

Law-making in France

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Status: **Published: 19 February 2021** | Jurisdiction: **France**

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An introduction to the legislative process in France. The note explains the roles of the President of the Republic, legislature, executive, judiciary and other key bodies, and describes how different types of legislation are made.

Scope of this note

This note describes the legislative process for both primary and secondary legislation in France. It explains, at a high level, the organs of state and their role in making and changing laws. It also describes the different processes for enacting laws and issuing regulations, as well as how France implements EU law.

Constitution and organs of state: their role in law-making

France has a written constitution (*Constitution de la Cinquième République*), which forms the basis of the French legal system. An English version of the Constitution (as well as the original version in French) is available on Légifrance, which is the site that hosts official government publications (see [Légifrance: Constitution of 4 October 1958 \(English edition\)](#)). For links to further online sources, see [Online resources](#).

The Constitution provides the legal basis for the legislative, executive and judicial governance of France through various organs of state. In its preamble, it refers to three other fundamental texts:

- The 1789 Declaration of the Rights of Man and of the Citizen (*Déclaration des Droits de l'Homme et du Citoyen*).
- The Preamble to the 1946 Constitution of the Fourth Republic.
- The 2004 Charter for the Environment (*Charte de l'environnement*).

These texts all form part of the French "constitutional block" (*bloc de constitutionnalité*) and carry constitutional value.

President of the Republic

The President of the Republic (*Président de la République*) is the head of state. They ensure compliance with the

Constitution and, through their arbitration, ensure the proper functioning of public authorities and the continuity of the French state. The President is elected every five years by direct popular vote.

The role of the President is defined in articles 5 to 19 of the Constitution.

The President has a direct impact on the political life of the country and plays a significant role in foreign and domestic affairs. Unlike in some countries, it is not a purely ceremonial position.

In relation to making new laws, the President has powers to:

- Promulgate laws and require Parliament to reopen debate on a law that has been presented for promulgation for the first time (see [Final stage: promulgation and publication](#)).
- Sign delegated legislation and regulations (see [Ordnances \(ordonnances\)](#): a form of delegated legislation and [Regulation \(executive instruments\)](#)).
- Submit certain Bills to a referendum or refer a law or a Treaty to the Constitutional Council (*Conseil constitutionnel*) for consideration. For information on the Constitutional Council, see [Judiciary](#).

Government

The government (*gouvernement*) determines and conducts state policy. Members of the government cannot simultaneously hold any parliamentary office.

The remit of the government is set out in articles 20 to 23 of the Constitution.

The Council of Ministers (*Conseil des ministres*) ([article 9, Constitution](#)) is a subset of the government, comprised of senior government ministers. The Council of Ministers is chaired by the President, who appoints the Prime Minister (*Premier ministre*) to direct the actions of the government. The President also appoints other

members of government on the recommendation of the Prime Minister.

The Prime Minister exercises legislative and regulatory powers to:

- Introduce Bills into Parliament (*article 39, Constitution*).
- Countersign instruments of the President, subject to certain exceptions (*article 19, Constitution*).
- Refer disagreements between the government and Parliament to the Constitutional Council for adjudication (*article 41, Constitution*).
- Make regulations that do not fall within the scope of statute law (see Regulation (executive instruments)). This right may be delegated to other members of the executive.

The government may ask Parliament for authorisation to enact delegated legislation, which is subject to subsequent Parliamentary approval (see Ordinances (*ordonnances*): a form of delegated legislation).

A twin-headed executive

The Prime Minister is empowered under the Constitution to manage the actions of the government (*article 21, Constitution*). However, the President typically wields significant power over the executive, as it is the President who appoints the Prime Minister. Therefore, the executive may be described as being twin-headed.

The exception to this is if the party of the President is different from the majority party in Parliament: this is known as “co-habitation”. In such cases, the Prime Minister is selected from the party with the parliamentary majority. This effectively transfers political supremacy to the Prime Minister.

Co-habitation was made more unlikely by a constitutional amendment in 2000, which shortened the presidential term from 7 to 5 years. Since then, presidential elections have been held one month before National Assembly elections, making it more likely that the party of the President will be the same as the majority party in Parliament.

Legislature

Parliament (*Parlement*) exercises the legislative functions of the French state and supervises the actions of the government.

France has a bicameral legislature, composed of:

- **The National Assembly (*Assemblée nationale*).** A member of the National Assembly is known as a deputy (*député*). The House is elected every five years by direct, universal suffrage. Its official seat is the Palais Bourbon in Paris.
- **The Senate (*Sénat*).** Senators (*sénateurs*) are elected indirectly, for a term of six years, by a college of grand electors. The college of grand electors is composed of members of Parliament and regional and municipal representatives. The Senate sits in the Luxembourg Palace in Paris. It exists to ensure the representation of the territorial communities of the Republic.

Sittings of both Houses of Parliament are transcribed and published in France’s Official Journal (*Journal Officiel*) (see [Légifrance: Débats parlementaires](#)).

Parliament may also be convened, on the request of the President, in a single congress (*Congrès du Parlement*) instead of in separate Houses, to consider proposed constitutional amendments or to hear a presidential address (see Changes to the Constitution).

Although the National Assembly and the Senate have identical rights during the legislative procedure, if a disagreement arises with the Senate, the Prime Minister may ask the National Assembly to have the final say (see Subsequent parliamentary stage(s): adoption with possible shuttling, joint committee or referral to National Assembly for final say). In addition, only the National Assembly can call a motion of no confidence in the government (see Commitment of government responsibility).

Judiciary

France is a civil law system, which means it places a greater emphasis on statutes as found within various codes, instead of case law. French law does not adopt the general principle familiar to common law lawyers that judgments should follow the precedent established by previously decided cases with similar facts (that is, the principle of *stare decisis*). Judges are not required to follow the decision of a higher court. Each case is decided on an individual basis according to how it relates to the codified law and how the judge chooses to interpret that law. Consequently, judges do not create binding case law, as occurs in common law countries, such as the UK. Nevertheless, a series of similar judgments of the Cassation Court (*Cour de Cassation*) and the Council of State (*Conseil d’État*) (the highest courts for ordinary and administrative justice, respectively) is treated as highly persuasive under the doctrine of *jurisprudence constante*. Moreover, a lower court is likely to be mindful of the decisions of a higher court, which can ultimately quash its judgments on appeal. Therefore, legal judgments are an important source of law.

Constitutional Council

The Constitutional Council (*Conseil constitutionnel*) is the highest constitutional authority in France. It is composed of nine members: three members appointed by the President of the Republic, three members appointed by the President of the National Assembly and three members appointed by the President of the Senate. Former Presidents of the Republic may also choose to sit in the Constitutional Council. The appointment procedure involves the issue of an opinion, in accordance with the procedures of the appointing authority, from the constitutional law committee of each House. The appointment of a candidate may be blocked by a three-fifths majority vote.

The Constitutional Council has the power to declare a Bill and other prospective legislative instruments unconstitutional. Any provisions of a Bill that are declared unconstitutional must not be promulgated or implemented.

The Constitutional Council may also rule on existing legislative provisions, which, if found unconstitutional, will be repealed. The Constitutional Council may consider whether a provision that is already in force violates the rights and freedoms guaranteed under the Constitution, acting on a referral by the Council of State or the Cassation Court. In such cases, constitutional review is initiated by an applicant filing the question during proceedings before a court. Such cases involve applications for a priority preliminary ruling on the issue of constitutionality (*question prioritaire de constitutionnalité* (QPC)) (see Conformity with the Constitution: role of Constitutional Council).

Forms of legislation, regulation and guidance

Legislation

Legislation in France may take the form of constitutional laws (*lois constitutionnelles*), ordinary laws (*lois ordinaires*), institutional laws (*lois organiques*) and referendum laws (*lois référendaires*).

Constitutional laws

A constitutional law is a law revising the Constitution (that is, the law modifies, repeals or supplements provisions of the Constitution).

The Constitution sits at the pinnacle of the French hierarchy of norms, above all other forms of law and regulation, including international treaties and EU law (see Hierarchy of norms). Article 54 of the Constitution provides that if a proposed international treaty or EU law contains a clause contrary to the Constitution, authorisation to approve or

ratify that treaty or EU law may only be given after the Constitution has been amended.

Given its high status, the enactment of constitutional laws requires a special procedure to be followed (*article 89, Constitution*) (see Changes to the Constitution).

Ordinary laws

Ordinary laws are laws that deal with general legislative matters, as described in article 34 of the Constitution, which are passed under the ordinary legislative procedure and follow the parliamentary shuttle (see Ordinary legislative procedure). Ordinary laws include, among other things, the following sub-categories:

- **Finance laws (*lois de finances*)**. Finance laws are used to approve the state budget. They authorise the government to collect tax and incur public expenditure for a specified period. These are ordinary laws, but they are adopted as institutional laws. Finance Bills may be introduced into Parliament at the sole initiative of the government and are directly deposited with the National Assembly. Finance Bills are subject to a strict timetable.
- **Social security financing laws (*lois de financement de la sécurité sociale*)**. A social security finance law is a law to approve the social security budget and set the direction of health and social security policy. These are also ordinary laws but, like finance laws, they are adopted as institutional laws.
- **Programme laws (*lois de programmation*)**. A programme law is a multi-year law setting out national policy and financing for a particular area (for example, justice or defence).
- **Enabling laws (*lois d'habilitation*)**. An enabling law is used to delegate legislation to the executive (for example, so that it can implement government policy expeditiously). Enabling laws are also commonly used for the purposes of transposing EU legislation (see Ordinances (*ordonnances*): a form of delegated legislation and How is EU law implemented?).

Institutional laws

Institutional laws are laws whose adoption is provided for in the Constitution to specify how public institutions are organised and function (*article 46, Constitution*).

Following the ordinary legislative procedure, an institutional law must be submitted for examination by the Constitutional Council before its promulgation (*article 61, Constitution*).

Referendum laws

Referendum laws are not passed by Parliament but are submitted to a public referendum according to

the procedure in article 11 of the Constitution (see Referendum laws).

Ordnances (*ordonnances*): a form of delegated legislation

The government may seek powers from Parliament to enact an ordinance (*ordonnance*) on matters that are otherwise governed by statute (*article 38, Constitution*). An ordinance is issued by the Council of Ministers after consultation with the Council of State (see Judiciary). It must also be signed by the President (*article 13, Constitution*).

An ordinance is a form of delegated legislation and requires an enabling law to authorise it. The ordinance only becomes law if Parliament ratifies it by the cut-off date in the enabling law.

Before its ratification by Parliament, the ordinance is merely an executive instrument (see Hierarchy of norms). Once ratified, it gains statutory effect. At this point, to the extent that it concerns matters governed by statute, it can only be modified by a law passed by Parliament.

Recourse to ordinances has become increasingly common. This procedure is particularly useful for highly “technical” reforms. If Ordinances were not used, such reforms would take up too much of parliamentary time and reduce the amount of time for more straightforward Bills.

Regulation (executive instruments)

The Constitution draws a distinction between matters to be determined by legislation, and which therefore concern Parliament, and matters governed under regulations (*règlements*) issued by the government. A finite list of legislative matters is set out in article 34 of the Constitution. All other matters fall within the remit of the government (*article 37, Constitution*).

Regulations can take the form of the following types of executive instrument:

- **Decrees (*décrets*).** These are issued by the Prime Minister or the President. Decrees can be divided into three categories:
 - decrees that have been deliberated in the Council of State (*décrets en Conseil d’État*);
 - decrees that have been deliberated in the Council of Ministers (*décrets en Conseil des Ministres*); and
 - simple decrees (*décrets simples*), which are decrees that have not been deliberated in either the Council of State or in the Council of Ministers.
- Like regulations, decrees are signed by the President (*article 13, Constitution*).

- **Orders (*arrêtés*).** These are issued by government ministers, as well as prefects and mayors, under a delegation of powers by the Prime Minister. Orders define the scope of the law within a specific area of responsibility.

Guidance

Executive bodies may issue non-mandatory guidance. The principal forms of guidance that are issued by government departments to communicate with civil service officials and staff are:

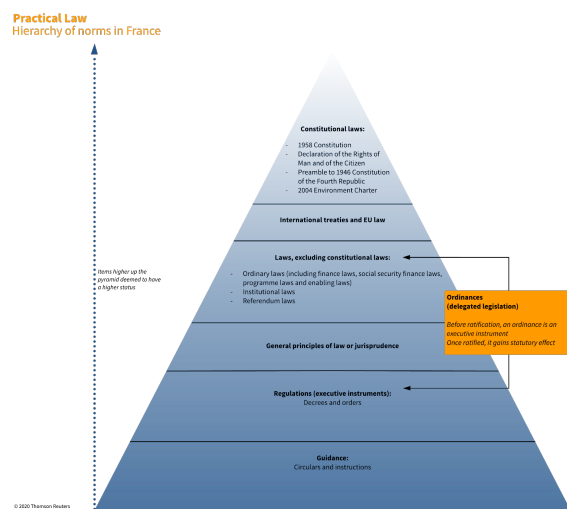
- Circulars (*circulaires*).
- Instructions (*directives*).

Both instruments set out the principles of a policy, establish operating rules for services and provide guidance on the application of laws and regulations.

Hierarchy of norms

The French legal system can be described as a hierarchy of norms. The Constitution is at the top of the hierarchy, as it takes precedence over all other sources of law. The norms towards the bottom of the hierarchy, notably regulations and administrative acts, carry less weight than those above them. Therefore, in the event of any inconsistency, the constitution takes precedence over an ordinary law, which in turn takes precedence over regulations and administrative acts.

The further down the hierarchy, the greater the number of legal norms, hence its pyramidal shape, as illustrated below.



(To view a larger version of this diagram, right-click on it once and select “View image”. The image will appear in a pop-up. To enlarge the diagram, hover over it with your cursor (which will change to a magnifying glass) and

left-click once. If you wish to print the diagram, select "Print" or CTRL+P from the menu in the top right corner.)

Codification of French law and regulation

France uses a system of legal codification first established under the Napoleonic Code of 1804. This code is usually referred to as the Civil Code (*Code Civil*).

The Codes consolidate laws and decrees that relate to the same subject (for example, environmental protection) into a single text. There are now over seventy codes covering different legal areas, such as the Commercial Code (*Code de Commerce*). Most are hierarchically ordered: a legislative section (*partie législative*) precedes a regulatory section (*partie réglementaire*).

An article of a law is indicated by the prefix "L" or "LO" for institutional laws. An article of a decree is preceded by the prefix "R", "R*", "D*" or "D", depending on whether it has been deliberated:

- In the Council of State.
- In the Council of State and the Council of Ministers.
- In the Council of Ministers.
- By neither the Council of State nor the Council of Ministers (simple decrees).

The High Commission for Codification (*Commission supérieure de codification*), chaired by the Prime Minister, is responsible for co-ordinating the codification of laws and regulations.

Ordinary legislative procedure

The rules governing the initiation of a Bill and, in general, the rules of parliamentary procedure, are set out in the Constitution, as well as the Rules of Procedure established for the National Assembly and the Senate (see [Assemblée nationale: Règlement de l'Assemblée nationale](#) (in French) and [Sénat: Règlement du Sénat](#) (in French)).

Ordinary Bills can be introduced both by members of Parliament (MPs) (National Assembly and Senate) and by the Prime Minister, or by any other minister on behalf of the Prime Minister.

The ordinary legislative process can be broken down into the following stages:

- **Preliminary stage.** The Bill is prepared for submission to Parliament. In the case of a government Bill, the Bill will undergo policy development, pre-legislative

scrutiny and discussion in the Council of Ministers. A private members' Bill will be reviewed by the Office of the Presidency of the National Assembly or the Senate (whichever House is presented with the Bill) for its admissibility to Parliament. (See Preliminary stage: preparing and review of Bills and Summary of preliminary stage.)

- **First parliamentary stage.** The Bill is introduced to the first House of Parliament (either the National Assembly or the Senate). It is tabled and submitted to a parliamentary committee (*commission*). The committee examines the Bill and delivers its report to the House, which then discusses and votes on every clause of the Bill (see *First parliamentary stage: passage through the first House*).
- **Second parliamentary stage.** The Bill, as amended by the first House, is transmitted to the second House for its approval. The Bill goes through a similar process in the second House (see *Second parliamentary stage: passage through the second House*).
- **Subsequent parliamentary stage(s).** If the National Assembly and the Senate do not approve the same text of the Bill, the Bill may undergo one or more of the following additional stages:
 - a second passage through both Houses of Parliament;
 - the examination of the Bill by a special Joint Committee of both Houses;
 - a definitive ruling by the National Assembly.(See *Subsequent parliamentary stage(s): adoption with possible shuttling, joint committee or referral to National Assembly for final say*.)
- **Final stage: promulgation and publication.** The new law is promulgated by the President. It is then published in the Official Journal. (See *Final stage: promulgation and publication*.)

Before its promulgation, a Bill that has been adopted may be referred to the Constitutional Council to confirm that the Bill conforms to the principles of the Constitution.

Government and private members' Bills

Both the Prime Minister, who leads the government, and MPs have the right to initiate legislation (*article 39, Constitution*):

- A government Bill (that is, a Bill that is initiated by the Prime Minister or by any other minister on behalf of the Prime Minister) is known as a legislative plan (*projet de loi*).
- A private members' Bill (PMB), which is initiated by an MP, either a deputy or a senator, is called a legislative proposal (*proposition de loi*).

Preliminary stage: preparing and reviewing the Bill

Before a Bill enters Parliament, it first undergoes a preliminary stage, the nature of which will depend on the type of Bill.

- **Government Bill.** Preparation of a government Bill involves policy development (often including public consultation), pre-legislative scrutiny by the State Council and discussion in the Council of Ministers. (See Pre-legislative scrutiny and discussion in Council of Ministers (government Bill).)
- **PMB.** Preparation of a PMB involves a review by the office of the National Assembly or the Senate (whichever House is presented with the PMB) for its admissibility to Parliament (see Review of PMB for admissibility).

Pre-legislative scrutiny and discussion in Council of Ministers (government Bill)

Before the submission of the Bill to Parliament, the government must consult with the State Council on the drafting of the initial text of the Bill. The Bill is then discussed in the Council of Ministers (*article 39 al. 2, Constitution*).

Review of PMB for admissibility

One or more deputies or senators may table a PMB in their respective Houses of Parliament by submitting it to the Office of the Presidency of the relevant House.

A PMB may be rejected if it is either financially or legally inadmissible.

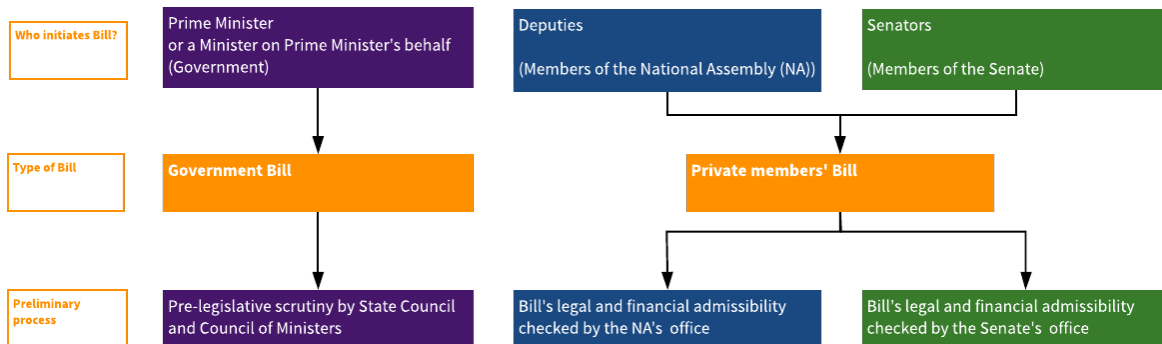
PMBs submitted by deputies or senators are financially inadmissible where their enactment would result in either a diminution of public revenue or the creation or increase in public expenditure (*article 40, Constitution*).

Both the government and the President of the House may, at any stage of the legislative process, argue that a PMB is legally inadmissible if they consider that it does not fall within the domain of the law or that it is in conflict with the government’s power of issuing ordinances. If the government and the President of the House disagree, either of them may refer the matter to the Constitutional Council. The Constitutional Council must then decide the matter within eight days of the referral (*article 41 al.2, Constitution*).

Summary of preliminary stage

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Preliminary stage: government and private members' Bills



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First parliamentary stage: passage through first House

Each Bill subject to the ordinary procedure undergoes three stages in the House (either the National Assembly or the Senate) where it is initiated:

- Tabling of the Bill in Parliament and submission to a parliamentary committee (*commission*) (see Tabling of Bill in Parliament and submission to parliamentary committee).
- Examination of the Bill in committee (see Examination of Bill in committee (*commission*)).
- Discussion of, and voting on, the Bill in a plenary debate (*séance publique*) (see Plenary debate (*séance publique*)).

Tabling of Bill in Parliament and submission to parliamentary committee

Government Bills may be initiated in either House, except for:

- Finance Bills and Social Security Bills, which must start in the National Assembly.
- Bills primarily dealing with the organisation of the territorial communities, which must start in the Senate.

(Article 39 al. 2, Constitution.)

When tabling a Bill, the government may inform the House that it intends to apply the accelerated procedure, which will have an impact on the timing of the subsequent parliamentary stages. It may also affect the route through which the final text of the Bill is agreed (see Subsequent parliamentary stage(s): adoption with possible shuttling, joint committee or referral to National Assembly for final say).

Once registered with the Office of the Presidency, a notice of tabling of the Bill is reported in the Official Journal and the Bill is announced at the next sitting of the House.

The Bill is then printed, distributed and referred for consideration to the relevant standing committee of the House unless an ad hoc committee has been set up.

A government Bill must be accompanied by an impact assessment (*étude d'impact*) (article 8, Institutional Law no 2009-403 of 15 April 2009).

Pre-committee stage scrutiny of PMBs

The President of either House of Parliament may submit a PMB that has been tabled by an MP for consideration by the Council of State before it enters the committee stage, unless the deputy or senator who tabled the PMB disagrees (article 39 al. 5, Constitution).

Examination of Bill in committee (commission)

The first examination of the Bill (either a government Bill or PMB) in Parliament takes place in a standing or ad hoc committee of the House. The Bill is submitted either to one of the six regular commissions or, at the

request of either the government or the House, to a specially appointed ad hoc commission. The Bill can also be submitted either to one commission or to a number of commissions.

A committee spokesperson (*rapporteur*) is appointed to assess the Bill and draw up a report containing an analysis of the text, along with suggestions. The rapporteur's report is normally distributed to the committee during the week preceding its consideration of the Bill.

The committee debates the Bill, conducts hearings and votes on the text. The committee may call for hearings to obtain additional information about a text from, for example, members of government or outside experts and specialists in the field. It makes suitable recommendations either in favour or against the Bill. It can also propose certain amendments.

A final report of the committee is drawn up, which summarises its work and proposes either the adoption of the Bill (with or without amendments) or the rejection of the Bill. This report is available on the House websites.

Plenary debate (*séance publique*)

After the committee stage, the Bill moves to a plenary debate involving the full House. Unless the accelerated procedure is adopted or the Bill is a Finance Bill, Social Security Finance Bill or a Bill concerning a state of crisis, there is a minimum period of six weeks between the tabling of the Bill and its plenary debate.

The plenary debate begins with a general examination of the Bill. This involves the rapporteur presenting their findings during the committee stage. If the Bill is a government Bill, the relevant government minister may also make a presentation. Members of the House can raise motions relating to the Bill. There is a detailed examination of the Bill, where each article is scrutinised and amendments may be proposed. Following the Bill's detailed examination, members of the House (deputies or senators) can give time-limited speeches.

After voting on individual amendments proposed during the debate, a vote on the Bill as a whole (*vote sur l'ensemble*) is held. If the Bill is approved (with or without amendments), it is transmitted to the second House (that is, the Senate if the Bill started in the National Assembly and vice versa).

Second parliamentary stage: passage through the second House

The Bill goes through the same process in the second House as it did in the first House: tabling, examination in committee and a plenary session, including a vote on the Bill as a whole. However, the minimum period

between the tabling of the Bill and its plenary debate is reduced to four weeks (as opposed to six weeks in the first House), unless an accelerated procedure has been adopted or the Bill is a Finance Bill, Social Security Finance Bill or a Bill concerning a state of crisis.

Subsequent parliamentary stage(s): adoption with possible shuttling, joint committee or referral to National Assembly for final say

Once a Bill has passed through both Houses of Parliament, there are two possible outcomes:

- Both Houses may agree on the same version of the Bill, in which case the Bill can be submitted to the President for promulgation.
- The National Assembly and Senate may adopt the Bill on different terms.

In the latter case, and provided the Bill is not subject to an accelerated procedure, it will be sent back to the first House for the first and second parliamentary stages to be repeated.

Alternatively, the Prime Minister or the President of either House may convene a joint committee of both Houses (*commission mixte paritaire*), comprised of seven deputies and seven senators, to agree on the final Bill text if either of the following conditions apply:

- The accelerated procedure has been adopted.
- The National Assembly and the Senate again have failed to adopt the Bill on the same terms.

The joint committee is entrusted with the task of reaching a compromise on the clauses on which agreement has not been reached.

If this mediation procedure fails to produce a compromise, the government can proceed to a new reading in each House and then ask the National Assembly to vote on the text as presented at its final reading. However, this situation has only arisen for about 10% of laws introduced since 1958 (the year of the creation of France's Fifth Republic).

Final stage: promulgation and publication

Once the Bill has been approved, it is sent to the general secretariat of the government, which presents it to the President of the Republic for signature. The President may remand the Bill for further deliberation. Otherwise, the President must promulgate the law within fifteen days and publish it in the Official Journal. This time period is suspended if the Bill or certain provisions of the Bill are submitted for review by the Constitutional Council.

Conformity with the Constitution: role of Constitutional Council

Before institutional laws can be promulgated, they must be referred to the Constitutional Council for a ruling on their conformity with the Constitution (*article 61 al. 1, Constitution*). This consultation requirement also applies to referendum Bills (see Referendum laws) before they are submitted to referendum and changes to the Rules of Procedure for the Houses of Parliament before they come into force.

In addition, ordinary Bills or certain provisions of ordinary Bills may be referred to the Constitutional Council before promulgation if they raise constitutional questions. A referral may be made by the President of the Republic, the Prime Minister, the President of the National Assembly, the President of the Senate, 60 deputies or 60 senators (*article 61 al. 2, Constitution*).

The Constitutional Council checks that the procedural requirements regarding the drafting of the Bill, its adoption, and the conditions for exercising any rights of amendment have been met. It also reviews the Bill for conformity with the Constitution and to the constitutional values stemming from the fundamental principles identified by the laws of the Republic, the 1789 Rights of Man and of the Citizen, the preamble of the Constitution of the Fourth Republic (27 October 1946) and the 2004 Charter for the Environment.

The Constitutional Council must normally deliver its ruling within one month. However, this time limit is reduced to eight days for urgent matters (*article 61 al. 3, Constitution*).

The Constitutional Council can declare a law totally or partially non-compliant. The provisions of a law declared unconstitutional are inapplicable. Another possibility for the Council is to declare a legislative provision in conformity with the Constitution, subject to its interpretation (that is, its guidance on the interpretation of the law, outside which the Constitution would not be respected).

A constitutional revision on 23 July 2008 also recognised the right for any person who is involved in legal proceedings before a court to argue that a statutory provision infringes

the rights and freedoms guaranteed by the Constitution (*Article 61-1, Constitution*). If, during proceedings in progress before a court, it is considered that the application of a statutory provision infringes the rights and freedoms guaranteed by the Constitution, a referral may be made to the Constitutional Council by the Council of State or by the Cassation Court for a Priority Preliminary Ruling on the Issue of Constitutionality (*question prioritaire de constitutionnalité*). The Constitutional Council must render its ruling on the admissibility of the request within three months.

Once conditions of admissibility have been complied with, the Constitutional Council renders its ruling and, if need be, repeals the challenged statutory provision. Prior to this reform, it was impossible to challenge the constitutionality of a statute which had come into force.

(To view a larger version of this diagram, right-click on it once and select "View image". The image will appear in a pop-up. To enlarge the diagram, hover over it with your cursor (which will change to a magnifying glass) and left-click once. If you wish to print the diagram, select "Print" or CTRL+P from the menu in the top right corner. For a PDF version of this flowchart, see [Flowchart, The ordinary legislative procedure in France.](#))

Special adoption procedures

In addition to the ordinary legislative procedure, the following special adoption procedures exist:

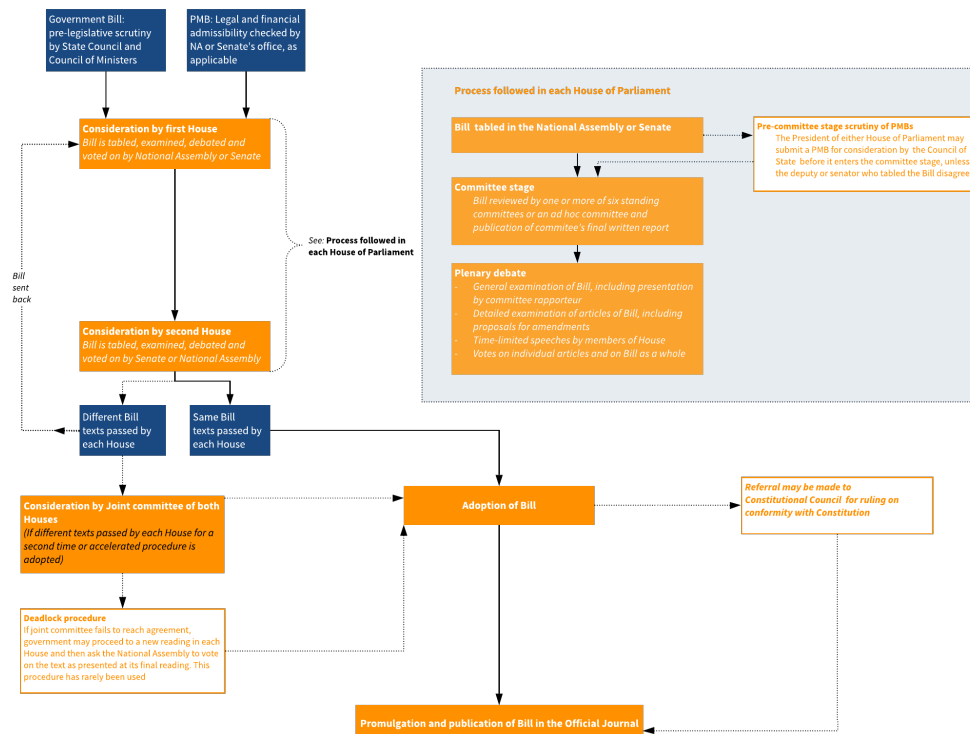
- Simplified examination procedure (*procédure d'examen simplifiée*) (see Simplified examination procedure).
- Blocked vote (*vote bloqué*) (see Blocked vote).
- Commitment of government responsibility (*engagement de responsabilité du gouvernement*) (see Commitment of government responsibility).

Simplified examination procedure

For Bills that have broad political agreement (for example, the ratification of an international treaty), a simplified examination procedure may be adopted for the plenary debate. Where this is the case:

Summary of ordinary legislative procedure

Practical Law
The ordinary legislative procedure in France



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- There is no general discussion of the Bill or speeches on articles.
- Members only vote on articles for which amendments have been proposed.
- There are restrictions on who can make speeches on the Bill.
- If no amendments are put forward, the entire Bill is immediately put to the vote.

Blocked vote

Under the blocked vote procedure, the government can require the House considering a Bill to proceed to a single vote on all or part of the text under debate, retaining only the amendments proposed or accepted by the government (*article 44 al.3, Constitution*). This means that votes on individual articles and amendments not supported by the government can be suppressed ("blocked"), although they may still be debated in the House.

The government can choose when to adopt this procedure. It can also determine the text subject to the single vote, which may be the whole Bill or one or more specified articles.

Commitment of government responsibility

The Prime Minister is empowered under article 49 al. 3 of the Constitution to make certain Bills in the National Assembly a matter of government responsibility. This means that the Bill will be deemed to have been adopted on the engagement of this procedure by the government, unless a motion of no confidence (*motion de censure*) tabled within 24 hours is passed by the National Assembly. For a motion of no confidence to pass, it must be signed by at least 10% of the members of the National Assembly and secure a majority of the votes cast by the members of the National Assembly (*article 49 al. 2 and 3, Constitution*).

As this procedure is intended for exceptional circumstances to avoid parliamentary deadlock, the Prime Minister may only use it for:

- A Finance Bill.
- A Social Security Financing Bill.
- One other government Bill or PMB in any given parliamentary session.

This procedure can only be adopted in the National Assembly. Unlike the block vote, it cannot be used in the Senate, where the government does not have authority.

As is the case with the block vote procedure, the government may choose when to apply this procedure and the content of the Bill covered by the motion. In

addition, this procedure has the effect of immediately suspending the discussion of the relevant Bill.

Changes to the Constitution

Either the President, on the recommendation of the Prime Minister, or a member of either House of Parliament, can initiate a Bill proposing an amendment to the Constitution (*article 89 al.1, Constitution*).

If the Bill is proposed by the President, it is known as a "constitutional government Bill" (*projet de loi constitutionnelle*). A constitutional Bill initiated by an MP is known as a "constitutional private members' Bill" (*proposition de loi constitutionnelle*). Unlike a standard government Bill, a constitutional government Bill does not need to be accompanied by an impact assessment.

The process for passing a constitutional Bill is broadly similar to the ordinary legislative procedure but has some important differences. These are as follows:

- A constitutional Bill must be passed by both Houses of Parliament and the government may not refer the Bill to the National Assembly for a final determination. This means that the Bill may shuttle back and forth between both Houses until agreement is reached.
- Before a constitutional Bill can be promulgated, the President of the Republic must either:
 - submit it to a referendum; or
 - submit it for approval to a specially convened Congress of Parliament (*Congrès du Parlement*). A Congress of Parliament takes place at the Palace of Versailles and brings together members of both Houses of Parliament. If a Congress of Parliament is convened, a supermajority of three-fifths of the votes cast is required to amend the Constitution.

Referendum laws

The Constitution provides that, on certain issues, a Bill may be put to a referendum by the President either on the recommendation of the government or on a joint motion of both Houses of Parliament. The latter type of Bill (a private members' referendum Bill proposed by parliamentarians) requires the support of at least one-fifth of the MPs supported by one-tenth of the voters registered on the electoral lists.

The only issues that may be put to a referendum are Bills concerning:

- The organisation of public authorities.
- Reforms relating to the economic, social or environmental policy of the state.

- Public services contributing to economic, social or environmental affairs of the state.
- The ratification of a treaty that would affect the functioning of French institutions.

(Article 11 al. 1 and 3, Constitution.)

The process for enacting referendum laws is governed in accordance with Book VI ter of the Legislative Section of the Electoral Code (*Code électoral*), which reflects the institutional and ordinary laws that have been passed to implement article 11 of the Constitution.

All referendum Bills, whether initiated by the government or by MPs, must be submitted to the Constitutional Council for a prior constitutional review (see Conformity with the Constitution: role of Constitutional Council).

In addition, a private members' referendum Bill must have the support of at least one-tenth of voters enrolled on the electoral roll (*article 11 al. 3, Constitution*). Therefore, once the Constitutional Council has checked the Bill's purpose and its conformity with the Constitution, a consultation process begins. Citizens can express their support for the proposed referendum by electronic vote. An independent commission oversees the process and submits its observations to the Constitutional Council, which determines whether the Bill is admissible.

Even if a private members' referendum Bill is held to be admissible, it is not necessarily the case that a referendum will be called, although there will often be significant political pressure to do so. However, the President must call a referendum if the Bill has not been scrutinised by both Houses of Parliament within six months of the publication of the Constitutional Council's determination in the Official Journal.

If a referendum (on either a government or PMB) is held and the Bill achieves a majority, the President must promulgate the law within fifteen days of announcing the result (*article 11 al. 5, Constitution*).

If a PMB is rejected in a referendum, another Bill on the same subject may not be put to a new referendum before the expiry of two years (*article 11 al. 4, Constitution*). This restriction does not apply to referendum Bills proposed by the government.

How is EU law implemented?

EU law with direct applicability under Article 288 of the Treaty on the Functioning of the European Union, such as EU regulations, does not require an intermediate implementing step to give it legal force in France.

Other forms of EU law, such as EU directives, set down certain results that must be achieved and establish the time limit for their implementation in individual

member states. Implementing measures must be passed at national level to bring the domestic laws and regulations in line with the requirements of EU law.

In France, the transposition of EU law is achieved through different types of legislative and regulatory instruments, depending on the subject matter, importance and volume of the provisions to be transposed. The usual separation of powers between Parliament and the government applies, so that transposition may require the use of legislation (laws or ordinances) or regulation (decrees or orders), or both. The usual rules regarding initiation and formulation of these instruments apply equally to legislation or regulation transposing EU law. If a law is proposed, as with all government Bills, an impact assessment must accompany the submission of the Bill to each House of Parliament. The impact assessment may incorporate a reconciliation table (*tableau de concordance*), describing how the EU measures have been transposed.

Each government department is responsible for preparing the transposition of directives relevant to their area of government. European co-ordination within the French government is overseen by the General Secretariat for European Affairs (*Sécretariat général des affaires européennes* (SGAE)). Among other things, the SGAE transmits texts of new European instruments to the lead department and other relevant government departments, co-ordinates cross-departmental meetings and notifies the European Commission when the transposition instrument has been passed.

To find the legal instruments that have been adopted in France to transpose an EU directive, you can search the EUR-lex database:

- Find the legal act in question on the EUR-lex database (see [EUR-lex: Access to European Union law](#)).
- Note down the CELEX number of the EU law in question (for example, 32013L0034).
- Replace the first digit with the number 7 (for example, 32013L0034 becomes 72013L0034).
- Add FRA (the country code for France) and an asterisk at the end (for example, 72013L0034FRA*) and re-run the database search.

Online resources

For more information on the French legislative process, see:

- **Légifrance (official legislation portal)**. A database of all laws and regulations in force in France. Contains links to English language versions of certain texts, including the Constitution. It is maintained by the General Secretariat of the Government (*Sécretariat général du gouvernement*).

Law-making in France

- **National Assembly website (English language version)**. Contains information on the lower House of Parliament. The Rules of Procedure of the National Assembly, as well as Bills and information about the status of Bills, are available to download.
- **Senate website (English language version)**. Contains information on the upper House of Parliament. The Rules of Procedure of the Senate, as well as Bills and information about the status of Bills, are available to download.
- **French government website (English language version)**. Contains, among other things, government press releases, consultations and information about current government policies, some of which have been translated into English.
- **Service-public.fr**. A database which is a central point of entry for all administrative procedures. It is the most popular government website.

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