

France

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

In addition, the Constitutional Council (*Conseil constitutionnel*), which decides on the constitutionality of laws, is responsible for two types of review:

Review of unenacted laws: institutional laws 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 commitment may also be referred to the Council before it is ratified or approved. As regards ordinary laws, these may be referred to the Council before they are enacted.

Review of enacted laws: the constitutional revision of 23 July 2008 inserted an Article 61 in the Constitution, creating the priority preliminary ruling on the issue of constitutionality (*question prioritaire de constitutionnalité*). This revision allows citizens, during legal proceedings, to challenge the constitutionality of an enacted law that allegedly infringes the rights and freedoms guaranteed by the Constitution. The court transfers the priority issue of constitutionality to the Court of Cassation (*Cour de cassation*) or the Council of State (*Conseil d'État*). This issue may then be referred by the Council of State or the Court of Cassation to the Constitutional Council, which must rule on it within three months. As a result, since 1 March 2010, following referral by the Council of State or the Court of Cassation, the Constitutional Council has been responsible for reviewing whether a legislative provision that is already in force infringes the rights and freedoms guaranteed by the Constitution. The Constitutional Council may, where applicable, repeal the provision in question.

For more information on the priority preliminary ruling on the issue of 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 provided on the websites of the Council of State, Court of Cassation and Constitutional Council:

<http://www.conseil-etat.fr/>

<https://www.courdecassation.fr/>

<http://www.conseil-constitutionnel.fr/>

National Human Rights Institution**National Consultative Commission on Human Rights**

The National Consultative Commission on Human Rights (*Commission nationale consultative des droits de l'homme* – CNCDH) is the French national human rights institution and was created in 1947. Regarded as an independent administrative authority, it is a state structure that performs its tasks entirely independently (pursuant to Law No 2007292 of 5 March 2007). The CNCDH is made up of 64 leading figures and representatives of civil society organisations.

Tasks

The CNCDH encourages dialogue between government, Parliament, institutions and civil society in the field of human rights, humanitarian law and action, and the fight against racism.

It therefore helps to prepare reports that France must submit to international organisations, pursuant to its treaty obligations in the field of human rights.

It contributes to human rights education.

It is responsible for preparing the public annual report on the fight against 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 in relation to an emergency humanitarian situation and exchange information on the possible responses to such situations.

It publishes the opinions and reports that it adopts.

The work carried out by the CNCDH is divided between five sub-commissions: social issues, ethical issues; racism, anti-Semitism, xenophobia, discrimination and vulnerable groups; institutions, justice, police, migration issues; European and international 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: <http://www.cncdh.fr/>

Institutional ombudsperson: Defender of Rights

The Defender of Rights (*Défenseur des droits*) is an independent institution enshrined in the Constitution since 23 July 2008 and created by Institutional Law No 201133 and ordinary Law No 2011334 of 29 March 2011.

Tasks

The Defender of Rights has the following tasks:

defending individual rights and freedoms in the context of relations with the authorities;

defending and promoting the best interests and rights of children;

combating discrimination prohibited by law and promote equality;

ensuring compliance with ethics by persons engaged in security activities.

The Defender of Rights resulted from the merger of four pre-existing institutions: the National Ombudsperson (*Médiateur de la République*), the Children's Defender (*Défenseur des enfants*), the High Authority to Combat Discrimination and Promote Equality (*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 authorised to receive complaints from any natural or legal person, including minors that call for protection of their rights. He or she may also examine, on his or her own initiative and in any circumstances, a case falling within the scope of his or her powers.

In order to perform these tasks, the Defender of Rights has, on the one hand, powers of investigation and inquiry in the case of individual complaints, allowing him or her to receive any relevant documents, interview individuals and even conduct on-site inspections. On the other hand, the Defender of Rights may also propose amendments to laws or regulations and make recommendations to both public and private authorities.

He or she may also make recommendations to resolve issues or infringements brought before him or her. The persons or authorities concerned must inform the Defender of Rights of the action taken in response to these recommendations. Failing that, or if he or she considers that these recommendations have not been acted upon, he or she may order the person or authority concerned to take the necessary measures within a specific time-limit. If no action is taken in response to these orders, the Defender of Rights may issue a special report to the person or authority concerned. This report is made public.

The Defender of Rights can also assist with mediation or propose a compromise, as well as help victims to prepare their applications and identify the procedures appropriate to their cases.

The Defender of Rights may refer cases brought to his or her attention, which seem likely to justify a sanction, to those authorities invested with the power to bring disciplinary proceedings. He or she may also participate in legal proceedings in support of a complainant, by submitting written or oral observations.

Organisation

Nearly 250 people work at the offices of the Defender of Rights in Paris. In metropolitan France and its overseas departments, around 400 volunteer representatives work with citizens to help them defend their rights, receive their complaints and respond to their requests. They are present in various local, accessible structures such as prefectures, sub-prefectures, legal advice centres, legal access points and municipal premises. These representatives also carry out consultations in prisons and work with departmental centres for persons with disabilities.

The Defender of Rights chairs boards that assist in the performance of his or her tasks in the areas of 'defence and promotion of children's rights', 'combating discrimination and promoting equality', and 'ethics in the field of security'.

On a proposal from the Defender of Rights, the Prime Minister appoints the latter's deputies, including:

a Defender of Children, who is vice-chair of the board responsible for the defence and promotion of 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 combatting discrimination and promoting equality.

Referring cases to the Defender of Rights

Any natural person (an individual) or any legal person (a company, an association, etc.) can refer cases directly and free of charge where they:

believe that they are being discriminated against;

have knowledge that a representative of a public (police, gendarmerie, customs, etc.) or private (a security officer, etc.) law enforcement agency has failed to comply with the rules of good conduct;

experience difficulties in their relations with a public service (family allowances fund (*Caisse d'Allocations Familiales*), employment centre (*Pôle Emploi*), pensions, etc.);

believe that the rights of a child are not being respected.

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 his or her legal representatives, medical or social services, an association set up to defend the rights of children, a Member of the French Parliament and a French Member of the European Parliament, and a foreign institution that has the same tasks as the Defender of Rights. The latter may act on behalf of French and foreign children living in France and French children living abroad, in many areas connected with the protection of children's rights, and particularly child protection, health and disability, criminal justice, adoption, education for all and foreign minors.

Citizens may submit their complaint directly to the Defender of Rights:

using [the online referral form](#)

by freepost.

Address:

Défenseur des droits

Libre réponse 71120

75342 Paris Cedex 07

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

Specialised human rights bodies

There are other specialised bodies acting in the area 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 performs its tasks in accordance with amended Law No 7817 of 6 January 1978 as amended.

Tasks

The National Data Protection Authority is an independent administrative authority. It performs the following tasks in particular:

It informs all data subjects and all 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 as amended. Depending on the data concerned, it therefore authorises processing, gives its opinion and receives data processing declarations.

It receives claims, petitions and complaints relating to the processing of personal data and informs their originators of the action taken in this respect.

It responds to requests for opinions from public authorities and, where applicable, courts, and advises individuals and bodies that carry out or plan to carry out automatic processing of personal data.

It informs the public prosecutor, without undue delay, in accordance with [Article 40 of the Code of Criminal Procedure \(*Code de procédure pénale*\)](#), of offences that come to its attention, and may submit comments in criminal proceedings.

It may, through a specific decision, require one or more of its members or its General Secretary to carry out checks in relation to any processing, or to arrange for such checks to be carried out by officials from its services, and, where applicable, obtain copies of any documents or data media relevant to its tasks.

It is to be consulted on any draft law or decree or on any provision of a draft law or decree relating to the protection of personal data or the processing of such data.

Every year the CNIL submits a public report on the performance of its tasks to the President of the Republic and the Prime Minister.

Referring cases to the CNIL

Anyone may contact the CNIL in the event of difficulty in exercising their rights. To assert their data rights and freedoms, citizens must apply directly in the first instance to the bodies holding their data. In the event of difficulties, an unsatisfactory answer or no answer at all, a complaint may be submitted online to the CNIL on various topics: internet, trade, work, telephone, 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/>

Controller-General of Places of Detention

Following ratification of the [Optional Protocol](#) to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, adopted by the United Nations General Assembly on 18 December 2002, the French legislature created, through [Law No 20071545 of 30 October 2007](#), a Controller-General of Places of Detention (*Contrôleur général des lieux de privation de liberté*). This is an independent administrative authority.

Tasks

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

As part of his or her tasks, the Controller-General examines not only the conditions of imprisonment, detention or hospitalisation, but also the working conditions of staff and other persons involved, insofar as these necessarily affect the functioning of the establishment and the nature of relations with persons deprived of their liberty. The Controller-General is free to choose the establishments to be visited, and those visits may be either planned (in this case, the head of the establishment is notified of the visit a few days in advance) or unannounced.

Powers

The Controller-General may visit at any time, anywhere on French territory, any place where persons are deprived of their liberty: prisons, healthcare institutions, establishments 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, holding areas at ports and airports, etc. The Controller-General is responsible for overseeing the practical implementation of removal procedures involving foreign nationals, until their handover to the authorities of the State of destination.

The relevant authorities may object to a visit only on serious and compelling grounds connected with national defence, public safety, natural disasters or serious disturbances in the place to be visited.

The Controller-General sends the minister(s) concerned a visit report and recommendations that may be made public. He or she also submits an annual activity report to the President of the Republic and to Parliament, which is made public.

Referring cases to the Controller-General of Places of Detention

Citizens may refer cases to the Controller-General of Places of Detention in order to report situations that, in their view, infringe their fundamental rights or the fundamental rights of a person deprived of their liberty (or who has recently been deprived of their liberty) and that are connected with the conditions of imprisonment, custody, detention or hospitalisation or with the organisation or operation of a service. Cases can be referred to the Controller-General of Places of Detention only by post using the following address:

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

Persons deprived of their liberty, their relatives, persons involved within the establishment and staff may also directly request an interview with the Controller-General or one of the inspectors in his or her team during visits to 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: <http://www.cgpl.fr/>

Other specialised institutions

Access to justice: legal access points, legal advice centres and justice outreach units

To facilitate individuals' access to information about their rights, legal procedures and the judicial system, and to assist them in any steps taken to exercise a right, France has developed legal access points (*points d'accès au droit*), legal advice centres (*maisons de justice et du droit*) and justice outreach units (*antennes de justice*), which are local, accessible legal services centres that can inform citizens about their rights and offer certain amicable methods of dispute resolution in particular.

Directory of legal access points, legal advice centres and justice outreach units:

<http://www.annuaire.justice.gouv.fr/annuaire-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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