



NATIONAL CONSULTATIVE COMMISSION ON HUMAN RIGHTS

Diplomacy and Human Rights

(Opinion adopted by the Plenary Assembly on February 7th 2008)

The aim of diplomacy, in any form, is to safeguard the national interest, whether by contributing to international peace and security, or through national defence, political influence, economic cooperation or cultural outreach. Diplomacy must take account of the constraints faced by States and more particularly those which, like France, in its capacity as permanent member of the UN Security Council, play a leading role on the international scene. Accordingly, the objectives of diplomacy cannot be limited to the realm of human rights, although human rights constitute one of its fundamental components.

The French National Consultative Commission on Human Rights (CNCDH) has embarked on an in-depth study of this crucial question which has taken on greater significance at this time when France is preparing to take over the Presidency of the European Union for the second half of 2008.

The guiding framework for foreign policy is that of “international human rights law and international humanitarian law” which has evolved on the basis of the Charter of the United Nations and falls within the scope of positive law. Indeed, the Charter of the United Nations commits each Member State to promote “universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion” (article 55).

Thus, the importance of human rights in diplomacy results not only from the values proclaimed by our country over several centuries and the political commitments made by public authorities, but also from France’s legal obligations arising under the French Constitution, or under international law, which is directly applicable in national law. This importance is also linked to the emphasis placed on human rights in the statutes, principles and objectives of the international and regional organisations to which France belongs.

Moreover, France’s foreign policy is further extended in the common foreign and security policy (CFSP) implemented by the European Union, the main objectives of which include the undertaking “to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms” (article 11 of the Treaty on European Union).

Although it is first and foremost up to States to respect and enforce respect for human rights, not only at national but also international level, the Universal Declaration of Human Rights states that “every individual and every organ of society” shall strive to promote respect for these rights and freedoms. Accordingly, human rights diplomacy concerns not only relations between States, but must also accommodate the needs of multiple non-state stakeholders, particularly Non-Governmental Organisations (NGOs).

Beyond the theoretical debates which draw a Manichean line between “realists” and “idealists”, and irrespective of any political cleavages, the French authorities have never ceased to maintain the same discourse at the highest levels, alongside the European Union, reaffirming the need to ensure that the defence of human rights throughout the world remains one of the objectives of foreign policy. Indeed, in his speech before the United Nations General Assembly on September 25th 2007, the President of

the French Republic re-emphasised that “there will be no peace in the world if the international community compromises with the right of peoples to self-determination or with human rights.”

In order to examine the emphasis placed on human rights in diplomacy, the CNCDH has conducted a study which, based on a pragmatic approach focused on the objectives, means, methods and instruments to be reinforced or developed, formulates recommendations so as to ensure that, over and above the formal undertakings of France, human rights become an operational results-driven objective of diplomacy, in the same way as for its other components.

This CNCDH opinion provides a summary of these recommendations, structured around eight focuses which should guide diplomatic action. It highlights the key initiatives that the French Government could undertake in order to make human rights what the French President has described as “the second major objective of foreign policy.” These recommendations are intended not only for French diplomacy but also for EU diplomacy, with the forthcoming French Presidency in the second half of 2008 in mind. The recommendations are based on best practices which the CNCDH has singled out for development and are set out in appendix hereto.

1. The need for consistency

In order to ensure that the action of French diplomacy in the field of human rights reflects consistency between foreign policy and national policy, the CNCDH emphasises the need for all initiatives undertaken by the French authorities to be guided by the concern for exemplarity. Cooperation with international bodies responsible for reviewing France’s respect for human rights can only heighten its credibility in the eyes of its partners.

This need is expressed at three levels:

a) Through the legal commitments made by France by ratifying international instruments for the protection of human rights and the campaigns run for the universal ratification of treaties concerning human rights, primarily in the field of international criminal justice or the abolition of the death penalty.

b) The actual transposition of these commitments into French legislation and practice, taking account of the recommendations directed at France by international review bodies and through the promotion of training and information and awareness campaigns for the general public in the field of human rights and international humanitarian law.

c) The adoption of a national human rights action plan based on the universality and indivisibility of human rights and including all civil and political rights, as well as economic, social and cultural rights and also international humanitarian law (*see below*).

This need for consistency also implies that foreign policy must be framed around constant principles and objectives, despite the large variety of partners that it has to accommodate, so as to preclude any possible criticism for the use of double standards. The definition of a precise frame of reference, with a national action plan that could be taken up at European level, can only serve to consolidate this consistency, both in time and scope.

Finally, the need for consistency implies that France must talk the same language at different international and regional fora, primarily when addressing specialised organisations, thus reflecting the systematic integration of human rights at all levels.

2. The integration of human rights

France and the European Union are urged to pursue a dynamic approach to human rights, so as to ensure that human rights are included as a cross-cutting dimension of foreign policy.

In multilateral diplomacy, this implies the promotion of an approach which integrates human rights in all major international issues. The aim is to support the efforts of the United Nations to afford a central role to human rights in its structures and activities, in particular where development and consolidation of the rule of law are concerned.

In bilateral diplomacy, this approach should guide France and the European Union in addressing human rights at all levels of their bilateral relations, namely through cooperation policy. Instructions given to newly-appointed ambassadors should systematically take account of the human rights situation in their country of appointment. The same applies to the criteria for the achievement of objectives on which heads of mission are now assessed.

The integration of human rights in the various fields of foreign policy should also be reflected at organisational level. This implies the sensitisation of all bodies concerned, but also a need for coordination and effectiveness. On this point, the CNCDH recommendations target different public authorities, in particular the action of the Government and its public administration, as well as the parliamentary assemblies and courts. However, the aim is also “*to open up our international action (...) to include stakeholders from the French economy and civil society*”, to quote the mission statement addressed to the Minister of Foreign and European Affairs by the President of the French Republic on August 27th 2007.

3. The role of civil society and victim support

Human rights diplomacy may not be limited to relations between States. It also implies the inclusion of civil society in the countries concerned, particularly human rights defenders. This constant concern must also be expressed through institutional support to NGOs and all components of civil society involved in the human rights field. Such support requires not only symbolic recognition – for example, the French Republic’s Human Rights Prize, the invitation extended by the Forecasting and Analysis Centre (CAP) to up-and-coming personalities – but also regular dialogue between diplomatic officials and human rights defenders.

France has made victims’ rights one of its priorities, particularly where humanitarian action, international justice and the fight against impunity are concerned. In the same spirit, the Government is urged to provide its systematic support to victims of violations of human rights throughout the world. This support may take many different forms, including reacting to exposed violations, case follow-up or granting visas or asylum to victims.

4. Consolidating vectors of influence

The topic of human rights is intrinsically linked to the identity and international image of France. Its diplomatic action should be based on various vectors of influence, more specifically:

a) The existence of a particularly extensive diplomatic and consular network which allows our country to monitor all human rights related issues in regional and international fora and, where need be, to relay the action of its European partners in the field, as was the case during the Slovenian Presidency.

b) Experience with initiatives which spur action, whether through the promotion of norms, as was the case with the adoption of the International Convention for the Protection of All Persons from Enforced Disappearance and the UNESCO Convention on Cultural Diversity, or tangible actions in terms of international solidarity and development, peacekeeping, or supporting the consolidation of the rule of law.

c) The importance of an active presence in the cultural and linguistic field, so as to bolster France’s influence on the international scene, particularly within international organisations, where French is one of the working languages, but also to raise the awareness of its partners with regard to the challenges in terms of development, international solidarity and cultural diversity.

d) The need for appropriate funding – political influence cannot be based solely on political voluntarism. It must be supported by a financial contribution commensurate with the driving role which our country intends to play.

5. The need for expertise in human rights

Although in the past human rights were long confined to the outer limits of foreign policy, they are now a central issue in international relations. This development has led to the need for increased expertise on the part of the now multiple stakeholders in diplomacy. From this perspective, the CNCDH makes the following main recommendations:

- a) To develop professional training in human rights and humanitarian law at all levels.
- b) To promote international cooperation for the training and mobility of French-speaking experts, through support to consolidate the rule of law and justice – primarily in the framework of the courses offered by the Ecole Nationale d'Administration (ENA) (college training senior civil servants) and the Ecole Nationale de la Magistrature (ENM) (college training judges and prosecutors) – and to develop the institutional networks of the Organisation Internationale de la Francophonie (OIF) (International Organisation of *La Francophonie*).
- c) To promote policies which ensure our presence in international organisations and encourage professional mobility, by establishing lists of specialists with the required linguistic and operational skills and facilitating any detachment or secondment possibilities, even for short-term field assignments.
- d) To step up consultation among various public and private stakeholders, at both national and European level.
- e) To foster closer linkages between human rights research and practice.

6. The definition of a French human rights strategy

The CNCDH recommends the definition of a strategy setting out a frame of reference for the voluntarist human rights policy which France intends to pursue. This strategy should be included in its national action plan and would target the following objectives:

- a) To reinforce the consistency of its action: this overarching strategy should aim to guarantee the consistency of actions undertaken by various public and private stakeholders.
- b) To determine the priority topics and geographic areas, providing operational direction to the firm commitment to make human rights one of the essential components of France's foreign policy, while allowing for the need to adapt diplomacy to suit given circumstances.
- c) To spotlight the specific features of France, by placing the emphasis on the universality and indivisibility of human rights, development, the reinforcement of civil society and the consolidation of the rule of law, rather than on a category-driven approach to rights and a policy focused on a change of regime.
- d) To heighten the visibility of France's foreign policy in the field of human rights and enable better assessment of its objectives, means and results.

The CNCDH recommends that this strategy include the definition of specific guidelines for diplomatic posts, setting out the measures to be undertaken in the event of any violation of human rights and, more specifically, in the event of any violation of freedom of conscience, freedom of association, trade union freedom, freedom of expression or freedom of information. Specific attention should be paid to the independence of the judiciary and the due operation of judicial safeguards. This strategy should also be centred around the formulation of cooperation and development objectives, which was initiated by a circular on cooperation in human rights sent to all posts in November 2006.

The CNCDH recommends that the commitments made by the French authorities as to the emphasis placed on human rights in foreign policy should be fully integrated into the programme to be presented by the Government for the French Presidency of the European Union. It recommends that this programme include human rights in all aspects of the European Union's foreign policy, in accordance with the objectives pursued by the European Union.

7. An annual report on French foreign policy and human rights

The CNCDH recommends that the Government reinforce the consistency, transparency and effectiveness of its foreign policy in the field of human rights, by preparing and circulating an annual report on this topic, to be presented before Parliament, as is the case in several other European countries.

This new instrument would provide an overview and enable the assessment of French diplomatic action in the field of human rights. It would enable a true periodic review before the relevant parliamentary assemblies, in addition to the annual budgetary review. It would constitute a "scorecard" enabling the determination of priorities and encourage mobilisation and consultation between all public and private stakeholders. It would promote the sharing of information and help

raise the awareness of public opinion as to the objectives, means and results of French diplomacy in the field of human rights.

8. The creation of a “French Institute for Human Rights”

Having observed the role played overseas and on the international scene by such institutions in terms of conception and influence capacity, the CNCDH recommends the creation of a “French Institute for Human Rights”. The main aims of such an independent structure would be:

a) To develop research activities applied to human rights, thus bolstering the influence of France on the international scene. The institute would be responsible for conducting studies and research projects so as to fuel the thinking of public authorities and private partners with regard to the stakes and issues related to human rights or international humanitarian law. The completion and publication of these studies and research projects would help reinforce the diplomatic weight and intellectual influence carried by France in international fora.

b) To create an arena for informal consultations, enabling diplomatic initiatives to be taken and the initiation of expert consultations and exploratory discussions without any official involvement.

c) To further the CNCDH’s think-tank potential, through theme-based studies in international or comparative law, and to ensure full participation in cooperation between counterpart institutes which is already underway within the European framework.

d) To foster dialogue and forge international contacts and engage in bilateral or multilateral cooperation initiatives with various partners in the field of research and information exchange or training, thus extending the action of the CNCDH through various networks of national institutions, in particular within the framework of the OIF.

RECOMMENDATIONS

I – Multilateral diplomacy

The CNCDH recalls the leading role played by French diplomacy in the development of legal norms in human rights, from the origins of the United Nations to this day. This was again borne out in 2007 with the adoption of the Convention for the Protection of All Persons from Enforced Disappearance and the Convention on the Rights of Persons with Disabilities.

- 1. The Commission recommends that French diplomacy continue to push for the enforcement of the “responsibility to protect” principle and the consolidation of international humanitarian law, not only within the United Nations, but also within the European Union and the Council of Europe, as well as within the International Red Cross and Red Crescent Movement.**
- 2. The CNCDH recommends that French diplomacy develop a strategy to support the integration of human rights in the mandates and budgets of international organisations and agencies, notably those which, like the International Labour Organisation (ILO), the United Nations Educational, Scientific and Cultural Organisation (UNESCO), the World Health Organisation (WHO), the Food and Agriculture Organisation of the United Nations (FAO), the United Nations Development Programme (UNDP), the United Nations Children’s Fund (UNICEF) and the United Nations High Commissioner for Refugees (UNHCR), have a crucial role to play in the promotion and protection of human rights. It should also be a priority objective for the World Trade Organisation (WTO) and international financial organisations to take human rights into account in their action.**

Monitoring the work of regional organisations

The European organisations have constructed increasingly sophisticated human rights protection systems, in parallel to the universal mechanisms. As for other regional organisations, notably African or Inter-American organisations, they have developed specific systems which are expanding rapidly. While French diplomacy is very active within various European regional organisations – the Organisation for Security and Cooperation in Europe (OSCE), the Council of Europe – it scarcely follows the work done by organisations in other regions, for example by the Inter-American Commission on Human Rights, the African Commission on Human and Peoples’ Rights, or the Association of Southeast Asian Nations (ASEAN).

- 3. The CNCDH urges French diplomacy to devote more effort to monitoring this work, alongside its European partners, so as to further its knowledge of the positions defended by the relevant countries within these organisations on subjects which are also addressed by various bodies of international organisations, such as the United Nations Human Rights Council or the United Nations General Assembly, to create new synergies whenever possible and better anticipate the power struggles involved.**
- 4. The Commission recommends increased consultation between various regional organisations in the field of human rights and the implementation of programmes for cooperation, information exchange and to support new institutions such as the African Court on Human and Peoples’ Rights.**

The role of the International Organisation of La Francophonie (OIF)

The International Organisation of *La Francophonie* underwent a marked development with the adoption of the Bamako Declaration in 2000. This text, which serves as a mission statement for French-speaking communities in the areas of peace, democracy and human rights, steps up the requirements expected of every State in terms of “practices related to democracy, rights and freedoms in French-speaking communities.” An Observatory has been set up and its activity is set to develop in future. Moreover, a milestone cooperation agreement was entered into between the Secretary General

of *La Francophonie*, President Diouf and the United Nations High Commissioner for Human Rights, Mrs Arbour, during the joint OHCHR/OIF commission meeting on September 25th 2007.

5. **The CNCDH underscores the political importance of the Bamako Declaration and more specifically chapter V of the Declaration on “the monitoring of practices related to democracy, rights and freedoms in French-speaking communities” and encourages the signatory States to implement these provisions in full, particularly in the event of “a democratic crisis or in the event of serious violations of human rights.”**
6. **The CNCDH recommends that France play a driving role in the significant development of the International Organisation of *La Francophonie* in all matters related to peace, democracy and human rights and that it work with its partners to adopt a clearly defined strategy to strengthen the role of the OIF in the field of human rights, through the development of its institutional networks, notably the network of national human rights institutions.**

Support for the development of international law

France has played an active and often leading role in the development of international norms in human rights and humanitarian law, through the elaboration of both instruments of declaratory law and legally binding conventions. The reform of the United Nations human rights system has raised the question as to what priority should be given to the normative process, some countries having recommended that this process be placed on standby, thus enabling them to focus on the implementation of existing norms.

7. **The CNCDH highlights the leading role played by France in the elaboration of instruments of declaratory law within the United Nations, particularly on impunity or extreme poverty, as well as within UNESCO, on cultural diversity or bioethics. It recommends that France pursue its dynamic action in the ethics of science field and more specifically, in the field of medical ethics, or that of the responsibility of multinational corporations, in line with the initiatives already undertaken.**
8. **The CNCDH recommends that France continue its extensive contribution to the drafting of international and regional instruments in the field of human rights. This contribution requires, *inter alia*, the commissioning of high-level experts and ensuring the continuity of the composition of delegations throughout negotiation periods.**
9. **France should also play a more active role in the normative work of the Council of Europe, particularly in the coordination of various steering committees, such as the Steering Committee for Human Rights and the Steering Committee on Legal Cooperation, as well as their expert committees, so as to be in a position to take initiatives and provide a timely response to various questionnaires or requests for information which it should receive.**
10. **The CNCDH expresses the wish that the negotiations underway within a working party of the Human Rights Council for the elaboration of an additional protocol to the International Covenant on Economic, Social and Cultural Rights be concluded before the end of 2008.**

Status of ratifications by France

France has ratified most of the international instruments on human rights and humanitarian law. As a result, its shortcomings in this field are all the more visible. In some cases, these shortcomings may be explained by constitutional barriers, thus requiring extra effort in explaining the French position. In others, they reflect contradiction between the political undertakings of France and their enactment in law. Sometimes, this delay in ratification has no explanation other than the limited attention granted to certain conventions.

11. The CNCDH recommends that a status report on ratifications be drawn up, accompanied by a periodical assessment on the possibility of overcoming barriers to the ratification by France of treaties related to human rights and humanitarian law. This assessment should also include the reservations and the interpretative declarations made by France, which the CNCDH recommends should be reviewed on a periodic basis in order to examine whether they remain appropriate. This public document should set out the arguments raised by France against the ratification of any treaty or its enactment in national law.
12. The Commission welcomes the recent ratifications, notably that of Protocol No. 2 to the International Covenant on Civil and Political Rights and Protocol No. 13 to the European Convention on Human Rights, further to the enactment of the abolition of the death penalty in the French Constitution.
13. It recalls its previous opinions concerning the importance of the ratification of the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families by France and its European partners.
14. The Commission also recalls that from the very outset it pronounced itself in favour of the ratification of Protocol No. 12 to the European Convention of Human Rights with regard to non-discrimination. It is all the more necessary for France to ratify this instrument since our country refutes the rationale of collective rights conferred upon national minorities or “communities” on the grounds of its individual and abstract approach to human rights, founded on equal rights for all.

Enforcement of international human rights law and international humanitarian law

Behind international and regional organisations and their high-profile bodies placed under the media spotlight such as the Security Council, the General Assembly or the Human Rights Council, numerous, often lesser-known, mechanisms exist governing procedures for claims, inquiries, or assistance to States. These include, *inter alia*, special rapporteurs, independent experts, working parties or inquiry commissions and treaty bodies. Also worth mentioning are the independent authorities such as the United Nations High Commissioner for Human Rights, the OSCE High Commissioner on National Minorities, the Council of Europe Commissioner for Human Rights, the European Commission Against Racism and Intolerance (ECRI), but also the European Union Agency for Fundamental Rights, the European Ombudsman and so on. The quadrennial conferences of the Red Cross and Red Crescent Movement also offer regular arenas for global discussions on the respect of international humanitarian law. Beyond international institutional review mechanisms, States may also be challenged by the external viewpoint of the media, NGOs and other States, which, albeit less measurable, is of crucial importance.

United Nations review procedures

15. The CNCDH recommends that French diplomacy, which has made a decisive contribution to the progressive construction of this institutional human rights protection system, play a more active role in its protection. The CNCDH considers that particular attention should be paid to the following points:
 - a) The preservation of the most important theme-based procedures, related not only to civil and political rights but also to economic, social and cultural rights, within the framework of the “rationalisation” of mandates.
 - b) The development of the role of independent experts, on the basis of strict criteria related to competence, independence and impartiality, along with the increased contribution of France to lists of experts to be drawn up with the assistance of the CNCDH.
 - c) The organisation of field missions and inquiries conducted by independent experts, while guarding against the politicization of procedures related to the participation of State representatives.

d) The development of a universal periodic review procedure on the basis of arrangements which confirm its potential benefits.

e) The inclusion of civil society as a whole in all stages of the work of the review bodies.

The implementation of France's international commitments

Review and consultation by independent bodies

The CNCDH notes that France has proven its good faith in its cooperation with all international human rights protection mechanisms, whether through the presentation of its periodic reports to the United Nations treaty bodies, the French welcome given to special rapporteurs of the Human Rights Council or its involvement in other mechanisms such as the European Committee for the Prevention of Torture or the Council of Europe Commissioner for Human Rights. However the Commission notes that the observations made by these bodies are not always given sufficient consideration.

Moreover, the international and regional organisations of which France is a member often submit requests for information on national legislation or practices to States and their other partners in the form of questionnaires, enquiries or opinions. The CNCDH notes that France rarely answers such requests or when it does, tends to do so in an untimely or perfunctory manner, thus limiting its ability to wield effective influence over the decision-making process by highlighting solutions drawn from our legal tradition so as to promote best practices or reforms inspired by French legislation.

- 16. The CNCDH underscores the need for exemplarity which should guide French authorities on these issues, so as to ensure that French diplomatic action in the field of human rights reflects the consistency between French foreign and national policy on human rights and highlights the interdependence of these two dimensions of its action. The recognition of its own shortcomings – in particular by stepping up cooperation with international bodies responsible for reviewing France's respect of human rights – can only serve to reinforce its credibility with regard to its partners.**
- 17. The CNCDH notes that France has continued to show significant delays in presenting its periodic reports to the treaty bodies, which hampers the presentation of reports which may cover up to ten years and the development of ongoing dialogue with such bodies. However, since 2005 significant efforts have been made in order to reduce these delays and to mobilise inter-ministerial services to prepare these reports.**
- 18. The CNCDH recommends that France publish and circulate all conclusions and recommendations made by these bodies, in order to inform the public thereof, but also to provide a consistent vision of the criticisms and encouragements directed at France.**
- 19. The Commission recommends the creation of a high-level monitoring mechanism to supervise inter-ministerial coordination for the implementation of recommendations made by independent international and regional bodies. This mechanism should provide for reporting on the state of progress of implementation within reasonable time-frames, so as to engage in open dialogue with these bodies, particularly when any recommendations made are unclear or appear to be in contradiction with our principles.**

The role of the Human Rights Council: Universal Periodic Review of France

France will be among the first States to undergo the Universal Periodic Review of the Human Rights Council during the first half of 2008. This new procedure, whose creation was backed by France and the European Union, is the principal innovation introduced further to the reform of the Council.

20. The CNCDH recommends that the French authorities play an active and attentive role in this review so as to demonstrate, during this decisive experimental phase of the procedure, that it constitutes a dynamic tool for reviewing the human rights situation in all Member States.

21. The Commission welcomes the decision by the French authorities to prepare for this milestone in close cooperation with the CNCDH and French civil society.

Follow-up to world conferences on human rights

The CNCDH notes that France has failed to follow up the recommendation resulting from the Declaration and Action Plan of recent world conferences (such as the World Conference on Human Rights in Vienna, 1993, or the World Conference against Racism in Durban, 2001), urging each State to adopt a national action plan. The experience of third countries has shown that, with a view to defining and adopting a national action plan, consultation, not only between ministries, but also with Parliament and civil society, enables the definition of positions of principle and allows the efforts of all stakeholders to be joined in a constructive approach.

22. The CNCDH recommends that the Government organise a national consultation which should result in the adoption of a national human rights action plan.

23. The United Nations have launched the review process for the implementation of the Declaration and Action Plan of the World Conference against Racism. The CNCDH recommends that the Government call a meeting of the Inter-Ministerial Committee against Racism and Anti-Semitism without delay in order to define a national action plan against racism. Once again, the Commission extends its offer of availability to play an active role in such process.

Judicial review of the action of France

Certain international courts play a decisive role in reviewing the action of States in the field of human rights. France ratified the European Convention on Human Rights in 1974 and approved the right of individual petition to the European Court of Human Rights in 1981, thus enabling any individual, group of individuals, or NGO to bring a case before the Court alleging France's violation of any rights enshrined in the Convention or its Protocols. Over the past twenty years, France has been the subject of a large body of litigation before the Court in Strasbourg. Out of the 47 States belonging to the Council of Europe, France ranked seventh in terms of the number of judgements pronounced in its regard in 2006.

The European Court of Human Rights

The CNCDH considers that France's track record with regard to the European Convention on Human Rights should be the subject of an in-depth study. Although the extent of litigation may reflect extensive knowledge of the law resulting from the Convention by petitioners and practitioners, facilitated by the proximity of the Court's seat in Strasbourg and the status of French as one of the Court's two official languages, it nonetheless reveals cause for concern. A large number of judgements have ruled that France is in violation of the Convention.

Furthermore, neither France nor its partners must neglect their responsibilities in the "collective safeguard" of human rights incumbent upon them pursuant to the Statute of the Council of Europe and the European Convention on Human Rights. Support to the initiatives of the Commissioner for Human Rights and the practice of third-party interventions should be considered in order to reinforce the European system for safeguarding human rights.

24. The CNCDH urges the French authorities to step up their efforts to:

a) Implement a systematic and in-depth review of the compliance of French legislation and practices with the Convention, in collaboration with the CNCDH.

- b) Pre-empt litigation by focusing on the reinforcement of national claims procedures, and more particularly by allowing claims on the exception of unconstitutionality before the Constitutional Council, on the basis of the proposals formulated in this respect by the working party for the study and proposal of reforms for the modernisation and rebalancing of institutions of the Fifth Republic.
- c) Give more systematic encouragement to amicable settlements, which includes the implementation of mediation mechanisms.
- d) Develop training and information exchange on European case law, particularly in national jurisdictions and public administration services, at all levels.
- e) Ensure the enforcement of judgements, by taking all general measures required as a result of any ruling on the violation of human rights.

25. Furthermore, the urgent entry into force of Protocol No. 14 and the implementation of the reforms suggested by the *Comité des Sages* should be a political priority for the Member States of the Council of Europe and included on the agenda for bilateral negotiations between the European Union and Russia.

The International Court of Justice

The CNCDH notes that the International Court of Justice (ICJ) regularly rules upon issues related to human rights and international humanitarian law. It questions the ambiguity of the position of France which, in 1974, withdrew its optional declaration accepting the compulsory jurisdiction of the Court (article 36(2) of the ICJ Statute), but which for several years has acknowledged this jurisdiction for certain matters on a case-by-case basis.

26. The CNCDH recommends that France make a clear commitment in favour of the compulsory jurisdiction of the Court, thus reviving a legal tradition born with the advent of international justice.

The International Criminal Court

The International Criminal Court (ICC) was established to ensure that the most serious international crimes such as genocide, crimes against humanity, war crimes and crimes of aggression, do not go unpunished, irrespective of where they are committed. The CNCDH notes that France is, along with the United Kingdom, the only permanent member of the Security Council, to have ratified the Rome Statute instituting the International Criminal Court, and that it makes a significant financial contribution to the functioning of the Court.

27. The CNCDH recommends the definition of an overarching French strategy on international justice, which would enable France to heighten its visibility and ensure that its actions are more consistent with the principles which it defends. More specifically, this strategy would include:

- a) **The urgent adoption of the law adapting French national law to the Rome Statute. In substance, the CNCDH refers to its Opinion on the bill to adapt French legislation to the Statute of the International Criminal Court, adopted on June 29th 2006.**
- b) **The withdrawal of the declaration made pursuant to article 124 of the Rome Statute.**
- c) **France's continued support, notably through the Security Council, for the efforts to preserve the integrity of the Statute of the International Criminal Court and to further the cooperation of States with the latter.**
- d) **The development of initiatives to support international justice (seminars etc.), so as to encourage ratifications and promote themes on which French diplomacy has played a particularly active role.**

France's financial contribution to international organisations

The diplomatic presence of a country on the international scene is not only expressed through its diplomatic action in international organisations - its financial contribution and the appointment of its

nationals to positions in international organisations constitute other factors or leverages on which diplomatic action is founded.

The CNCDH highlights the gap between, on the one hand, the role of France on the international scene and the influence which it seeks to exert over such scene, and on the other, the limited financial contributions which it makes and which remain lower than those made by smaller States. It emphasises the fact that political influence, including influence in the cultural and linguistic fields, cannot be founded solely on political voluntarism, but must be accompanied by the appropriate financial contributions.

- 28. The Commission recommends that France strengthen its presence and influence strategy, notably by increasing its voluntary contributions, particularly to the United Nations Office of the High Commissioner for Human Rights, to which France is only the thirteenth contributor.**
- 29. Specific attention should be paid by France - in its capacity as host State - to the activities of the Council of Europe, by highlighting the importance of the missions undertaken, notably by the European Court of Human Rights.**

The French presence in international organisations

The CNCDH emphasises how important it is for France to maintain an effective presence in international organisations. This presence should be expressed through the appointment of French nationals to various levels of governance of these organisations, as well as through the election of French experts to hold mandates, which, while safeguarding the independence of their holders, are nonetheless liable to convey French influence. Despite the presence of French nationals in high-ranking positions and, while noting the remarkable continuity in the presence of independent French experts within human rights protection bodies, the CNCDH notes the shortcomings of French strategy in this respect.

- 30. As regards the French presence within governing bodies of international organisations, the CNCDH recommends:
That the French presence in senior international civil service positions be bolstered by greater French presence at intermediate levels. This requires the development of a strategy for the placement of officials in intermediate grades, through, *inter alia*, the consolidation of the “young associate experts” programme and an increase in resources allocated to this end to the *Mission des Fonctionnaires Internationaux* (the International Civil Servants’ Mission).**

The French contribution to peacekeeping operations

Since the nineteen-nineties, the peace-keeping operations of the United Nations, as well as those developed under the banner of the European Security and Defence Policy (ESDP), have more systematically included a peace-construction dimension and, from this perspective, they naturally include a human rights component. The CNCDH highlights the influence of France in this development and its significant contribution to peace-keeping operations.

- 31. The CNCDH invites France to continue to exercise its influence in this respect, particularly with a view to consolidating the integration of human rights in civil and military operations undertaken under the ESCP banner, further to a United Nations mandate.**
- 32. The Commission advocates the development of the European Gendarmerie Force, with the implementation of politico-civilian components to support the objectives for the reconstruction of peace, justice and the rule of law. It wishes to see better inter-ministerial coordination in the preparation and secondment of civil servants, notably judges or civilian personnel, to take part in such operations.**

II – Bilateral diplomacy

Human rights have become an essential component of bilateral relations. This development has been underpinned by law, since the human rights debate is founded on international norms accepted by all States, primarily within the framework of the United Nations. But it also has political underpinnings since public opinion has spurred the authorities to take account of the human rights situation in all of their bilateral relations. Moreover, human rights are deeply rooted in France's identity and, in this respect, constitute a central component of its strategy of influence and outreach throughout the world.

However, the CNCDH notes that human rights are far from being systematically addressed in bilateral relations, which often reflect a striking gap between the political commitments expressed in general discourse and the actions undertaken in the field. The study undertaken on "diplomacy and human rights" has enabled the identification of several reasons for these shortcomings, which are primarily due to the absence of any frame of reference or global strategy guiding foreign policy in the field of human rights, as well as the mismatch between the means devoted to such policy in relation to the commitments expressed.

In order to consolidate the integration of human rights in the themes addressed and actions undertaken within the framework of France's bilateral relations without sparking any controversy, the CNCDH formulates the following recommendations.

The definition of a frame of reference and guidelines

Some countries have expressed their commitment in principle to a human rights component of foreign policy through the adoption of a doctrine or strategy setting out the main lines of action implied by such a commitment. The CNCDH observes that, contrary to that of many of its partners – mainly European – France's foreign policy in the field of human rights does not form part of any concerted or public frame of reference. Accordingly, the impetus given by the French authorities remains unclear; the result being that diplomatic practice tends to depend more on the perception of those in diplomatic posts, rather than a French strategy on this issue. The creation of the position of Ambassador for Human Rights in 2000 has undoubtedly led to some measurable progress, but has not sufficed to offset the lack of any true political engagement.

33. The CNCDH recommends that the voluntarist policy which France intends to pursue on human rights, dubbed by the French President as "the second major objective of foreign policy", be based on strategic focuses which should be included in its national plan, including:

a) The need to strengthen the consistency of action: this overarching strategy should aim to ensure consistency between actions undertaken by different public and private stakeholders.

b) The need to shift from declarations to operational actions: by setting out priority topics and geographic areas, thus giving operational direction to the firm commitment to make human rights one of the essential components of France's foreign policy, while allowing for the need to adapt diplomacy to suit given circumstances.

c) The need to spotlight the specific features of France and Europe: this would enable the French and European position in favour of human rights policy to be reaffirmed, while highlighting the universality of human rights.

d) The need to heighten the visibility of France's foreign policy in the field of human rights.

34. The CNCDH recommends that this chapter of the national action plan, which should be formulated in collaboration with the various parties concerned take specific account of:

a) The communications issued by the European Commission and the guidelines adopted by the Council of the European Union: Guidelines on the Death Penalty (1998); Guidelines on

Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (2001); Guidelines on Children and Armed Conflict (2003); Guidelines on Human Rights Defenders (2004).

b) The initiatives recently undertaken in France, which are still limited to the field of cooperation and should be extended to cover all bilateral relations. This includes, more specifically, the adoption of a Democratic Governance Strategy for French Cooperation (2006), which promotes the inclusion of human rights in all French cooperation programmes.

35. The CNCDH recommends the definition of specific guidelines intended for diplomatic posts, setting out the measures to be undertaken in the event of any violation of human rights and more specifically in the event of any violation of freedom of conscience, freedom of association, trade union freedom, freedom of expression or freedom of information. Specific attention should be paid to the independence of the judiciary and the due operation of judicial safeguards.
36. The CNCDH recommends that the commitments made by the French authorities as to the emphasis placed on human rights in foreign policy should be fully integrated in the programme to be presented by the Government for the French Presidency of the European Union. It recommends that this programme include human rights in all aspects of the European Union's foreign policy, in accordance with the objectives pursued by the European Union.

The use of all instruments of bilateral diplomacy

All stakeholders in bilateral diplomacy have a range of resources at their disposal enabling them to integrate human rights in their fields of action, such as high-level diplomacy, the various activities of embassies, political dialogue engaged in with third countries and financial support for stakeholders involved in the defence of human rights in third countries. France boasts a vast diplomatic network – the world's second diplomatic network after that of the United States, with 158 embassies in 2007 – which provides it with a considerable asset enabling it to extend its influence, as well as that of the European Union, in numerous fields including human rights.

National instruments

37. The CNCDH recommends that human rights be systematically included on the agendas for official visits, which should provide for the organisation of meetings between French officials and local civil society.
38. The Commission recommends that, before every official visit, NGOs should be invited to share their information on the human rights situation in the countries concerned with the French Presidency and/or the Ministry of Foreign and European Affairs and that in return, the NGOs should be informed of the results of the relevant human rights initiatives undertaken.
39. The CNCDH recommends that the importance of human rights be clarified in the instructions given to ambassadors, particularly on issues such as the support for human rights defenders or the fight against forced disappearances, on which France has adopted a multilateral stance.
40. The Commission also proposes that tools for the training and information of diplomatic personnel on human rights be implemented systematically.
41. It recommends that the websites of embassies systematically contain a section devoted to human rights and include links to the websites of the competent international organisations, by way of a supplement to the web pages developed by the *France-diplomatie* website over the last three years.

42. **The CNCDH considers that the follow-up of individual cases of violations of human rights is an effective instrument of bilateral diplomacy and maintains that such follow-up should be embodied as a strategic choice in the frame of reference whose adoption it recommends.**
43. **The Commission stresses the importance now afforded to the French Republic's Human Rights Prize thanks to the support of different diplomatic posts in promoting and fostering the initiatives of human rights NGOs in the field. It recommends that human rights violations directed against defenders of human rights having received the French Republic's Human Rights Prize be systematically subject to a public statement.**
44. **The CNCDH notes that the relations of embassies with civil society and human rights defenders vary from country to country. It recommends that each embassy engage in regular and institutionalised dialogue with human rights defenders, in accordance with the EU Guidelines on Human Rights Defenders. It states its appreciation of the "up and-coming personalities" programme of the forecasting and analysis centre of the Ministry of Foreign and European Affairs and welcomes the fact that NGO leaders and human rights defenders are included in this programme.**

European instruments

The guidelines adopted by the European Union on human rights serve as reference texts for each of the 27 EU Member States. In January 2006, France issued a circular to diplomatic posts related to the guidelines on human rights defenders, followed by another circular, in September 2006, related to the guidelines on the death penalty. No such circulars have yet been issued for the guidelines on torture or the guidelines on children and armed conflict.

45. **The CNCDH welcomes the development of local enforcement strategies for the EU human rights guidelines and recommends that the Government play a more active role in this respect, especially in those countries where, in the absence of any local representation of the EU Presidency in office, this role is incumbent on France.**
46. **With a view to the French Presidency of the European Union in 2008, the CNCDH recommends the preparation of a guidance document on the implementation of European Union foreign policy in the field of human rights, including the European Union guidelines. The Commission notes that two of the four sets of EU guidelines have not yet been subject to a circular sent to diplomatic posts (Guidelines on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and Guidelines on Children and Armed Conflict) and recommends that this gap be filled rapidly.**

The European Union maintains regular and confidential human rights dialogues with many countries. These human rights dialogues have become a highly important component of the CFSP. France does not maintain any institutional dialogue with its partners on human rights.

47. **In relation to the European Union dialogues, the CNCDH recommends that the Government, in view of the forthcoming French Presidency, define a strategy to:**
 - a) **Ensure a more systematic European approach to human rights dialogues, in compliance with the EU Guidelines on Human Rights Dialogues.**
 - b) **Boost the resources of the Council of the European Union's Working Party on Human Rights (COHOM) so that it may play a role in coordinating these dialogues.**
 - c) **Make these dialogues more transparent by ensuring closer involvement of the European Parliament and civil society, particularly in the countries concerned.**
 - d) **Make a systematic assessment of the dialogue, its objectives and outcomes, while stressing that the existence of institutional human rights dialogue may not hamper the freedom of speech of the European Union in multilateral fora.**

Safeguarding access to the right of asylum

Diplomatic posts play an important role in implementing access to the right of asylum in France for persons who have been persecuted or have good reason to believe in the risk of being persecuted on the grounds of their race, religion, nationality, membership of a particular social group, or political beliefs (see the study conducted by the CNCDH in 2006 on the *Conditions Governing the Exercise of the Right of Asylum in France*).

- 48. The CNCDH recommends that systematic training on the right of asylum be provided to the personnel of French diplomatic or consular posts, as well as liaison officers responsible for immigration control and police officers stationed at border posts.**
- 49. The Commission also recalls the possibility of delivering an HCR visa, which enables a person to be placed under international protection pending the subsequent examination of his/her request for asylum in his/her country of destination.**

The issuance of visas

In its study on the *Conditions Governing the Exercise of the Right of Asylum in France*, the CNCDH noted that the requirements for the issuance of visas had become more stringent, particularly since the entry into force of the provisions of the French law on immigration control dated November 26th 2003.

- 50. The CNCDH recommends that the French Government bring its visa issuance policy in line with its commitments in the field of human rights, more specifically by refraining from enforcing any restrictions against human rights defenders. The Commission recommends that the Government raise awareness as to the existence of the *Commission de recours contre les décisions de refus de visa d'entrée en France* (commission hearing appeals by applicants who have been refused a visa to enter France), set up under the authority of the Ministry of Foreign Affairs, so as to ensure wider accessibility of the appeals procedure to interested parties.**

International cooperation

The French arrangements for international cooperation were initiated in 1998 in the framework of a reform process. This process was supplemented in 2006 by a change in doctrine, through the adoption of a “democratic governance strategy” intended to promote the inclusion of human rights provisions in bilateral cooperation agreements. Paradoxically, this process has also been accompanied by a worrying reduction in the funding granted to services which, like the democratic governance sub-directorate, have a central role to play in the implementation of this strategy. Human rights should be better integrated into public development aid strategy. In this regard, the CNCDH recalls the three pillars of the United Nations referred to by Kofi Annan during his period of office as Secretary General: “We will not enjoy security without development, we will not enjoy development without security, and we will not enjoy either without respect for human rights”, and recommends that human rights become a key component of French development aid policy.

- 51. The CNCDH recommends that the Government increase the resources allocated to projects specifically devoted to the promotion and protection of human rights.**
- 52. The Commission recommends the organisation of a strategic think-tank on the French policy to support NGOs active in the defence of human rights and cooperation initiatives in this field (focused on issues related more specifically to the linkage with other financial backers and the assessment of funding arrangements).**
- 53. The CNCDH recommends that the European Instrument for Democracy and Human Rights (EIDHR, 2007-2013), adopted in December 2006 by the European Parliament and the Council be promoted and that assistance in accessing this funding mechanism be provided to French NGOs which are active in human rights on an international level. The**

Commission calls for an assessment to be made of the place afforded to French or French-speaking NGOs in this mechanism.

- 54. It recommends that the Government ensure the inclusion of civil society, particularly NGOs which are active in the defence of human rights, in all processes for the elaboration of cooperation projects: analysis of needs, implementation and assessment, even when they are not partners of such projects.**
- 55. It recommends that the Government act on its positions expressed in international fora through cooperation and technical assistance initiatives in the field.**
- 56. It recommends that the Government grant a significant role to the entire French cultural network so that the resources allocated to such network are also used for activities to promote and protect human rights.**

The use of effective conditionality principles

The European Union has developed a range of instruments enabling it to subject certain economic relations or the grant of subsidies to the obligation to respect human rights. Irrespective of whether such conditionality principles are expressed in a negative or positive manner, these instruments are largely underused.

- 57. The CNCDH recommends that the Government, particularly with a view to the forthcoming Presidency of the European Union, promote the systematic enforcement of human rights clauses in the event of violations of human rights by third countries, on the basis of a gradual scale of measures including political dialogue and various restrictive measures.**
- 58. The Commission recommends that a public assessment be made of the enforcement of this policy and, more specifically, its impact on the human rights situation where the conditionality principles are applied.**

More visible and more transparent foreign policy: an annual report on foreign policy and human rights

In several countries, the policy pursued in the field of human rights is the subject of a public report. Depending on the country, the report may be focused on foreign policy or there may be a chapter devoted to the human rights situation on the national territory. For national authorities, the preparation of a report on human rights reflects the wish to heighten the visibility of their actions by revealing them to the public and also to safeguard the transparency of foreign policy with regard to the Parliament and the public at large. It also shows a firm commitment with regard to third countries, requiring consistency and continuity in the positions expressed publicly. The publication of an annual report would appear to be a useful tool to present French policy in the field of human rights and analyse its impact. This new instrument would provide an overview and enable the assessment of French diplomatic action in the field of human rights. It would enable a true periodic review before the relevant parliamentary assemblies, in addition to the annual budgetary review. It would constitute a “scorecard” enabling the determination of priorities and encourage mobilisation and consultation between all public and private stakeholders. It would promote the sharing of information and help raise the awareness of public opinion as to the objectives, means and results of French diplomacy in the field of human rights.

The CNCDH notes the absence of any instrument enabling the presentation, visibility and assessment of the actions of French diplomacy in the field of human rights.

- 59. The CNCDH recommends that the Government heighten the consistency, transparency and effectiveness of its foreign policy in the field of human rights, by preparing and disseminating an annual report on this issue. The report would be presented before Parliament, in line with the practice in several other European countries.**

III – Diplomacy stakeholders

The CNCDH notes that one of the most marked evolutions on the diplomatic scene over recent years has been the diversification of stakeholders involved. This observation is particularly striking in the field of human rights. This evolution has created a new order and implies the need for in-depth thinking as to the role and leverage of each stakeholder and the involvement of French diplomats alongside these new stakeholders.

Inclusion of human rights in the services concerned by the human rights component of foreign policy

The cross-cutting nature of human rights implies that they should be included on the agenda of all ministries or services involved in all aspects of foreign policy. However, this integration will only be effective if it is constantly driven, guided and reviewed by a coordinating body which boasts the necessary expertise and resources and is backed by firm political support.

Within the European institutions

The CNCDH emphasises the dynamic role played by the European Union and its institutions in consolidating the integration of the human rights dimension in different components of the Common Foreign and Security Policy (CFSP). However, it notes that the resources devoted to these efforts remain insufficient. The forthcoming French Presidency of the European Union could provide the opportunity to raise more resources to this effect.

- 60. The Commission expresses its wish that this crucial European consultation not be limited to seeking the lowest common denominator or hinder broader cooperation between partners, or the search for a consensus with various regional groups.**
- 61. The Commission wishes to see the allocation of increased resources to the Personal Representative on Human Rights of the High Representative for the CFSP in order to make, according to the terms of her mandate “a contribution to the coherence and continuity of EU Human Rights policy”, and requests the French Government to work to this end during the French Presidency of the European Union.**
- 62. It emphasises the need to maintain the role of the French language as an official working language in European and international fora, so as to promote our legal tradition in human rights.**

Within the French public administration and Government

For a long time and with a certain measure of consistency, French leaders have included human rights in the construction of French diplomacy, considering human rights to be a key component of its image and its ability to “extend its influence”. Accordingly, a large number of public administration services have competence in defining and leading foreign policy in the field of human rights. This situation reflects the wish to take account of the cross-cutting nature of human rights. In parallel, new clusters of competence in human rights have come to the fore, although in a context which, incidentally, is marked by great institutional stability. This evolution has resulted in the excessive fragmentation of competences and marked shortcomings in coordination. Consequently, in practice, the integration of human rights remains limited, due to increased compartmentalisation, the lack of expertise on human

rights, but also the lack of any concerted strategic framework on the place of human rights in foreign policy, which leads to inconsistency in the implementation of this policy, notably by diplomatic posts.

- 63. Without pre-empting the exact arrangements for the future development of the Ministry of Foreign and European Affairs – in terms of governmental and administrative structures, namely through the choice between mission-based administration and management administration which is up to the French authorities themselves to define – the CNCDH recommends that human rights be taken into full consideration and addressed on the basis of a cross-cutting and theme-based - rather than institutional - rationale, so as to provide an overview of the work conducted simultaneously in the different international and regional fora.**
- 64. The CNCDH recommends that the Ministry of Foreign and European Affairs adopt the following measures:**
 - a) The appointment of a recognised correspondent for human rights in each geographic directorate, at assistant director level at least.**
 - b) The implementation of a permanent training programme for diplomats on human rights and humanitarian law, as is the case in several European partner countries.**
 - c) The systematic establishment of contacts by diplomats, particularly with NGOs, so as to gain prior knowledge of the situation in the country where they are due to be appointed.**
 - d) The implementation of measures to adapt to current events in any given country, with the possible creation of reinforced geographical or theme-based services for a period of one to three years, so as to mobilise skills, stimulate thinking, and step up action for a given theme or country.**
 - e) Greater openness to the outside world, through civil servant mobility and the recruitment of officers from international organisations or NGOs.**

Parliamentary human rights diplomacy

The legislature plays an important role in diplomacy, not only through the definition of foreign policy guidelines but also through the review of its implementation. In this respect, French practice is out of synch with the practice observed in regional and international Parliaments, as well as in the Parliaments of some European countries.

- 65. The CNCDH observes that, despite the recent development in “parliamentary diplomacy”, the French Parliament plays an unassuming role in the definition and guidance of French policy on human rights. The Commission recommends the creation of a Human Rights Committee within each of the two parliamentary assemblies.**
- 66. It recommends that the Minister of Foreign Affairs, or his representative, communicate on his policy in the field of human rights, at least once per year.**
- 67. It recommends that the definition of the main lines of French diplomacy be discussed before Parliament, more particularly when the Government’s report on French human rights policy is brought before Parliament.**
- 68. The Commission invites the different interparliamentary friendship groups to pay greater attention to the human rights situation in their activities and urges parliamentary delegations to ensure that contacts with representatives of civil society are systematically organised during their visits overseas.**
- 69. It recommends the more active presence of members of the French Parliament in the different European Parliamentary assemblies, which implies not only their regular and effective attendance at such assemblies, but more upstream involvement in different working projects, more particularly in the preparation of reports and studies, so as to exert greater influence over the activities undertaken.**

The role of national courts and international judicial cooperation

Several international instruments bind the States which have ratified them to assist in the repression of certain serious violations of human rights such as in cases of torture, crimes against humanity or genocide. Once enacted in national legislation, these conventions confer jurisdiction upon national courts to try the perpetrators of such offences, without the requirement for any link with the victims, the perpetrators, or the place where the offence has been committed. Accordingly, many States have included this principle of universal jurisdiction in their national legislation. Although France has ratified these instruments, the French courts are not empowered to exercise absolute universal jurisdiction. French law provides for treaty-based universal jurisdiction for certain crimes and offences, such as crimes of torture or terrorist offences, pursuant to the conventions which France has ratified on these matters. However, it has not enacted the provisions of the Geneva Conventions on the repression of war crimes by State Parties.

- 70. The CNCDH notes that the French courts have limited jurisdiction in assisting in the fight against the impunity of perpetrators of serious violations of human rights and recommends that the Government strive to align national law with international human rights law and humanitarian law, more particularly with the 1949 Geneva Conventions and their first two Protocols.**
- 71. The CNCDH observes that the action of the French justice system in this area is often hindered by political barriers. The Commission recommends that the French Government comply with the principle of independence of the judiciary and, more specifically, refrain from assisting persons presumed guilty of serious crimes punishable by virtue of the principle of universal jurisdiction in escaping justice.**
- 72. The CNCDH notes that the resources allocated to the implementation of the principle of universal jurisdiction are insufficient. It recommends that the Government allocate adequate resources, paying particular attention to the following points:**
 - a) At political level, the Commission recommends that the French authorities define a strategy to support the enforcement of universal jurisdiction by its courts.**
 - b) In terms of resources, the Commission recommends the creation of specialised units within immigration services so as to identify the presumed perpetrators of serious crimes, or within judicial authorities, so as to develop expertise on these specific matters.**
- 73. The CNCDH emphasises the importance of European coordination in this field, in particular through the European Network of Contact Points on genocide, crimes against humanity and war crimes, and notes that France plays a minimal role in such coordination. The Commission recommends that France play a more active role in the coordination of efforts undertaken at European level, notably in the light of the forthcoming French Presidency of the European Union.**
- 74. The CNCDH highlights the role of international legal cooperation with regard to the initial and ongoing training of judges and judicial officers, research in comparative law and the assessment of justice systems, notably under the aegis of the Council of Europe and the OIF. It expresses the wish for greater emphasis to be placed on human rights and humanitarian law in these different activities.**
- 75. The CNCDH notes the important role which liaison magistrates posted overseas may have cause to play in the protection of human rights. It calls for their activities to be more deeply rooted in programmes to support the rule of law and human rights.**

The European Union Agency for Fundamental Rights

The CNCDH notes the establishment, on February 1st 2007, of the European Union Agency for Fundamental Rights, of which it has high expectations, as stated in its Opinion on the creation of a European Union Agency for Human Rights dated September 23rd 2004. It regrets the limited competence given to this Agency, considering that all of the rights provided for in the Charter of Fundamental Rights of the European Union should serve as a frame of reference for its work.

Article 3 of Council Regulation (EC) No 168/2007 establishing the Agency provides that the Agency “shall deal with fundamental-rights issues in the European Union and in its Member States when implementing Community law.” To this end, the Agency shall “collect, record, analyse and disseminate relevant, objective, reliable and comparable information and data, including results from research and monitoring communicated to it by Member States, Union institutions as well as bodies, offices and agencies of the Community and the Union, research centres, national bodies, non-governmental organisations, third countries and international organisations and in particular by the competent bodies of the Council of Europe” (article 4).

As a national institution, the CNCDH is prepared to assume an active role in the functioning of this European Union Agency for Fundamental Rights, primarily by responding to the Agency’s tenders.

- 76. The Commission recommends that the Agency’s work programme be established independently by the Agency itself and remain sufficiently flexible to allow it to respond to any emergency situations.**
- 77. It recommends that the Agency set up a monitoring system for its reports and other findings.**
- 78. It recommends that French staff be appointed at every level within the Agency in order to give France visibility in this area and ensure that French is retained as a working language, contrary to the situation at the Observatory on Racism and Xenophobia in Vienna.**
- 79. It recommends that the scope of its remit be extended to the 3rd pillar, so as to cover all activities conducted within the European Union and include the human rights priority in all common policies.**
- 80. It hopes that, thanks to the work of the Agency, close cooperation will be established between the European Union and the Council of Europe.**

Public institutes and research centres

The CNCDH observes the inadequate cooperation between diplomacy and the research world in the field of human rights, coupled with a lack of fora for informal consultations, contrary to the situation in the world of international relations or national defence research, where many centres of expertise, reflection, initiative and negotiation have been successfully established. Indeed, during the brainstorming process on the United Nations reform, no consultation was organised in France, while the role played by American research institutes was so prominent that they weighed heavily on the outcome of this process. This shortcoming undermines the influence of our country, and our researchers play only a minor role in international networks, which are dominated by the Anglo-Saxon and Scandinavian world. In this respect, it is worth mentioning the particularly important role played, *inter alia*, by The Netherlands Institute of Human Rights (SIM), the Raoul Wallenberg Institute, or the Irish Centre for Human Rights, in international exchanges in the legal, cultural and diplomatic fields. Likewise, the Euro-Chinese academic dialogue on human rights or the Asia-Europe Meeting (ASEM) seminars on human rights are examples of experiments that should be furthered and diversified.

- 81. The CNCDH recommends that the Government strengthen links between the worlds of human rights research and practice, primarily by having more frequent recourse to academic expertise in the field of human rights.**

82. The Commission recommends that support be given to the initiatives conducted by the International Institute of Human Rights founded by René Cassin and based in Strasbourg, which, through its summer courses, offers a precious contribution to permanent training.
83. It expresses its wish for an inventory on all human rights and humanitarian law courses offered by universities to be drawn up, with the perspective of the 60th anniversary of the Universal Declaration of Human Rights in mind.
84. The CNCDH recommends that a “French Institute for Human Rights” be established. The aim of such an independent structure would be primarily:
- a) To develop research activities applied to human rights, thus bolstering the influence of France on the international scene. The Institute would be responsible for conducting studies and research projects so as to fuel the thinking of public authorities and private partners with regard to the stakes and issues related to human rights or international humanitarian law. The completion and publication these studies and research projects would help reinforce the diplomatic weight and intellectual influence carried by France in international fora.
 - b) To create an arena for informal consultations, enabling diplomatic initiatives to be taken and the initiation of expert consultations and exploratory discussions without any official involvement.
 - c) To further the CNCDH’s think-tank potential, through theme-based studies in international or comparative law, and to ensure full participation in cooperation between counterpart institutes which is already underway within the European framework.
 - d) To foster dialogue and forge international contacts and engage in bilateral or multilateral cooperation initiatives with various partners in the field of research, information exchange or training, thus extending the action of the CNCDH through various networks of national institutions, in particular within the framework of the OIF.

Local authorities

The CNCDH takes note of the development in the action of local authorities in the field of human rights and local democracy, within the framework of the Congress of Local and Regional Authorities of the Council of Europe and the Committee of the Regions, as well as in the voluntary sector, within networks of cities or territorial authorities.

85. It welcomes the organisation of the 3rd World Forum on Human Rights in Nantes in July 2008, to mark the official start of French celebrations on the occasion of the 60th anniversary of the Universal Declaration of Human Rights and which is open to “every individual and every organ of society”, focusing on the role of all public and private stakeholders and particularly local authorities.
86. It recommends that the delegation for external action of local authorities place more emphasis on human rights issues in decentralised cooperation activities.

Private stakeholders

Foreign policy is conveyed by a number of different vectors in today’s world. Although the State continues to play a predominant role in the definition of strategic guidelines in the field of human rights, private stakeholders such as NGOs, foundations, businesses and the media have considerable potential for action in this area. However, in France, NGOs, foundations and the international media likewise play only a marginal role in the definition and implementation of strategic guidelines. They often lack visibility and resources. Despite the clear determination of French cooperation to open its ranks and embrace the expertise and know-how of private organisations, dialogue and cooperation are far from being effective and systematic. The CNCDH, whose vocation is to foster dialogue between various stakeholders of civil society and the Government, is not systematically included in decision-making processes. Moreover, the support provided by French public authorities to these new

stakeholders is not on a par with that which they would be sure to receive in the Anglo-Saxon world, despite the fact that they are an essential vector of influence.

- 87. The CNCDH calls for collective thinking on the role of NGOs, notably on the reform of the United Nations Committee on NGOs, so as to endow it with an equal representation structure. The Commission recommends that the French Government encourage this consultation, by referring more of its projects and practices to the CNCDH for its opinion, since, due to its composition, the vocation of the latter is to serve as a discussion forum.**
- 88. The CNCDH emphasises the importance of the Annual EU-NGO Forum on Human Rights in fostering consultation at European level and recommends that the Government work actively to prepare for the 11th Forum, to be held under the French Presidency of the European Union.**
- 89. The CNCDH recommends that the Government provide more support for the action and international visibility of private stakeholders involved in the field of human rights, whether they be international NGOs based in France or French foundations.**
- 90. Finally, the CNCDH recommends that in-depth study of the linkage between public and private stakeholders be pursued, particularly with regard to the contribution made by businesses and foundations to the advancement of human rights.**
