- The Commission debates the cases submitted by the rapporteurs-general behind closed doors.
- The other cases are deemed to have been approved as-is.
- It provides an opinion or (advisory) advice on each case.



## Conclusion and next steps

- The opinions and advice are notified to the parties.
- They may be published on the CADA website.



# Behind the scenes of the CADA

# Viewpoint of a member of the CADA college



*Bénédicte  
FARTHOUAT-DANON,  
judge at the Court of Cassation*

## *Can you describe the role of the members of the CADA college?*

The college, composed of eleven members, delivers opinions on the refusal by the administration of requests for communication made by citizens, as well as on the refusal of requests for access to public archives. It also examines requests for advice submitted by the administration, when the latter is questioning whether a document can be communicated.

The college meets every three weeks, with the agenda of the meeting communicated to its members a few days in advance. Six must be present for the quorum to be reached.

The college's work focuses on cases that raise new, tricky questions, or on which case law may change.

These cases, four or five per session, are the subject of a very in-depth report, in which the general rapporteurs, after examination and discussions with the administration, present the problem raised, the state of the law, the solution(s) that they consider possible, and the one that they think should be preferred.

Where it seems necessary, the administration may be invited in advance to submit oral observations and to answer questions from the college.

After the report, the deliberation opens, during which everyone expresses their opinion. Decisions are taken by a majority.

The backgrounds of each member of the college, who all come from different backgrounds - members of the Council of State, the Court of Cassation, the Court of Auditors, national and local elected representatives, university professors, individuals qualified in archiving, in dissemination of information, in competition matters, representatives of the CNIL - contribute to the richness of the debates.

Other matters listed on the agenda, for which the solution is not difficult, are only discussed verbally if they present a particularity.

The college may also, in cases of reuse of public information, impose sanctions in the event of breaches, but is very rarely seised on this basis. It then makes a decision in a restricted panel, according to a special procedure.

## ***You have been a member of the CADA College since 2021, what is your assessment of the requests submitted to the Commission?***

The requests are very diverse, and this is the first thing that strikes you when arriving at the Commission: specific requests from citizens concerning matters of daily life - school, healthcare, taxes, etc., requests from researchers requesting derogatory access to archives, requests filed by defence associations, requests filed by journalists conducting investigations, etc. This diversity of requests results in a wide variety of topics addressed, ranging from history to the hottest current affairs, from very specific technical questions to ethics issues, etc.

Beyond this observation, the trend, already described, to mobilise the right of access so as to make it a tool for collecting information and investigating has continued during this period, in particular for the purpose of fuelling public debate.

Thus, the proportion of referrals made by researchers, journalists and associations is steadily increasing.

Such referrals often have a broad purpose: a journalist conducting an investigation will, for example, request the production of all emails issued by a former Secretary of State on a certain subject over a period of three years. These referrals may be sent to several administrations: requests to all prefectures in France for a certain number of documents relating to protected species, requests to all university hospital centres in France for communication of a significant number of documents relating to residency, etc.

The increasing digitisation of administrative procedures and the digital transformation have also led to an increase in requests for algorithms and source codes.

The importance of environmental issues should also be highlighted.

## ***Do you remember a case that marked you in particular?***

Among the requests for advice, one, formed by a hospital centre, raised the question of the disclosability to a father, holder of parental authority, of the documents included in the medical records of his minor daughters as part of their follow-up at birth due to a condition borne by their mother and of which he was not aware.

The extremely delicate question was whether the father's right to access medical information about his children could go as far as providing information about the mother.

The Commission finally decided, in line with its case law, that the father's right of access could not extend to information whose disclosure would infringe the mother's medical privacy, such as her medical history, unless she agreed, and that the communication was thus reserved for information specific to the children.

# **Behind the scenes of the CADA**

In a completely different area, the Commission had to decide on a request from a local council which requested from the National Biodiversity Office the GPS coordinates of a protected flower species, the *Androsace delphinensis*, discovered on a glacier in the local area, near a contested cable car installation project.

This case, which concerned information relating to the environment, raised several interesting questions, and was an opportunity to implement the proportionality check.

The information requested was indeed of particular interest to inform the public on environmental matters.

However, given the context, communication, which allows the precise location of this rare and protected plant, risked concrete and effective damage to its preservation.

The Commission therefore weighed the interests at stake, and considered that the interest in safeguarding biological diversity and protecting the *Androsace delphinensis* was in this case greater than the interest, for the protection of the environment, in providing the information requested.

### ***Do you feel that the right to access administrative documents has become more complex since you have served in the Commission?***

It does not seem to me that it has become very complex in technical terms, but the increase in referrals and their evolution, described above, necessarily raises new questions.

It remains that this is a right that is not easy to implement. There are special communication arrangements. In addition, the handling of restrictions on rights of access, and in particular protected secrets, is not always easy.

### ***What is your view of the growing activity of the CADA?***

It seems to me that several factors have converged.

There is certainly a growing demand for transparency from citizens, and all social stakeholders, alongside the gradually implemented openness of public data. This is a profound societal change.

At the same time, the Commission is better known.

In a number of cases, administrations are also reluctant to provide the requested documents, even though they are increasingly aware of their obligations, in particular thanks to the development of PRADAs. However, the changes in the requests mentioned above do not make their task easier.

In the face of these referrals, the subject matter of which is very broad and which simultaneously relate to a multitude of documents, which are often not formalised, the administrations may indeed encounter difficulties in identifying what they can or cannot communicate, in particular with regard to protected secrets. They also often have a problem with the means to respond to these requests, and must undertake trade-offs.

### ***What do you think are the upcoming challenges for access to administrative documents?***

There is an immediate quantitative challenge linked to the continuing increase in access requests. In order to deal with this, more resources must be given to the administrations, in particular IT resources, and training initiatives must be continued for their staff.

Beyond that, the development of open data, artificial intelligence and, more generally, the digital transformation presents new challenges, rejuvenating the approach to access to administrative documents. While facilitating and accelerating the dissemination of information, they in fact raise new questions, as shown by the referrals relating to algorithms and source codes.

The quest for the balance between transparency and the protection of legitimate interests must be followed in this modified and evolving context.

## **Behind the scenes of the CADA**



# Credits

The following people contributed to the drafting of this report:

**Bruno LASSERRE**, President of the Commission for Access to Administrative Documents

**Bénédicte FARTHOUAT-DANON**, member of the CADA college

**Laetitia GUILLOTEAU**, general rapporteur

**Jeanne MENEMENIS**, deputy general rapporteur

**Jeanne MALLET**, archives rapporteur

**Hélène ZETTEL**, archives rapporteur

**Hélène SERVENT**, General Secretary

**Caroline DREZE**, head of communication and training

**Joël THIBEAU**, administrator of the document management system

**Thibault BERGER**, communications apprentice

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- **Jean-Baptiste LAGOUANELLE**, PRADA of the Val-d'Oise prefecture;
- **Gérald CONTREPOIS**, PRADA of the Ministry of Justice;
- **Bertrand DACOSTA**, President of the 10th chamber of the litigation section of the Council of State.

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**Cada**

20 avenue de Ségur  
75007 Paris

Email: [cada@cada.fr](mailto:cada@cada.fr)  
<https://www.cada.fr>