

[Home](#) > ... > [Your Rights](#) > [Fundamental Rights](#) > France

National courts and other non-judicial bodies

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France



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Courts

The fundamental rights and freedoms of individuals are guaranteed in the first instance by administrative and ordinary courts, before which the public may bring cases.

In addition, the Constitutional Council (*Conseil constitutionnel*), which rules on the constitutionality of laws, conducts two types of review:

- Review of unenacted laws: institutional laws (*lois organiques*) and the rules of procedure of the parliamentary assemblies must be referred to the Constitutional Council before the former are enacted and the latter enter into force. An international undertaking may also be referred to it before ratification or approval. For ordinary legislation, a law may be referred to the Council before it is enacted.
- Review of enacted laws: the constitutional reform of 23 July 2008 introduced into the Constitution Article 61-1, which creates the mechanism of a priority preliminary ruling on constitutionality (*question prioritaire de constitutionnalité*). That reform gives citizens the right to challenge, in the course of legal proceedings, the constitutionality of an enacted law or of a legislative provision of an order made on the basis of Article 38 of the Constitution which infringes the rights and freedoms guaranteed by the Constitution. The court refers the priority question of constitutionality to the Court of Cassation (*Cour de cassation*) or the Council of State (*Conseil d'État*). The Council of State or the Court of Cassation may then refer the matter to the Constitutional Council, which must give a ruling within three months. Thus, since 1 March 2010, the Constitutional Council, following referral by the Council of State or the Court of Cassation, reviews whether a legislative provision already in application infringes the rights and freedoms guaranteed by the Constitution. It may, where appropriate, repeal the provision concerned.

For more information about the priority preliminary ruling on constitutionality:

- <https://www.service-public.fr/particuliers/vosdroits/F21088>
- <http://www.vie-publique.fr/actualite/faq-citoyens/qpc/>

Information on the way in which the courts are organised and on jurisdiction is set out on the websites of the Council of State, the Court of Cassation and the Constitutional Council:

- <https://www.conseil-etat.fr>
- <https://www.courdecassation.fr/>
- <https://www.conseil-constitutionnel.fr>

National Human Rights Institution

National Consultative Commission on Human Rights (*Commission nationale consultative des droits de l'homme*)

The National Consultative Commission on Human Rights (CNCDH) is the French national human rights institution.

It was established in 1947. Under Law No 2007-292 of 5 March 2007, it is an advisory authority which undertakes its tasks entirely independently. It may not receive or seek instruction from public authorities. It has 'A' accreditation status from the Global Alliance of National Human Rights Institutions. The CNCDH is made up of 64 leading figures and representatives of civil society organisations.

Tasks

The CNCDH fosters dialogue between the government, parliament, institutions and civil society in the field of human rights, humanitarian law and action, and combating racism.

- It thus helps prepare reports which France submits to international organisations in accordance with its treaty obligations in the field of human rights;
- It contributes to human rights education;
- It is responsible for drawing up the public annual report on combating racism referred to in Article 2 of the Law of 13 July 1990;
- It may, on its own initiative, draw the attention of public authorities to measures that it considers likely to encourage the protection and promotion of human rights. It may raise any issues relating to humanitarian emergencies and instigate exchanges of information on the arrangements for dealing with such situations;
- It publishes the opinions and reports that it adopts.

The work carried out by the CNCDH is divided between five sub-commissions: Society, ethics and human rights education; Racism, discrimination and intolerance; Rule of law and freedoms; International and European issues; International humanitarian law and humanitarian action.

Address:

Commission nationale consultative des droits de l'homme
35 Rue Saint-Dominique, 75007
Paris

For more information: <https://www.cncdh.fr>

Ombudsman: Defender of Rights (*Défenseur des droits*)

The Defender of Rights is an independent institution enshrined in the Constitution since 23 July 2008 and established by Institutional Law No 2011-33 and Institutional Law No 2011-334 of 29 March 2011.

Tasks

The role of the Defender of Rights is to:

- defend individual rights and freedoms in relations with authorities;
- defend and promote the best interests and rights of the child;
- combat discrimination prohibited by law and promote equality;
- ensure compliance with ethics by persons carrying out security activities;
- inform, advise and direct whistleblowers to the competent authorities and defend their rights.

The Defender of Rights was created by merging four pre-existing institutions: the National Ombudsman (*Médiateur de la République*), the Children's Ombudsman (*Défenseur des enfants*), the Equality and Anti-Discrimination Authority (*Haute Autorité de Lutte contre les Discriminations et pour l'Égalité* (HALDE)), and the National Commission on Security Ethics (*Commission Nationale de Déontologie de la sécurité* (CNDS)).

Powers

The Defender of Rights is empowered to receive complaints from any natural or legal person, including minors who wish to invoke the protection of their rights. It may also of its own motion deal with a case falling within the scope of its powers, in all circumstances.

In order to carry out these tasks, the Defender of Rights has powers of enquiry and investigation to deal with

individual complaints, enabling it to obtain all relevant documents, interview people, and even carry out on-the-spot checks. The Defender of Rights may also propose legislative or regulatory amendments and recommendations to both public and private authorities.

It may also make recommendations to resolve issues or infringements of rights brought before it. The persons or authorities concerned must inform it of the action taken on its recommendations. Failing that, or if it considers that its recommendations have not been acted upon, it may instruct the person or authority concerned to take the necessary action within a specified period. If no action is taken in response to these instructions, it may draw up a special report addressed to the person or authority concerned. This report is made public.

The Defender of Rights can also assist in mediation or propose a settlement, help victims to compile their case and identify the procedures appropriate to their case.

The Defender of Rights may refer cases that come to its attention and appear to warrant a penalty to the authority empowered to initiate disciplinary proceedings. It may also intervene in court proceedings in support of a complainant by submitting written or oral observations.

As regards the protection of whistleblowers, the Defender of Rights is responsible for directing whistleblowers to the competent authorities to receive their report and to ensure their rights and freedoms. The Defender of Rights has been required to inform and advise whistleblowers and defend their rights and freedoms since 2022. It may receive reports directly and, if they fall within its jurisdiction, process them directly. Lastly, it can officially certify that a person is a whistleblower.

Organisation

Nearly 250 people work at the headquarters of the Defender of Rights in Paris. In metropolitan France and its overseas territories, around 570 volunteer representatives welcome citizens to support them in defending their rights, receive their complaints and respond to their requests. They are present in various local facilities, such as prefectures, sub-prefectures, community justice centres (*maisons de justice et du droit*), legal information desks (*points d'accès au droit*) and municipal premises. The representatives also maintain standby duty in prison facilities and work in conjunction with the departmental homes for disabled people (*maisons départementales des personnes handicapées*).

The Defender of Rights chairs the boards which help it perform its duties in the field of 'defending and promoting children's rights', 'combating discrimination and promoting equality' and 'ethics in the field of security'.

The Prime Minister appoints the deputies of the Defender of Rights on a proposal from the Defender of Rights, including:

- a Children's Ombudsman (*Défenseur des enfants*), who is vice-chair of the board responsible for defending and promoting children's rights;
- a deputy who is vice-chair of the board responsible for ethics in the field of security;
- a deputy who is vice-chair of the board responsible for combating discrimination and promoting equality;
- a deputy responsible for supporting whistleblowers.

Referral to the Defender of Rights

Any natural person (individual) or legal person (a company, association, etc.) may refer cases directly and free of charge to the Defender of Rights if they:

- believe that they are being discriminated against;
- ascertain that a representative of a public law enforcement agency (police, gendarmerie, customs, etc.) or a private law and order body (a security officer, etc.) has not complied with the rules of good conduct;
- experience difficulties in their relations with a public service (e.g. *Caisse d'Allocation Familiales* (family allowances fund), *Pôle Emploi* (employment centre), pensions, etc.);
- consider that the rights of a child are not respected;
- consider that they should be protected as a whistleblower.

Cases may be referred to the Defender of Rights by a child or a minor under the age of 18, members of the child's family or their legal representatives, medical or social services, associations set up to defend the rights of

the child, Members of the French Parliament and French Members of the European Parliament, and foreign institutions which have the same functions as the Defender of Rights. The Defender of Rights can intervene on behalf of French and foreign children living in France and French children living abroad in many areas of the protection of children's rights, including child protection, health and disability, criminal justice, adoption, schooling for all and foreign minors.

Citizens can address their complaints directly to the Defender of Rights:

- Using the [online referral form](#)
- By freepost, no stamp required

Address:

Défenseur des droits
Libre réponse 71120
75342 Paris Cedex 07

For more information: <https://www.defenseurdesdroits.fr/>

Specialised human rights bodies

There are other specialised bodies active in the field of rights and freedoms:

- Data protection supervisory authority:

National Data Protection Authority (*Commission Nationale de l'Informatique et des Libertés* – (CNIL))

The CNIL is the French supervisory authority for the protection of personal data. It carries out its tasks in accordance with Law No 78-17 of 6 January 1978, as amended.

Tasks

The National Data Protection Authority is an independent administrative authority. In particular, it carries out the following tasks:

- It informs all data subjects and controllers of their rights and obligations.
- It ensures that personal data is processed in accordance with the provisions of the amended Law of 6 January 1978. Thus, depending on the data concerned, it authorises processing, gives its opinion and receives the data processing statements.
- It receives claims, petitions and complaints relating to the processing of personal data and informs their authors of the action taken on them.
- It responds to requests for opinions from public authorities and, where appropriate, courts, and advises individuals and bodies that carry out or intend to carry out automated processing of personal data.
- It notifies the public prosecutor without delay of any offences of which it is aware, in accordance with [Article 40 of the Code of Criminal Procedure](#) (*Code de procédure pénale*), and may submit observations in criminal proceedings.
- It may, by specific decision, instruct one or more of its members or its Secretary-General to carry out checks on all processing operations or to have them checked by the staff of its departments and, where appropriate, obtain copies of all documents or information media relevant to its tasks.
- It is consulted about any draft law or decree or any provision of a draft law or decree relating to the protection of personal data or the processing of such data.
- It may submit observations before any court in a dispute concerning the application of the amended Law of 6 January 1978, other national provisions on the protection of personal data, European Union law and France's international commitments.

The CNIL submits a public report to the President of the Republic and to the Prime Minister on the fulfilment of its tasks.

Referral to the CNIL

Anyone may contact the CNIL if they have difficulties exercising their rights. In order to assert their digital rights and freedoms, citizens must first of all contact the bodies which hold their data. In the event of a problem, an unsatisfactory response or failure to respond, an online complaint can be lodged with the CNIL on various issues: internet, commerce, work, telephony, banking and credit.

Related link: <https://www.cnil.fr/fr/plaintes>

Address:

Commission Nationale de l'Informatique et des Libertés
3 Place de Fontenoy - TSA 80715
75334 PARIS CEDEX 07

For more information: <https://www.cnil.fr/>

- Inspectorate-General of places of deprivation of liberty (*Contrôleur général des lieux de privation de liberté*)

Following the ratification of the [Optional Protocol](#) to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment and Punishment adopted by the United Nations General Assembly on 18 December 2002, the French legislature established, by [Law No 2007-1545 of 30 October 2007](#), an Inspectorate-General of places of deprivation of liberty. It is an independent administrative authority.

Tasks

The Inspectorate-General ensures that persons deprived of liberty are treated humanely and with respect for the inherent dignity of the human person, and ensures that a fair balance is struck between respect for the fundamental rights of persons deprived of liberty and public order and security considerations. It is responsible for preventing any violation of their fundamental rights.

As part of its tasks, the Inspectorate-General focuses on conditions of imprisonment, detention and hospitalisation, as well as the working conditions of the staff and of the various parties involved, since they necessarily affect the functioning of the establishment and the nature of relations with persons deprived of liberty. The Inspectorate-General is free to choose the establishments it intends to visit and its visits may be either scheduled (in which case the head of the establishment is notified of the visit a few days in advance) or unannounced.

Powers

The Inspectorate-General may visit at any time, throughout France, any place where persons are deprived of liberty: prison facilities, health facilities, facilities placed under the joint authority of the Ministry of Health and the Ministry of Justice, police and gendarmerie custody facilities, customs holding facilities, administrative detention centres and facilities for foreign nationals, waiting areas at ports and airports, etc. The Inspectorate-General monitors the physical enforcement of procedures for the removal of foreign nationals until they are surrendered to the authorities of the State of destination.

The authorities concerned may not object to a visit unless there are serious and compelling reasons relating to national defence, public security, natural disasters or serious disturbances in the place visited. The Inspectorate-General may also obtain any information or document relevant to the performance of its tasks from the authorities responsible for the place of deprivation of liberty or any person who can usefully advise it.

The Inspectorate-General sends the Minister(s) concerned a visit report and recommendations which may be made public. It also submits an annual activity report to the President of the Republic and to Parliament, which is made public.

Referral to the Inspectorate-General of places of deprivation of liberty

A citizen may refer cases to the Inspectorate-General of places of deprivation of liberty to inform it of a situation which, in their view, infringes their fundamental rights or the fundamental rights of a person deprived of liberty

(or who has recently been deprived of liberty) and which is linked to the conditions of imprisonment, police custody, detention or hospitalisation, or to the organisation or operation of a service. Cases can be referred to the Inspectorate-General of places of deprivation of liberty by post only at the following address:

Madame la Contrôleure générale des lieux de privation de liberté
BP 10301
75921 Paris cedex 19

Persons deprived of liberty, their relatives, persons working within the establishment and staff may also request an interview with the Inspectorate-General or one of the inspectors who make up the team directly during visits to the establishments.

Address:

Le Contrôleur général des lieux de privation de liberté
16/18 quai de la Loire
BP 10301
75921 Paris Cedex 19

For more information: <https://www.cgjpl.fr>

Other specialised bodies

- Access to justice: legal information desks (*points d'accès au droit*), community justice centres (*maisons de justice et du droit*) and justice outreach centres (*antennes de justice*)

To make it easier for the public to access information about their rights, judicial procedures and the judicial system, and to support them in all steps taken to exercise a right, France has set up legal information desks, community justice centres and justice outreach centres, which are local judicial establishments that inform citizens about their rights and in particular offer them certain amicable methods of settling disputes.

Directory of community justice centres, legal information desks and justice outreach centres:

<http://www.annuaires.justice.gouv.fr/annuaires-12162>

For more information:

<http://www.vie-publique.fr/decouverte-institutions/justice/fonctionnement/modes-alternatifs/que-sont-maisons-justice-du-droit.html>

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