

# France

	2014	2015		
<b>Internet Freedom Status</b>	Free	Free	<b>Population:</b>	64.1 million
Obstacles to Access (0-25)	3	3	<b>Internet Penetration 2014:</b>	84 percent
Limits on Content (0-35)	4	6	<b>Social Media/ICT Apps Blocked:</b>	No
Violations of User Rights (0-40)	13	15	<b>Political/Social Content Blocked:</b>	No
<b>TOTAL* (0-100)</b>	<b>20</b>	<b>24</b>	<b>Bloggers/ICT Users Arrested:</b>	Yes
			<b>Press Freedom 2015 Status:</b>	Free

\* 0=most free, 100=least free

## Key Developments: June 2014 – May 2015

- Two decrees were issued in early 2015 outlining administrative measures for the blocking and de-indexing of websites for terrorist content. The decrees earned the ire of free speech advocates as the blacklist of websites is compiled by a police agency without court approval (see **Blocking and Filtering** and **Content Removal**).
- An antiterrorism law passed in November 2014 outlined harsh prison sentences for the broad offense of “apology for terrorism” through online speech (see **Legal Environment**), leading to several users being arrested, and some imprisoned, for online comments that were seen as condoning the January 2015 terrorist attacks that targeted the offices of satirical magazine *Charlie Hebdo* (see **Prosecutions and Detentions**).
- Surveillance powers were bolstered after the *Charlie Hebdo* attacks with the passage of a new law in May 2015 requiring internet service providers to install devices to monitor users’ “suspicious behavior” and provide unfettered access to intelligence agencies (see **Surveillance, Privacy, and Anonymity**).
- French broadcaster TV5Monde was hit by a massive cyberattack in April 2015 by Islamist hackers calling themselves the “CyberCaliphate.” Eleven channels were brought offline for a day (see **Technical Attacks**).

## Introduction

France was rocked by a series of terrorist attacks in January 2015 in which 12 people were shot and killed by armed extremists, including eight staff at the controversial French satirical magazine *Charlie Hebdo*. The attacks attracted global solidarity under the slogan “Je suis Charlie” (I am Charlie), and an estimated 3.7 million marched in the streets of France in support of free speech.<sup>1</sup> Reacting to the incidents, French law enforcement agencies took a heavy handed approach by arresting dozens for *apologie du terrorisme* (apology for terrorism), an offense dating from the 19<sup>th</sup> century and updated only two months before the attacks to include online offenses.

The government, too, went into overdrive. Prime Minister Manuel Valls issued two decrees outlining administrative measures for the blocking and de-indexing of terrorist content without the need for a court order. In May, legislators passed a new surveillance law granting intelligence agencies the power to intercept electronic communications in real time and request the immediate handover of user data from ISPs, also without the need for prior court approval. A similar law had been passed in December 2013, granting extended legal powers for authorities to gain access to or record telephone conversations, emails, internet activity, personal location data and other electronic communications for a broad range of purposes, including “national security,” the protection of France’s “scientific and economical potential,” and prevention of “terrorism” or “criminality.”

While France has traditionally maintained a relatively open and accessible internet, several actions on the part of successive administrations have raised concerns from internet freedom groups and free speech activists. Politicians have proposed highly restrictive measures such as the imprisonment of frequent visitors to extremist websites, the mandatory registration of online news editors,<sup>2</sup> a bandwidth tax, and the banning of the online sale of goods below market prices.<sup>3</sup> More significantly, France’s data protection agency has intensified its legal battle against Google regarding the controversial “right to be forgotten.” While Google has begun to cooperate with authorities in European Union (EU) countries since a major ruling of the EU Court of Justice in May 2014, the company has been blamed by the French authorities for only applying the ruling on European versions of the search engine’s site. The back-and-forth has launched a debate about the extraterritorial application of national laws.

## Obstacles to Access

*France has a highly developed telecommunications infrastructure and a history of innovation in information and communications technologies (ICTs).<sup>4</sup> Starting in the 1970s, France began developing Teletex and Videotex technologies, leading to the introduction of the widely popular Videotex service Minitel in 1982, which was accessible through telephone lines. In many ways, Minitel predicted applications of the modern internet, such as travel reservations, online retail, mail, chat, and news. At its peak, Minitel had around nine million users, and hundreds of thousands continued to use the service, even*

---

1 Ashley Fantz, “Array of world leaders joins 3.7 million in France to defy terrorism,” CNN, January 12, 2015, <http://www.cnn.com/2015/01/11/world/charlie-hebdo-paris-march/>.

2 Jean-Loup Richet, “Internet Censorship in France: should we criminalize viewers?,” Herdict, April 24, 2012, Accessed May 23 2015, <http://www.herdict.org/blog/2012/04/24/internet-censorship-in-france-should-we-criminalize-viewers/>.

3 Guillaume Champeau, “Sell cheaper on the web soon to be forbidden” [translated], April 05 2013, Accessed May 23 2015, <http://www.numerama.com/magazine/25593-vendre-ses-produits-moins-cher-sur-internet-bientot-interdit.html>.

4 Jonathan Gregson, “French infrastructure takes some beating,” Wall Street Journal, July 5, 2010, accessed May 23 2015, <http://online.wsj.com/ad/article/france-infrastructure>.

*after the World Wide Web was introduced in 1994. It was not until June 2012 that the Minitel service was discontinued, primarily due to the growth of the internet industry.<sup>5</sup> France's current ICT market is open, highly competitive, and has benefitted from the privatization of the state-owned company France Telecom.*

## Availability and Ease of Access

The French government has been committed to providing widespread access to high-speed broadband and has promised to achieve universal coverage by 2025.<sup>6</sup> As a part of this plan, in February 2013 Alcatel-Lucent and Orange (France Telecom) announced the deployment of the world's most powerful broadband infrastructure, an optical-link, 400 Gbps line between Paris and Lyon.<sup>7</sup> In April 2015, the French parliament approved an amendment to the telecoms component of France's economic reform law, known as the Loi Macron, requiring telecom operators to improve mobile coverage throughout the country. The law will ensure that residents of an estimated 170 municipalities, which currently have no access to mobile services, will be covered by mobile networks by 2017. Failure to comply with the obligations can result in sanctions from the telecoms regulator.<sup>8</sup>

France had an internet penetration rate of 83.75 percent at the end of 2014, up from 71.58 percent five years earlier.<sup>9</sup> Fixed broadband use increased during the same period, from 31.57 percent to 40.18 percent.<sup>10</sup> Regionally, penetration ranges from 84.4 percent in the Paris area to 65 percent in the northwest of France.<sup>11</sup> Most at-home users have access to broadband connections, while the remaining households are connected either through dial-up or satellite services, usually due to their rural location.<sup>12</sup> Over 5 million households did not use the internet in 2014,<sup>13</sup> either due to obstacles to access, or personal choice.<sup>14</sup> As French statisticians do not record information related to race, there is no government data relating to internet use according to ethnicity.<sup>15</sup> On a positive note, there is little or no gender gap when it comes to internet access.<sup>16</sup>

5 John Lichfield, "How France fell out of love with Minitel," *The Independent*, June 9, 2012, accessed May 23 2015 <http://www.independent.co.uk/news/world/europe/how-france-fell-out-of-love-with-minitel-7831816.html>.

6 Jonathan Gregson, "French infrastructure takes some beating," *Wall Street Journal*, July 5, 2010, accessed April 23, 2013, <http://online.wsj.com/ad/article/france-infrastructure>.

7 Bernhard Warner, "Alcatel-Lucent Unveils World's Most Powerful Broadband Infrastructure," *Business Week*, February 15, 2013, accessed April 23, 2013, <http://www.businessweek.com/articles/2013-02-15/alcatel-lucent-unveils-worlds-most-powerful-broadband-infrastructure>.

8 French government approves amendment mandating rural mobile expansion (France), International Telecommunications Union, accessed May 21 2015 <http://www.itu.int/ITU-D/ict/newslog/French+Government+Approves+Amendment+Mandating+Rural+Mobile+Expansion+France.aspx>

9 "Percentage of Individuals Using the Internet – 2000-2014," International Telecommunication Union, <http://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx>.

10 "Fixed (wired) broadband subscriptions," 2000-2012," International Telecommunication Union, accessed July 29, 2014, <http://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx>.

11 Frantz Grenier, "Internet in the Different Regions of France" (translated), March 21, 2013, accessed April 19 2013, <http://www.journaldunet.com/ebusiness/le-net/nombre-d-internautes-en-france-par-region.shtml>.

12 Ariase, "ADSL and Broadband Access in France" (translated), accessed April 19, 2013, <http://www.ariase.com/fr/haut-debit/index.html>.

13 Mediametrie, "Obstacles to access" (translated), July 31, 2014, accessed August 28, 2014, <http://www.mediametrie.fr/comportements/communiqués/home-devices-2eme-vague-de-la-nouvelle-mesure-des-equipements-multimedias-de-mediometrie.php?id=1107>.

14 Nil Sanyas, "the unplugged" (translated), September 12 2012, Accessed April 14 2013, <http://www.pcinpact.com/news/73774-la-france-compte-95-millions-deconnectes-et-17-million-assument.htm>.

15 Patrick Simon, "The Choice of Ignorance: The Debate on Ethnic and Racial Statistics in France," *French Politics, Culture & Society*, Vol. 26, No. 1, Spring 2008, accessed April 23, 2013, [http://www.academia.edu/573214/The\\_choice\\_of\\_ignorance\\_The\\_debate\\_on\\_ethnic\\_and\\_racial\\_statistics\\_in\\_France](http://www.academia.edu/573214/The_choice_of_ignorance_The_debate_on_ethnic_and_racial_statistics_in_France).

16 "France," *New Media Trend Watch*, accessed April 23, 2013, <http://www.newmediatrendwatch.com/markets-by-country/10->

## France

The average monthly cost of broadband internet access in France is approximately EUR 30 (US\$ 43), for both ADSL,<sup>17</sup> and fiber-optic connections.<sup>18</sup> Considering the average monthly income is EUR 2,359 (US\$ 3,279),<sup>19</sup> this makes internet access fairly affordable for a large percentage of the population. The average household net-adjusted disposable income per capita is EUR 25,308 a year, more than the OECD average of EUR 23,298 a year; however, there is a considerable gap between the richest and poorest.<sup>20</sup> Companies such as Free Telecom offer cheap internet access and mobile contracts through bundled deals. Akamai data indicates that, in terms of the global average, France saw a 0.1 percent drop in internet speeds to 6.6bpms in the first quarter of 2014.<sup>21</sup>

There were 64.875 million mobile contracts in use in France at the end of 2014, representing a penetration rate of over 100 percent.<sup>22</sup> Over 23 million people use their mobile devices to access the internet,<sup>23</sup> mostly in addition to a household connection.<sup>24</sup>

### Restrictions on Connectivity

There were no restrictions on connectivity reported over the past year. There is no central internet backbone and ISPs are not required to lease bandwidth from a monopoly holder. Instead, the backbone consists of several interconnected networks run by ISPs and shared through peering or transit agreements. There are also a number of Internet Exchange Points (IXPs) in France,<sup>25</sup> which contribute to improved access and lower consumer prices.<sup>26</sup>

Network and internet service providers are usually prohibited from discrimination and favoritism on the principal of net neutrality, but some incidents in recent years have concerned digital rights activists. The French Competition Authority (FCA) issued a decision on September 20, 2012 regarding the conflict between the U.S. operator Cogent and the French company Orange on whether network operators are allowed to charge for opening additional capacity. The FCA considered that such an action was not liable to contravene competition law inasmuch as Orange did not refuse access to its subscribers from Cogent, but asked for repayment for opening new capacity in accordance with its peering policy.

Furthermore, Culture Minister Fleur Pellerin has stated her desire to introduce a new tax on the “use of bandwidth.”<sup>27</sup> In January 2015, the minister said she wanted a “level playing field” for French

---

europe/52-france?start=1.

17 Ariase, “Comparatifs (Comparatives)”, accessed March 16, 2014, <http://www.ariase.com/fr/comparatifs/adsl.html>.

18 Ariase, “Comparatifs (Comparatives)”, accessed March 16, 2014, <http://www.ariase.com/fr/comparatifs/fibre-optique.html>.

19 OECD Better Life Index, France, accessed March 16, 2014, <http://www.oecdbetterlifeindex.org/countries/france/>

20 France, OECD Better Life Index, accessed May 21 2015 <http://www.oecdbetterlifeindex.org/countries/france/>

21 Akamai’s State of the Internet Q1 2014 Report; Volume 7 Number 1; Section 3 Geography – Global, accessed May 21 2015 <http://www.akamai.com/dl/akamai/akamai-soti-q114.pdf>

22 “Mobile-cellular telephone subscriptions – 2000-2014,” International Telecommunication Union, <http://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx>.

23 Alexandra Bellamy, “French people loves their smartphones and tablets” (translated), LesNumeriques.fr, December 11 2012, Accessed March 16 2014, <http://www.lesnumeriques.com/france-amoureuse-smartphones-tablettes-n27347.html>.

24 Ipsos MediaCT, “PCs, smartphones, tablets: cumulative and complementary use” (translated), September 22, 2011, accessed March 16, 2014, <http://www.ipsos.fr/ipsos-mediact/actualites/2011-09-22-pc-smartphones-tablettes-usages-se-cumulent-et-se-complentent>.

25 Internet Exchange Points, Data Centre Map, accessed May 22 2015 <http://www.datacentermap.com/ixps.html>

26 “Internet Service Providers and Peering v3.0,” accessed May 22 2015 <http://www.drpeering.net/white-papers/Internet-Service-Providers-And-Peering.html>

27 “Bandwidth Tax? Fleur Pellerin Still Believes” [translated], Les Echos, accessed May 22 2015 [http://m.lesechos.fr/redirect\\_article.php?id=0204151866085](http://m.lesechos.fr/redirect_article.php?id=0204151866085)

## France

broadcasters along with the likes of Netflix. The news was welcomed by some ISPs who would benefit from offering so-called specialized services—or charging more for increased speed and bandwidth.<sup>28</sup>

## ICT Market

There are no significant business hurdles to providing access to digital technologies in France. The main ISPs are Orange, Free, SFR, Bouygues Telecom, and Numericable, with around 40 smaller private and non-profit ISPs. Apart from Numericable, these ISPs are also the four main mobile phone operators and work in conjunction with some 40 mobile virtual network operators (MVNOs). The government owns a total of 27 percent of shares in Orange,<sup>29</sup> which was formerly a state-owned company under the name France Telecom, through direct ownership as well as holdings in its sovereign wealth fund.<sup>30</sup> Another provider, Free, has quickly picked up market share since launching 3G services in 2009 through aggressive pricing practices. This price war led the French media conglomerate Vivendi to sell its mobile phone company SFR; in April 2014, Vivendi accepted a EUR 17 billion (US\$22.85 billion) offer from Numericable.<sup>31</sup> In the meantime, Bouygues Telecom has begun a round of strategic downsizing after failing to sell its assets.<sup>32</sup>

## Regulatory Bodies

The telecommunications industry in France is regulated by the Regulatory Authority for Electronic and Postal Communication (ARCEP),<sup>33</sup> while competition is regulated by France's Competition Authority and, more broadly, by the European Commission (EC).<sup>34</sup> The commissioner of ARCEP is appointed by the government, though as an EU member state, France must ensure the independence of its national telecommunications regulator. Given that the French state is a shareholder in Orange, the country's leading telecommunications company, the EC stated that it would closely monitor the situation in France to ensure that European regulations were being met.<sup>35</sup> The EC has previously stepped in when the independence of national telecommunications regulators seemed under threat, notably in Romania, Latvia, Lithuania, and Slovenia.<sup>36</sup> ARCEP remains an independent and impartial body and decisions made by the regulator are usually seen as fair.

28 "French minister: Hit Netflix, Google, Apple et al with bandwidth tax," The Register, accessed May 22 2015 [http://www.theregister.co.uk/2015/02/11/french\\_minister\\_hit\\_google\\_facebook\\_apple\\_netflix\\_et\\_al\\_with\\_bandwidth\\_tax/](http://www.theregister.co.uk/2015/02/11/french_minister_hit_google_facebook_apple_netflix_et_al_with_bandwidth_tax/)

29 According to Cofisem, as of July 2013, the major shareholders in Orange were Fonds Stratégique d'Investissement (13.5%), French State (13.45%), Employees (4.81%), and company-owned shares (0.58%). 67.66% are owned by "other shareholders." "Orange – European Equities," NYSE Euronext, accessed March 16 2014, <https://europeanequities.nyx.com/en/products/equities/FR0000133308-XPAP/company-information>.

30 "France Telecom to become Orange on July 1 2013," Orange, May 28, 2013, accessed May 23 2015 <http://www.orange.com/en/press/press-releases/press-releases-2013/France-Telecom-to-become-Orange-on-1-July-2013>.

31 "Numericable to buy SFR," (translated), Le Nouvel Obs, accessed May 23 2015 <http://tempsreel.nouvelobs.com/economie/20140405.OBS2813/rachat-de-sfr-vivendi-choisit-numericable-au-detriment-de-bouygues.html?xtor=RSS-17>.

32 Le Point, « Bouygues didn't received any offers from Orange and Free » (translated), August 05, 2014, accessed May 23 2015 [http://www.lepoint.fr/high-tech-internet/bouygues-telecom-n-a-recu-a-ce-jour-aucune-offre-de-rachat-05-08-2014-1851499\\_47.php](http://www.lepoint.fr/high-tech-internet/bouygues-telecom-n-a-recu-a-ce-jour-aucune-offre-de-rachat-05-08-2014-1851499_47.php).

33 "Autorité de Régulation des Communications Électroniques et des Poste," accessed May 23 2015 <http://www.arcep.fr/index.php?id=1&L=1>.

34 "Autorité de la concurrence," accessed May 23 2015 <http://www.autoritedelaconcurrence.fr/user/index.php>.

35 "ARCEP must remain independent vis-a-vis government – EC," Telecompaper, January 14, 2011, accessed May 23 2015, <http://www.telecompaper.com/news/arcep-must-remain-independent-vis-a-vis-government-ec--778936>.

36 Arjan Geveke, "Improving Implementation by National Regulatory Authorities," European Institute of Public Administration, 2003, accessed May 23 2015, [http://aei.pitt.edu/2592/1/scop\\_3\\_3.pdf](http://aei.pitt.edu/2592/1/scop_3_3.pdf).

## France

In the past, ARCEP has taken decisions to ensure the fairness of the telecommunications market. ARCEP placed Free under investigation in early 2013 after the ISP released a firmware update that included an “ad-blocker” function to remove advertisements from appearing on websites.<sup>37</sup> Executives at Free were reportedly attempting to force Google to compensate the ISP for the high levels of data traffic coming from YouTube and other Google sites. The American company had made a similar agreement with leading ISP Orange. Free backed down under government pressure and criticism that the ISP was harming net neutrality by failing to deliver unobstructed content.<sup>38</sup>

## Limits on Content

*Two decrees related to blocking and de-indexing websites from search engine results without a court order were issued in the wake of the Charlie Hebdo attacks. President Hollande stated his desire to introduce measures to hold internet companies responsible for any pro-terrorist material published on their sites. Social media was used to organize massive protests in defense of free speech.*

## Blocking and Filtering

France does not generally engage in any politically motivated blocking of websites. YouTube, Facebook, Twitter and international blog-hosting services as a whole are freely available. In December 2014, French ISPs were ordered to block dozens of URLs that grant access to the popular file-sharing website The Pirate Bay.<sup>39</sup> Some observers expect that future blocks on websites that are used to access copyrighted materials may be in store.

Many have feared that laws such as the Law for Confidence in the Digital Economy (LCEN), the Law on Guidelines and Programming for the Performance of Internal Security (LOPPSI 2),<sup>40</sup> and that establishing the High Authority on the Defense of Intellectual Property (known as the HADOPI law)<sup>41</sup> may eventually lead to a spillover whereby controversial yet legal sites are censored by administrative agencies without a court order.<sup>42</sup> This scenario unfolded over the past year, with the issuance of a decree by the prime minister in February 2015.

The decree implements article 6-1 of LCEN, passed in 2004, as well as article 12 of new antiterrorism law passed in November 2014.<sup>43</sup> The article calls for the Central Office for the Fight against Crime related to Information and Communication Technology (OCLCTIC) to create a blacklist of sites contain-

37 Cyrus Farivar, “France’s second-largest ISP deploys ad blocking via firmware update,” Ars Technica, January 3, 2013, accessed May 23 2015 <http://arstechnica.com/business/2013/01/frances-second-largest-isp-deploys-ad-blocking-via-firmware-update/>.

38 Chiponda Chimbela, “French ISP revives debate on ‘free Internet,’” DW, January 9, 2013, accessed May 23 2015 <http://www.dw.de/french-isp-revives-debate-on-free-internet/a-16508222>.

39 Andy, “Court orders French ISPs to block the Pirate Bay,” December 4, 2014, <https://torrentfreak.com/court-orders-french-isps-block-pirate-bay-141204/>.

40 Loi d’orientation et de programmation pour la performance de la sécurité intérieure.

41 “Au revoir, internet cut-off: France revokes anti-piracy penalty,” Jeff John Roberts, July 9 2013, accessed March 16 2014 <http://gigaom.com/2013/07/09/au-revoir-internet-cut-off-france-revokes-anti-piracy-penalty/>

42 Olivier Dumons, “After DADVSI and HADOPI, LOPPSI 2 To Be Released” (translated), May 18 2009, Accessed March 16 2014, [http://www.lemonde.fr/technologies/article/2009/05/18/apres-la-dadvisi-et-hadopi-bientot-la-loppsi-2\\_1187141\\_651865.html](http://www.lemonde.fr/technologies/article/2009/05/18/apres-la-dadvisi-et-hadopi-bientot-la-loppsi-2_1187141_651865.html), and La Quadrature du Net, “Administrative Net Censorship adopted in France” (translated), December 15 2010, Accessed March 16 2014, <http://www.laquadrature.net/fr/loppsi-censure-administrative-du-net-adoptee-les-pedophiles-sont-tranquilles>.

43 “Décret n° 2015-125 du 5 février 2015 relatif au blocage des sites provoquant à des actes de terrorisme ou en faisant l’apologie et des sites diffusant des images et représentations de mineurs à caractère pornographique,” Legifrance, February 6, 2015, <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000030195477&dateTexte=&categorieLien=id>.



## France

ing materials that incite or condone terrorism, as well as sites that display child pornography, and to review the list every four months to ensure that blacklisted sites continue to contravene French law. ISPs must then take all appropriate measures to restrict access to those sites within 24 hours of notification. Users trying to access those pages are redirected to a website from the Ministry of Interior indicating why the site was blocked and avenues for appeal. The blacklist is also shared with the head of the National Commission on Informatics and Liberty (CNIL), who may appeal decisions taken by the OCLCTIC.

UberPop, a ride-sharing and ride-hailing app created by the American company Uber, was banned in January 2015. Earlier, a court had refused to ban the app, triggering massive strikes by French taxi drivers that brought traffic to a standstill in the capital Paris.<sup>44</sup> The strikes led the government to pass a new law tightening regulations on the taxi and chauffeur industry that effectively banned UberPop drivers without a professional license.<sup>45</sup> The law was challenged in the Constitutional Court and upheld in September 2015. UberPop services were halted by the company in July 2015.<sup>46</sup>

## Content Removal

French authorities are fairly transparent about what content is prohibited and the reasons behind specific content removal requests. Incitement of hatred, racism, Holocaust denial, child pornography, copyright infringement, and defamation are illegal. Article R645-1 of the French criminal code outlaws the display of the emblems, uniforms, or badges of criminal organizations, under penalty of a fine.<sup>47</sup> Websites that contravene this law are requested to remove the content or face blocking.<sup>48</sup>

Over the past year, search engines have come under particular pressure regarding issues of terrorism, child pornography, and privacy. On March 4, 2015, a government decree was issued relating to the de-indexing of sites that incite terrorism or apologize for terrorism, as well as sites that display child pornography, from search engine results.<sup>49</sup> The decree implements modifications to the 2004 LCEN that were made under the 2011 LOPPSI 2 and 2014 antiterrorism law, allowing for the de-indexing of online content using an entirely administrative procedure. The decree on de-indexing states that OCLCTIC will transfer demands to search engines companies, who then have 48 hours to comply. The OCLCTIC is responsible for reevaluating de-indexed websites every four months, and requesting the relisting of websites where the incriminating content has been removed. The procedure is supervised by the CNIL.<sup>50</sup> President François Hollande said the law would hold tech companies as

44 "Uber's cheap service to be banned in France as Paris taxis block roads," The Independent, accessed May 23 2015 <http://www.independent.co.uk/life-style/gadgets-and-tech/news/ubers-cheap-service-to-be-banned-in-france-as-paris-taxis-block-roads-9926523.html>

45 Natasha Lomas, "France Bans UberPop Starting January 1," TechCrunch, December 2014, <http://techcrunch.com/2014/12/15/uberpop-non/>.

46 Mark Scott, "French Law That Banned UberPop Service Survives Legal Challenge," the New York Times, September 22, 2015, <http://www.nytimes.com/2015/09/23/technology/french-law-that-banned-uberpop-service-survives-legal-challenge.html>.

47 Elissa A. Okoniewski, "Yahoo!, Inc. v. Licra: The French Challenge to Free Expression on the Internet," 2002, accessed March 16, 2014, <http://www.auilr.org/pdf/18/18-1-6.pdf>

48 Roger Darlington, "Should the Internet be Regulated?" no publication date, accessed March 16, 2014, <http://www.rogerdarlington.me.uk/regulation.html>

49 "Décret n° 2015-253 du 4 mars 2015 relatif au déréférencement des sites provoquant à des actes de terrorisme ou en faisant l'apologie et des sites diffusant des images et représentations de mineurs à caractère pornographique," Legifrance, March 5, 2015, <http://legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000030313562&dateTexte=&categorieLien=id>.

50 "France implements Internet censorship without judicial oversight," EDRI, accessed May 21 2015 <https://edri.org/france-censorship-without-judicial-oversight/>

## France

“accomplices” to terrorism should they fail to act.<sup>51</sup> The process has been criticized as lacking judicial oversight.

The legal debate over the right to be forgotten has also escalated over the past year. On May 13, 2014, the Court of Justice of the European Union (CJEU) found that the 1995 Data Protection Directive applies to the activities of search engines like Google, and requires companies to remove certain search results if the data is deemed to violate an individual's right to privacy.<sup>52</sup> The court decided that by searching automatically, constantly, and systematically for information on the internet, search engines are “collecting” and “processing” data within the meaning of the directive. Based on this ruling, individuals within the European Union can now request that search engines remove links associated with their name, but only in searches for that individual's name and under the condition that the information in the links is “inadequate, irrelevant, or no longer relevant” and is not considered to be in the public interest. Many critics of this ruling argued that the court should not have granted private companies the authority to arbitrate competing concerns between the right to privacy and the right to information, and that the court failed to establish clear guidelines regarding when links to data should be removed.<sup>53</sup>

Since the ruling, Google has received over 68,000 requests from French users to remove almost 230,000 URLs. France has the highest number of requests out of any country in the European Union, accounting for around 20 percent of all requests. Google states in its latest transparency report that 51.7 percent of those URLs have been removed from search results when appearing on the local site of the Google search engine, for example, Google.fr.<sup>54</sup> In June 2015, CNIL, France's data protection authority, ordered Google to extend its right to be forgotten across all of its local sites, including Google.com.<sup>55</sup> The order was rejected by Google on concerns the move would set a dangerous precedent for authoritarian governments, who could also request that Google apply unjust national laws extraterritorially, thus altering the web experience for all.<sup>56</sup> An informal appeal by Google was rejected by CNIL in September 2015.<sup>57</sup>

## Media, Diversity, and Content Manipulation

France is home to a highly diverse online media environment. Self-censorship online is minimal and there were no reports of the French government proactively manipulating online content.

51 “France wants to make Google and Facebook accountable for hate speech,” The Verge, accessed May 22 2015 <http://www.theverge.com/2015/1/27/7921463/google-facebook-accountable-for-hate-speech-france>

52 The court case in question is that of Google Spain SL, Google Inc. v. Agencia Española de Protección de Datos, Mario Costeja González. See Press Release No. 70/14, Court of Justice of the European Union, May 13, 2014, <http://curia.europa.eu/jcms/upload/docs/application/pdf/2014-05/cp140070en.pdf>.

53 The Editorial Board, “Ordering Google to Forget,” The New York Times, May 13, 2014, <http://www.nytimes.com/2014/05/14/opinion/ordering-google-to-forget.html?hp&rref=opinion&r=0> and Natasha Lomas, “Jimmy Wales Blasts Europe's ‘Right to Be Forgotten’ Ruling as a ‘Terrible Danger,’” TechCrunch, June 7, 2014, <http://techcrunch.com/2014/06/07/wales-on-right-to-be-forgotten/>.

54 “European privacy requests for search removals,” Google Transparency Report, accessed October 13, 2015, <https://www.google.com/transparencyreport/removals/europeprivacy/?hl=en>.

55 “CNIL orders Google to apply delisting on all domain names of the search engine,” CNIL, June 12, 2015, <http://www.cnil.fr/english/news-and-events/news/article/cnil-orders-google-to-apply-delisting-on-all-domain-names-of-the-search-engine/>.

56 Peter Fleischer, “Implementing a European, not global, right to be forgotten,” Google Policy Europe blog, July 30, 2015, <http://googlepolicyeurope.blogspot.co.uk/2015/07/implementing-european-not-global-right.html>.

57 “Right to delisting: Google informal appeal rejected,” CNIL, September 21, 2015, <http://www.cnil.fr/english/news-and-events/news/article/right-to-delisting-google-informal-appeal-rejected/>.



## Digital Activism

French digital rights and advocacy groups are very active in the country, playing a significant role in protesting the government's recent moves to expand blocking and surveillance without judicial oversight. The Association of Community-based Internet Services (ASIC) and La Quadrature du Net have stated their intention to appeal to the Council of State in order to overturn these decrees that limit online freedoms.<sup>58</sup> The latter created the website Presumed Terrorists to inform French citizens and advocate against the law's passage.<sup>59</sup> In the past, La Quadrature du Net successfully lobbied the European Parliament for an amendment to the European Union Telecoms Package to ensure that no restrictions on internet access could be imposed without prior judicial approval.<sup>60</sup>

The hashtag #jesuischarlie gained worldwide prominence in the wake of the attacks on *Charlie Hebdo* to express support for free speech and support for those killed. Around two million people took to the streets in Paris and four million throughout the country in coordinated marches.<sup>61</sup>

## Violations of User Rights

*Both in the lead up and reaction to terrorist attacks in Paris, the French government introduced several new measures that threaten internet freedom in the country. A new antiterrorism law was passed in November 2014 that introduced penalties for online speech that is deemed to "apologize for terrorism." Following the January 2015 shootings, there were renewed calls to expand state surveillance of electronic communications, culminating in the passage of a new surveillance law in May. The law granted intelligence agencies the power to intercept electronic communications in real time and request the immediate handover of user data from ISPs, without the need for prior court approval.*

## Legal Environment

France's constitution guarantees freedom of speech,<sup>62</sup> in accordance with the 1789 Declaration of the Rights of Man.<sup>63</sup> The European Convention on Human Rights, of which France is a signatory, provides for freedom of expression, subject to certain restrictions which are "necessary in a democratic society."<sup>64</sup> However, the French government has enacted several laws which, while seeking to protect the rights of internet users and copyright holders, also threaten the rights of citizens online. Several laws have been highlighted by online activists and internet companies over concerns that they may overreach in their aims. Electronic surveillance also operates under a vague legal framework, with some fears that intelligence authorities have engaged in extralegal monitoring of users' online ac-

58 "La Quadrature du Net calls for the annulment of the blocking without judges" [translated], NextInpact, accessed May 21 2015 <http://www.nextinpact.com/news/93007-la-quadrature-net-reclame-l-annulation-decret-sur-blocage-sans-juge.htm>.

59 <https://presumes-terroristes.fr/>

60 Danny O'Brien, "Blogging ACTA across the globe: the view from France," Electronic Frontier Foundation, January 2010, accessed March 17, 2014, <https://www.eff.org/deeplinks/2010/01/acta-and-france>.

61 "Terror in Paris sparks protests across the world," Sky News, accessed May 23 2015 <http://news.sky.com/story/1403783/terror-in-paris-sparks-protests-across-world>

62 Guy Carcassonne, "The Principles of the French Constitution," written for the French Embassy in the U.K., May 2002, accessed March 17, 2014, [http://www.unc.edu/depts/europe/francophone/principles\\_en.pdf](http://www.unc.edu/depts/europe/francophone/principles_en.pdf).

63 "The free communication of ideas and opinions is one of the most precious of the rights of man. Every citizen may, accordingly, speak, write, and print with freedom, but shall be responsible for such abuses of this freedom as shall be defined by law," Declaration of the Rights of Man, 17 89, accessed March 17, 2014, [http://avalon.law.yale.edu/18th\\_century/rightsof.asp](http://avalon.law.yale.edu/18th_century/rightsof.asp).

64 "European Convention on Human Rights," accessed March 17, 2014, [http://www.echr.coe.int/Documents/Convention\\_ENG.pdf](http://www.echr.coe.int/Documents/Convention_ENG.pdf).

## France

tivities and have cooperated with their transatlantic counterparts in the United States and United Kingdom.

An antiterrorism law was passed in November 2014 establishing that online speech deemed as “apology for terrorism” (*apologie du terrorisme*) can be punished by five years in prison and a EUR 75,000 (US\$82,000) fine.<sup>65</sup> The law also allowed for the blocking of terrorist websites (see “Blocking and Filtering”).

In July 2013, following changes to the HADOPI laws on copyright, the government halted the practice of suspending users’ internet access and reduced the set of fines incurred for repeated copyright violations.<sup>66</sup> More than one year later, in October 2014, digital rights advocates raised concerns when Minister of Culture Fleur Pellerin proposed a new mandate for the organization entrusted with enforcing HADOPI, namely the blocking of copyright infringing websites according to a blacklist determined not by a court, but an administrative agency.<sup>67</sup>

## Prosecutions and Detentions for Online Activities

In the aftermath of the attacks on *Charlie Hebdo*, authorities cracked down on speech deemed apology for terrorism both offline and online.

- In Nantes, a 16-year-old was arrested for sharing an ironic cartoon on Facebook related to the *Charlie Hebdo* attack. The cartoon in question mocked the cover of the July 2013 issue of *Charlie Hebdo*, published after the massacre of hundreds of Egyptians protesting the coup against the Islamist former president Mohamed Morsi, which depicted a Muslim man who is holding a Koran in front of himself to defend against bullets is nevertheless shot stating, “It doesn’t stop bullets.” The cartoon in question, believed to be by the artist Dedko, replaced the Koran with *Charlie Hebdo* magazine and the man in Muslim garb with a staff cartoonist.<sup>68</sup> Some complained of double-standards when it comes to the upholding of free speech by French authorities.<sup>69</sup>
- In a case that attracted international attention, comedian Dieudonné M’bala M’bala was convicted of apologizing for terrorism and given a two-month suspended sentence in March 2015. He had been arrested in January over a Facebook post in which he stated, in French, “Tonight, as far as I am concerned, I feel like Charlie Coulibaly,” combining the popular “Je Suis Charlie” (I am Charlie) slogan with the name of Amedy Coulibaly, one of the attackers.<sup>70</sup> Dieudonné argued that instead of being celebrated for free speech like the staff of

65 Sénat, “Project de loi, adopté par l’Assemblée Nationale apres engagement de la procedure accélérée, renforçant les dispositions relatives à la lutte contre le terrorisme,” October 9, 2014, <http://www.senat.fr/leg/pjl14-010.pdf>.

66 For the full text of the law, in French, see “Décret n° 2013-596 du 8 juillet 2013 supprimant la peine contraventionnelle complémentaire de suspension de l’accès à un service de communication au public en ligne et relatif aux modalités de transmission des informations prévue à l’article L. 331-21 du code de la propriété intellectuelle,” <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000027678782&dateTexte=&categorieLien=id>.

67 “France to follow Turkey’s lead on lawless Internet censorship,” EDRI, accessed May 23 2015 <https://edri.org/france-follow-turkeys-lead-lawless-internet-censorship/>

68 A copy of the two cartoons side by side can be found at [http://2.bp.blogspot.com/-xJSMBI86AQ8/VK\\_IQ9Ycx8I/AAAAAAAAAD5c/SW\\_GrHmr\\_qw/s1600/Coran%2BCharlie%2BDedko.jpg](http://2.bp.blogspot.com/-xJSMBI86AQ8/VK_IQ9Ycx8I/AAAAAAAAAD5c/SW_GrHmr_qw/s1600/Coran%2BCharlie%2BDedko.jpg). Julien Lausson, “Apologie du terrorisme: un ado poursuivi à cause d’un dessin sur Facebook,” Numerama, January 17, 2015, <http://www.numerama.com/magazine/31910-apologie-terrorisme.html>.

69 Ali Abunimah, “France begins jailing people for ironic comments,” The Electronic Intifada, January 19, 2015, <https://electronicintifada.net/blogs/ali-abunimah/france-begins-jailing-people-ironic-comments>.

70 Agence France-Presse, “Dieudonné arrested over Facebook post on Paris gunman,” The Guardian, January 14, 2015, <http://>

*Charlie Hebdo*, he had been vilified by the media as if he was a terrorist like Coulibaly.<sup>71</sup> The controversial comedian has been convicted of anti-Semitism and slander on seven previous occasions.

- In Strasbourg, a 30-year-old was arrested for posting “Bons baisers de Syrie – Bye bye Charlie” (From Syria with Love – Bye bye Charlie) on Facebook along with a photo of an AK-47.<sup>72</sup>
- In Nantes, a 22-year old was convicted of 12 months in prison for a video published on Facebook in which he made fun of the death of Ahmed Merabet, a police officer killed during the attack on *Charlie Hebdo*.<sup>73</sup>
- In Toulon, a 27-year-old was convicted of 3 to 12 months in prison for publishing jihadist photos and posts condoning the attack. He posted the following on Facebook in French: “We hit them good, put on your *djellaba* guys, we’ll never give up, there are other brothers in Marseille.”<sup>74</sup>

## Surveillance, Privacy, and Anonymity

Surveillance has escalated in recent years, not least with the passage of a new surveillance law in May 2015, which was passed in the wake of the attacks on *Charlie Hebdo* by armed extremists earlier that year. The *Loi Relatif au Renseignement*, or Intelligence Law,<sup>75</sup> allows for intelligence agencies to conduct electronic surveillance without a court order and requires ISPs to install so-called “black boxes,” algorithms that analyze users’ metadata for “suspicious” behavior in real time.<sup>76</sup> The law also provided a legal basis for the installation of recording devices in private homes as well as computer intrusion software such as keystroke logging software. Authorities can store the recordings for one month and metadata for five years. France’s prime minister, Manuel Valls, justified the new law as necessary given that the previous wiretapping law dated from 1991. The law was reviewed by the Constitutional Court and came into effect in July 2015.<sup>77</sup> Mozilla and a group of ICT companies complained that the law “threatens the integrity of internet infrastructure, user privacy, and data security.”<sup>78</sup> Reporters Without Borders called on the French Parliament to closely scrutinize the bill to ensure its compliance with international human rights law.<sup>79</sup>

[www.theguardian.com/world/2015/jan/14/dieudonne-arrest-facebook-post-charlie-coulibaly-paris-gunman](http://www.theguardian.com/world/2015/jan/14/dieudonne-arrest-facebook-post-charlie-coulibaly-paris-gunman).

71 Roisin O’Connor, “French comedian Dieudonné given suspended sentence over Charlie Hebdo joke,” Independent, March 18, 2015, <http://www.independent.co.uk/news/people/french-comedian-dieudonn-given-suspended-sentence-over-charlie-hebdo-joke-10117120.html>.

72 Xavier Berne, “Un an de prison pour apologie des attentats contre Charlie Hebdo sur Facebook,” Next Inpact, January 13, 2015, <http://www.nextinpact.com/news/91721-un-an-prison-pour-apologie-attentats-contre-charlie-hebdo-sur-facebook.htm>.

73 Julien Lausson, “Terrorisme: un an ferme pour une video sur Facebook,” January 14, 2015, <http://www.numerama.com/magazine/31870-terrorisme-apologie-facebook-video.html>.

74 “Facebook: Prison pour apologie du terrorisme,” (Facebook: Prison for apology for terrorism) Le Figaro, January 12, 2015, <http://www.lefigaro.fr/flash-actu/2015/01/12/97001-20150112FILWWW00347-apologie-du-terrorisme-un-homme-condamne.php>.

75 Bill relating to Intelligence, National Assembly, <http://www.assemblee-nationale.fr/14/projets/pl2669.asp>

76 Angelique Chrisafis, “France passes new surveillance law in wake of Charlie Hebdo attack,” The Guardian, May 5, 2015, <http://www.theguardian.com/world/2015/may/05/france-passes-new-surveillance-law-in-wake-of-charlie-hebdo-attack>.

77 Amar Toor, “France’s sweeping surveillance law goes into effect,” The Verge, July 24, 2015, <http://www.theverge.com/2015/7/24/9030851/france-surveillance-law-charlie-hebdo-constitutional-court>.

78 “French National Assembly advances dangerous mass surveillane law,” Mozilla Open Policy and Advocacy, accessed May 23 2015 <https://blog.mozilla.org/netpolicy/2015/05/12/french-national-assembly-advances-dangerous-mass-surveillance-law/>

79 “Human Rights Organizations Alarmed By Bill That Will Give Surveillance Agencies Dangerous New Powers,” Reporters Without Borders, accessed May 22 2015 <http://en.rsf.org/france-human-rights-organisations-alarmed-25-03-2015,47728.html>

## France

The Intelligence Law came after the passage of new regulations on electronic surveillance, which were passed in December 2013 and entered into force in January 2015, as part of a routine military spending bill (the Military Programming Law, or LPM). Article 20 of the LPM significantly expanded electronic surveillance of French residents and businesses by requiring ISPs to hand over data such as phone conversations, emails, internet activity, personal location data, and other electronic communication data to public authorities. The powers relate to the General Directorate for Internal Security (DCRI), to three intelligence agencies under the Ministry of Defense, as well as to anti-money-laundering and customs agencies. Under the law, these agencies can conduct surveillance without prior court approval for purposes of “national security,” the protection of France’s “scientific and economical potential,” and the prevention of “terrorism” or “criminality.”<sup>80</sup> The office of the prime minister authorizes surveillance and the National Commission for Security Interception (*Commission nationale de contrôle des interceptions de sécurité*, CNCIS) must be informed within 48 hours in order to ensure its approval.<sup>81</sup> Critics have pointed out that the CNCIS lacks appropriate control mechanisms and independence from political interference, given that the CNCIS is composed of only three politicians.<sup>82</sup> On the other hand, the government argued that the law provides an improved legal framework for practices that have already been in place for years.<sup>83</sup>

Article 23 of LOPPSI 2, adopted in 2011, grants the police with the authority to install malware—such as keystroke logging software and Trojan horses—on a suspect’s computer in the course of counter-terrorism investigations, although authorization must come from a court order.<sup>84</sup>

## Intimidation and Violence

Online hate speech has been a topic of concern in France. Twitter has teamed up with SOS Homophobie, an LGBT rights NGO, to allow the charity to quickly and easily report homophobic tweets to the company’s staff.<sup>85</sup> There were 2,197 instances of anti-LGBT speech reported to the organization in 2014, a steady increase over the years but a steep drop from 2013, when the partnership with Twitter began.<sup>86</sup> Forty percent of all reported incidents occurred on the internet. Hashtags such as “#brûlonslesgayssurdu” (“let’s burn the gays on”) and “#lesgaysdoiventdisparaître” (“gays must die because”) have been trending, leading to three users being fined EUR 300-500 (US\$330-550) for homophobic tweets in January 2015.<sup>87</sup>

80 Alexandre Enraygues, “France—New ‘Patriot Act’ imposes surveillance obligations,” Linklaters, January 31, 2014, <http://www.linklaters.com/Insights/Publication1403Newsletter/TMT-News-31-January-2014/Pages/France%E2%80%93New-Patriot-Act-imposes-surveillance-obligations.aspx>.

81 “French officials can monitor Internet users in real time under new law,” Kim Willsher, The Guardian, December 11, 2013, accessed March 17, 2014, <http://www.theguardian.com/world/2013/dec/11/french-officials-internet-users-real-time-law>.

82 Guillaume Champeau, “La DGSJ investi du pouvoir de surveiller les communications sur internet,” (The DGSJ granted surveillance powers over the internet), Numerama, May 2, 2014, <http://www.numerama.com/magazine/29260-la-dgsi-investie-du-pouvoir-de-surveiller-les-communications-sur-internet.html>.

83 “France broadens its surveillance power,” Scott Sayare, New York Times, December 14, 2013, accessed March 17, 2014, [http://www.nytimes.com/2013/12/15/world/europe/france-broadens-its-surveillance-power.html?partner=rss&emc=rss&\\_r=3&\\_](http://www.nytimes.com/2013/12/15/world/europe/france-broadens-its-surveillance-power.html?partner=rss&emc=rss&_r=3&_)

84 Emilien Ercolani, “LOPSSI: Who could install spywares?” (translated), L’informaticien, November 7 2011, Accessed March 17 2014, <http://www.linformaticien.com/actualites/id/22101/loppi-qui-pourra-installer-les-mouchards-informatiques-la-liste-publiee-au-jo.aspx>.

85 Xavier Berne, « SOS Homophobie to be priority on Twitter » (translated), PC Impact, June 2013, accessed August 29 2014, <http://www.nextinpact.com/news/80753-signalement-tweets-illicites-sos-homophobie-prioritaire-depuis-mars.htm>.

86 2015 Annual Report, SOS Homophobie, accessed May 23 2015 <http://www.sos-homophobie.org/rapport-annuel-2015>

87 Joseph Patrick McCormick, “France: Twitter users fined for hashtags saying gay people should be burned,” PinkNews, January 21, 2015, <http://www.pinknews.co.uk/2015/01/21/france-twitter-users-fined-for-hashtags-saying-gay-people-should-be-burned/>.

## Technical Attacks

One of the main cybersecurity headlines over the past year in France was the hacking of the television and online news outlet TV5Monde on April 8, 2015. Hackers claiming to belong to the Islamic State breached the company's information systems, overriding TV5Monde's broadcasted programming for more than three hours and disabling live broadcasts for a day on 11 channels. The group, which called itself "CyberCaliphate," also hacked the news company's website and social media accounts.<sup>88</sup> The Twitter account of French newspaper *Le Monde* was also hacked by supporters of the Syrian government in January 2015. In the weeks after the terrorist attacks against *Charlie Hebdo*, authorities reported some 19,000 cyberattacks against French websites.<sup>89</sup>

---

88 "French media groups to hold emergency meeting after Isis cyber-attack," The Guardian, accessed May 23 2015 <http://www.theguardian.com/world/2015/apr/09/french-tv-network-tv5monde-hijacked-by-pro-isis-hackers>

89 Aurelien Breeden and Alissa J. Rubin, "French Broadcaster TV5 Monde Recovers After Hacking," New York Times, April 9, 2015, [http://www.nytimes.com/2015/04/10/world/europe/french-broadcaster-tv5-monde-recovers-after-hacking.html?\\_r=0](http://www.nytimes.com/2015/04/10/world/europe/french-broadcaster-tv5-monde-recovers-after-hacking.html?_r=0).