



European Network of  
National Human Rights Institutions

# Implementing the Council of Europe Recommendation on National Human Rights Institutions: The State of Play

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**The situation in France**



# France Country Report

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## Overview

### Name of NHRI and mandate:

- French National Consultative Commission on Human Rights (CNCDH)
- NHRI mandate, as well as National Monitoring Mechanism (NMM) and national rapporteur on specific human rights themes.

### Sources:

- NHRI: [ENNHRI, State of the Rule of Law in Europe in 2022, France Country Report](#)
- Sub-Committee on Accreditation (SCA): [SCA Report March 2019](#)
- CoE Independent Bodies: [ECRI Country Report on France \(2022\)](#)

### Good practices and improvements:

- **CM Principle 1:** the French National Consultative Commission on Human Rights (CNCDH) is an A-Status institution.
- **CM Principle 4 & 15 b): pluralistic leadership & legal framework enabling civil society cooperation:** the CNCDH enabling law ensures pluralistic and direct participation of a wide range of civil society organisations in the decision-making body.
- **CM Principle 3§1:** in line with the SCA findings (2019), the **expanding protection mandate** of the CNCDH, including additional mandates to function as national rapporteur on specific human rights themes, is a positive evolution.

## Key areas where improvement is needed:

- **CM Principle 4 and 10: adequate funding, including for additional mandates:** although the CNCDH reported an increase in its budget, the SCA(2019) emphasized the need for increased resources, especially to meet its additional mandates.
- **CM Principle 3&5 and 8: timely information and consultation throughout relevant legislative processes:** the CNCDH reports challenges regarding its involvement throughout relevant legislative processes, and in particular the lack of provision of information on draft laws concerning human rights and short timeframes. At the same time, the CNCDH reports good access to policy-makers and consultation on national action plans, especially in the context of its thematic rapporteur mandates.
- **CM Principle 9: follow-up to NHRI recommendations:** there is no legal obligation for relevant state authorities to respond to the NHRI's recommendations in a timely and reasoned manner, not is there a systematic follow-up mechanism in place. The CNCDH notes though that on some occasions, there is good follow-up by state authorities of its recommendations.

## Specific findings per Principle

The tables below include data on the assessment of the implementation of each Principle (i.e. the individual parts) within the Recommendation from three sources: the National Human Rights Institutions, the Sub-Committee on Accreditation of GANHRI and the Council of Europe independent bodies. Overall, the findings are considered in four overall groups: the establishment of NHRIs; the strengthening of NHRIs; a safe and enabling environment for NHRIs; and cooperation with and support for NHRIs.

### I. Establishment of NHRIs

<b>Principle 1</b>	Member States should ensure that NHRIs are in place and that they are established, accredited and function in full compliance with the Paris Principles
<b>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</b>	<i>SCA Report March 2019, p. 19</i> The SCA recommends that CNCDH be re-accredited with A status.
<b>Principle 2</b>	Member States should provide a firm legal basis for NHRIs, preferably at the constitutional level, and/or in a law which defines the mandates and functions of such institutions, guarantees their independence and provides them with the means necessary to accomplish their functions effectively, both at national and international levels, bearing in mind existing standards and recommendations on NHRIs, in particular the Paris Principles and their interpretation developed by GANHRI's Sub-Committee on Accreditation.

<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 2</i></p> <p>The CNCDH continues operating without a constitutional basis but on legislative basis.</p> <p>Legal basis:</p> <p><a href="#">Loi n° 2007-292 du 5 mars 2007 relative à la Commission nationale consultative des droits de l'homme</a> (Law n°2007-295 of 5th March 2007 relative to the National Advisory Commission of Human Rights).</p> <p><a href="#">Décret n°2007-1137 du 26 juillet 2007 relatif à la composition et au fonctionnement de la Commission nationale consultative des droits de l'homme</a> (Decree n°2007-1137 of 26th July 2007 relative to the composition and functioning of the CNCDH).</p> <p>The CNCDH's independence is enshrined in Act n°2007-292 of 5th March 2007.</p>
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## II. Strengthening of NHRIs

<p><b>Principle 3.1</b></p>	<p>Member States should ensure that the <b>mandate</b> given to NHRIs to protect and promote human rights is <b>as broad as possible and in full compliance</b> with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> <li>- <b>monitor and analyse</b> the human rights situation in the country, <b>publish reports</b> on these findings and <b>address recommendations</b> to public authorities at national, regional and local levels and, when applicable, to private entities, and present an <b>annual report</b> to the relevant authorities, including before parliament, for its consideration.</li> </ul>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>Please refer to Article 1 of the Law n°2007-295 and article 2 of the Decree n°2007-1137:</p> <ul style="list-style-type: none"> <li>- broad mandate</li> <li>- monitoring and analyse</li> <li>- recommendations</li> </ul>
<p><b>Principle 3.2</b></p>	<p>Member States should ensure that the <b>mandate</b> given to NHRIs to protect and promote human rights is as <b>broad as possible and in full compliance</b> with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> <li>- <b>freely address public opinion, raise public awareness</b> on human rights and <b>carry out education and training</b> programmes;</li> </ul>

<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>Article 1 of the Law: "It may, on its own initiative, publicly draw the attention of the Parliament and the Government to the measures which it deems likely to promote the protection and promotion of human rights".</p> <p>Article 1 of the Decree: "It contributes to human rights education"</p> <p>Article 2 of the Decree: "The commission publishes its opinions and reports".</p>
<p><b>Principle 3.3</b></p>	<p>Member States should ensure that the <b>mandate</b> given to NHRIs to protect and promote human rights is as <b>broad as possible and in full compliance</b> with the Paris Principles and that it allows them, inter alia, to:</p> <p>- <b>fully address all alleged human rights violations</b> by all administrative authorities, other relevant State entities and, when applicable, private entities</p>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 2</i></p> <p>In addition, the CNCDH holds five specific mandates as independent national rapporteur:</p> <ul style="list-style-type: none"> <li>• fight against racism, antisemitism and xenophobia</li> <li>• fight against trafficking in human beings</li> <li>• implementation of the UN Guiding Principles on business and human rights</li> <li>• fight against anti-LGBTI people hatred</li> <li>• evaluation of public policy related to the effectiveness of the rights of people with disabilities</li> </ul>

<p><b>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</b></p>	<p><i>SCA Report March 2019, p. 20</i></p> <p>The CNCDH’s enabling law mandates it with powers to advise parliament and government publically on the protection and promotion of human rights. In 2013, the SCA encouraged the CNCDH to broaden its activities in relation to its protection mandate. It notes that the CNCDH has undertaken efforts since its last review to implement this recommendation. and to advocate for amendments to its enabling law to make its broad protection mandate explicit.</p>
<p><b>Assessment of implementation by CoE independent bodies</b></p>	<p><i>ECRI Report on France 2022, p. 8 (Para.6)</i></p> <p>ECRI also welcomes the additional work carried out by the National Consultative Commission on Human Rights (CNCDH), which is also an independent body responsible for promoting human rights as well as preventing and combating racism, intolerance, hatred and anti-LGBT discrimination. Like the DDD, it advises public authorities on the development and implementation of public policies, but has no litigation support functions.</p>
<p><b>Principle 3.4</b></p>	<p>Member States should ensure that the <b>mandate</b> given to NHRIs to protect and promote human rights is as <b>broad as possible and in full compliance</b> with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> <li>- have <b>unfettered access to all relevant premises</b>, including places of deprivation of liberty, and to all relevant individuals, in order to be able to carry out a credible examination of all issues covered by their mandate and to all relevant information, subject to possible restrictions stemming from the protection of other rights and legitimate interests and with due respect for the confidentiality of information obtained;</li> </ul>



<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>Although there no legal or administrative basis authorizing unfettered access to all relevant premises, the CNCDH has never encountered any issues or difficulties to access places or individuals.</p> <p>Relevant information are also quite accessible on request.</p>
<p><b>Principle 3.5</b></p>	<p>Member States should ensure that the <b>mandate</b> given to NHRIs to protect and promote human rights is as <b>broad as possible and in full compliance</b> with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> <li>- <b>monitor existing and draft policies and legislation</b> with human rights implications before, during and after their adoption in order to <b>advise</b> the State about the impact of such policies and legislation on human rights and on the activities of human rights defenders, including by <b>making relevant and concrete recommendations</b>.</li> </ul>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 2</i></p> <p>Legislative drafts and proposals concerning human rights and international humanitarian law are put before or taken up by CNCDH.</p> <p>[...]</p> <p>The CNCDH, however, is not involved in all stages of legislation.[...] The CNCDH would like to be consulted, or at least informed, on the preparation of legislative texts and public policies, in particular those that are directly related to human rights. [...] p.9</p>

	<p>The CNCDH identified challenges to its engagement as part of the system of checks and balances. The main one is the adoption within a very short time frame of numerous draft laws with an impact on human rights without provision of information to the CNCDH on the matter.</p>
<p><b>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</b></p>	<p><i>SCA Report March 2019, p. 20</i></p> <p>The CNCDH's enabling law mandates it with powers to advise parliament and government publically on the protection and promotion of human rights.</p>
<p><b>Principle 3.6</b></p>	<p>Member States should ensure that the <b>mandate</b> given to NHRIs to protect and promote human rights is as <b>broad as possible and in full compliance</b> with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> <li>- <b>contribute to an effective justice system</b> for all, through awareness-raising measures and facilitating access to rights and remedies and, as applicable, by providing legal assistance, being a party before the courts or, when applicable, receiving individual complaints;</li> </ul>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p.2</i></p> <p>The mandate of the commission, however, does not include complaints handling, providing legal assistance to individuals or strategic litigation before courts.</p>
<p><b>Assessment of implementation by CoE independent bodies</b></p>	<p><i>ECRI Report on France 2022, p. 8</i></p> <p>ECRI also welcomes the additional work carried out by the National Consultative Commission on Human Rights (CNCDH), which is also an independent body responsible for promoting human rights as well as preventing and combating racism, intolerance, hatred and anti-LGBT discrimination. [...] it</p>

	<p>advises public authorities on the development and implementation of public policies, but has no litigation support functions.</p>
<p><b>Principle 3.7</b></p>	<p>Member States should ensure that the <b>mandate</b> given to NHRIs to protect and promote human rights is as <b>broad as possible and in full compliance</b> with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> <li>- <b>encourage the signature, ratification of and accession</b> to international human rights treaties and <b>contribute to the effective implementation</b> of such treaties, as well as related judgments, decisions and recommendations as well as to <b>monitor States' compliance with them.</b></li> </ul>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>Article 2 of the Decree: "The commission may, on its own initiative, draw the attention of the public authorities to measures which it deems likely to promote the protection and promotion of human rights, in particular with regard to:</p> <ul style="list-style-type: none"> <li>- the stakes of the international negotiations in progress relating to human rights;</li> <li>- the ratification of international instruments relating to human rights and international humanitarian law and, where applicable, the bringing into conformity of national law with these instruments;"</li> </ul> <p>The CNCDH is very active on monitoring the State's compliance with international and regional HR treaties. It interacts regularly with HR bodies. It advises the government on the implementation of treaties and advocates for their ratification. For example, it is at the origin of the ratification of the ILO</p>

	<p>Protocol of 2014 to the Forced Labor Convention. It also played an important part in the ratification of CRPD.</p> <p>In 2015, France committed, during the Brussels Conference, to closely associate the CNCDH within the process for the execution of European judgments. Since then, the Ministry of Foreign Affairs systematically refers to the CNCDH, either to collect its observations on the execution reports that the government will submit to the Committee of Ministers, or to collect its recommendations on the planned execution plans.</p>
<p><b>Principle 4</b></p>	<p>The process of <b>selection and appointment of the leadership of a NHRI</b> should be competence based, transparent and participatory, in order to guarantee the independence and pluralist representation of these institutions. It should also be based on clear, predetermined, objective and publicly accessible criteria.</p> <p>The duration of the appointment should be clearly set out in the founding legislation, so that the leadership posts of the NHRI do not stay vacant for any significant period of time.</p>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>Art. 1 of the enabling Law states that CNCDH comprises of 64 members, including a wide variety of NGO representatives specialized in human rights, international humanitarian law or humanitarian action, reflecting the diversity of opinions in France as regards human rights and IHL issues.</p> <p>The composition of the CNCDH was renewed by the Prime Minister for three years on November 12 2022 (2023-2025). No significant changes took place in the environment in which the institution operates. However, the French NHRI highlights that this renewal comes after a very long inter-</p>

	<p>mandate period of approximately seven months; the previous mandate (2019-2022) which ended on April 9, 2022.</p>
<p><b>Principle 5</b></p>	<p>To ensure <b>independence</b>, the enabling legislation of a NHRI should contain an <b>objective dismissal process for the NHRI leadership</b>, with clearly defined terms in a constitutional or legislative text. The dismissal process should be fair and ensure objectivity and impartiality and should be confined to only those actions which impact adversely on the capacity of the leaders of NHRIs to fulfil their mandate.</p>
<p><b>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</b></p>	<p><i>SCA Report March 2019, p. 20</i></p> <p>Article 13 of the 2007 decree states that members’ terms are renewable. The decree is silent on the number of times that a term can be renewed except in the case of the Chairperson and the two (2) Deputies, whose terms can only be renewed once. In order to promote institutional independence, the SCA is of the view that it would be preferable for all members’ terms to be limited to one (1) renewal.</p>
<p><b>Principle 6</b></p>	<p>Member States should provide NHRIs with <b>adequate, sufficient and sustainable resources</b> to allow them to carry out their mandate, including to engage with all relevant stakeholders in a fully independent manner and freely determine their priorities and activities.</p>

<p><b>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</b></p>	<p><i>SCA Report March 2019, p.21</i></p> <p>The CNCDH reported a 25% increase of its budget over a 5-year period. However, the SCA notes that during this period, the CNCDH has been vested with significant additional responsibilities and that this increase may not be sufficient.</p>
<p><b>Principle 7</b></p>	<p>NHRIs should have the <b>authority to determine their staffing profile and recruit their own staff</b>, as well as <b>sufficient resources</b> available, in order to fulfil their mandate, so as to permit the employment and retention of staff and to ensure that they receive adequate training.</p>
<p><i>No information</i></p>	
<p><b>Principle 8</b></p>	<p>Member States should ensure that NHRIs enjoy <b>adequate access to information and to policy makers and legislators</b>, including timely consultations on the human rights implications of draft legislation and policy strategies.</p>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 3</i></p> <p>The CNCDH has adequate access to policy makers and to information, particularly in the areas in which it operates as independent national rapporteur. The Commission has regular contacts with the administrations in charge of implementing these public policies and is regularly consulted on the development of national action plans.</p>

	<p><i>See Principle 3§5 on monitoring existing and draft policies and legislation, indicating challenges re: involvement in legislative processes.</i></p>
<p><b>Principle 9</b></p>	<p>Member States should <b>implement the recommendations of NHRIs</b> and are encouraged:</p> <ul style="list-style-type: none"> <li>- to make it a legal obligation for all addressees of NHRI recommendations to provide a reasoned reply within an appropriate time frame,</li> <li>- to develop processes to facilitate effective follow-up of NHRI recommendations, in a timely fashion and</li> <li>- include information thereon in their relevant documents and reports.</li> </ul>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 3</i></p> <p>The addressees of the NHRI's recommendations are not legally obliged to provide timely and reasoned replies. However, even though there is no legal obligation, some administrations provide reasoned replies. For instance, this was the case for the CNCDH work on the situation of migrants in Calais and the opinions given on "online hate".</p> <p><i>Information Provided by the NHRI in 2023</i></p> <p>Recently, it was also the case for the CNCDH evaluation of the public policy of fight against human trafficking.</p> <p>With regard to the lack of effective mechanisms to follow un NHRIs recommendations, in 2007 there was <a href="#">a letter</a> from the Prime Minister to the Government General Secretary (SGG) indicating that "the</p>

	<p>SGG must send to the relevant ministries the opinions of the CNCDH and set a deadline for them to prepare a response. The text of the response will be sent by the SGG to the President of the CNCDH. The written reactions of the Government to the CNCDH opinions are intended to be published in the annual report of this institution.”</p> <p>But this procedure is not at all systematic. We must recognize a real effort by the current government and administrations to provide responses to the work of the CNCDH.</p>
<p><b>Principle 10</b></p>	<p>When member States grant NHRIs <b>additional competences</b> to perform functions foreseen by international conventions in the field of human rights, such as the United Nations Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Convention on the Rights of Persons with Disabilities, the NHRI should <b>have access to sufficient resources to develop the capacity to effectively discharge its functions</b>, including having appropriately qualified and trained staff.</p>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 2</i></p> <p>Since December 3, 2020, the CNCDH has a new mandate as an independent national rapporteur on the evaluation of public policy related to the effectiveness of the rights of people with disabilities. As part of this new mandate, the CNCDH presented to the government its preliminary report entitled "Know, define, raise awareness, combat stereotypes and prejudices against people with disabilities"</p> <p>A new report will be published in December 2023.</p>
<p><b>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</b></p>	<p><i>See Principle 6 on adequate, sufficient and sustainable resources.</i></p>



### III. Safe and Enabling Environment

<p><b>Principle 11</b></p>	<p>Member States should ensure that NHRIs can <b>operate independently</b>, in an environment which is conducive to them carrying out their mandate in an effective manner and in a climate of <b>impartiality, integrity, transparency and fairness</b>.</p>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>Article 1 of the 2007 Law: "The commission exercises its mission in complete independence".</p> <p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p.7</i></p> <p>In order to increase the protection of human rights defenders, the CNCDH recommends that the French public authorities incorporate the definition of the defender of rights into the French legislative framework by transposing the 1998 Declaration on Human Rights Defenders [...]</p> <p>The CNCDH highlights that the President of the Republic has sought the implementation of a new initiative aimed at strengthening France's action in favour of human rights defenders, both abroad and in France. The Marianne initiative for human rights defenders was launched on 10 December 2021 with contributions from various parties: State, associations and NGOs, foundations, local authorities</p>
<p><b>Principle 12</b></p>	<p>Member States should <b>foster awareness</b> and the co-operation of all relevant public authorities in relation to the mandate, independence and role of NHRIs, including through training and awareness-raising activities.</p>

<b>Assessment of implementation by the NHRI</b>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p.3</i></p> <p>The relevant state authorities have good awareness of the CNCDH mandate, independence and role.</p>
<b>Principle 13</b>	<p>Member States should take all measures necessary <b>to protect and support NHRIs</b> against threats and harassment and any other forms of intimidation, including through ensuring <b>functional immunity</b>. Any cases of alleged reprisals or intimidation against NHRIs, their membership and staff, or against those who co-operate or seek to co-operate with them, should be promptly and thoroughly investigated and the perpetrators brought to justice.</p>
<p><i>No information</i></p>	
<b>Principle 14</b>	<p>Member States should ensure that <b>confidential information collected</b> by NHRIs in the context of their mandate is <b>privileged and is not unduly made public</b>.</p>
<p><i>No information</i></p>	

## IV. Co-operation and Support

<p><b>Principle 15</b></p>	<p>Member States should <b>take effective measures to enable NHRIs to communicate and co-operate</b> with, in addition to the various levels of administration in the member States, in particular:</p> <ul style="list-style-type: none"> <li>a. counterpart institutions, where appropriate through networking and exchange of information and practices, as well as through regular meetings such as those taking place within the framework of ENNHRI and GANHRI;</li> <li>b. civil society stakeholders, in particular non-governmental organisations and human rights defenders, who should enjoy easy and safe access to NHRIs as part of an enabling environment;</li> <li>c. other human rights structures, including regional, local and/or specialised institutions, notably Ombudsman institutions and equality bodies and their respective networks, where appropriate through jointly organised activities;</li> <li>d. international and regional organisations working in related or similar fields.</li> </ul>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 2</i></p> <p>The institution's decision-making body composition (64 individuals and representatives from civil society organisations) reflects the diversity of opinions expressed in France as regards human rights and IHL issues.</p>

	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 5</i></p> <p>Through its mandate as well as its composition, the CNCDH contributes to the existence of a civil society space. It also provides steady support to the activities of Human Rights defenders, for instance CNCDH receives and holds meetings regularly with Human Rights defenders from foreign countries.</p>
<p><b>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</b></p>	<p><i>SCA Report March 2019, p. 20</i></p> <p>The CNCDH reports that it cooperates with other national human rights bodies including the Défenseur des droits, who is an ex-officio member of the institution. It encourages the CNCDH to continue to strengthen its cooperation with the Défenseur des droits and with other national entities with responsibility for the promotion and protection of human rights.</p>