

Statement regarding France's obligations with regard to the implementation of international humanitarian law (D - 2025 - 1)

Plenary Assembly of 23 January 2025 – Adopted unanimously

1. The CNCDH, convinced that the respect for international humanitarian law is a matter of political will, and noting:

- That the defence of humanitarian principles and the respect for international humanitarian law constitute the first pillar of the commitments set out in the Humanitarian Strategy of France (SHRF) 2023-2027¹;
- That France, along with five other States and the International Committee of the Red Cross (ICRC), launched a global initiative to galvanise political commitment to international humanitarian law;
- That the 34th International Conference of the Red Cross and Red Crescent, in which France actively participated, adopted by consensus a resolution entitled “*Building a universal culture of compliance with international humanitarian law*”²; and
- That a conference of States Parties to the Geneva Convention IV relative to the Protection of Civilian Persons in Time of War is to take place in March 2025,

wishes to draw attention to some key points and make a number of recommendations.

This statement is in line with all the previous stances of the CNCDH on the implementation of international humanitarian law³.

Global initiative to galvanise political commitment to international humanitarian law

2. Noting that the fundamental rules of

international humanitarian law, although inscribed in international treaties, including the universally ratified Geneva Conventions, are subject to massive and recurrent violations, France, along with South Africa, Brazil, China, Jordan, Kazakhstan and the ICRC, launched a global initiative to galvanise political commitment to international humanitarian law, which the CNCDH welcomes. By launching this initiative, the stakeholders intend to express their commitment to strengthening the universal and faithful application and implementation of international humanitarian law. Its ultimate goal is to deliver concrete and practical recommendations aimed at improving compliance with international humanitarian law, to be formalised at a high-level meeting in 2026. To achieve this goal, seven work streams will be developed⁴.

3. This initiative places a strong emphasis on the prevention of violations of international humanitarian law, and on the efforts to improve its implementation. The CNCDH not only calls on France to play its full part in this initiative, but even more so, to take on a leading role by making proposals, sharing good practices and demonstrating its unwavering support for international humanitarian law whenever the opportunity arises. In this regard, the CNCDH, as national commission for the implementation of international humanitarian law, indicates its willingness to advise and support French authorities in this endeavour, at all stages of this initiative. The CNCDH also recommends that France ensure that all actors in the humanitarian community are invited to contribute (**recommendation no. 1**).

4. In this context, France has a duty to set an example, and this exemplarity must be translated into concrete action: on the one hand, in a general

sense, with regard to the obligation to respect and ensure respect for international humanitarian law and the preservation of the humanitarian space; on the other hand, more specifically, in the context of the process leading up to a Conference of High Contracting Parties to the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, to be held in March 2025, which will be dedicated to measures to enforce the Convention in the Occupied Palestinian Territory, including East Jerusalem⁵.

To respect and ensure respect for international humanitarian law

5. Article 1 common to the four Geneva Conventions states that “[t]he High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances”. This obligation, which is customary in nature and applies to the whole of international humanitarian law, is one of the essential elements of the law applicable in armed conflicts. It requires States not only to comply with it themselves, but also to do everything reasonably in their power to ensure respect for international humanitarian law by parties to an armed conflict.

6. In this regard, the CNCDH welcomes the commitments made by France at the 34th International Conference of the Red Cross and Red Crescent, notably on the protection of nuclear power plant operating personnel⁶. In order to reduce the gap between the acceptance of international humanitarian and its implementation in practice, the CNCDH calls on France, in accordance with its international obligations in the field and in line with its strategy of “Influence through law”⁷, to reaffirm, in all its stances and actions, its commitment to international humanitarian law, and to redouble its efforts to implement it in good faith (**recommendation no. 2**). With this in mind, the CNCDH takes note of the organisation of various humanitarian conferences (Gaza, Lebanon, Sudan) and stresses that, in addition to financial commitments, these should also lead to commitments to respect international humanitarian law.

7. To respect and ensure respect for international humanitarian law means, in particular, doing everything possible to prevent and put an end to its violations. Accordingly, all States Parties to the Geneva Conventions have an obligation to search for, prosecute and convict, or extradite alleged perpetrators of grave breaches⁸, regardless of their nationality,

status or function, and to put an end to all other breaches of the Geneva Conventions. Therefore, to declare that a head of government who is subject to an arrest warrant for war crimes and crimes against humanity may enjoy immunity goes against this obligation, in addition to being inconsistent with national jurisprudence⁹ and the relevant International Criminal Court’s case law¹⁰. The CNCDH hence calls on France to formally withdraw the statement made to this effect on 27 November 2024¹¹ (**recommendation no. 3**). The CNCDH also takes this opportunity to reiterate that in order to fully take part in the fight against impunity for international crimes, France needs to bring its legislation into line with the Statute of the International Criminal Court and remove the obstacles to the implementation of universal jurisdiction¹² (**recommendation no. 4**). For the same reasons, France must withdraw its reservation to the Ljubljana-The Hague Convention on International Cooperation in the Investigation and Prosecution of the Crime of Genocide, Crimes against Humanity, War Crimes and Other International Crime¹³ (**recommendation no. 5**).

8. No one is safe from the outbreak of armed conflict. Recent events demonstrate this. It is precisely through long-term commitments, rather than short-term positions based on political or diplomatic expediency, through the dissemination of international humanitarian law and through becoming part of a culture of respect for human rights, the rule of law and international law, that an environment can be created that is conducive to respect for international humanitarian law in the event of an armed conflict. The CNCDH therefore calls on France to comply strictly with its international obligations relating to the fight against impunity, and to demonstrate its full cooperation with international mechanisms working towards this, most notably the International Criminal Court, in line with France’s commitments made in its Humanitarian Strategy (SHRF) (**recommendation no. 6**).

9. To respect and ensure respect for international humanitarian law also includes the obligation to prevent violations of international humanitarian law “when there is a foreseeable risk that they will be committed and to prevent further violations in case they have already occurred”¹⁴. Similarly, a State Party to the 1948 Convention on the Prevention and Punishment of the Crime of Genocide would incur international responsibility if it “manifestly failed to take all measures to prevent genocide which [are] within its power, and which might [contribute] to preventing the genocide”¹⁵. In a context in which the International Court of Justice has ordered provisional measures, considering plausible the rights claimed for Palestinians in Gaza to be protected from acts

of genocide¹⁶, and in which many researchers and organisations, in particular Amnesty International¹⁷ and the International Federation for Human Rights (FIDH)¹⁸, have concluded that a genocide is taking place in the Gaza Strip, every State should take all measures to prevent or put an end to it. The CNCDH therefore urges France to refrain from taking any measures that could be in contradiction with its obligation to prevent the crime of genocide, and to use all available means to prevent its occurrence or to put an end to it (**recommendation no. 7**).

10. To respect and ensure respect for international humanitarian law entails the corollary obligation to not encourage, aid or assist the commission of violations of international humanitarian law. As a result, States Parties to the Geneva Conventions must refrain from transferring weapons if they “[can expect], based on facts or knowledge of past patterns, that such weapons would be used to violate the Conventions”¹⁹. This obligation is reinforced by the Arms Trade Treaty, to which France is a Party, which states that a State “shall not authorize any transfer of conventional arms [...] if it has knowledge [...] that the arms or items would be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, attacks directed against civilian objects or civilians protected as such, or other war crimes as defined by international agreements to which it is a Party”²⁰. While the CNCDH welcomes the statement made by the President of the French Republic on 5 October 2024, in which he considered it necessary “to stop delivering weapons to fight in Gaza”²¹, it recommends that France suspend all arms transfers to any State across the world if there is even the slightest doubt that their use might not comply with international law²² (**recommendation no. 8**).

Protection of civilians in wartime

11. The protection of civilians is a fundamental humanitarian imperative that lies at the heart of the protection system offered by international humanitarian law. Civilians are not only protected when they are in the hands of the enemy, but the parties to the conflict must also conduct their military operations with constant care to spare the civilian population, civilians and civilian objects.

12. On 19 September 2024, the United Nations General Assembly requested the Government of Switzerland, in its capacity as depositary of the Geneva Conventions, to convene, within six months, a Conference of High Contracting

Parties to the Fourth Geneva Convention relative to the protection of civilian persons in time of war, so that they consider measures necessary to enforce the Convention in the Occupied Palestinian Territory²³. The CNCDH calls on France to play its full part in this diplomatic Conference, by engaging actively and constructively in the consultation process, while ensuring that its position is always consistent with the applicable legal framework and in favour of the protection of civilians, i.e. free from any other consideration (**recommendation no. 9**).

13. The CNCDH stresses that the Fourth Geneva Convention includes the right of civilians to receive humanitarian aid. Moreover, when a territory is occupied, it specifies that “the Occupying Power has the duty of ensuring the food and medical supplies of the population” and requires it to “bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate”²⁴. Violations of this obligation are evident in the case of the Gaza Strip. This is further confirmed by the International Criminal Court, which, when issuing arrest warrants in relation to this situation, found that there were “reasonable grounds to believe that [officials of the Occupying power] intentionally and knowingly deprived the civilian population in Gaza of objects indispensable to their survival, including food, water, and medicine and medical supplies, as well as fuel and electricity [...]”. This finding is based on [their] role in impeding humanitarian aid in violation of international humanitarian law and their failure to facilitate relief by all means at [their] disposal”²⁵. Thus, the International Criminal Court Pre-Trial Chamber found that “their conduct led to the disruption of the ability of humanitarian organisations to provide food and other essential goods to the population in need in Gaza”²⁶. Similarly, “the Chamber found reasonable grounds to believe that no clear military need or other justification under international humanitarian law could be identified for the restrictions placed on access for humanitarian relief operations”²⁷.

14. The CNCDH urges France, which hosts the headquarters of many humanitarian organisations whose staff are deployed across the Occupied Palestinian Territory - Gaza, the West Bank and East Jerusalem - to solemnly reaffirm the obligation of the parties to the conflict to facilitate the free passage of humanitarian aid (**recommendation no. 10**). France must also firmly and systematically condemn any attack on humanitarian and health convoys or personnel (**recommendation no. 11**). In addition, the CNCDH calls on French authorities to ensure that political considerations are never introduced into debates and to constantly remind their counterparts to do the same (**recommendation no. 12**). Humanitarian

aid should never be conditional, or even influenced, by political, diplomatic or strategic motives. Similarly, no strategic or diplomatic gains should be sought at the expense of humanitarian aid; the humanitarian space should always be preserved, and the legitimacy of impartial humanitarian organisations should never be questioned. All of the above applies *mutatis mutandis* to all current conflict contexts, whether they gather media attention or not.

15. In this context, which provides momentum for reaffirming the necessity and relevance of international humanitarian law, the CNCDH also makes two additional recommendations, whose implementation would be a starting point of a strong political commitment to international humanitarian law. Firstly, respect for and implementation of international humanitarian law require sharing good practices and drafting voluntary reports on how States are fulfilling their obligations in this field. The CNCDH encourages France to draw up such a report, and reiterates its availability to offer support in this regard (**recommendation no. 13**). Secondly, the CNCDH recalls that the 1977 Additional Protocol I to the four Geneva Conventions provides for the establishment of an International Fact-Finding Commission whose mandate is, on the one hand, to “*enquire into any facts alleged to be a grave breach as defined in the Conventions and [...] Protocol [I] or other serious violation of the Conventions or of this Protocol*, [and, on the other hand, to] *facilitate, through its good offices, the restoration of an attitude of respect for the Conventions and this Protocol*”²⁸. In order to exercise its competence, the Commission’s competence must have been recognised by a declaration as set out in Article 90 of Additional Protocol I. To date, 76 States have made such a declaration, including all EU Member States except Latvia and France. The CNCDH recommends that France make such a declaration without delay (**recommendation no. 14**).

16. Finally, the national implementation of international humanitarian law includes the activities of national committees on international humanitarian law. In France, the CNCDH was given such a mandate. In this respect, the CNCDH welcomes the ongoing dialogue it maintains with representatives of the French Ministry for Europe and Foreign Affairs and the French Ministry of the Armed Forces, notably within the framework of their biannual meetings with a common agenda. It also welcomes all the collaboration opportunities that this dialogue has enabled, in a climate of mutual trust, all for the benefit of a better understanding and renewed promotion of international humanitarian law. The CNCDH encourages French authorities to continue and intensify this cooperation, and to

constantly demonstrate and reaffirm their support for its role as the national commission for the implementation of international humanitarian law (**recommendation no. 15**).

Overview of the recommendations

Recommendation no. 1: The CNCDH recommends that France play its full part in the global initiative to galvanise political commitment to international humanitarian law, to take on a leading role by making proposals, sharing good practices and demonstrating its unwavering support for international humanitarian law whenever the opportunity arises. It also recommends that France ensure that all actors in the humanitarian community are invited to contribute to this initiative.

Recommendation no. 2: The CNCDH recommends that France, in all its stances and actions, reaffirm its commitment to international humanitarian law, and redouble its efforts to implement it in good faith.

Recommendation no. 3: The CNCDH recommends that France formally withdraw the statement made on 27 November 2024 concerning the alleged immunity of a head of government subject to an arrest warrant issued by the International Criminal Court.

Recommendation no. 4: The CNCDH recommends that France bring French law into line with the Statute of the International Criminal Court and remove the conditions preventing the exercise of universal jurisdiction.

Recommendation no. 5: The CNCDH recommends that France withdraw its reservation to the Ljubljana-The Hague Convention of 26 May 2023 on International Cooperation in the Investigation and Prosecution of the Crime of Genocide, Crimes against Humanity, War Crimes and Other International Crimes, concerning the extraterritorial jurisdiction of French courts.

Recommendation no. 6: The CNCDH recommends that France comply strictly with its international obligations relating to the fight against impunity, and demonstrate its full cooperation with international mechanisms working towards this, most notably the International Criminal Court.

Recommendation no. 7: The CNCDH recommends that France refrain from taking any measures that could be in contradiction with its obligation to prevent the crime of genocide and use all the means at its disposal to prevent or to put an end to this crime.

Recommendation no. 8: The CNCDH recommends that France suspend all arms transfers to any State in the world when it has knowledge that these arms would be used in the commission of international crimes.

Recommendation no. 9: The CNCDH recommends that France play a full part in the diplomatic Conference of High Contracting Parties to the Fourth Geneva Convention relative to the protection of civilian persons in time of war, engage actively and constructively in the consultation process and ensure that its position is always consistent with the applicable legal framework and in favour of the protection of civilians, i.e. free from any other consideration.

Recommendation no. 10: The CNCDH recommends that France solemnly reaffirm the obligation of parties to conflicts to facilitate the free passage of humanitarian aid.

Recommendation no. 11: The CNCDH recommends that France firmly and systematically condemn any attack on humanitarian and health convoys or personnel.

Recommendation no. 12: The CNCDH recommends that French authorities ensure that political considerations are never introduced into debates relating to the protection of civilians in times of war and that they constantly remind their counterparts to do the same.

Recommendation no. 13: While reiterating its availability to offer support in this regard, the CNCDH recommends that France draw up a voluntary report relating to the implementation of international humanitarian law.

Recommendation no. 14: The CNCDH recommends that France make a declaration under Article 90 of Additional Protocol I recognising the competence of the International Fact-Finding Commission, as soon as possible.

Recommendation no. 15: The CNCDH recommends that French authorities continue and intensify their cooperation with the CNCDH, as part of its mandate as the national commission for the implementation of international humanitarian law, and that they constantly demonstrate and reaffirm their support in this role.

End notes

1. [French Gouvernement, Humanitarian Strategy of France \(2024-2027\)](#).
2. [Resolution 34/C/24/R1, Building a universal culture of compliance with international humanitarian law, October 2024](#).
3. See for example: CNCDH, [Opinion on humanitarian exemptions in sanctions regimes and counter-terrorism measures. Promoting widespread use and better implementation](#), Plenary Assembly of 20 June 2024, Official Journal of the French Republic (JORF) no. 0155 of 2 July 2023, text no. 62; CNCDH, [Opinion on the draft law on the preservation of the humanitarian space \(Avis sur la proposition de loi relative à la préservation de l'espace humanitaire\)](#), Plenary Assembly of 25 November 2021, OJFR no. 0283 of 5 December 2021, text no. 119; CNCDH, [Opinion on respect for and protection of humanitarian personnel \(Avis sur le respect et la protection du personnel humanitaire\)](#), Plenary Assembly of 14 December 2020, JORF no. 0307 of 20 December 2020, text no. 86.
4. The seven work streams focus, on the one hand, on strengthening prevention of IHL violations (good practices in this respect; role of national committees on international humanitarian law; contribution of international humanitarian law to peace) and, on the other hand, on building shared understanding for effective protection in armed conflict (protection of civilian infrastructure; hospitals; use of information and communication technologies; challenges of contemporary naval warfare), see: [ICRC, Global Initiative to galvanise political commitment to international humanitarian law, Explainer, November 2024](#); [ICRC, "Global initiative on International Humanitarian Law" \(FAQ\), 27 September 2024](#).
5. [United Nations General Assembly, Resolution ES-10/24 of 18 September 2024, Advisory opinion of the International Court of Justice on the legal consequences arising from Israel's policies and practices in the Occupied Palestinian Territory, including East Jerusalem, and from the illegality of Israel's continued presence in the Occupied Palestinian Territory, A/RES/ES-10/24](#). See also the press release of the Federal Department of Foreign Affairs of Switzerland on 14 November 2024, available at www.admin.ch/gov/en/start/documentation/media-releases.msg-id-103146.html.
6. [France's voluntary pledge](#) is available online. A voluntary pledge by France and the French Red Cross on the promotion and dissemination of international humanitarian law is in the process of being published. Several voluntary pledges were also made by the European Union (EU), its Member States and National Red Cross Societies of the EU on [Strengthening compliance with international humanitarian law, urban warfare and protecting humanitarian and medical personnel](#), available at <https://rcrcconference.org/fr/about-4/pledges/>.
7. French Government, [Influence through law. French strategy 2023-2028](#).
8. Grave breaches of the Geneva Conventions are those specifically enumerated in Articles 50/51/130/147 and which form the basis of universal jurisdiction. All grave breaches of the Geneva Conventions are war crimes under the Rome Statute of the International Criminal Court (ICC). In this regard, see: CNCDH, [Opinion on respect for and protection of humanitarian personnel](#), 14 December 2020, *op. cit.*, §15.
9. Press release of the French Ministry of Justice, "Decision of the Investigative Chamber regarding the legality of the arrest warrant issued for Syria's President Bashar Al Assad" [[Décision de la chambre de l'instruction concernant la régularité du mandat d'arrêt décerné à l'encontre du Président syrien Bachar Al Assad](#)], 26 June 2024.
10. See the [decision ICC-01/22-90 of 24 October 2024 of the Pre-Trial Chamber II of the ICC](#) which finds that Mongolia has failed to comply with its international obligations under the Rome Statute by failing to cooperate in the arrest and surrender of Vladimir Poutine while he was on its territory,

and which reaffirms that personal immunity, including that of Heads of State, is not opposable before the ICC.

11. France diplomatie, [“Israel – International Criminal Court \(27 November 2024\)”](#).

12. Press release of the CNCDH, *“Fight against impunity of perpetrators of war crimes, crimes against humanity and genocide : France must implement universal jurisdiction”* [*Lutte contre l’impunité des auteurs de crimes de guerre, crime contre l’humanité et génocide ; la France doit mettre en œuvre la compétence universelle*], 3rd July 2023; CNCDH, Opinion on the draft law on the preservation of the humanitarian space, 25 November 2021, *op. cit.*

13. On February 14th 2024, France signed this [Convention of 26 May 2023](#) while formulating a reservation to limit the exercise of extraterritorial jurisdiction by French Courts for crimes falling within its scope to the conditions set out in Article 689-11 of the French Criminal Procedure Code. France’s reservation (formulated for a three-year period in accordance with Article 92§3 of the Convention) is available online under <https://diplomatie.belgium.be/sites/default/files/2024-06/MLA%20Not%20ENG.pdf>.

14. Commentary of the Geneva Conventions, Article 1, § 164, available under https://ihl-databases.icrc.org/en/ihl-treaties/gci-1949/article-1/commentary/2016?activeTab=1949GCs-APs-and-commentaries#_Toc61884233.

15. International Court of Justice (ICJ), *Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, merits, judgment of 26 February 2007, § 430.

16. ICJ, *Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, order, 26 January 2024, § 54.

17. [Amnesty International, “Amnesty International investigation concludes Israel is committing genocide against Palestinians in Gaza”, 5 December 2024.](#)

18. FIDH, *“The unfolding genocide against the Palestinians must stop immediately”*, 12 December 2023.

19. Commentary of the Geneva Conventions, Article 1, § 162, available under https://ihl-databases.icrc.org/en/ihl-treaties/gci-1949/article-1/commentary/2016?activeTab=1949GCs-APs-and-commentaries#_Toc61884233.

20. The Arms Trade Treaty, adopted in New York, 2 April 2013, Article 6.

21. *Le Monde*, *“Macron urges halt to arms deliveries to Israel, deemed a ‘disgrace’ by Netanyahu”*, 5 October 2024.

22. See [CNCDH, Declaration, “Gaza: starvation as a weapon of war is strictly prohibited under international law”, Plenary Assembly of 28 March 2024](#), JORF no. 0082 of 7 April 2024, text no. 54. See also, CNCDH, *Opinion on the Draft Treaty on Arms Trade [Avis sur le projet de Traité sur le commerce des armes]*, Plenary Assembly of 21 February 2013.

23. United Nations General Assembly, Resolution A/RES/ES-10/24 of 18 September 2024, *op. cit.*, § 12.

24. Geneva Convention relative to the Protection of Civilian Persons in Time of War, adopted in Geneva on 12 August 1949, Article 55.

25. [ICC, Press Release, “Situation in the State of Palestine: ICC Pre-Trial Chamber I rejects the State of Israel’s challenges to jurisdiction and issues warrants of arrest for Benjamin Netanyahu and Yoav Gallant”, 21 November 2024.](#)

26. *Ibid.*

27. *Ibid.*

28. Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), adopted in Geneva on 8 June 1977, Article 90.

The Commission nationale consultative des droits de l'homme (CNCDH) is France's national human rights institution, accredited to the United Nations. A collegial, pluralist and independent institution, the CNCDH has three missions: to provide advice to public authorities regarding the respect of human rights and international humanitarian law, to monitor and report on France's compliance with its commitments in this area, and to Delivering human rights education programmes. The CNCDH is also the national commission for the implementation of international humanitarian law.

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