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### FLASH REPORT

<b>Country:</b>	France
<b>Title:</b>	Council of State, 15 March 2019 No 414751
<b>Date:</b>	28 May 2019
<b>Expert:</b>	Sophie Latraverse
<b><u>Context</u></b>	
<b>Issue at stake:</b>	Access to interpretation in sign language of deaf persons before the Court
<b>Grounds of discrimination:</b>	Disability
<b>Field of application:</b>	Other field
<b>Source:</b>	National court decision
<b>Applicable law:</b>	Article 76 of the law n° 2005-102 of 11 February 2005

### **Content**

**Facts:** The Petitioner presented a motion before the Paris administrative court to annul the decision of the Prefect of the Paris region refusing to issue in his favour a parking authorisation for disabled persons.

The Paris administrative court dismissed his request.

The Petitioner, who has congenital deafness, requested by a formal request received two weeks before the hearing, to be assisted by a sign language interpreter at the hearing. Two days later the administrative court informed the Petitioner that it rejected his request without further explanation, inviting him to come to the hearing with a person who would be in a position to act as interpreter. The Petitioner was not able to find the required assistance and was not able to present his observations before the court at the time of the hearing.

**Decision of the court:** The Council of State decided that the decision of the Paris administrative court was null and sent back the Petitioner's request before the Paris administrative court.

The Court decided that the fundamental principles of justice require the respect of a contradictory procedure and the rights of the defence. Hence, a deaf person must be put in a position to come before the court with the proper assistance of a person who has command of a mean, be it a language or a technical device, in order to ensure proper communication with him or her and proper conduct of the hearing.

Article 76 of the law of 11 February 2005 commands that all deaf persons heard before a civil, penal or administrative court, who request assistance, benefit from the mean of adapted communication of his or her choice, in due time and at the expense of the State. Failure to meet this obligation entails the irregularity of the decision, unless the court establishes that its failure has not altered the capacity of the Petitioner to present his or her observations before the court, and after the hearing if written observations ensued.

**Key points of analysis:** In France, the Administrative Supreme Court combines the function of appeal Court, cassation court and is the manager of all lower administrative courts.

In this decision, without referring to constitutional law or international law principles, and exclusively relying on the provisions of the Law of 11 February 2005, it held that the right to a translator ensuring full participation to the hearing is absolute and is not subject to the discretion of the lower courts. It is a burden on the State only. The Court further showed that it will not accept justifications based on material difficulties of the Court to meet its obligations and will annul decisions ensuing from hearings that have not met this requirement.

**Internet link source:** <https://www.conseil-etat.fr/fr/arianeweb/CE/decision/2019-03-15/414751>.