THE NATIONAL ASSEMBLY IN THE FRENCH INSTITUTIONS

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SERVICE DES AFFAIRES INTERNATIONALES ET DE DÉFENSE
NOTE

These files answer questions often asked to the departments of the French National Assembly.

All the departments of the National Assembly have played a part in their writing and have been guided by two main principles:

- The files represent summaries of each subject;
- The files are practical, in order to be easily used by the readers.

Therefore this collection is not a textbook of constitutional or parliamentary law. Each file deals with a different topic autonomously and thus there may be some overlapping between files.

This document is regularly updated and supplemented.

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General Presentation of French Political Institutions

Key Points

The Constitution of October 4, 1958 was designed in order to curb the excesses of the assembly system at a time characterized by the inability of the Fourth Republic to deal with the crises created by decolonization.

At the centre lies the President of the Republic who is the real institutional ‘keystone’. By his arbitration, he ensures “the proper functioning of the public authorities”. His powers have been gradually strengthened.

The Prime Minister directs the actions of the Government, which shall “determine and conduct the policy of the Nation”.

Parliament is made up of two assemblies, the National Assembly and the Senate, which examine and pass laws, monitor Government and assess public policies. The National Assembly, which is elected by direct universal suffrage, plays a predominant role in the legislative procedure, since it has the final decision in the case of disagreement with the Senate and it may, in addition, vote the Government out of office.

The constitutional revision of July 23, 2008 strengthened the powers of Parliament.

See also files 2, 3, 4, 6, 30, 31, 32, 39, 43 and 45

I. – THE CONSTITUTION OF THE FIFTH REPUBLIC

1. – THE FIFTH REPUBLIC – A REACTION TO THE DIFFICULTIES ENCOUNTERED BY THE FOURTH REPUBLIC

The final years of the Fourth Republic were characterized by the paralysis of the system and by its inability to confront the major challenge posed by decolonization. Faced with an uprising in Algeria, which was demanding its independence, and the threat of an insurrectional coup d’état by French military leaders based in Algiers (May 13, 1958), René Coty, the President of the Republic, called upon General de Gaulle, who, at that stage, had withdrawn from political life, to form a new Government.

The Government took office on June 1, 1958. On the basis of the Constitutional Act of June 3, it established a Consultative Constitutional Committee which, during the summer of 1958, examined the draft Constitution drawn up by the Minister of Justice, Michel Debré.
The draft, which was voted on by referendum and was passed on September 28 by 79% of the votes cast, was promulgated on October 4, 1958.

2. – Revisions to the Constitution since 1958

Article 89 of the Constitution lays down the mechanisms for its revision. Bills concerning constitutional revision, be they Government bills submitted by the President of the Republic upon a proposal of the Prime Minister or bills originating in Parliament, must first be passed by the two assemblies on separate occasions but in identical terms. The usual prerogative of the National Assembly to have the “final say” in the case of a disagreement with the Senate does not apply. The bill may, by decision of the President of the Republic, be submitted to a referendum. In the case of constitutional bills, the Head of State may submit it not to referendum but to the two assemblies convened in “Congress” (the bill is passed if accepted by three fifths of the votes cast).

So far, the Constitution has been modified on twenty-two occasions following this procedure, each time by way of a Government-sponsored bill in the name of the President of the Republic.

Some of these revisions have significantly changed the general working of the system and its institutions, including in the following cases:

- The extension of the right of referral to the Constitutional Council to sixty M.P.s or sixty Senators (1974);
- The introduction of a single parliamentary session (1995);
- The shortening of the Presidential term from seven to five years (2000);

Other constitutional amendments, although not fundamentally changing the nature of the system, have represented important steps in the promotion of gender equality (1999) or in the enshrinement in the Constitution of the abolition of the death penalty (2007).

Other modifications were of a more “technical” nature, such as, for instance, those changing the dates of parliamentary sessions (1963), creating the Court of Justice of the Republic (1993) or changing the legal status of the Head of State regarding criminal law. Numerous revisions have stemmed from the ongoing integration of France within the European Union (June 1992, January 1999, March 2003, March 2005 and February 2008).

However, the reform concerning the election of the President of the Republic by direct universal suffrage (1962) was not carried out by means of article 89 but directly by referendum, according to article 11 of the Constitution.
II. – GENERAL CHARACTERISTICS OF THE INSTITUTIONS OF THE FIFTH REPUBLIC

1. – A MIXED SYSTEM?

The institutions of the Fifth Republic borrow classic elements from both the parliamentary and the presidential systems. This has led some constitutional experts to classify the Fifth Republic as a “semi-presidential” system.

The parliamentary nature of the system is made clear by the existence of a Government led by a Prime Minister who is accountable for his actions before an assembly elected by direct universal suffrage. To counterbalance this accountability of the Government before the National Assembly, the latter may be dissolved by the Head of State.

On the other hand, the election of the President of the Republic by direct, universal suffrage, his major role in foreign policy but also his pre-eminence in the conduct of national policy, outside of periods of cohabitation, have no equivalent in such parliamentary systems as that of the United Kingdom or the Federal Republic of Germany where the function of the Head of State is essentially a matter of protocol. These elements in fact make the French system closer to the American model.

Besides, a number of factors have led to an increase in the powers of the Head of State, notably the reduction of the presidential term to five years and the fact that presidential elections now precede general elections.

2. – THE CONSTITUTION – SUPREME LAW

For a long time, the French legal tradition, deeply influenced by the writings of Jean-Jacques Rousseau (*The Social Contract*, 1762), granted absolute primacy to the law, passed by the representatives of the people and being the “expression of the general will” according to the terms of Article 6 of the 1789 Declaration of the Right of Man and Citizen.

Nonetheless, pursuant to the Constitution of the Fifth Republic, the Constitutional Council, a collegial body made up, in addition to the former heads of state, of nine members appointed by the President of the Republic and the presidents of the two assemblies is responsible for checking the conformity of the law with the Constitution before its promulgation. In the following years, the role of the Council was gradually strengthened. From the early 1970s, the Council broadened its monitoring capacity by including in its “constitutionality base” (i.e. the laws and texts to be used as reference for constitutional monitoring), the Declaration of 1789, the Preamble to the Constitution of 1946 and the fundamental principles identified by the laws of the Republic. In 1974, the ability to refer was broadened to sixty Members of the National Assembly and to sixty Senators, thus providing the parliamentary opposition with an important power.
In 1985, the Council declared that the law “only expresses the general will insofar as the Constitution is respected” (decision n° 85-197 DC of August 23, 1985). The lawmaker must act in compliance with all “principles with a constitutional value”.

This development was strengthened by the constitutional revision of July 23, 2008 which recognized the possibility of referral to the Constitutional Council after promulgation of the law if, during trial proceedings before a court of law, it is claimed that a statutory provision which has already been enacted infringes the rights and freedoms guaranteed by the Constitution (Priority Preliminary Ruling on the Issue of Constitutionality).

III. – THE EXECUTIVE

1. – THE PRESIDENT OF THE REPUBLIC – KEYSTONE OF THE INSTITUTIONS

The Constitution of the Fifth Republic places the President of the Republic in the highest position and makes him, in the words of Michel Debré, the “keystone” of the system. Article 5 of the Constitution provides that “the President of the Republic shall see that the Constitution is observed. By his arbitration, he ensures the proper functioning of the public authorities and continuity of the State. He is the guarantor of national independence, territorial integrity and observance of treaties”.

Since the constitutional revision of October 2, 2000, the President of the Republic is elected by direct universal suffrage for five years, as opposed to seven previously.

He is provided with individual powers which require no counter-signature. These powers place him at the very heart of French political and institutional life:

- He appoints the Prime Minister and may terminate his period of office;
- He may decide to speak before both Houses of Parliament convened in Congress;
- He may submit to referendum certain bills dealing with the organization of public authorities, with reforms concerning national economic, social or environmental policy or with public services associated with such policies;
- He may, after consulting with the Prime Minister and the Presidents of the two assemblies, declare the National Assembly dissolved;
- When the institutions of the Republic, the independence of the Nation, the integrity of its territory or the fulfilment of its international commitments are under serious and immediate threat, and when the proper functioning of the constitutional public authorities is interrupted, he shall take the measures required by such circumstances;
– He may refer a law or a treaty to the Constitutional Council and appoints one third of its members. The power of appointment vested in the President of the Republic is exercised after public consultation with the relevant standing committee in each assembly. The appointment is rejected when the sum of the negative votes represents at least three fifths of the votes cast by the two committees.

The President of the Republic is also provided with a number of shared powers. To use such powers he must obtain the counter-signature of the Prime Minister and, in some specific cases, of the minister concerned:

– Upon proposal of the Prime Minister, he appoints the other members of the Government;
– He presides over the Council of Ministers;
– He promulgates laws that have been fully adopted within fifteen days of their transmission to the Government and he may, before the expiry of this time limit, ask Parliament to reconsider the law or sections of the law;
– He signs the ordinances and decrees deliberated upon in the Council of Ministers and makes appointments to the civil and military posts of the State;
– He is the Commander-in-Chief of the armed forces.

The constitutional reform of 1962, which introduced the election of the President of the Republic by universal suffrage, strengthened his legitimacy substantially. From being a simple “referee” above party politics, he has become the real leader of a governing majority when the majority in the National Assembly coincides with that which elected him. He determines the main direction of the policies to be pursued by the Government.

2. – THE GOVERNMENT

The Constitution provides the Government with many powers.

According to the letter of the Constitution, it is the responsibility of the Government to determine and to conduct the policy of the Nation. Thus the Government has the means to direct, speed up or slow down the discussion of bills during the legislative procedure before the assemblies. The leader of the Government heads the civil service and is responsible for national defence. He has the power to make regulations, i.e. to take either general measures not falling within the ambit of the law or, more often, measures which set down the exact mechanisms for the application of the law (implementation decrees).

The Prime Minister and the Government rely upon the majority which supports them in the National Assembly and, at times, in the Senate.
Each member of the Government takes on a double role, both political and administrative. From an administrative point of view, the minister is placed at the head of a group of units which make up his ministerial department and over which he has hierarchical control by means of ministerial orders and circulars. In this way, he has the power to organize his administration. This allows him to play a pivotal role between the Government’s action and the administrative management in charge of implementing such action.

IV. – PARLIAMENT

1. – A BICAMERAL PARLIAMENT DOMINATED BY THE NATIONAL ASSEMBLY

The institutions of the Fifth Republic set up a Parliament consisting of two assemblies, the National Assembly and the Senate.

The National Assembly is made up of 577 M.P.s, elected for five years (except in the case of dissolution) by direct universal suffrage within constituencies. (Since the constitutional revision of July 23, 2008 this has become the maximum number and is set down in article 24 of the Constitution).

The Senate is made up of 348 Senators (the maximum number allowed by article 24 of the Constitution) elected for six years by indirect universal suffrage by a college of approximately one hundred and fifty thousand grand electors (95% of whom are delegates of municipal councils). As opposed to the National Assembly, which is wholly re-elected at each election, half the Senate is renewed every three years.

Thus, the institutions provide an unequal bicameralism which gives an advantage to the assembly elected by direct suffrage. Although the two assemblies have identical rights during the course of the legislative procedure, if a disagreement arises with the Senate, the Government may ask the National Assembly to have the final say. In addition, only the National Assembly can overturn the Government.

2. – RATIONALIZED PARLIAMENTARIANISM

In 1958, the new Constitution was intended to break with the assembly system, to bring an end to ministerial instability and to shield the Government from a growth in the prerogatives of Parliament to its detriment. It thus reduced such prerogatives.

This is why the rhythm of sessions was very strictly limited. Nonetheless, since the constitutional revision of August 4, 1995, there has been a single nine-month session in place of two sessions of eighty and ninety days.
The realm of matters for statute, i.e. laws passed by Parliament, was limited as follows:

– Only matters which are laid down by the Constitution (article 34 in particular), are considered matters for statute (laws). This disposition concomitantly broadens the scope of regulatory power. This measure represented a development which appeared very important in 1958 since, until then, laws could deal with all questions. In practice, however, the principal matters continue to fall within the ambit of statute;

– The Government has a series of means at its disposal to enforce the respect of this division between law and regulation. Thus it can declare inadmissible any amendment which encroaches on the ambit of regulation (article 41) or may use the procedure of “delegalization” (turning an apparent matter for statute into a matter for regulation) of provisions which appear matters for statute but which are in fact matters for regulation (article 37, paragraph 2). These provisions are rarely used, however. To provide them with a little more force, the constitutional reform of July 23, 2008, gave the presidents of both assemblies the power, which until then had only been held by the Government, to declare inadmissible an amendment which did not fall within the ambit of the law;

– The Government may ask Parliament to provide it with the right to legislate by ordinance in very precise areas and for a limited period (article 38). The Constitutional Act of July 23, 2008 however now imposes an explicit ratification of such ordinances by Parliament.

Financial inadmissibility was introduced by article 40 of the Constitution in the following terms: “Bills and amendments introduced by Members of Parliament shall not be admissible where their enactment would result in either a diminution of public revenue or the creation or increase of any public expenditure”.

The Government has specific rights during the course of the legislative procedure, although certain of these rights have been reduced by the constitutional revision of July 23, 2008:

– The Government controls a part of the agenda of the two assemblies, (since March 1, 2009, the rule is that only two out of four weeks are reserved for the consideration of bills chosen by the Government, although finance bills and social security financing bills do have priority);

– The Government can speed up the examination procedure for a bill by calling for the holding of a joint committee (made up of seven M.P.s and seven Senators) after only one reading of the bill before each assembly as long as the Conferences of Presidents of the two assemblies do not jointly oppose such an action;

– The Government may request a forced vote on all or some of the provisions being discussed before the National Assembly;
The Government may make its accountability on finance bills or social security financing bills, an issue of confidence; since March 1, 2009, the Government may make its accountability on any other Government or Member’s bill an issue of confidence only once per session. This procedure allows the bill to pass if no motion of censure is tabled or, if one is tabled, if it is not adopted.

In addition, the incompatibility between holding ministerial and parliamentary office results in creating a clear separation between ministers and M.P.s and Senators. This is totally different from the previous systems where executive office was systematically held by parliamentarians, and ministers had a right to vote in the assembly to which they were elected. The new version of the second paragraph of article 25 of the Constitution which was introduced in July 2008, provides however that an Institutional Act (in this case, Institutional Act n° 2009-38 of January 13, 2009) will set down the conditions in which M.P.s or Senators who accept ministerial positions will be only temporarily replaced by their substitute until they no longer hold such positions.

Thus, when compared to the previous system, the institutions of the Fifth Republic, generally speaking, are characterized by the strengthening of the power of the executive and the limitation of parliamentary activity.

The stability of the executive meant that various crises, both external (decolonization) and internal (May 1968) could be overcome without the continuity of the state being undermined. The Fifth Republic thus became, along with the Third Republic, one of the most stable systems in French constitutional history.

Given that this stability, thanks to the permanence of the fait majoritaire, or “majority phenomenon” (the fact that President and Parliament are of the same political family), can be considered as an established fact, it was considered possible in 2008, without calling it into question, to limit the means made available for the supremacy of the executive power and to strengthen the prerogatives of Parliament.
The President of the Republic

**Key Points**

The President of the Republic is elected for five years by direct, universal suffrage and is the keystone of the institutions of the Fifth Republic. This method of election provides him with legitimacy in keeping with the breadth of his powers.

These powers are either personal (the recourse to a legislative referendum provided for by article 11 of the Constitution, the right to dissolve the National Assembly, the emergency powers of article 16, the appointment of the Prime Minister, the right of referral to the Constitutional Council etc.) or submitted to the counter-signature of the Prime Minister (the appointment of ministers, the convening of Parliament in extraordinary session, the signature of ordinances, the promulgation of laws, the right to grant pardon etc.).

More generally, it is the responsibility of the President of the Republic to enforce respect of the Constitution, to ensure the proper functioning of the public authorities and to guarantee national independence and territorial integrity. He is the guarantor of the independence of the judicial authority.

The actual powers of the President of the Republic can change in certain circumstances: when the presidential and the parliamentary majority coincide, the office of the President has primacy; on the contrary, a period of “cohabitation” provides actual political supremacy to the Prime Minister.

The reality of institutional practice and some reforms which have been implemented in recent times have strengthened the position of the President of the Republic. At the same time, the Constitutional Act of July 23, 2008 has increased the powers of Parliament.

See also files 1, 3, 5 and 6

I. – THE STATUS OF THE PRESIDENT OF THE REPUBLIC

1. – THE ELECTION OF THE PRESIDENT OF THE REPUBLIC

The President of the Republic is elected for five years by direct, universal suffrage. This rule, which is provided for in the first paragraph of article 6 of the Constitution, is the result of two essential institutional reforms:

- The 1962 revision of the Constitution, carried out by referendum according to article 11: by introducing the election of the President of the Republic by universal, direct suffrage, it provided the office of President with a legitimacy in keeping with the breadth of its powers (prior to this reform, the President
was elected by a college made up of parliamentarians and locally elected representatives);

– The 2000 revision of the Constitution carried out through Parliament according to article 89 but approved by referendum, reduced the presidential term from seven to five years. This reform brought an end to the French Republican tradition of seven-year terms by opting for a solution close to the average length of presidential terms in other countries.

The election takes place between twenty and thirty-five days before the expiry of the term of the President of the Republic in office. The end of the term is brought forward in the case of the death, resignation or dismissal of the President of the Republic (the vacancy then being declared by the Constitutional Council) or in the case of permanent incapacity of the President (the matter is referred to the Constitutional Council by the Government and the former must declare the incapacity permanent by an absolute majority of its members). In such cases the interim is carried out by the President of the Senate who takes on all the powers of the President of the Republic with the exception of the right to dissolve the National Assembly, the right to call a referendum and the right to initiate legislation concerning revision of the Constitution.

Every French citizen having reached the age of twenty-three may be a candidate in the presidential election, provided he has obtained the sponsorship of five hundred nationally or locally elected officials. Additional provisions impose a geographical distribution of the sponsors (they must come from at least thirty different departments or overseas territorial units without more than one tenth coming from the same department or the same overseas territorial unit). The Constitutional Council must check the validity of the candidacies. In addition, each candidate who is officially announced must provide the Constitutional Council with a detailed declaration of his estate.

The official election campaign opens two weeks before the first round and continues, if need be, during the two weeks which separate the two rounds. In practice, the debates begin well before the official opening of the campaign. Each candidate must have a campaign account which is audited by the National Committee on Campaign Accounts and Political Financing (CCFP) with an appeal possible to the Constitutional Council. The CCFP checks in particular that the expenses of the official campaign do not exceed the legal limits. The State refunds 4.75% of the expenditure limit to each candidate who has received less than 5% of the votes cast, and 47.5% of the limit in the first and second rounds for each candidate who gains more than 5% of the votes cast.

The election is held according to a two-round majority system. Only the first two candidates after the first round go forward to compete in the second round. This second round is held fourteen days after the first.
The Constitutional Council is the sole judge of the election. It is in charge of the election litigation procedure and thus examines all disputes concerning operations both prior to the election as well as those dealing with the ballot itself.

Since the constitutional revision of July 23, 2008, paragraph 2 of article 6 of the Constitution provides that “no one may hold office for more than two consecutive terms”.

2. – THE QUESTION OF THE LIABILITY OF THE PRESIDENT OF THE REPUBLIC

The definition of the liability of the President of the Republic given in 1958 in articles 67 and 68 of the Constitution has seemed over the years uncertain and ambiguous. Along with the uncertainty of the idea of “high treason”, there is also an ambiguity regarding the scope of the provisions of article 68 concerning acts performed by the President outside the exercise of his duties. These provisions were indeed interpreted in a different way between 1999 and 2001 by the Constitutional Council and then by the Court of Cassation.

The constitutional revision of February 23, 2007 confirmed the traditional immunity granted to the President of the Republic concerning acts performed in the exercise of his duties, and introduced a temporary immunity concerning all his other acts which comes to an end at the same time as the presidential term of office.

a) The maintaining of the principle of the non-liability of the President of the Republic concerning acts performed in the exercise of his duties

This is a republican principle which has only two exceptions: the first concerning matters within the competence of the International Criminal Court and the second regarding a breach of duties by the President of the Republic patently incompatible with his continuing in office (this notion has replaced the previous idea of “high treason” following the constitutional revision of February 23, 2007).

The requirement of a ministerial counter-signature for many of the acts carried out by the President of the Republic is the corollary of this principle as it allows ministers to shoulder the political responsibility for the acts of the President of the Republic.

b) The new temporary immunity of the President of the Republic for acts performed outside the exercise of his duties

Article 67 of the Constitution introduces total temporary immunity for the length of the presidential term of office, thus suspending in civil and criminal matters both all proceedings against the President of the Republic as well as the limitation period. This total temporary immunity comes to end one month after the end of the term of office.

During the term of office, this protection may only be removed by Parliament sitting as the High Court and dismissing the President for a breach of his duties patently incompatible with his continuing in office, thus rendering him once more subject to trial by courts of ordinary law.
c) The Sitting of Parliament as the High Court to Dismiss, and No Longer Try, the President of the Republic

The new drafting of article 68 of the Constitution dating from February 23, 2007 now recognizes the power of the entire Parliament sitting as the High Court to dismiss the President of the Republic, instead of merely judging him, for “a breach of his duties patently incompatible with his continuing in office”.

After the adoption by both the National Assembly and the Senate, in identical terms, of a motion ordering the convening of Parliament as the High Court, the latter must give its ruling on the dismissal by secret ballot within one month. Rulings given require a majority of two thirds of the members of the House involved or of the High Court. No proxy voting is allowed. Only votes in favour of the dismissal from office or the convening of the High Court are counted.

The decision of the High Court takes effect immediately.

II. – THE POWERS OF THE PRESIDENT OF THE REPUBLIC

1. – PERSONAL POWERS

These are powers the President of the Republic may exercise without counter-signature.

a) Powers of guaranteeing and arbitration

- In Constitutional Matters

Article 5 of the Constitution, in stating that “the President of the Republic sees to the respect of the Constitution”, grants him in practice the power of interpretation of the Constitution (a power which Presidents have used on several occasions: e.g. the use of referendum for constitutional revision or the refusal to sign ordinances).

The right to appoint three members of the Constitutional Council and the right of referral to this institution (articles 56 and 61 of the Constitution) provided to the President of the Republic are also examples of his role as the guarantor of the institutions.

- In Judicial Matters

The President of the Republic is the guarantor of the independence of the judicial authority (article 64 of the Constitution). He is assisted in carrying out this mandate by the High Council of the Judiciary.

b) Powers during crises

- The Emergency Powers granted by Article 16 of the Constitution

This provision, which grants the President of the Republic emergency powers of public safety, has its historic justification in the events of 1940 when the President of the Republic of the time, Albert Lebrun, although personally hostile
to the armistice, had to give way and allow power to pass to Marshall Pétain. The crisis which France was crossing at the moment of the adoption of the 1958 Constitution (the Algerian War) also helps to explain this provision. In fact, article 16 has only been applied once. This was in 1961 following the attempted military putsch in Algiers.

Its provisions have always represented one of the most controversial points of the Constitution even if the subject has lost much of its topicality. In fact its use was somewhat restricted by the constitutional revision of July 2008.

For the President of the Republic to have recourse to the emergency powers of article 16, two basic conditions must be fulfilled at the same time:

- There must be “a serious and immediate threat to institutions of the Republic, the independence of the Nation, the integrity of its territory or the fulfilment of its international commitments”. This particularly refers to war or to movements of insurrection;
- The proper functioning of the constitutional public authorities must be interrupted.

The President of the Republic must decide if these two conditions have been fulfilled. If he were to go beyond his rights, the Parliament could convene itself as the High Court and dismiss him for a breach of his duties patently incompatible with his continuing in office.

The formal conditions are not very restrictive and are limited to the consultation of the Prime Minister, the Presidents of the two assemblies and of the Constitutional Council (whose reasoned advice must be published in the *Journal officiel*).

In case article 16 is implemented, the distribution of powers provided for by the Constitution is no longer applicable and the President of the Republic assumes full power. He “shall take measures required by these circumstances”. However the Constitution makes it clear that such measures “shall be designed to provide the constitutional public authorities as swiftly as possible, with the means to carry out their duties”. The decisions taken by the President of the Republic are submitted for opinion to the Constitutional Council. During the period of the implementation of the emergency powers, Parliament convenes as of right and the National Assembly may not be dissolved.

Since the revision of July 23, 2008, it has been made clear that after thirty days of the exercise of such emergency powers, the matter may be referred to the Constitutional Council by the President of the National Assembly, the President of the Senate, sixty Members of the National Assembly or sixty Senators, so as to decide if the conditions laid down concerning emergency powers in article 16 are still met.
The Council shall make its decision public as soon as possible. It shall, as of right, carry out such an examination and shall make its decision in the same manner after sixty days of the exercise of emergency powers or at any moment thereafter.

- The Right of Dissolution

The discretionary right of dissolution belongs to the President of the Republic who must only, before carrying it out, consult the presidents of the assemblies and the Prime Minister.

The Constitution sets three limits. Dissolution may not be declared:
- During an interim presidency;
- During the period when the President of the Republic has the emergency powers provided for by article 16 of the Constitution at his disposal;
- During the twelve months following a previous dissolution.

Although it was originally foreseen either as a means to solve a serious crisis by asking the opinion of the people or as a way of deciding or preventing a disagreement with the National Assembly, dissolution has only been used twice for such reasons (1962 and 1968). In the three other cases, it was declared by the President of the Republic either at the beginning of a term to gain a majority in the National Assembly which would support his policies (1981 and 1988) or to bring forward an election to a moment considered more favourable (1997).

c) Prerogatives linked to relations with the other institutions

- With the Government

The President of the Republic appoints the Prime Minister and terminates his appointment; he convenes, approves the agenda of and chairs the Council of Ministers.

- With the Parliament:

The President of the Republic communicates with the Parliament by messages. These messages are read aloud by the Presidents of each assembly and give rise to no debate; since the constitutional revision of 2008, the President of the Republic may also take the floor before Parliament convened in Congress for this purpose. His statement may give rise, in his absence, to a debate without vote (this new procedure was implemented for the first time on June 22, 2009), then again on November 16, 2015, in the wake of the terrorist attacks in Paris and in Saint-Denis).

2. – Shared powers

These are powers which the President of the Republic may only exercise with the counter-signature of the Prime Minister or, if need be, of one or more ministers concerned.
a) The power of appointment

In accordance with article 8, paragraph 2 of the Constitution, the President of the Republic appoints ministers upon the proposal of the Prime Minister.

The President of the Republic (article 13 of the Constitution) makes appointments to the civil and military posts of the State. This power which is shared with the Prime Minister (article 21) means that high-ranking civil servants as well as heads of public establishments and companies are appointed in the Council of Ministers. Nonetheless, since the constitutional revision of July 23, 2008, article 13 makes it clear that for certain posts or positions laid down in an Institutional Act, on account of their importance for the guaranteeing of the rights and freedoms or of the economic and social life of the Nation, the power of appointment vested in the President of the Republic is exercised after public consultation with the relevant standing committee in each assembly. The President of the Republic cannot make an appointment when the sum of the negative votes in each committee represents at least three fifths of the votes cast by the two committees.

b) The signature of ordinances and decrees

The President of the Republic signs ordinances (measures which, although they fall within the ambit of statute, have been taken by the Government, empowered beforehand by Parliament, to use this procedure during a limited time). It has happened during a period of cohabitation that the President of the Republic has refused to sign ordinances. It may therefore be concluded that the President of the Republic does not, in such matters, have a binding competence.

The President of the Republic also signs decrees which have been deliberated upon in the Council of Ministers.

c) The power to convene Parliament in extraordinary session

The President of the Republic may convene Parliament by decree to consider a specific agenda, in an extraordinary session, upon the request of the Prime Minister or of a majority of the members making up the National Assembly (article 29 of the Constitution). Institutional practice does not make this a binding competence, as the decision to convene Parliament is taken under the sole responsibility and the sole assessment of the President of the Republic.

d) Recourse to referendum

There are three types of national referendums; only the decision to have recourse to a legislative referendum is not submitted to counter-signature but requires the prior intervention of the Parliament or the Government.
- The constituent referendum which requires a counter-signature (article 89, paragraph 2 of the Constitution)

The constituent referendum which requires a counter-signature (article 89, paragraph 2 of the Constitution) is a procedure which requires the prior passing of the bill by the two assemblies in identical terms. Once the bill has been passed, the President of the Republic may submit it to a referendum or submit it to Parliament convened in Congress which will rule by a majority of three fifths of the ballots cast (if the bill is a Member’s bill, then recourse to a referendum is the only avenue available). With the exception of the referendum of September 24, 2000, on the five-year presidential term, Congress has always been called upon to take a decision.

- The legislative referendum (article 11 of the Constitution)

The legislative referendum (article 11 of the Constitution) is a procedure which is initiated by the Government or the Parliament (in practice the latter has never used it). The Government or the two assemblies in a joint proposal, refer the matter to the President of the Republic who decides without counter-signature whether to consult the people or not. If the proposal comes from the Government, then the latter must make a statement followed by a debate in each assembly. Since the constitutional revision of 2008 and the passing of Law n° 2013-1116 and of Institutional Law n° 2013-1114 of December 6, 2013, it is also possible for one fifth of the members of Parliament, supported by one tenth of the voters enrolled on the electoral lists, to be at the origin of a legislative referendum, by means of a Member’s bill. If the Constitutional Member’s bill has not been considered by the two assemblies within a period of six months as of the decision of the Constitutional Council stating that it has received the support of the required number of voters, then it is put to referendum by the President of the Republic.

The field of application of article 11 is huge and can be subject to a wide variety of interpretations. It covers the organization of public authorities, the ratification of a treaty that has an effect on the functioning of the institutions (e.g. the Treaty on European Union, 1992, the Treaty setting up a Constitution for Europe, 2005) or reforms relating to economic, social or environmental policies. After the proclamation of the results by the Constitutional Council, the President of the Republic promulgates the referendum law.

- The referendum provided for by article 88-5 of the Constitution requires a counter-signature

This procedure is intended for bills authorizing the ratification of a treaty concerning the membership of a state to the European Union. The scope of this provision, which was passed in 2005, was nonetheless reduced in July 2008, as, from now on, by means of a motion adopted in identical terms by each assembly with a three fifths majority, Parliament may authorize the passing of such a bill by Congress.
In addition, as of 2003, the President of the Republic may consult the voters of an overseas territorial unit on a question “relating to its organisation, its powers or its legislative system” or on its change of status (article 72-4 of the Constitution). The procedure is the same as that used for article 11. This provision was used in 2003 in Martinique, in Guadeloupe, in Saint-Martin and in Saint-Barthélemy, in 2009 in Mayotte and in 2010 in French Guiana and again in Martinique.

e) Powers in matters of diplomacy and defence

The Constitution establishes a shared competence in these areas: the President of the Republic is the “Commander-in-chief of the armed forces” (article 15), he “negotiates and ratifies treaties” (article 52). On the other hand, it is the Government which “determines and conducts the policy of the Nation” and which “has the armed forces at its disposal” (article 20).

Institutional practice has made these matters the “reserved domain” of the President of the Republic when he has a parliamentary majority and a shared domain during periods of cohabitation. It can be considered that the “reserved domain” has been broadened since the Decree of May 15, 2002 which granted the President of the Republic the presidency of the Council of Defence and of National Security.

f) The power to promulgate laws

The President of the Republic, by decree countersigned by the Prime Minister, promulgates laws within fifteen days following the transmission of their adopted text to the Government. During this period, he may request a new deliberation of the law passed (also with the counter-signature of the Prime Minister).

g) The right to grant pardon

This is a traditional prerogative of heads of state which has been inherited from the monarchy and which allows the President of the Republic to grant pardon to a convicted prisoner and thus not carry out all or part of his punishment. The constitutional revision of July 23, 2008, made it clear that pardon must be granted on an individual basis; thus, collective pardons may no longer be allowed.

III. – INSTITUTIONAL PRACTICE

Beyond the constitutional distribution of powers between the two heads of the executive, the main element which grants pre-eminence to the President of the Republic over the Prime Minister is, of course, his election by direct, universal suffrage. The role of the Head of State cannot be reduced, as it was in the previous Republics, to that of a simple figurehead. His action cannot be limited, in the words of General de Gaulle, “to the inauguration of chrysanthemums”.

In practice, it is clear that the breadth of the powers of the President of the Republic varies according to whether or not the governing majority in the National Assembly coincides with the popular majority which elected him.

In the first case, the Head of State freely chooses his Prime Minister who is then subordinate to him. The President of the Republic can even ask for the Prime Minister’s resignation. Thus, although the provisions of article 20 of the Constitution state that it is the Government which determines and conducts the policy of the Nation, the President of the Republic sets at least the general directions of such policy.

During periods of “cohabitation”, i.e. when a governing majority hostile to the policy of the President of the Republic is elected to the National Assembly, the situation is altogether different. The President of the Republic must choose the Prime Minister from within that hostile governing majority so that the Government maintains the support of the National Assembly. As for the appointment of ministers in such a situation, practice has shown that the President of the Republic has, at the very most, a right of veto for certain so-called ‘sovereign’ portfolios. In the field of home affairs, the influence of the Head of State is considerably reduced.

It is only, in fact, in the field of foreign policy, an area in which the Constitution expressly recognizes his personal powers, that the President of the Republic keeps most of his prerogatives, although he must exercise them in collaboration with the Prime Minister.

Thus, the breadth of the powers of the President of the Republic and, consequently, the nature of the system, depend, in fact, on the political situation. However, the reduction from seven to five years of the presidential term of office and the fact that the presidential election now precedes the general election should limit the cases of coexistence between a President from one political wing and a National Assembly from the other. The pre-eminence of the President of the Republic has thus been strengthened.
The Government

Key Points
The Government is headed by the Prime Minister. It is appointed by the President of the Republic and it represents the second half of the twin-headed executive set up by the 1958 Constitution.

It is made up of ministers who are appointed by the President of the Republic upon a proposal of the Prime Minister.

The Constitution entrusts it with determining and conducting the policy of the Nation.

It is headed by the Prime Minister who holds regulatory power. The Government also plays a central role in the legislative procedure as it has the right to initiate bills and control over part of the parliamentary agenda. It may be empowered by Parliament to legislate by means of ordinances.

See also files 1, 2, 4, 5, 6, 25, 26, 27, 28, 32, 33, 39, 40, 45, 46, 51 and 52

I. – SETTING-UP AND RESIGNATION OF GOVERNMENT

1. – THE ESTABLISHMENT OF THE GOVERNMENT

The choice of the Prime Minister is a prerogative of the President of the Republic alone. Article 8 of the Constitution provides however that the appointment of ministers is carried out by the Head of State upon a proposal of the Prime Minister.

Although such choices are not regulated by any conditions (e.g. there is no obligation for the Prime Minister or the other ministers to be parliamentarians), the correct working of the institutions and democratic practice do lead the President of the Republic to choose a Prime Minister who has the support of the majority in Parliament.

2. – GOVERNMENT RESIGNATION

Article 8 of the Constitution states that the President of the Republic shall terminate the appointment of the Prime Minister when the latter tenders the resignation of the Government.
Such a resignation may come about:

- As the result of a vote of no-confidence by the National Assembly on the Government’s programme or on a statement of its general policy (in accordance with article 49, paragraph 1 of the Constitution – such a case has not, as yet, occurred) or of the adoption of a censure motion (in application of article 49, paragraph 2 of the Constitution. This procedure has in fact been used only once in 1962);
- Systematically (following a presidential election);
- Voluntarily (in the wake of general elections or as a means of carrying out a large-scale ministerial reshuffle without actually changing the Prime Minister);
- By obligation, and thus tantamount to dismissal by the President of the Republic.

The office of the other members of the Government comes to an end:

- If the Government’s resignation is tendered by the Prime Minister;
- If the President of the Republic announces their “dismissal” upon a proposal of the Prime Minister;
- If an individual resigns.

II. – THE STATUS OF MEMBERS OF THE GOVERNMENT

1. – RANK

The Government is made up of the Prime Minister and ministers.

Among the ministers, several categories can be listed:

- Ministers of state. This is an honorary title sometimes given to the heads of the main parties or movements within the governing majority. It provides them with precedence over “ordinary” ministers, from a protocol point of view. Nowadays they always head a ministerial department (the title of Minister of State Without Portfolio has now disappeared);
- Ministers. They head the administration placed under their authority but do not hold regulatory power (this is solely in the hands of the Prime Minister), except in order to take measures necessary for the correct operation of their departments;
- Associate ministers. They report either to the Prime Minister or to other ministers;
- Secretaries of state. They may either be autonomous (and thus have their own budget, power of countersignature and authority over their departments) or report to the Prime Minister or to another minister. Generally speaking, secretaries of state do not attend the Council of Ministers.
Certain governments have also included high commissioners. There is no limit on the number of members of the Government.

2. – OBLIGATIONS AND INCOMPATIBILITIES

Members of Government must, in the two months following their appointment, make a declaration of their estate and a declaration of their interests to the High Authority for Transparency in Public Life. The latter is also transmitted to the Prime Minister. These declarations are made public and must be updated in the case of significant changes. Members of Government must make similar declarations within the two months following the end of their ministerial office. They must also hand over the management of their financial instruments to a third party and are also subject, as of their appointment, to a fiscal assessment process.

In addition ministerial office is considered incompatible with various other activities.

In accordance with article 23 of the Constitution, a member of the Government may not simultaneously be a parliamentarian.

Such incompatibility only takes effect one month after the appointment of an M.P. or a Senator to the Government. During this interim, the parliamentarian may not take part in votes but he remains, at least formally, a member of the bodies of the assembly in which he sat prior to his appointment to Government. At the end of this one-month period, the President of the National Assembly formally records the replacement of the minister by the “person elected at the same time as him for that purpose”, i.e. his substitute whose name is communicated beforehand by the Home Office.

The new wording of the second paragraph of article 25 of the Constitution set down in July 2008 provides that, according to the conditions laid down in an Institutional Act (Institutional Act n° 2009-38 of January 13, 2009), this replacement is of a temporary nature. It shall elapse at the end of a one-month period following the withdrawal of the minister from office. During this time the former minister may not give up his seat in favour of his substitute. Unless he resigns and thus triggers a by-election, he will thus automatically retake his seat.

A member of Government may not hold a job as a public servant (civil servants entering Government are thus given the status of being “on secondment” and have been granted “leave of absence” as of October 1, 2014) or as a private sector professional (including the liberal professions). It is also impossible to combine governmental offices with the position of being a representative of a professional body (including the Economic, Social and Environmental Council).
3. – **INDIVIDUAL LIABILITY**

* a) **Political Liability**

Each member of the Government is politically liable for the actions of his administration. The non-fulfilment of this responsibility may lead to dismissal or resignation.

* b) **Criminal Liability**

Ministers and secretaries of state are likewise criminally liable for all acts carried out in the exercise of their office if such acts are defined as crimes or offences at the moment they were committed. They are tried by the Court of Justice of the Republic which was set up in 1993 and is made up of 12 parliamentarians (6 M.P.s and 6 Senators) and three judges of the Court of Cassation (one of whom presides over the Court).

III. – **THE PRIME MINISTER**

1. – **LEADERSHIP OF THE GOVERNMENT**

The Prime Minister directs the actions of the Government (article 21 of the Constitution). He thus personifies and represents the Government and speaks on its behalf (during the presentation of its programme or the seeking of confidence for its policies in Parliament in particular).

He carries political authority over the members of the Government. This is particularly displayed through his power of coordination of Government action and through his power of arbitration in the case of disputes between ministers. He chairs inter-ministerial committees.

He is assisted in the carrying out of his office by his staff and by the General Secretariat of the Government (a body which in particular, is in charge of preparing, along with the General Secretariat of the Presidency of the Republic, the agenda for the Council of Ministers and of listing its decisions. The General Secretariat of the Government also refers bills submitted to the Council of Ministers for advice to the Conseil d’État, seeks the signature of the Prime Minister on the presentation decrees for bills, follows the legislative procedure, promulgates the laws which have been passed, publishes the statutory texts which have been adopted and organizes inter-ministerial meetings).

2. – **THE POWER TO MAKE REGULATIONS**

The Prime Minister has the power to make regulations and to make appointments to civil and military posts (article 21 of the Constitution). It is thus his responsibility to make the regulations necessary to implement the laws. These regulations are, if need be, countersigned by the minister or ministers in charge of their application.
These powers to make regulations and appointments are nonetheless shared with the President of the Republic in the case of decrees and nominations to very high posts in the Council of Ministers. They may be delegated to ministers but the latter do not possess such powers for themselves, having only the power of administration over their own ministerial department.

3. – The role of the Prime Minister in the legislative procedure

The Prime Minister plays an important role in the legislative procedure.

The Prime Minister is, first of all, the only person in the executive branch to have the power to initiate laws, with the exception of constitutional bills which can only be initiated by the President of the Republic.

In addition, he is very much in charge of the running of the procedure: he chooses the assembly before which the bill will be introduced (with the exception of the rare cases in which priority tabling is provided for by article 39 of the Constitution), he has control over part of the agenda of Parliament, he chooses the amendments to be tabled in the name of the Government, and he may decide to opt for certain procedures (accelerated procedure, convening of a joint committee, forced vote etc.). In fact, in the course of the discussion of a bill, some of these powers may be carried out by the minister directly concerned with the bill itself (right of amendment, forced vote).

4. – Other powers

In addition to the aforementioned powers, the main power of the Prime Minister is the fact that he must countersign the acts of the President of the Republic (with the notable exception of a recourse to a legislative referendum, the decision to dissolve the National Assembly, a recourse to the emergency powers provided by article 16, as well as appointments to the Constitutional Council and to the High Council of the Judiciary).

a) The other individual powers

The Prime Minister may, without consulting the Council of Ministers:

– Refer, before their promulgation, laws to the Constitutional Council (article 61 of the Constitution) as well as international commitments (article 54);
– Request the agreement of the Senate on a statement of general policy (article 49, paragraph 4);
– Decide, after consulting the President of the assembly in question, to have one of the two assemblies sit for more than 120 days during the same ordinary session (article 28, paragraph 3);
– Request the President of the Republic to convene Parliament in extraordinary session (article 29, paragraph 1);
– Request the President of the Republic to take the initiative of a revision of the Constitution (article 89);

– Provide the Head of State with his opinion concerning a possible dissolution of the National Assembly and recourse to the use of the emergency powers of article 16.

In exceptional circumstances, the Prime Minister may replace the President of the Republic in presiding over the Council of Ministers.

**b) The other powers shared with the President of the Republic**

Most of the powers shared by the two heads of the executive have already been described (appointment of the members of Government, power to make regulations and appointments to civilian and military posts). The only powers remaining to be described are those in the field of defence matters – the Constitution makes the President of the Republic the Commander-in-chief of the Armed Forces but grants the Prime Minister the responsibility for national defence.

**IV. – THE POWERS OF THE GOVERNMENT**

1. – **THE CONDUCT OF THE POLICY OF THE NATION**

   Article 20 of the Constitution provides the Government with the responsibility of “determining and conducting the policy of the Nation”. In practice, as the main decisions are taken in the Council of Ministers, this governmental power is, in fact, shared with the President of the Republic, when the Prime Minister belongs to the same political family.

2. – **THE EXERCISE OF LEGISLATIVE POWER BY DELEGATION**

   The Constitution allows Parliament to delegate its legislative power to the Government by means of ordinances.

   There are several types of ordinances:

   – Ordinances taken according to article 38 of the Constitution which allows the Government “in order to carry out its programme, to ask Parliament for the authorization, for a limited period, to take measures by ordinance that are normally a matter for statute”, (recourse to ordinance is impossible for provisions which fall within the ambit of the Constitution or institutional acts).

   Thus, the Government must, first of all, have tabled a draft enabling law before Parliament describing the measures envisaged and the length of the delegation of power. Once the law has been passed, the ordinances are submitted to a double procedural constraint:

   * They must be examined for consultation by the *Conseil d’État*;
* They must be adopted by the Council of Ministers. This requires the signature of the President of the Republic (who can refuse, as he has done during periods of cohabitation).

Before the end of the enabling period, a draft ratification bill must be tabled before Parliament. Ratification may only be carried out in explicit terms.

- Ordinances taken in accordance with articles 47 and 47-1 of the Constitution. These deal with the case of Parliament not respecting the time limits imposed for the adoption of the finance bill or the social security financing bill. This procedure has never been applied.

- Ordinances taken in accordance with article 74-1 of the Constitution. These represent the sole permanent delegation of legislative power. These allow the Government, in a variety of circumstances, to extend and at the same time adapt, the law of continental France to its overseas territorial units.

3. – EXTRAORDINARY POWERS IN MATTERS OF BREACHES OF THE PEACE

a) State of Siege

This is provided for by article 36 of the Constitution and deals especially with situations linked to war and insurrection. It has never been applied during the Fifth Republic particularly because the emergency powers granted to the President of the Republic under article 16 of the Constitution have largely taken away its need. The state of siege must be decreed by the Council of Ministers and its extension beyond twelve days requires the authorization of Parliament. It is characterized by a transfer from civilian authority to military authority.

b) State of Emergency

This is provided for by law n° 55-385 of April 3, 1955 and deals with “the imminent danger caused by serious breaches of the peace or events which on account of their serious nature might lead to very grave circumstances”. As with the state of siege, the state of emergency is decreed by the Council of Ministers and its extension beyond twelve days must be authorized by Parliament. It was, in particular, used in New Caledonia in 1985 and in continental France in order to deal with the troubles in the suburbs in 2005. It was declared in November 2015 after the attacks in Paris and in Saint-Denis and was subsequently extended on several occasions.
The National Assembly and the Senate – General Characteristics of the Parliament

Key points

The French Parliament is bicameral and is made up of the National Assembly, a Chamber elected by direct universal suffrage, and the Senate, elected by indirect universal suffrage and empowered by the Constitution with representing the territorial units of the Republic.

In reaction to the practices of the Third and Fourth Republics, the framers of the 1958 Constitution attempted to limit the powers of the assemblies by laying down rules based on “rationalized parliamentarianism”.

The assemblies have, nonetheless, gradually asserted and clarified their role within the institutions of the Republic. The constitutional reform of July 23, 2008 led to a strengthening of this situation. This is the case regarding Parliament’s role in the legislative function and the monitoring of Government action, as well as in the assessment of public policies.

See also files 14 to 57

The general characteristics of the legislative branch of power in France can be summed up in a double statement:

– The legislative branch is bicameral: it is shared in an unequal division between two parliamentary assemblies;

– Its functioning is limited by rules inspired by “rationalized parliamentarianism”.

I. – BICAMERALISM

1. – GENERAL CHARACTERISTICS OF FRENCH BICAMERALISM

The French Parliament of the Fifth Republic is bicameral: it is made up of the National Assembly and the Senate. The two assemblies sit in two distinct premises (the National Assembly in the Palais Bourbon and the Senate in the Palais du Luxembourg).
Bicameralism was long considered in French constitutional history either as a means to curb the excesses of single assemblies (in 1795, as a reaction to the all-powerful nature of the Convention, or during the Second Empire, after the period of the Second Republic of 1848-1851) or as a way to consolidate the executive through the splitting-up of the legislative branch (this was brought to its extremes with the Constitutions of the Consulate and the Empire which set up a tricameral Parliament).

Modern bicameralism is very different. The second assembly is seen in many countries (e.g. Germany, Belgium, Spain, the United States etc.) as the seat of territorial representation, particularly in federal states where it represents the need to ensure the representation of the federated states alongside that of the population. A similar choice was made in France. The Constitution of the Fifth Republic thus set up a bicameral system in which two assemblies coexist: a National Assembly which is elected by direct universal suffrage and represents the citizens and a Senate which is elected by indirect universal suffrage and represents the territorial units of the Republic.

As is the case with other Parliaments made up of two assemblies (with the notable exception of the Italian Parliament), French bicameralism is an unequal system as the National Assembly has much broader powers than those of the Senate:

- It alone can call the Government to account by refusing to grant it its confidence or by passing a censure motion (following the same idea, only the National Assembly can be dissolved by the President of the Republic);
- In the case of disagreement with the Senate, the Government can decide to grant the National Assembly “the final say” in the legislative procedure (except for constitutional acts and institutional acts concerning the Senate);
- The Constitution provides the National Assembly with a more important role in the examination of the finance bill and the social security financing bill. Thus the tabling for a first reading of such bills must be before the National Assembly and the time limits granted for their examination are much longer for the National Assembly.

In almost all other areas the two assemblies are provided with the same powers.

If the two assemblies do not have the same powers, they also do not have the same renown. Citizens know the National Assembly and the M.P.s whom they have elected much better. In addition, the media cover the proceedings of the National Assembly much more closely as its debates are more central to the main political issues and because the vast majority of the important political leaders are or have been M.P.s.
2. – THE SENATE OF THE FIFTH REPUBLIC

The first characteristic of the Senate is its permanence: in contrast with the National Assembly, it cannot be dissolved. This permanence is the main justification for the Constitution of the Fifth Republic to grant the provisional exercise of the office of the President of the Republic to the President of the Senate if the former is prevented from doing so, if he resigns or if he dies. This interim is limited to the time needed to organize a presidential election (in practice, it lasts around 50 days).

The specificity of the Senate lies in the role of the representation of the territorial units which is granted to it by article 24 of the Constitution. The method of electing Senators ensues from this role.

The Senate is made up of 348 Senators who are elected by indirect universal suffrage for six years. Half the Senate is renewed every 3 years.

The Senators are elected by a college of around one hundred and sixty thousand grand electors (who are required to participate in the vote). This college is made up of:

– M.P.s, regional councillors, councillors of the Assembly of Corsica, departmental councillors and councillors of the City of Paris;

– Delegates of the municipal councils whose number depends on the population of the municipality:
  * 1 to 15 delegates for municipalities of less than nine thousand inhabitants;
  * All the municipal councillors for municipalities of between nine thousand and thirty thousand inhabitants;
  * The entire municipal council plus a supplementary delegate (elected by proportional ballot by the municipal council itself) for every eight hundred inhabitants in municipalities of over thirty thousand inhabitants.

This system leads to a very strong representation for small rural municipalities within the college of grand electors since there are around thirty thousand municipalities of this type in France.

The voting method varies according to the constituency:

– In the constituencies electing one or two senators, the method is a two-round majority system;

– In those electing three or more Senators, the method is one of proportional representation with the application of the rule of the highest average for the distribution of the remaining votes.

All candidates for the office of Senator must be, at least, twenty-four years old.
This role of representation of territorial units explains why article 39 of the Constitution recognizes that bills concerning the organization of such units are first presented to the Senate.

Before the constitutional revision of July 23, 2008 it was the Senate and the Senate alone which represented the French living abroad. The latter elected 12 Senators by indirect suffrage. It was for this reason that the Senate examined, before the National Assembly, all bills dealing with bodies representing French people living outside of France. However, the French living abroad are now represented at the National Assembly as well as in the Senate. This situation has led to the abolition of the priority consideration of such bills previously granted to the Senate.

II. – RATIONALIZED PARLIAMENTARISM

1. – APPLICATION OF THE PRINCIPLES OF RATIONALIZED PARLIAMENTARISM

One of the main aims of the framers of the 1958 Constitution was to end the governmental instability which had prevailed during the Third and Fourth Republics. According to Michel Debré, “Governmental stability cannot first of all be the result of an electoral law but must be that of constitutional rule”. The latter was to be composed of “four series of measures: a very strict calendar of sessions; an attempt at defining the ambit of statute; a profound reorganization of the legislative procedure; an adjustment of the legal mechanisms necessary for the balance and the correct operation of the political institutions”.

The formulation of these principles in the Constitution in 1958 took a variety of forms:

– Two sessions of around three months each per year;
– Control of the agenda of the assemblies by the Government;
– Limitation of the right of parliamentarians to initiate legislation and to amend concerning the ambit of statute as defined by the Constitution and the rules of financial admissibility;
– Prior examination by the Constitutional Council of the Rules of Procedure of the assemblies;
– Limitation to six of the number of standing committees;
– Broad control by the Government of the legislative procedure (declaration of emergency, convening of joint committees, recourse to a forced vote etc.);
– Strict limitations placed on the budgetary procedure;
– Possibility of having a law passed without a vote unless the Government is defeated (article 49, paragraph 3 of the Constitution);
– Strict definition of the conditions of votes of no-confidence in the Government.
2. — THE MODERNIZATION OF THE ROLE OF PARLIAMENT

All of these measures had, as their primary objective, the limitation of the role of Parliament. In fact, Parliament’s role was diminished in the years which immediately followed the setting-up of the new system. The strong personality of General de Gaulle, the first President of the Fifth Republic, along with the fact that the parliamentary practices of the Fourth Republic were still to the forefront of people’s minds, can explain this temporary decline.

However, by exploring the avenues of modernization, Parliament has gradually regained quite an amount of its influence. Several reforms which have been implemented over the course of the last decades bear witness to this development:

– The constant increase in the monitoring activities of Parliament (the proliferation of committees of inquiry, the setting-up of information missions within standing committees, the birth and development of the procedures of questions to the Government, the establishment of several parliamentary offices and delegations etc.);

– The introduction, in 1995, of the single ordinary session of nine months instead of the system based on two three-month sessions;

– The intervention of Parliament since 1996 on the question of the financing of social security through the adoption of a new type of law;

– The implementation, since 2005, of a new procedure for the adoption of finance bills which has greatly strengthened Parliament’s role in the budgetary area.

The constitutional revision of July 23, 2008 introduced several important developments in this direction which have led to a strengthening of the role and the powers of Parliament:

– Between1995 and 2008, one sitting per month was given over to a priority agenda set by each assembly. Today the Constitution provides for the sharing of the control of the agenda between each assembly and the Government. Two out of four weeks are reserved for the priority consideration of bills and for debates requested by the Government, but the other two weeks are given over to an agenda set down by each assembly; nonetheless the Government may always have priority to include on the agenda several types of bill such as finance bills and social security financing bills;

– The increase of the powers of Parliament in the legislative procedure: the Government is now required to respect, upon first reading, a six-week period between the tabling of a bill and its discussion in plenary sitting or a four-week period between its transmission by the assembly where it is first tabled and the discussion, except when it has implemented the accelerated procedure whose implementation may be opposed by the Conferences of Presidents of the two assemblies; bills must now be accompanied by impact studies; the discussion
of bills in plenary sitting, with the exception of finance bills, social security financing bills and constitutional bills, now deals directly with the text adopted in committee; the presidents of the two assemblies may jointly call for the meeting of a joint committee on a Member’s bill;

– The restriction of the possibility for the Government to call on the provisions of article 49, paragraph 3 of the Constitution (the passing of a bill without a vote) to a single bill during any one session, outside of finance bills and social security financing bills upon which they may make their accountability an issue of confidence;

– The development of the means of monitoring and assessment through the increase in the number of standing committees (from six to eight), the creation at the National Assembly of a Committee for the Assessment and Monitoring of Public Policies and the introduction of the principle that Parliament may be assisted by the Court of Accounts in the oversight of Government action and in the assessment of public policies;

– The submitting of certain appointments formerly solely within the remit of the President of the Republic to the opinion of the relevant standing committees in each assembly;

– The informing of Parliament by the Government of its decision to have the armed forces intervene abroad and, when such an intervention lasts longer than four months, the obligation for the Government to submit such an extension to the agreement of Parliament.
Under the Fifth Republic, Congress is the meeting of the two Houses of Parliament (the National Assembly and the Senate).

It may be convened in three cases: for a revision of the Constitution; to approve the membership of a state to the European Union; to hear a declaration of the President of the Republic. In the latter case, the statement may give rise, in the absence of the Head of State, to a debate without vote.

When Congress is required to vote on a Government-sponsored constitutional bill or on the membership of a state to the European Union, it may not, contrary to a legislative assembly, avail of the right to amendment.

Congress is convened by the President of the Republic and sits in the Château de Versailles, in the Chamber referred to as the ‘Aile du Midi’.

It has its own Rules of Procedure. Its Bureau is that of the National Assembly.

See also files 2, 30 and 43

I. – THE THREE CASES FOR THE CONVENING OF PARLIAMENT IN CONGRESS

The Constitution nowadays provides for three cases for the convening of Congress:

- Since 1958, Congress may be convened in order to revise the Constitution. One of the two procedures which may lead to the revision of the Constitution, as laid down in paragraph 2 of article 89, provides that instead of submitting a constitutional reform bill passed in the same terms by the National Assembly and the Senate, to a referendum, the President of the Republic may decide to submit it to Parliament convened in Congress. In this case the bill is passed only if it obtains a three fifths majority of votes cast. Since 1958, twenty-one out of twenty-four constitutional revisions have been passed by Congress during sixteen meetings;
– Since 2008, Congress may also be convened to hear a declaration of the President of the Republic: the revision of July 23, 2008 included in paragraph 2 of article 18, the possibility for the Head of State to “take the floor before Parliament convened in Congress for this purpose. His statement may give rise, in his absence, to a debate without vote”. This provision has been used three times since: on June 22, 2009 by Mr. Nicolas Sarkozy, on November 16, 2015 by Mr. François Hollande and on July 3, 2017 by Mr. Emmanuel Macron and on each occasion the declaration of the President of the Republic was followed by a debate;

– Finally, Congress may, also since 2008, be convened to approve the membership of a state to the European Union (article 88-5 of the Constitution). Even though bills concerning membership are, in principle, submitted to referendum, Parliament may decide, by adopting a motion passed in identical terms by a three fifths majority in each assembly, that such a bill may be submitted to Congress. In such a case, the bill must be passed by a three fifths majority of the votes cast.

II. – THE WORKING OF CONGRESS

1. – CONVENING AND CLOSING

The President of the Republic convenes Congress by a countersigned decree which sets the agenda. However the closing of Congress is announced by the President of Congress (who is the President of the National Assembly).

2. – SEAT

The Congress sits in the Château de Versailles, in the Debating Chamber of the Aile du Midi. These particular premises have long been associated with Parliament since the National Assembly was in fact born in Versailles after the delegates of the Third Estate to the Estates General were refused access to the Salle des Menus Plaisirs, and moved to the Salle du Jeu de Paume where they swore their oath on June 20, 1789.

After the defeat of 1870, the national representation sat at Versailles between March 1871 and August 1879 and it was only once the Republic had been properly established that it moved definitively to Paris. It would only return to Versailles from time to time – for the election of the President of the Republic under the Third and Fourth Republics as well as for constitutional revisions under the Fifth Republic.

Since law n° 2005-844 of July 26, 2005, only “the Debating Chamber of the Congress and its accesses are allocated to the National Assembly and the Senate” and “the other premises necessary for the holding of the Congress of Parliament located at the Château de Versailles, will be, as and whenever necessary, made available for no charge, to the National Assembly and the Senate”.

3. – ORGANIZATION

a) The Rules of Procedure of Congress

Congress is run according to its own Rules of Procedure which are based on the Rules of Procedure of the National Assembly. Upon the passing of these Rules of Procedure in 1963, the Constitutional Council recognized itself as competent to judge their conformity to the Constitution given that Congress was considered a parliamentary assembly in the sense of article 61, paragraph 1 of the Constitution (decision n° 63-24 DC of December 20, 1963).

The Rules of Procedure were last modified on June 22, 2009 to introduce the possibility for the President of the Republic to make a speech before Congress as provided for by the constitutional revision of July 23, 2008.

As for the National Assembly, the “General Instructions of the Bureau” lay down the mechanisms for the implementation of the Rules of Procedure of the Congress.

b) The Managing Bodies

Congress is managed by a “Bureau with full power to preside over the deliberations of Congress and to organize and direct all departments” (article 3 of the Rules of Procedure of Congress).

This Bureau is that of the National Assembly.

The President of the Congress is tasked with guaranteeing the internal and external security of the Congress.

During the sitting, he directs the deliberations, enforces the Rules of Procedure, keeps order and informs Congress of the communications which concern it.

c) The seating of the Members of Congress

The Members of the National Assembly and the Senators are not seated in the Chamber by political groups as at the National Assembly and the Senate, but by alphabetical order according to their last name.

4. – RULES CONCERNING THE PROCEEDINGS OF CONGRESS

a) The Deliberations of Congress

When Congress considers motions for a resolution concerning its own Rules of Procedure, the debates follow the rules pertaining to a deliberative assembly (amendments, points of order, explanations of votes etc.)

However, when Congress is required to vote on a Government-sponsored constitutional bill or on the membership of a state to the European Union, it may not avail of the right to amendment. In a similar fashion to when the people votes by referendum, it may only approve or reject the text submitted to it.
Although the Rules of Procedure of the Congress state that Congress “shall usually vote by show of hands on all matters”, it also sets down that a public ballot shall be held as of right upon the decision of the President, upon the request of the Government, upon the request personally penned by a chairman of one of the groups of either of the assemblies (or by his representative) or when the Constitution requires a qualified majority. Thus votes on constitutional revisions give rise by definition to a public ballot. These ballots are held by means of electronic ballot boxes in the rooms adjacent to the Chamber. In practice, voting by show of hands is usually reserved for draft motions aimed at amending the Rules of Procedure of Congress.

b) Statement by the President of the Republic

Contrary to the cases provided for in articles 88-5 and 89 of the Constitution, the statement by the President of the Republic does not give rise to a vote. Article 23 of the Rules of Procedure of Congress describes in detail the procedure which should be followed in this particular case.

The debate which follows the statement (and which according to the Constitution can only be held in the absence of the Head of State) is granted as of right if requested by the chairman of one of the political groups of either of the assemblies at the latest by midday on the eve of the Congress. It may also be decided upon by the Bureau of the Congress.

At the time appointed for his statement, the President of the Republic is ushered into the Chamber upon the order of the President of Congress who immediately gives him the floor. Upon the conclusion of his statement, the President of the Republic is shown out of the Chamber in the same way. The sitting must then be suspended or closed. No Member of Congress is allowed to speak during the statement.

c) Discipline

The provisions of the Rules of Procedure of the National Assembly concerning discipline are applied to Members of Congress.
The Constitutional Council

Key Points
Long considered as undermining the expression of the wishes of the Nation, the monitoring of the constitutionality of laws has only really existed in France since 1958. It is in the hands of the Constitutional Council, a body which played only a limited role in the first years of the Fifth Republic.

Several constitutional revisions (in particular that of 1974 which allowed parliamentarians to refer laws not yet promulgated to the Constitutional Council and that of 1992 which broadened its field of application to treaties) combined with the very jurisprudence of the Council, have enabled it to find its rightful place within the institutions and to exercise its authority both in matters concerning the monitoring of the constitutionality of the laws as well as in the area of electoral litigation.

This development was continued by the recognition in July 2008 of the possibility of a referral to the Constitutional Council if, during proceedings in progress before a court of law, a person involved in such proceedings claims that a statutory provision infringes the rights and freedoms guaranteed to him by the Constitution.

See also files 2, 3, 4, 5, 29, 31, 39 and 41

I. – COMPOSITION

1. – MEMBERS BY RIGHT

Former Presidents of the Republic are life members by right of the Constitutional Council.

2. – APPOINTED MEMBERS

Nine members are appointed for nine years. Three of them are appointed by the President of the Republic, three by the President of the Senate, and three by the President of the National Assembly. One third of the Council is renewed every three years and each of the three personalities who may appoint members does so once every three years. The President of the Constitutional Council is appointed by the President of the Republic.

Since the constitutional revision of July 23, 2008 and the Law of July 23, 2010, these appointments must follow the procedure provided for in the last paragraph of article 13 of the Constitution (public consultation with the standing committee in charge of constitutional laws in each assembly; impossibility of
making an appointment when the sum of the negative votes in each committee represents at least three fifths of the votes cast by the two committees). Nonetheless the appointments made by the presidents of each assembly are only submitted for the advice of the standing committee in charge of constitutional laws in the assembly concerned.

II. – STATUS OF THE MEMBERS OF THE CONSTITUTIONAL COUNCIL

There is no age limit or professional qualification required to be a member of the Constitutional Council.

Before taking office the members of the Constitutional Council take an oath before the President of the Republic.

Their status aims at guaranteeing their independence:
- Their position is irrevocable;
- Their term of office is not renewable (however, in the case of the replacement of a councillor during his term and within three years of the end of such a term, the replacement may be reappointed for an entire term);
- The rules of non-combination of office are very strict and include all elected positions and were extended to all professional activities by the Institutional Law of October 11, 2013;
- If these rules of incompatibility are broken the councillor in question is required to resign from office;
- They are required to observe a duty of secrecy concerning deliberations, may not give consultations and may not express a political position on matters which have been or may be the subject of a decision of the Constitutional Council.

III. – MISSIONS OF THE CONSTITUTIONAL COUNCIL

1. – Consultative powers

The President of the Republic must consult the Constitutional Council when he decides to use the emergency powers granted to him by article 16 of the Constitution (the opinion of the Council is published in the Journal officiel). Measures taken in accordance with article 16 require the prior consultation of the Constitutional Council. Since July 2008, article 16 provides that after thirty days of the exercise of emergency powers, the matter may be referred to the Constitutional Council by the President of the National Assembly, the President of the Senate or sixty Members of the National Assembly or sixty Senators so as to ascertain if the conditions laid down by the Constitution concerning such powers, still apply. The Council shall, as of right, carry out such an examination after sixty days.
In addition, the Government consults the Constitutional Council on preliminary instruments concerning the organization of votes during presidential elections and referenda.

2. – **JURISDICTIONAL POWERS**

**a) Electoral and Referenda Litigation**

The Constitutional Council oversees the legality of elections.

– *For presidential elections*, it checks the eligibility of candidates, monitors their proposers, ensures that the declaration of estate has been made, establishes a list of candidates, supervises the legality of the electoral operations, examines objections (which can be made by all voters), announces the results of the election, deals with appeals against the decisions of the National Committee on Campaign Accounts and Political Financing (CNCCFP) and may decide to postpone an election in the case of the death or inability of a candidate to take part.

– *For parliamentary elections*, the Constitutional Council checks the legality of the results at the request of voters or candidates. It can thus validate the results, cancel the election or even (although this has only occurred once) quash the result and declare another candidate elected. The Constitutional Council is also referred to concerning candidates whose campaign accounts have been rejected by the CNCCFP (or who did not actually provide such accounts); it may confirm such a refusal, and in such a case, declare the ineligibility of a candidate for any elected office (for a period of up to three years) if the accounts of said candidate have been rightfully rejected. In the case of an elected candidate, such ineligibility leads directly to resignation from office.

– *For referenda*, the Council is consulted on the text submitted for referendum as well as on the decrees concerning the organization of the vote. Since 2000, it has taken on the power of checking the preparatory operations. It also oversees the legality of the voting operations and examines objections made to it. It announces the results.

**b) Monitoring the Law**

– *Monitoring of Constitutionality*

  The Field of Reference of Monitoring

The monitoring of constitutionality is not limited to the checking of the conformity of the Constitution alone, in the strictest sense. It can be broadened to include what is named the “block of constitutional rules”.

In addition to the fundamental law of the Republic, the “block of constitutional rules” notably includes the Preamble to the Constitution. This preamble, by referring to two other texts, the Declaration of the Rights of Man and the Citizen of 1789 and the Preamble to the Constitution of 1946, gives these documents a constitutional value also.
Thus the law is submitted to the principles contained in the Declaration of the Rights of Man and the Citizen, to the “fundamental principles recognized by the laws of the Republic” and to the “principles particularly necessary for our times” in the meaning of the preamble of 1946, as well as to the various principles and objectives of a constitutional value defined by the very jurisprudence of the Constitutional Council itself. The “block of constitutional rules” also includes the Environment Charter annexed to the Constitution since its revision on March 1, 2005.

- Implementation of Monitoring

The monitoring of constitutionality is systematic for institutional acts before their promulgation and for the Rules of Procedure of the parliamentary assemblies. The latter do not thus entirely control their Rules of Procedure and, therefore, have lost one of the essential powers of the parliamentary systems prior to the Fifth Republic.

For ordinary laws, such monitoring is optional and is carried out after referral by the President of the Republic, the President of the Senate, the President of the National Assembly, the Prime Minister or, since the constitutional reform of 1974, by sixty M.P.s or sixty Senators.

The Constitutional Council must provide a ruling within one month although this period may be reduced to one week by the Government in the case of an emergency.

Since the constitutional revision of July 20, 1998 and the Institutional Act of March 19, 1999 the Constitutional Council may also carry out constitutional monitoring of the laws of the land passed by the Deliberative Assembly of New Caledonia which are, according to article 77 of the Constitution, legally binding. In this case a referral must be made by the High Commissioner, the Government, the President of Congress, the President of one of the provincial assemblies or by eighteen members of Congress. The Constitutional Council must publish its decision within three months of the referral.

In accordance with article 61-1 of the Constitution added by the constitutional revision of July 23, 2008, the Institutional Law of December 10, 2009, introduced, as of March 1, 2010 an *a posteriori* constitutional monitoring mechanism for legislative provisions: priority rulings on constitutionality. Every defendant may, during proceedings before a court of law, claim that a legislative provision, by definition already promulgated, infringes the rights and freedoms guaranteed by the Constitution. The court checks that the conditions set down in the Institutional Law are fulfilled and transmits the question to the Supreme Court of its branch. The latter also acts as a filter and, if necessary, refers the question to the Constitutional Council. It then makes a decision within three months on the conformity of the legislative provision which has been challenged to the rights and freedoms guaranteed by the Constitution.
Consequences of the Decisions of the Constitutional Council

In the case of non-conformity, the provision is censured. Several scenarios are then possible:

– The entire law is censured and its promulgation is thus prohibited;
– The law is partially censured. If the Constitutional Council states that the provision in question is not separable from the rest of the law, the law will not be promulgated and will either be dropped or will be newly introduced with the necessary modifications to allow its conformity to the Constitution. If however, the Constitutional Council considers the provision separable, the President of the Republic will promulgate the law without the non-constitutional provision or he will request a reconsideration of the law, in accordance with article 10, paragraph 2 of the Constitution.

Within the framework of the priority ruling on constitutionality, the Constitutional Council repeals the already promulgated provision it considers to be unconstitutional. It may choose to modify in time the effects of its decision. It also determines the conditions and the limits according to which the effects produced by the repealed provision may be called into question.

The Constitutional Council may also issue a declaration of constitutionality but attach “reservations of interpretation”. Such reservations will direct the interpretation of the law.

Monitoring the Compatibility of International Agreements with the Constitution

A referral may be made to the Constitutional Council requiring it to check that international commitments do not contain clauses contrary to the Constitution. Such a referral may be made by the same authorities as may refer matters of scrutiny concerning the constitutionality of laws, including sixty Members of the National Assembly or sixty Senators since the constitutional revision of 1992. If a clause contrary to the Constitution is contained in an agreement, then a revision of the Constitution must be enacted before the ratification of the agreement.

The checking of compliance to the fields of statutory matters and of regulatory matters

Article 41 of the Constitution allows the Government, and since the revision of 2008, the President of the relevant assembly, to declare inadmissible all member’s bills and amendments considered as non-compliant with the scope of statutory matters. In the case of disagreement between the President of the relevant assembly and the Government, the matter is referred by either of them to the Constitutional Council which must reach a decision within one week.
In a similar vein, article 37, paragraph 2 of the Constitution, provides the Council, once it has been referred to by the Prime Minister, with the power to carry out *a posteriori* monitoring of compliance in the field of statutory matters concerning legislative acts which have been passed after the coming into effect of the Constitution of the Fifth Republic. It must reach its decision within one month. If it declares that the legislative act it has examined is regulatory in nature, it therefore enables its modification by decree.

- *The checking of the compliance of the area of jurisdiction of overseas territorial communities having an autonomous status*

On the basis of the ninth paragraph of article 74 of the Constitution, the remit of the Constitutional Council extends to allowing it to consider that a law promulgated after the coming into effect of the status of French Polynesia, of Saint-Barthélemy or of Saint-Martin is within the competence of such an overseas community. This means that the deliberative assembly of such a community may modify or repeal the legislative provision. Referral must be made to the Council by the President of the Executive or of the deliberative assembly of the community, by the Prime Minister, by the President of the National Assembly or of the Senate. The Constitutional Council must make a decision within three months.

3. – **OTHER POWERS**

The Constitutional Council, upon referral by the Government, can certify the inability of the President of the Republic to carry out his office.

The Constitutional Council is the judge of parliamentary incompatibility. If the *bureau* of the assembly of which the parliamentarian is a member declares a doubt concerning the said parliamentarian, a referral may be made to the Council upon a request by the said *bureau*, by the Minister of Justice or by the parliamentarian himself. The Council may also, upon the request of either assembly or the Minister of Justice, certify the removal of a parliamentarian whose ineligibility is highlighted after the election.

In addition, since the Constitutional Law of July 23, 2008 and the Institutional Law of April 15, 2009, if the Conference of Presidents of the first assembly to which a referral of a bill has been made, refuses to include it on the order paper on account of the ignorance of the rules for the submission of bills, a referral may be made to the Constitutional Council by the President of the relevant assembly or by the Prime Minister. This is in order to make a decision, within one week, on the disagreement between the Conference of Presidents and the Government.
IV. – PROCEDURE AND INTERNAL ORGANIZATION

1. – PROCEDURE

The Constitutional Council is not situated at the summit of a hierarchy of judicial or administrative courts. In that sense it is not a Supreme Court. It is an institution whose sittings follow the rhythm of the requests which are referred to it.

It only sits and passes judgment in plenary sitting. Its deliberations are subject to a quorum and the actual presence of seven councillors is required. In the event of a tie in the voting, the President has the casting vote. If the President is absent, the sitting is chaired by the oldest member.

In matters of constitutional monitoring, the Constitutional Council passes a judgement after the reading of the report of one of its members. The procedure is written and carried out in the presence of the parties involved.

When a referral is made concerning a priority preliminary ruling on the issue of constitutionality, the Constitutional Council may receive the observations of the President of the Republic, of the Prime Minister and of the presidents of the National Assembly and of the Senate. The parties present their observations in each other’s presence. The hearing is public except in exceptional cases.

In electoral litigation, the examination of the case is entrusted to one of the three sections composed of three members chosen by lot, each of whom must have been appointed by a different authority. Decisions are taken in plenary sitting. Hearings with the parties involved or their council occur more and more often. They are not held in public.

The Constitutional Council passes “decisions”, except when carrying out its consultative role or its role concerning preliminary instruments for elections. In accordance with article 62 of the Constitution, there is no appeal against such decisions and they are binding on all administrative authorities and on all courts. They are published in the Journal officiel.

None of the debates in plenary sitting nor the votes are public or published. Dissenting opinions are thus not disclosed. They can only be made public at the end of the time limit protecting the secrecy of the deliberations of the Constitutional Council, currently 25 years. However, the decision, the referral and any observations made by the Government are published the same day on the internet site of the Constitutional Council and in the Journal officiel within one week.

2. – INTERNAL ORGANIZATION

The departments of the Constitutional Council (Legal Department, Clerk’s Office, Administrative and Financial Department, Documentation and External Relations Department) are headed by a Secretary General who is appointed by decree of the President of the Republic upon a proposal of the President of the
Constitutional Council. The Secretary General coordinates the work of the Constitutional Council.

The Constitutional Council enjoys financial autonomy, and this guarantees the separation of powers. Its President sets its budget which is included in the annual Finance Bill.
The **Conseil d’État**
*(Council of State)*

**Key points**

The *Conseil d’État* is the supreme administrative court in France. It passes rescinding rulings concerning judgements made by the administrative appeal courts and also has the power to judge certain disputes in the first and last instance such as applications for judicial review of administrative action brought against decrees.

The *Conseil d’État* also plays the role of adviser to the Government. In accordance with article 39 of the 1958 Constitution, bills are referred to it before they go to the Council of Ministers. It is also consulted on draft ordinances, as is stated in article 38 of the Constitution as well as on the most important decrees, referred to as "decrees in *Conseil d’État*". The Government may refer any other matter for regulation or any specific legal question to the *Conseil d’État* for opinion.

Since the constitutional revision of July 23, 2008, a referral for opinion may be made to the *Conseil d’État* by the President of the National Assembly or the President of the Senate concerning a Member’s bill tabled in either of the two parliamentary assemblies before its consideration in committee. In addition, it also plays an important filtering role in the procedure concerning the priority preliminary ruling on the issue of constitutionality.

*See also file 33*

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The *Conseil d’État* is, *de jure*, presided over by the Prime Minister, although in practice, it is run by its Vice-President. It is the heir to a very old tradition and has a double role: it is an administrative body which advises the Government and is also the supreme administrative court. The *Conseil d’État* is made up of three hundred members (councillors of state, masters of petitions and auditors) two thirds of whom practice at the *Conseil d’État* itself, whilst the other third is essentially composed of members with high-ranking positions in other administrations.

**I. – THE CONSEIL D’ÉTAT, HEIR TO AN OLD TRADITION**

The origin of the *Conseil d’État* is ancient. This institution can be seen as one of the heirs of the *Curia Regis* which was made up of important people close to the King and helped him govern his kingdom in the Middle Ages.
However, it was only during the French Revolution that the *Conseil d'État* was to take on its present-day appearance. In 1790, the Constituant Assembly decided that the administration should no longer be submitted to the judiciary. Cases involving public authorities have, since then, been examined by special courts. It was, strictly speaking, the Consulate which, with article 52 of the Constitution of 22 Frimaire, Year VIII (December 13, 1799) created the *Conseil d'État*. It has a double role; as an administrative body, the *Conseil d'État* takes part in the drawing-up of the most important legal documents and as a court, it judges disputes in which the administration is a party.

It was the Law of May 24, 1872 which finally provided the *Conseil d'État* with the structure it still possesses today. It was also at this time that the high courts set down the main principles of French administrative law, thus leading to the construction of the state governed by the rule of law.

Since that time, the *Conseil d'État* has continued to assert itself as the guarantor of freedom and of the legal functioning of the administration, thus reconciling in the best way possible the interests of the State and those of the citizens. Decree n° 2008-225 of March 6, 2008, concerning the organization and the running of the *Conseil d'État*, has rounded off this process and asserts this role by creating a strict separation between the advisory remit and the jurisdictional competence of the *Conseil d'État*.

On the one hand the decree establishes the principle according to which “*the members of the Conseil d'État cannot take part in the judgement of appeals against instruments enacted after an opinion of the Conseil d'État if they themselves have been involved in the deliberation of that opinion*”. Litigants can check the compliance with this obligation by obtaining a list of the members of the advisory sections who took part in the opinion given on the instrument they are challenging. On the other hand, the representatives of the administrative sections may not sit in the ordinary section of nine members, the combined sub-sections or the litigation section when it sits in judgement. Lastly, the number of members of the Litigation Assembly is increased to 17 members (a clear majority of whom belong to the litigation section) and the President of the administrative section which was called upon to deliberate does not sit on this assembly even if he was not present the day the matter was examined by his administrative section.

Decree n° 2009-14, of January 7, 2009 allows the parties to the proceedings to be informed of the conclusions of the public *rapporteur* on their case and to reply through short oral observations before the councillors retire to deliberate. The decree establishes the principle that the decision is deliberated in the absence of the parties and of the public *rapporteur*. Recently, the ethical obligations applicable to members of the administrative jurisdiction have been clarified. In 2012, the *Conseil d'État* published a charter which was, in particular, aimed at avoiding conflicts of interest in the implementation of its functions. Law n° 2016-483 of April 20, 2016 was extended to members of the administrative and finance jurisdictions. It set down the obligation to declare interests and estate.
II. – ADVISER TO THE GOVERNMENT

The Conseil d’État plays a role of adviser to the Government by examining all draft bills (as laid down in article 39 of the Constitution) and all draft ordinances (article 38 of the Constitution) before they are submitted to the Council of Ministers. It is also consulted on the most important draft decrees, called “decrees in Conseil d’État”. It gives its opinion based on the legality of the texts, their form and their appropriateness, from an administrative and not a political point of view.

The Conseil d’État may also be consulted by the Government on any question of a legal or administrative nature. This was recently the case in February 2017 when the Prime Minister made a referral to the supreme administrative court concerning several questions regarding loans or advances granted by natural persons or by legal entities to candidates in political elections.

When a matter is referred to the Conseil d’État for advice, it is sent to one of its five administrative sections: home affairs, finance, social affairs, public works, and administration (the latter was set up by the Decree of March 6, 2008).

The Home Affairs Section deals with matters concerning the Prime Minister and the Home Office, the Ministers of Justice, National Education, Higher Education and Research, Culture and Communication, Relations with the Parliament, Youth, Sport and Overseas Territorial Units.

The Finance Section is consulted on matters concerning the Ministers of the Economy and Finance, Foreign Affairs and Cooperation.

The Public Works Section has responsibility for matters concerning the Ministers of Agriculture, Fishing, Equipment, Transport, Housing, Tourism, Industry and Post and Telecommunications.

The Social Affairs Section is in charge of questions concerning the Ministers of Employment, Solidarity, Health and War Veterans.

The Administration Section examines bills and decrees dealing with all matters relating to the Civil Service as well as questions concerning the relations between administrations and users, state reform and public services, non-litigious administrative procedures, national defence (except for matters concerning veterans, war victims and pensions), public procurement and public properties.

For the most important questions (e.g. draft bills or ordinances), the General Assembly of the Conseil d’État makes a decision after the relevant section has given its judgement. Nonetheless, in urgent cases and upon a decision by the Prime Minister, a matter may be referred directly to the Standing Committee of the Conseil d’État, without prior examination in a section. This standing committee is much smaller than the General Assembly. Since the publication of the Decree of March 6, 2008, each president of an administrative section can decide to entrust the least complicated cases to a so-called ‘ordinary’ sitting (in contrast to the plenary sitting), the make-up of which he decides upon.
Furthermore, the Conseil d’État expressed a desire to involve people in the proceedings of its various advisory departments who would be liable to bring something to its reflection on account of their knowledge or experience.

In addition, the Conseil d’État addresses a public report each year to the President of the Republic. This report gives a full account of the activities of the administrative courts and may contain proposals for reforms which are meant to improve the organization or the working of administration, of the laws or regulations in force. The Report and Studies Section prepares this annual report along with other studies. It is also involved in the implementation of the decisions taken by administrative courts.

III. – ADVISER TO PARLIAMENT

Since the constitutional revision of July 23, 2008, a referral for opinion may also be made to the Conseil d’État by the President of the National Assembly or the President of the Senate concerning any Member’s bill tabled in either of the two assemblies before its consideration in committee. The author of the Member’s bill may make observations and even take part, in a consultative role, in the sitting during which the relevant section deliberates on the opinion which the Conseil d’État will give. He is informed of the opinion provided by the Conseil d’État.

During the XIVth term of Parliament, the Conseil d’État provided eight opinions on Member’s bills transmitted by the President of the National Assembly.

The Member’s bills which are referred for opinion to the Conseil d’État are considered by the relevant section or by an ad-hoc committee made up of representatives of the various sections concerned by the object of the Member’s bill. They are then submitted to the General Assembly of the Conseil d’État.

IV. – THE HIGHEST COURT OF THE ADMINISTRATIVE COURT SYSTEM

The Conseil d’État is the highest level of the administrative court system and it judges the disputes between individuals and administration in the widest sense of the word (State, territorial authorities, public bodies, and private persons in charge of public services such as professional bodies or sporting federations).

Thus it passes rescinding rulings concerning judgments made by the administrative appeal courts and specialized administrative courts such as the Refugee Appeal Commission. In addition, it also judges in the first and last instance appeals brought against decrees or the actions of collegial bodies with a national remit (e.g. the jury of a national competitive examination or a body such as the High Council on Audio-visual Matters) as well as electoral disputes concerning regional elections and elections of French representatives to the European Parliament. It has an appeal remit for matters concerning municipal and cantonal election litigation.
Like the Court of Cassation in the ordinary court system, the *Conseil d'État* ensures the unity of jurisprudence at a national level. The judgements made by the *Conseil d'État* in the field of litigation are supreme and are not liable to appeal except in an application to reopen proceedings or in the rectification of a material error.

The Litigation Section plays this jurisdictional role. It is made up of ten subsections each specialized in different types of litigation (foreigners’ rights, public tenders, taxation etc.).

Since 1990, the *Conseil d'État* has also been responsible for the running of administrative courts and administrative appeal courts. Previously this matter fell within the remit of the Ministry of the Interior. The *Conseil d'État* is also in charge of running the body controlling administrative judges and it is helped in this task by an independent consultative body which was set up in 1986, called the High Council of Administrative Courts and Administrative Appeal Courts.

**V. – AN INCREASED ROLE IN THE PROTECTION OF THE RIGHTS AND LIBERTIES GRANTED BY THE CONSTITUTION**

In compliance with article 61-1 of the Constitution introduced by the constitutional revision of July 23, 2008, every citizen appearing before an administrative court may challenge, during proceedings in progress before that court, the application of a statutory provision which he considers to infringe the rights and freedoms guaranteed by the Constitution.

The implementation of this procedure, which could lead to a suspension in the delivery of all or some of the points of the substantive decision, provides the *Conseil d'État* with the responsibility of making a judgment on the need to transmit to the Constitutional Council the issue of constitutionality raised before the court under its authority, including for the first time appeals and final appeals, as the judge in the first and last instance. The *Conseil d'État* must do this within a period of three months.

When a priority preliminary ruling on the issue of constitutionality is submitted to it, the *Conseil d'État* must ensure, before transmitting it to the Constitutional Council, that the statutory provision which is being challenged is covered by litigation or by the procedure or that it constitutes the basis for proceedings, that the statutory provision has not already been declared in conformity with the Constitution by the Constitutional Council in the motives and the context of its decision, excepting changes in circumstances, and finally that the question raised is new and of a serious nature.
The Judicial Authority:
The Ordinary Court System and the Court of Cassation
(Final Court of Appeal)

Key Points
The independence of the judiciary is a basic condition of a state truly governed by the rule of law. In France such independence is laid down in the Constitution which entrusts the President of the Republic with being its guarantor. A High Council of the Judiciary assists him in the exercise of this task and is the monitoring body with power over appointments and discipline. Its prerogatives are more significant concerning the judges of the ordinary courts, whose guaranteed tenure is constitutional, than the public prosecutors who come under the responsibility of the Minister of Justice.

The organization of the French judiciary is characterized by its pyramidal nature and its strict separation between the ordinary court system and the administrative court system. Within the ordinary court system civil matters are, in certain cases, heard in first instance by specialized courts and regional courts (tribunal d’instance or tribunal de grande instance) whilst criminal matters, which have an inquisitorial type procedure, are heard by distinct criminal courts according to the seriousness of the crimes.

At the top of the ordinary court pyramid stands the Court of Cassation. It is the judge of judges’ decisions and may also give its opinion upon the request of other courts of law, contribute to the drawing-up of jurisprudence and is the guarantor of the application of the law by the courts.

See also file 2

The French concept of the separation of powers makes the ordinary court system a real authority, distinct from both the legislative power and the executive power. The courts, which decide in the case of disputes by applying the law, are in this way one of the essential guarantees of the existence of a state governed by the rule of law.

The judicial authority was set up by title VIII of the 1958 Constitution. This title establishes the President of the Republic as guarantor of its independence and makes provision for the guaranteed tenure of judges of the ordinary courts (article 64). In addition, the Constitution sets up the judicial authority as the guardian of individual liberty (article 66).
Although it is independent, the judiciary still comes under a form of scrutiny. The French judicial organization is structured in a hierarchy and very often guarantees a double degree of jurisdiction. The Court of Cassation is the highest court in the French system of ordinary courts and it ensures the unity of this system and its jurisprudence.

I. – AN INDEPENDENT JUDICIARY UNDER SCRUTINY

Under the Ancien Regime, judicial office was a venal and transmittable position. After a passing phase during the revolutionary period when judges were elected, the Constitution of year VIII (1799) marked the move to a judiciary made up of publicly appointed officials.

Despite the principle of security of tenure, the main political crises of the 19th century saw waves of purges.

Judges are, like all French civil servants, recruited by competitive examination. They are trained in a specialized school called the National School for the Judiciary.

The security of tenure of ordinary court judges is now enshrined in the Constitution. The Constitutional Council is very strict in its application of the principle of security of tenure during its monitoring of the institutional acts concerning the status of judges – not only does this principle prohibit a judge being removed or suspended but also prohibits him being moved from one court to another without his agreement. Thus the judicial authority has a constitutional status which has been well established and which guarantees its independence.

However, the public prosecutors, who constitute the public ministry and who are thus responsible for defending the interests of society and implementing the decisions of justice, come under the authority of the Minister of Justice who may give them instructions in order to implement the Government’s criminal law policy. This may only however consist of general instructions as the Law of July 25, 2013, concerning the powers of the Minister of Justice and the Magistrates of public ministry in matters pertaining to criminal law policy and the implementation of public action, created the principle of prohibiting instructions in individual cases.

The separation between the ordinary court judges (the bench) and the public prosecutors (State Counsel’s Office) is nonetheless not totally sealed, as judges may move from one to the other, even several times during their careers.

So that such independence would not lead to irresponsibility, a monitoring body for the judiciary was set up by the Constitution of 1946. This body is the High Council of the Judiciary. The Constitutional Act of July 23, 2008 changed its make-up and powers such as they were set out in article 65 of the 1958 Constitution.
The Institutional Act of July 22, 2010 detailed the make-up and the operation of the High Council of the Judiciary as well as laying down the code of ethics which is binding on its members. So as to guarantee the independence of the institution and to open it up, the constitutional revision first of all brought an end to the fact that the Council was presided over by the President of the Republic and that its Vice-President was the Minister of Justice. The presidency of each of these sections is now held by the Chief President of the Court of Cassation and the Chief Public Prosecutor to this court.

The two sections of the High Council of the Judiciary are each entrusted with both making proposals or giving their opinion regarding the appointment of judges for ordinary courts for one of them and for the public prosecutors’ office for the other, as well as carrying out a disciplinary role concerning both of these.

The make-up of the two sections has been changed. The first, which has five ordinary court judges and one public prosecutor, is empowered to deal with ordinary court judges; the second, which has five public prosecutors and one ordinary court judge, is empowered to deal with public prosecutors. The other members of the High Council of the Judiciary belong to each of the two groups; they are, one state councillor, one practising lawyer and six prominent citizens, not belonging to the Parliament, the ordinary court system or the administrative court system, appointed respectively by the President of the Republic, the President of the National Assembly and the President of the Senate. Thus, within the Council, a majority representation for prominent citizens from outside the judiciary is ensured, except for disciplinary matters in which case the Council is made up of an equal number of judges and of members not belonging to the judiciary. The plenary structure which is in particular in charge of replying to the requests for advice made by the President of the Republic in accordance with article 64 of the Constitution and of making decisions on questions concerning the ethics of judges is made up of a balanced representation of the various levels of the judicial hierarchy.

The new wording of article 65 of the Constitution also provides the possibility for a request to be made to the High Council of the Judiciary by a person awaiting trial for disciplinary action to be taken concerning a judge. The Institutional Act of July 22, 2010 sets out the details of the examination procedure of the High Council concerning such requests.

In March 2013, a constitutional bill concerning the reform of the High Council of the Judiciary notably through the modification of its make-up and its powers, was tabled at the National Assembly. What emerged after its consideration upon second reading on April 26, 2016 at the National Assembly, makes provision for the strengthening of the role of the High Council of the Judiciary concerning the magistrates of the Public Prosecutor’s Office both as regards appointment and discipline. However, the bill has neither been submitted to referendum nor to Parliament gathered in Congress by the President of the Republic.
The Institutional Law of August 8, 2016 concerning statutory guarantees, ethical obligations and the recruitment of both judges and members of the High Council of the Judiciary has indeed strengthened the guarantees for the independence of judges in the exercise of their roles (in particular for custody and release judges), raised the ethical obligations so as to avoid conflicts of interest, improved the guarantee of their fundamental rights and opened up the judiciary towards society.

II. – A HIERARCHICAL JUDICIAL ORGANIZATION

The present organization of the French judiciary stems, in its general make-up, from the revolutionary period. Its principles are a hierarchical structure (with several levels of courts), the elimination of most courts of limited jurisdiction and the separation of the ordinary court system from the administrative court system.

The two levels of civil courts are those of first instance and of appeal. In the case of first instance, the competent court is, according to the importance of the action, the tribunal d’instance (magistrate’s court) or the tribunal de grande instance (regional court). Some cases may however be heard by specialized courts partly made up of non-professional judges. These courts include commercial and bankruptcy courts for commercial law matters, industrial arbitration courts for labour law affairs, agricultural land tribunals for rural law questions, social security appeal tribunals to deal with social security law issues etc. Until 1958, stipendiary magistrates were responsible for hearing petty disputes. The setting-up in 2002 of local courts was a reflection of the desire to re-establish a community-based level of courts to deal with certain petty disputes both in civil and criminal matters.

The judgments of courts of first instance are given, according to the seriousness of the dispute, either with or without recourse to appeal. In the former case they can be appealed before a court of appeal.

In criminal matters there are three types of court: police courts which deal with petty offences punishable by fines, criminal magistrate’s court which handles indictable offences and the court of Assizes which judges serious offences. The jurisdiction of one of these courts is thus determined by the gravity of the offence to be judged and by the legal consequences it entails (for petty offences the penalty is a simple fine, for indictable offences it is a fine plus up to ten years imprisonment and for serious offences it is a fine and a prison sentence which can be as much as life, possibly combined with a period of security during which the inmate will not be released under any circumstances even if he has reductions for good behaviour). Appeals against judgements handed down by police courts and criminal magistrates’ courts are heard before a court of appeal, as for civil matters.

The judgments of courts of Assizes can be appealed before another court of Assizes in accordance with the Law of June 15, 2000. In addition to three judges, the court of Assizes of first instance is made up of nine jurors (citizens of more
than 23 years old, drawn by lots from the electoral register) and the appeal court of Assizes is made up of twelve jurors.

The Law of August 10, 2011 on the participation of citizens in the carrying-out of criminal justice and the judgement of minors introduced the notion of “citizen assessors” into the criminal magistrates’ courts and the criminal magistrates’ appeal courts. The law made provision that in cases concerning persons accused of violent theft, sexual assault or destruction or criminal damage to property implying danger to others, two citizens whose names had been drawn at random from the electoral register would sit along with the three magistrates. This experiment which was launched in the criminal appeal courts of Toulouse and Dijon was subsequently evaluated. This evaluation, which was presented to the Minister of Justice on February 28, 2013, concluded that the new mechanism was not particularly efficient as well as being top-heavy and costly. It was thus dropped during the spring of 2013.

French criminal law procedure is based on the inquisitorial system. This explains the position of the examining magistrate whose responsibility it is to examine the most serious offences and most complex matters taking into account all incriminating and exonerating evidence. The public prosecutors may, under the authority of the Minister of Justice, carry out a true criminal law policy since they have the power of discretionary prosecution and this enables them to close a matter or, on the contrary, prosecute.

So as to ensure not only the equality of the citizens before the law but also the equality of access to justice, legal aid can be provided to those who do not possess sufficient resources, in order to obtain the free help of a lawyer during proceedings.

Decisions on merits made by the courts have the status of res judicata.

It should also be noted that the ordinary court authority has no jurisdiction concerning administrative disputes which are dealt with by courts of the administrative authority. This separation, which is justified by the principle that the only legitimate judge of the administration is the administration itself, can sometimes lead to conflict of jurisdiction. This can be either because each of the authorities sends the ruling of a dispute to the other (negative conflict of jurisdiction) or because the ordinary court judge considers his court to have jurisdiction whilst the administration believes it is competent (positive conflict of jurisdiction). In order to avoid such conflicts of jurisdiction, a Jurisdictional Disputes Tribunal, presided over by the Minister of Justice and made up of four representatives of the ordinary court authority and four representatives of the administrative court authority, is responsible for passing a ruling. In addition, since 1960, the highest courts of the two legal authorities may refer matters of high complexity which call into question the separation of the administrative and ordinary court authorities for resolution to the Jurisdictional Disputes Tribunal.
III. – THE COURT OF CASSATION, THE HIGHEST COURT IN THE FRENCH ORDINARY COURT SYSTEM

Decisions handed down in last instance by courts of the first degree and decisions of the appeal courts can be appealed before the Court of Cassation. Such a final appeal must be for a very serious reason relating to the application of the rule of law by the court concerned. In addition, with the exception of criminal cases and litigation in professional elections, the aid of an “avocat aux Conseils” or “accredited lawyer” (member of the legal profession with a practice who alone can represent parties before the Court of Cassation, the Conseil d’État, and the Jurisdictional Disputes Tribunal), is obligatory.

The Court of Cassation does not judge the substance of the cases but solely the decisions of the judges in law. This is why, more often than not, if the Court of Cassation quashes the contested decision, it will send the matter back to a lower court for a decision on the merits. Rescinding without appeal takes place when the decision which is quashed does not involve a new decision on the merits or when the evidence heard and assessed by the original judge enables the application of the appropriate rule of law.

The Court of Cassation is made up of six divisions each of which is specialized in particular types of dispute. There are three civil divisions, one commercial, one social and one criminal.

In the Court of Cassation, the State Counsel’s Office is represented by a Chief Public Prosecutor and counsels for the prosecution. In each case, both civil and criminal, the State Counsel’s Office provides an opinion so as to inform the judges of the Bench.

Cases are heard by a body of judges (in plenary, branch or smaller unit) from one of the six divisions. When a case raises an important question of principle, when it leads to differences of opinion between the divisions of the Court or when a vote is equally divided between the judges, two other bodies of judges are possible: a Mixed Division (made up of members of, at least, three different divisions) or the Plenary Assembly (the most formal body which includes the presidents as well as the members of all six divisions). When a decision which has already been quashed in the Court of Cassation is handed down by a judge in a lower court and is brought again before the Court of Cassation, the latter must sit in Plenary Assembly. In addition, every court of appeal is obliged to apply decisions handed down by the Plenary Assembly.

Since 1991, the Court of Cassation may also be led to provide its opinion, upon the request of the lower courts, in both civil and criminal matters, on new questions of law of great complexity raised in numerous disputes. The opinion given by the Court of Cassation is not binding on the lower courts but is communicated to the parties involved.
During the revolutionary period, judges had to limit themselves to the application of the law or in the case of there being no applicable law, to addressing lawmakers through legislative appeal. The abolition of this procedure in 1804 has provided judges with the power to interpret the law. Through its judgements and through its ‘opinions’, the Court of Cassation ensures unity of interpretation and the symbolic unity of the French ordinary court system. By sometimes basing its judgements on pre-established written principles, the Court of Cassation is a vector for the role played by jurisprudence in the “creation” of laws.

Article 61-1 of the Constitution, adopted through the constitutional revision of July 21, 2008, introduced into French law the notion of the priority preliminary ruling on the issue of constitutionality.

When 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 Conseil d’État or by the Court of Cassation. The Constitutional Council must render its ruling on the admissibility of the request within three months.
The Court of Accounts

**Key Points**

The Court of Accounts is the body responsible for monitoring the legality of public accounts and checking the correct use of public funds.

In accordance with article 47-2 of the Constitution, the Court of Accounts "shall assist Parliament in monitoring Government action"; it "shall assist Parliament and the Government in monitoring the implementation of Finance Acts and Social Security Financing Acts as well as in assessing public policies".

Collaboration between the Court of Accounts and Parliament takes various forms. This is particularly displayed by means of the special transmission of the work of the Court of Accounts to the National Assembly and to the Senate and by the attendance of the Court at various parliamentary bodies (Finance Committees, Assessment and Monitoring Mission and Assessment and Monitoring Missions for the Laws Governing Social Security).

*See also files 48, 49 and 50*

The Court of Accounts was set up in 1807 and has gradually seen its role broaden with the extension of the powers of both the State and the public sector.

Nowadays it has within its remit, the obligatory monitoring of:

- The State;
- National public establishments;
- Public companies;
- Social security agencies.

In all these cases, referral to the Court of Accounts is a matter of law and is thus automatic.

It also has within its remit, the optional monitoring of:

- Agencies in private law with a majority of votes or capital held by bodies submitted to obligatory monitoring by the Court of Accounts or in which such bodies have a dominating decision-making or managerial role;
- Agencies in private law (particularly associations) supported by public funding;
- Bodies of ‘general interest’ funded by donations from the general public;
– Bodies supported by European Union funding;
– Bodies entitled to grants of any type and to impose legally obligatory fees.


Articles L. 111-1 and L. 111-3 of the Code of Financial Jurisdictions state that “the Court of Accounts judges the accounts of public accountants” and that it “checks, using all available evidence, the correctness of the income and expenditure described in public accounts”.

The Court of Accounts is thus responsible for checking that the revenue has been collected and that expenditure has been engaged in accordance with the accountancy rules in force. It analyses the accounts and the accompanying supporting documents and examines the balance of the accounts. It releases the accountant from responsibility if the accounts are correct but declares him with a balance due if tax revenue has been lost or if expenditure has been irregularly carried out. The responsibility of the account is thus both personal and financial.

The Court of Accounts does not only judge the accounts of public accountants but also those of every person who has been involved in an irregular manner with the handling of public funds; the de facto accountant, so declared beforehand by the Court of Accounts, is then submitted to the same requirements and to the same responsibilities as a public accountant.

II. – THE MONITORING OF MANAGEMENT: THE COURT OF ACCOUNTS AND THE CORRECT USE OF PUBLIC FUNDS

The Court of Accounts does not judge the officials empowered to authorize expenditure but checks the correct use of public funds (according to article L. 111-3 of the Code of Financial Jurisdictions, it “checks the correct use of credits, funds and assets managed by state bodies”), either when it examines the accounts of state accountants and public bodies or when it directly verifies the management of officials empowered to authorize expenditure.

In 1976, the Court of Accounts also received the responsibility previously held by the Public Companies’ Accounts Verification Committee which, since 1948, had been monitoring public companies and was then a body attached to the Court of Accounts. The Court of Accounts expresses its opinion on the correctness and the legality of such accounts and proposes improvements, if necessary. It also provides an opinion on the quality of management of such companies.

Since 1950, the remit of the Court of Accounts also includes the monitoring of social security agencies. Almost all such agencies are private law legal entities whose resources are contributions of an obligatory nature. At a local level the accounts of social security offices are often checked by the departmental
committees for account verification (CODEC) under the supervision of the Court of Accounts.

In addition, state aid to a private body may take the form of a grant. It is within the remit of the Court of Accounts to check the use of such public aid and since 1991, this remit has been extended to include agencies requesting donations from the general public. The Court makes an assessment of the conformity of the expenditure of such agencies with the objectives set down in the call for public donations.

In the case of clear irregularities in the management of the officials empowered to authorize expenditure, working for one of these agencies or for a state body, the Court of Accounts may refer the matter to the Court of Budgetary and Financial Discipline (CDBF).

III. – ASSISTANCE TO PARLIAMENT AND GOVERNMENT

Article 47-2 of the Constitution, in the wording of the Constitutional Act of July 23, 2008, provides that the Court of Accounts:

– Shall assist Parliament in monitoring Government action;
– Shall assist Parliament and the Government in monitoring the implementation of Finance Acts and Social Security Financing Acts, as well in assessing public policies;
– Shall contribute to the information of the citizens by means of its public reports.

In the wording of the Constitutional Act of July 23, 2008, the reference to assessment seems to complete an evolution which has led the assemblies, as well as the Court, to introduce a new dimension into their work: the evaluation of results and of the efficiency of public policies.

The Court’s assistance to Parliament consists, first of all, in the transmission of numerous documents, only a limited number of which are public.

Parliament receives, of course, the public reports of the Court of Accounts:

– The annual report to the President of the Republic. In compliance with article L. 143-6 of the Code of Financial Jurisdictions, it is “presented to Parliament”. This presentation takes the form of a formal tabling of the report by the First President of the Court of Accounts in the Chamber of each of the assemblies. The Institutional Law of July 12, 2005 provides that this report may give rise to a debate both in the National Assembly and in the Senate (article 11 modifying the Institutional Act of August 1, 2001 concerning finance acts);
– Thematic or specific public reports which are the result of inquiries by the Court of Accounts sometimes jointly with the regional chambers of accounts.
Parliament also receives documents which are not public: specific reports on the management and accounts of public companies, the “references” of the Court of Accounts which are not published (observations made to ministers and signed by the First President), etc.

This information provided by the Court to Parliament was increased in 2008 by a provision stating that the First President should communicate to the finance committees, to the social affairs committees and to the commissions of inquiry of the assemblies, upon their request, the definitive findings and observations of the Court which are not required to be transmitted.

Article 58 of the Institutional Act of August 1, 2001 concerning finance laws modified and clarified the assistance mandate of the Court of Accounts to Parliament as regards the monitoring of finance acts and more generally public finances.

It is stated that the assistance mandate given to the Court of Accounts now includes the tabling of several reports:

- A preliminary report linked to the tabling of the Government report on national economic development and on policies for public finances that the Government must present in the last quarter of the ordinary session with a view to the debate on budgetary policy (article 48 of the Institutional Act of August 1, 2001);

- A report on the implementation of the finance acts, the content of which is broadened to include all associated accounts and which must include an analysis per mission and per programme of the use of the budgetary credits;

- A report linked to the tabling of each finance bill on the movements of credits through administrative channels, which must be ratified in the said finance bill (in practice this represents decrees authorizing advances).

In addition, the Court of Accounts must certify the legality, correctness and accuracy of the state accounts.

It must also reply to the requests for assistance made by the Chair and the General Rapporteur of the finance committees of each of the two assemblies in the carrying out of their assessment and monitoring mission.

The Court of Accounts is also obliged to reply, within a time limit of eight months, to any request for inquiry made by a finance committee concerning the management of agencies or bodies which it monitors. Thus, the Court receives regular referrals, in accordance with paragraph 2 of article 58 of the Institutional Law Regarding Finance Laws, concerning enquiries on subjects put forward by the Financial Affairs Committee, upon the request of its bureau which selects the requests proposed by the members of the committee and, in particular, by the “special” rapporteurs. Consequently, every year the Court of Accounts delivers four to six reports to the Chair of the Finance Affairs Committee which are then presented and debated before the committee.
The Court of Accounts provides similar assistance in the area of the monitoring of laws on the financing of social security. Every year it draws up a report on their implementation which it tables before Parliament. It may also be referred to by the relevant parliamentary standing committees on any question dealing with the implementation of the social security financing acts and may carry out inquiries upon their request on bodies which it monitors (article L.O. 132-3-1 of the Code of Financial Jurisdictions).

The Court of Accounts also takes part in the meetings of the Assessment and Monitoring Mission (MEC) set up in 1999 by the Finance Committee of the National Assembly and those of the Assessment and Monitoring Mission for the Laws Governing Social Security (MECSS) established in 2005. Such participation can be in the form of a report, of direct involvement in the meetings of the mission or of proceedings involving the judges of the Court who are directly concerned by the subject.
The Economic, Social and Environmental Council

Key Points

The Economic, Social and Environmental Council which, in accordance with the Constitutional Act of July 23, 2008, replaces the Economic and Social Council, is a consultative assembly set up by the Constitution within the framework of public authorities.

“By representing the main activities of the country, the Council encourages interaction between them and ensures their involvement in the economic, social and environmental policy of the Nation. It examines developments in economic, social and environmental issues and proposes any adaptations which it feels necessary” (article 1 of the Institutional Ordinance, n° 58-1360 of December 29, 1958).

The Constitutional revision of July 23, 2008, extended the breadth of the fields in which the Council could be called to provide an opinion, particularly to environmental questions and to programming laws setting down the multiannual guidelines for public finances.


Since the constitutional revision of July 23, 2008, the Economic, Social and Environmental Council (CESE) has a maximum of 233 councillors who are divided into groups according to their socio-professional background.

The Institutional Law of June 28, 2010 modified the make-up of the Economic, Social and Environmental Council. This was done in order to legally implement the setting-up of the environmental pole which had been introduced by the reform of the Constitution as well as to improve the Council’s representation of the French nation in terms of changes in the evolution of society since the reform of 1984, especially as regards young people and women.

Members are appointed for a term of five years and may not carry out more than two consecutive terms of office.

The office of member of the Economic, Social and Environmental Council is incompatible with that of M.P., M.E.P., member of the Government or member of the Constitutional Council or member of an independent administrative authority (except if the person is precisely appointed in their capacity in such roles).
The administrative working of the Economic, Social and Environmental Council is carried out by the general secretariat (140 civil servants in December 2015).

1. – **THE CHAIRMAN**

The Chairman is elected by secret ballot for five years by all the members making up the Economic, Social and Environmental Council.

He is in charge, along with the *Bureau*, of the correct running of the Council both from an institutional and an administrative point of view. He has authority over the departments and is empowered to authorize expenditure.

He represents the Assembly of the CESE at a national, European and international level.

2. – **THE BUREAU**

The *Bureau*, which is the collegial managerial body of the Council, ensures the regular operation of its proceedings. It is made up of the Chairman of the CESE along with eighteen members elected by secret ballot, including eight vice-presidents, two *questeurs* and eight secretaries. The *questeurs*, along with the Chairman, ensure the preparation and the implementation of the budget. The *Bureau*, which is convened by the Chairman or upon the request of half of its members, lays down the agenda of the plenary assemblies.

It examines the requests for opinions or studies coming from the Prime Minister or from the presidents of the parliamentary assemblies, provides the sections with the task of drawing up reports or studies and with the preparation of draft opinions as well as decides on their main orientations and the time frame to be imposed. The *Bureau* may also decide upon the setting-up of a temporary committee when several sections are concerned by the same topic.

3. – **THE SECTIONS**

The nine sections are the ordinary working teams of the Council. They each have between 27 and 30 members who are appointed by the *Bureau* upon a proposal of the groups and they belong, as far as possible, to each of the groups. The members of each section elect their section chairman and deputy chairmen.

The Government may call upon a number of figures, chosen on account of their position, their knowledge or their experience to sit in a section for a specific mission and length of time. These figures, eight per section at the most, are tasked with using their expertise to further enlighten the work of the sections. They, like the ordinary council members, take part in the proceedings of the section to which they are co-opted, may vote on the draft studies and may even fulfil the role of *rapporteur*. However, they may not vote on the draft opinions as this is solely within the remit of the ordinary members of the Council. The latter possess a personal vote and may not delegate this right.
The sections are tasked with the drawing-up of studies and draft opinions on topics within their field of competence which is determined by decree. They meet one half-day per week. These meetings are held in camera so as to maintain the free nature of the discussions which take place.

4. – Plenary Assembly

The plenary assembly is convened twice a month and brings together the 233 members of the Council who vote on the opinions put forward by the sections. The agenda is drawn up by the Bureau. Ministers, who are informed about opinions which concern them, attend the plenary assembly and participate in the debates.

5. – The Budget

The budget attributed to the CESE is part of that contained in the budgetary mission referred to as “Council and State Monitoring”. The Council is in fact covered by programme n° 126 - “Economic, Social and Environmental Council”. The total budget allotted to the CESE was €40.83 million in 2016. In the 2017 Finance Act, the budget allocated was €40.2 million for commitment authorizations and €39.5 million for payment appropriations.

II. – The Role of the Economic, Social and Environmental Council and Its Relations with the Parliament

1. – The Role of the Economic, Social and Environmental Council

Article 2 of the Institutional Ordinance of December 29, 1958, makes provision for a variety of referral procedures of the CESE by the Prime Minister:

– Obligatory referral for advice on planning and programming bills on economic, social or environmental issues;
– Optional referral for advice on programming bills setting down multi-annual guidelines for public finances as well as on Government bills, ordinances, decrees and Member’s bills within its scope.

The CESE may also be consulted on any economic, social or environmental issue by the Prime Minister, the President of the National Assembly or the President of the Senate. All these individuals may also make a request to the Council for an opinion or a study. If the Government has declared an emergency, the Council has one month in which to provide its opinion.

It may also make an auto-referral or since the constitutional revision of July 23, 2008, have matters referred to it by petition in the conditions laid down by article 4-1 of the Institutional Ordinance of December 29, 1958. The petition must be presented in the same terms by at least 500,000 people of voting age who have French nationality or who regularly reside in France. It must mention the surname, first name and address of each petitioner and must be signed by him/her.
2. – THE RELATIONS OF THE ECONOMIC, SOCIAL AND ENVIRONMENTAL COUNCIL WITH PARLIAMENT

In accordance with article 70 of the Constitution, both Parliament and the Government may refer any economic or social issue to the Economic, Social and Environmental Council and, since the constitutional revision of July 23, 2008, may do the same for an issue of an environmental nature. The President of the National Assembly made use of this possibility for the first time in September 2009, by referring the question of the taxation of daily allowances for work–related accidents to the Council.

Article 69 of the Constitution provides that one member of the Economic, Social and Environmental Council may be appointed by the Council to present to the parliamentary assemblies, the opinion of the Council on such Government or Members’ bills as have been submitted to it.

In accordance with article 97 of the Rules of Procedure of the National Assembly, the Chairman of the Economic, Social and Environmental Council gives notice to the President of the assembly in question.

At the appointed hour of his hearing, he is led into the Chamber by the Chief Usher, upon the order of the President who immediately gives him the floor. Once he has finished his presentation, he is led out of the Chamber in similar fashion.

In addition, for its own information, each committee may request, through the offices of the President of the assembly in question, to have the rapporteur of the Economic, Social and Environmental Council make a submission before it on the bills on which he was called to give his opinion.
The Territorial Organization of France

Key points
Since the revision of 2003, the Constitution states that the organization of the Republic is decentralized. This thus takes into account the process of decentralization which was initiated at the start of the 1980s.

Accordingly, many powers were transferred to local municipalities, departments and regions but also to communities with a specific status and to overseas communities. At the same time, municipalities are increasingly coming together in public establishments for inter-municipal cooperation so as to pool their resources. As their powers have increased, so have their means regarding both financial and human resources.

This double increase in powers and in resources means that territorial communities have become major public actors in local life and democracy.

The constitutional revision of March 28, 2003, introduced into article 1 of the Constitution the notion that the organization of the Republic is decentralized. This new stage in the process of decentralization is part of the extension of several reforms which granted an increased freedom in administration to the different territorial levels. The Law of March 2, 1982, concerning the rights and freedoms of municipalities, departments and regions, represented a crucial step in this process. Since the 1990s inter-municipal cooperation has been stressed. The process of decentralization has also witnessed a growing devolution of state services in the regions and departments. As of 2009 and 2010, these devolved services were radically reorganized within the framework of an overall reform of the state territorial administration.

I. – A BROAD RANGE OF TERRITORIAL COMMUNITIES

Article 72 of the Constitution draws up the list of territorial communities which are: “the Communes (municipalities), the Departments, the Regions, the Special-Status communities and the Overseas Territorial communities to which article 74 applies”.

See also file 4
1. – MUNICIPALITIES, DEPARTMENTS AND REGIONS

In France, there are currently three levels of territorial communities.

Of these three levels, the municipalities make up the oldest and the closest to the citizens within the territorial organization of France. They replaced the former parishes in 1789. The mayor, who is elected by the municipal council, is both the representative of the State in the municipality (he has powers concerning civil registry as well as administrative policing) and the holder of local executive power (he prepares and implements the decisions of the municipal council).

In 2016, their pooling within “new municipalities” which began in 2010 and was encouraged by the Law of March 16, 2015 concerning the improvement of the “new municipality” regime concerning thriving and lively municipalities meant that their number could be reduced to under the symbolic level of 36,000.

The departments were also set up in 1789. There are 101 of them of which 96 are in metropolitan France. At the beginning they were areas for state action (with the State being represented by the prefect) and they were only to become territorial communities in 1871.

In application of the Law of March 17, 2013, concerning the election of departmental councillors, municipal councillors and community councillors included a change in the electoral code and their deliberative assemblies have, since the election of March 2015, taken the name of “departmental councils” (instead of “general councils”). Voters in each “canton” (local area) now elect two members of different sexes, standing as a ticket. The departmental councils will be entirely renewed every six years.

The regions are a more recent creation. In the 1960s, they represented simple state entities, areas for regional action which were meant to provide more coherence to state policy at a higher level than the department. The Law of March 2, 1982, provided them with the status of territorial communities but it was only in 1986 that the first election for regional councils by universal suffrage was held.

The Law of January 16, 2015, concerning regional boundaries, regional and departmental elections which modified the electoral calendar pooled certain regions. Indeed, the number of regions dropped from 21 to 12 (excluding Corsica which is an area with a specific status).

These three levels represent both territorial communities and areas for state action (their representatives are the mayor, the prefect and the regional prefect respectively). Therefore, the organization of devolved state services is based on the same territorial divisions. Within the department there is a sub-division called “arrondissement” or district in which the state is traditionally represented by a sub-prefect.
2. – SPECIAL-STATUS COMMUNITIES AND OVERSEAS COMMUNITIES

Certain communities possess a specific status both in metropolitan France and in the overseas territories.

In continental France, Paris, Lyon and Marseille have a special status: these towns are divided into “arrondissements” which elect councils and mayors. In addition, Paris has a double status as both a municipality and a department and these two levels are due to be pooled within a new entity with a specific status, in accordance with article 72 of the Constitution, referred to as “Ville de Paris” (“City of Paris”), as of January 1, 2019, in application of the Law of February 28, 2017 concerning the status of Paris and metropolitan development. In addition, most police powers there are in the hands of the Prefect of Police, instead of the Mayor. In a similar vein, the “metropole de Lyon” (“City of Lyon”), which has the same status, has replaced the “Urban Community of Lyon” and also the “Rhône” department’s powers within its boundaries.

For historical reasons, certain exemptions to ordinary common law exist for the Île de France region and in Alsace and Moselle.

Corsica has a specific institutional organization which grants it greater management autonomy. The Territorial Community of Corsica has extended powers in certain areas, in particular that of the protection of cultural heritage. In application of the Law of August 7, 2015 leading to a new territorial organization of the Republic (NOTRe), it became on January 1, 2018, a single entity, pooling the current territorial entity of Corsica and the departments of Corse du Sud (Southern Corsica) and Haute-Corse (Upper Corsica).

The overseas departments and regions which are Guadeloupe, Martinique, French Guiana, La Réunion and Mayotte, are subject, by virtue of article 73 of the Constitution, to the notion of legislative assimilation. They have the ordinary law powers of departments and regions but they are also included in international negotiations and have a greater power of proposition. In 2011, Mayotte became the fifth overseas department with the status of a single community exercising the powers devolved to overseas departments and regions. In 2016, Martinique and French Guiana also became single communities.

However, other overseas communities (Saint-Barthélemy, Saint-Martin, Saint-Pierre-et-Miquelon, the Wallis-and-Futuna islands and French Polynesia) and New-Caledonia are subject to the principle of legislative specificity which is governed respectively by articles 74 and 77 of the Constitution: an Institutional act defines the status of each community and lists the laws which are applicable there. Local assemblies may draw up regulations which fall within the ambit of statute except for certain matters specified in article 73, paragraph 4 of the Constitution.
3. – THE DEVELOPMENT OF INTER-COMMUNALITY AND METROPOLISES

France is one of the countries in the world which has the largest number of municipalities. In order to avoid the risk of dispersion of local public policies an inter-communal level has been developed. This level allows several municipalities (“communes”) to pool the management of certain public services and the implementation of certain policies. In order to do this, public entities for inter-communal cooperation (EPCI) were set up. These are public entities without being territorial communities. Their creation, most of the time, is the result of a wish expressed by the member municipalities and does not lead to the end of their status as such.

The first generation of EPCLs is made up of inter-municipality groupings which today number around 8,500. There is a distinction drawn between inter-municipality groupings with a single aim (SIVU) which carry out only one joint action (for example road maintenance) and inter-municipality groupings with multiple aims (SIVOM) which may carry out several. These EPCLs do not have their own resources and, therefore, depend on the municipalities for their financing. In addition to this, there is also the case of “mixed groupings” which may bring together municipalities with other public entities, of which there are around 3,000 (including the metropolitan clusters and territorial and rural balance clusters).

The second generation of EPCLs fulfils the wish for greater integration as inter-communal cooperation is financed by local taxation: either by a single professional tax or by additional taxes. As of January 1, 2017, their numbers have been substantially reduced. This was the date of the coming into effect of new inter-communal maps drawn up in application of the NOTRe Law. Thus, France has 1,268 EPCLs with their own taxation (instead of 2,134 in 2015) among which 11 are ‘metropolises’, 14 are urban communities, 219 are agglomeration communities and 1,019 municipality communities.

The geographical and population criteria which lead to having the label of “metropolis” based on the Law of January 27, 2014 on the modernization of territorial public action and the label of “metropolis” (called the “MAPTAM”) were also broadened by the Law of February 28, 2017, on the aforementioned status of Paris. This reform should allow seven urban communities and agglomeration communities to gain this label in the upcoming years.

II. – THE TERRITORIAL COMMUNITIES – MAJOR PUBLIC ACTORS

Territorial communities have become major actors in local life. Their powers have in fact grown in number and this requires increased resources and a special civil service whose numbers have also risen.
1. – THE POWERS OF THE TERRITORIAL COMMUNITIES

Territorial communities are also subject to a principle of free administration which is guaranteed by article 72 of the Constitution and which is carried out “in the conditions provided for by the law”. This principle is applied to the relations between the communities with the state but also those which link the communities between themselves. Thus, no territorial community may have authority over another.

The 1982 and 1983 Laws on decentralization have also put an end to the prior monitoring which prefects carried out on the instruments of territorial communities. Even if the latter must, generally speaking, transmit such instruments to the prefects, the administrative judge alone, if a referral is made to him by the prefect or by a legal entity concerned by the issue, may rescind them.

Territorial communities traditionally were subject to a general clause concerning their powers, and this allowed them to deal, through their own deliberations, with all matters falling within their local scope. Since the aforementioned Law of August 7, 2015, (the NOTRe Law), this general clause concerning their powers only applies to the communities and the powers of departments and regions are now specifically laid down by the law.

The legislator intended, from the beginning of the process of decentralization, to create homogeneous blocks of powers, specific to each level of the communities. Thus, municipalities have principal powers in matters concerning town planning, housing and the environment. The departments have powers in two main fields: social action (children, special needs, seniors, Active Solidarity Income), and spatial development (rural equipment, sea harbours and internal ports, aerodromes, departmental roads). Lastly, regional powers are essentially in the areas of economic development, regional planning and non-urban transport. Nonetheless, many fields (sport, tourism, the promotion of regional languages, community education etc.) are still shared between the different levels of local authorities. This is the case, for example, in education as primary education is a matter for municipalities, junior high schools are within the remit of departments whilst high schools fall within the scope of regions. The exercise of shared powers may, since the constitutional revision of 2003, lead to the appointment of a “leading municipality” which is in charge of the organization of the unified action of several local authorities.

The constitutional revision of 2003 also enshrined the notion of the regulatory power of territorial communities (article 72, paragraph 3) which may, in the conditions laid down by the law, contribute to the exercise of local powers.
2. – **THE FINANCES OF THE TERRITORIAL COMMUNITIES**

In 2015, the expenditure of local public administrations represented 249.2 billion euros, of which 36.9 billion euros was capital expenditure: alone, the territorial communities thus finance more than 60% of public investment. In total, local expenditure represents about 20% of public expenditure, i.e. almost 12% of GDP. Their increase is now regulated by the fixing of a development objective for local expenditure (ODEDEL), set up by the Law of December 29, 2014 on the planning of public finances for 2014-2019. The latter is a guide to respecting the constitutional principle of the free administration of territorial communities.

The amount of the resources of territorial communities is increasing given the transfer in powers which they enjoy.

- The main one is made up of local rates and taxes, amongst which are housing tax, land tax on constructed properties, land tax on non-constructed properties and the “territorial economic contribution” paid by firms. In 2015, all this direct local taxation taken together represented about 85.8 billion euros;

- Local communities also benefit from state aid which represents more than 50 billion euros per annum (not including transferred taxes and compensation for local tax relief). The most sizeable of these transfers is the Overall Operations Transfer (DGF). These transfers were, nonetheless, reduced to 48 billion euros in the framework of the contribution of territorial communities to the recovery of public finances.

3. – **THE TERRITORIAL CIVIL SERVICE**

The territorial civil service was set up by the Law of January 16, 1984. Since then, its numbers have risen sharply, particularly on account of staff transfer from the centralized state civil service to the various decentralized branches.

In 2015, the territorial civil service numbered almost 1.9 million staff, i.e. around 35% of overall civil service numbers. The municipalities and the EPCIs employ most of these territorial civil servants (more than 1.5 million), followed by the departments (around 300,000) and the regions (with around 81,000 staff). More than 230 different types of job, in eight branches, have been listed and they correspond to the many powers which have been devolved to the territorial communities.
The Defender of Rights

Key Points
The Defender of Rights, who is appointed for a non-renewable term of six years by the President of the Republic after consultation with the relevant standing committees of the parliamentary assemblies, is an independent administrative authority responsible for safeguarding the protection of rights and freedoms and for promoting equality.

This institution which has been enshrined in the Constitution since the Constitutional Law of July 23, 2008, has taken the place of the Ombudsman of the Republic, the Defender of Children’s Rights, the High Authority to Combat Discrimination and Promote Equality (HALDE) and the National Commission on Security Ethics (CNDS). Its missions and powers are regulated by the Institutional Law (n° 2011-333) and Ordinary Law (n° 2011-334) of March 29, 2011.

The Defender of Rights reports on his activities to the President of the Republic and to Parliament.

I. – STATUS

The Defender of Rights is appointed by the President of the Republic in accordance with the procedure laid down in the final paragraph of article 13 of the Constitution. This procedure requires an opinion on the matter to be expressed publicly by the relevant standing committee of each assembly and the President of the Republic may not proceed with the appointment when the sum of the negative votes in each committee represents at least three-fifths of the ballots cast within the two committees.

Upon appointment, the term of office of the Defender of Rights may only be interrupted either at his own request or, in the case of incapacity, declared by a body composed of the Vice President of the Conseil d’État and of the first presidents of the Court of Cassation and of the Court of Accounts.

The Defender of Rights must receive no interference, in either direction, in the carrying-out of his office. He may not be prosecuted, investigated, arrested, held or judged on account of the opinions he expresses or the acts in which he engages in the accomplishment of his duty.

His duties are incompatible with those of a member of Government, of the Constitutional Council, of the High Council of the Judiciary, of the Economic, Social and Environmental Council as well as with those of any elected office, of
another position within the civil service, of a given professional activity and of any managerial position within a company.

The status of the Defender of Rights and of all his staff are governed by the general status of independent administrative authorities laid down by the Institutional Law (n° 2017-54) and Ordinary Law (n° 2017-55) of January 20, 2017. Thus, the Defender of Rights is the person who authorizes the expenditure of the authority and such expenditure is exclusively checked, *a posteriori*, by the National Court of Accounts.

II. – SCOPE OF POWERS

The Defender of Rights is responsible for five broad missions laid down by the Institutional Law of March 29, 2011:

– To defend rights and freedoms in dealings with state administrations, territorial authorities, public establishments and bodies with a public service mission;

– To defend and promote the superior interest and rights of the child as laid down by the law or by an international undertaking which has been legally ratified or approved by France;

– To fight against discrimination, whether it be direct or indirect, prohibited by the law or by an international undertaking which has been legally ratified or approved by France, as well as promoting equality;

– To safeguard the respect of a code of ethics by persons carrying out security duties on the territory of the Republic;

– To direct any whistle-blower towards the competent authorities, in accordance with the Law (n° 2016-1691) of December 9, 2016, and to ensure the rights and freedoms of said person.

The provisions which appeared to grant the Defender of Rights the mission of providing financial assistance to whistle-blowers have been, however, rejected by the Constitutional Council (decision n° 2016-740 DC of December 8, 2016).

As a consequence of their replacement by the Defender of Rights, the Ordinary Law of March 29, 2011 repealed the legislative instruments which had set up the position of Ombudsman of the Republic (Law of January 3, 1973), the Defender of Children’s Rights (Law of March 6, 2000), the National Commission on Security Ethics (Law of June 6, 2000) and the High Authority to Combat Discrimination and to Promote Equality (Law of December 30, 2004).
III. – REFERRAL

In each of his missions, referral is made directly to the Defender of Rights by the physical or moral person who considers himself wronged or who requests protection. Persons having made such a referral cannot be the subject, for this reason, of retaliation or revenge.

When the interest of a child is called into question, the persons authorized to make referral to the Defender of Rights are: the child or minor under 18 years old, his legal representative, a member of his family, a medical service, a social service or an association for the defense of children’s rights which has been legally declared for at least five years.

In the case of mediation with public services, the referral to the Defender of Rights is preceded by preliminary discussions with the public entities or bodies which have been called into question.

In all cases, the referral is free of charge. The Defender of Rights may make an auto-referral or the referral may be made by the dependents of the person whose rights or freedoms are at issue. In the case of auto-referral or of a referral by a person other than the involved party, the Defender may only intervene on condition that the involved party (or in certain cases his/her dependents) has been informed and is not opposed to such intervention.

The referral may be made by electronic means, by ordinary mail or through the intermediary of one of the delegates of the Defender of Rights working in the préfectures, sub-préfectures or in the local justice and rights office.

The referral to the Defender of Rights may be made via one of his deputies.

A complaint may be lodged with an M.P., with a Senator or with a French M.E.P. who will transmit it to the Defender of Rights if he feels that it requires his attention. The Defender of Rights will inform the M.P., the Senator or the French M.E.P. of the action taken pursuant to the aforementioned transmission.

Upon the request of one of the standing committees of his assembly, the President of the National Assembly or the President of the Senate may transmit to the Defender of Rights any petition which has been presented to his assembly and which falls within the remit of the Defender of Rights.

The Defender of Rights also deals with complaints which are addressed to him by the European Ombudsman or by a foreign counterpart and which appear to him to fall within his remit and call for his attention.

Referral to the Defender of Rights neither interrupts nor suspends, in itself, the normal prescription period regarding civil, administrative or criminal actions. This is also the case as regards administrative appeals or litigation.
IV. – OPERATION AND MEANS

In each of his missions, except in that concerning mediation with a public service, the Defender of Rights is assisted by a college which is composed of qualified figures in the particular area, and of a deputy who is the Vice President of the college which corresponds to his specific expertise.

The deputies work directly with the Defender of Rights and under his authority. They are appointed by the Prime Minister upon a proposal of the Defender of Rights and the same rules concerning incompatibilities apply to them as to the Defender of Rights. The ending of the term of office of the Defender of Rights, for whatever reason, leads in every case to the ending of the term of his deputies.

The institutional law provides for the compulsory appointment of a deputy vice-president of the College in Charge of the Defence and Promotion of Children. This person keeps the title of Defender of Children’s Rights. It also provides for a deputy vice-president of the College in Charge of Security Ethics and for a deputy vice-president of the College in Charge of the Combat against Discrimination and the Promotion of Equality.

The College in Charge of Security Ethics includes, in addition to its vice-president, three figures who are appointed by the President of the Senate, three figures appointed by the President of the National Assembly, a member or former member of the Conseil d’État appointed by the Vice President of the Conseil d’État and a member or former member of the Court of Cassation appointed jointly by the First President of the Court of Cassation and by the Director of Public Prosecutions of the aforementioned court.

The College in Charge of the Defence and Promotion of Children includes, in addition to its Vice President, two qualified figures who are appointed by the President of the Senate, two qualified figures appointed by the President of the National Assembly, one qualified figure appointed by the President of the Economic, Social and Environmental Council and one member or former member of the Court of Cassation appointed jointly by the First President of the Court of Cassation and by the Director of Public Prosecutions of the aforementioned court.

The College in Charge of the Combat against Discrimination and the Promotion of Equality, in addition to the deputy Defender of Rights who operates as its vice-president, is made up of three qualified figures who are appointed by the President of the Senate, three qualified figures appointed by the President of the National Assembly, a qualified figure appointed by the Vice President of the Conseil d’État and a qualified figure appointed by the First President of the Court of Cassation.

The Defender of Rights may convene a joint meeting of several colleges and of his deputies so as to consult them on the complaints or questions which might involve several of their fields of expertise or which might be particularly difficult to deal with.
The Defender of Rights may request explanations from any natural person or legal entity called into question before him and may require that person or entity to communicate any document which is necessary for the carrying-out of the Defender’s mission. He may interview any person whose evidence appears useful to him. The persons or entities called into question may themselves call on the assistance of the council of their choice.

The notion of professional secrecy may not be called upon in dealings with the Defender of Rights.

When his requests are not complied with, the Defender of Rights may order the concerned persons to reply to him within a time limit which he shall set. When the order to reply is not complied with, the Defender of Rights may make a referral to the judge in chambers with a motivated request asking the judge to order whatever measures he may consider useful.

In the case of a preliminary inquiry or of a flagrancy inquiry opened on the matters referred to him, or upon which he has made an auto-referral, the Defender of Rights must, in the carrying-out of certain of his powers, obtain the prior agreement of the relevant courts or of the Public Prosecutor.

The Defender of Rights may carry out on-the-spot checks. Nonetheless in the case of administrative offices, the relevant authority may oppose this invoking the notion of serious and compelling reasons linked to national defense and public security. The on-site check may then only be carried out with the authorization of the judge in chambers.

In the case of private premises and with the exception of urgent circumstances, the person in charge of the premises is informed beforehand of his right to oppose the on-site visit or check. The on-the-spot check can only then be carried out with the authorization of the “liberty and custody” judge.

If the Defender of Rights so requests, ministers may give instructions to the inspectoral body concerned to carry out, within their remit, any checks or enquiries required. They shall inform the Defender of Rights of the action taken following such a request.

V. – POWERS

The Defender of Rights may decide not to follow up a referral: in this case he must set down the reasons for his decision.

He may propose a settlement between the person lodging the complaint and the person called into question. In the case of discrimination covered by the criminal code, the settlement may consist in the payment of a compromise fine.
He has recourse to the power of recommendation so as to guarantee the rights and freedoms of the wronged person, resolve the difficulties raised before him and avoid their recurrence. In particular, he may recommend the administration to equitably resolve the situation of the person lodging the complaint.

If the said recommendation is not complied with, the Defender of Rights may require the person called into question to take the necessary measures within a specific time limit.

If the said order is not complied with, the Defender of Rights may draw up a special report which is communicated to the person called into question. This report is made public, along with, if need be, the reply of the person called into question. This is done in accordance with the method deemed appropriate by the Defender of Rights.

Except in cases concerning judges, the Defender of Rights may request the relevant authority to bring disciplinary proceedings in light of the facts that he possesses and which appear to him to justify a sanction.

The Defender of Rights may request the Vice President of the Conseil d’État or the First President of the Court of Accounts to carry out any relevant studies.

If the Defender of Rights receives a complaint which is not submitted to a jurisdictional authority and which raises an issue requiring an interpretation or dealing with a legislative or regulatory provision, he may consult the Conseil d’État and render the opinion public.

He may recommend that legislative or regulatory modifications which appear useful to him may be implemented. He may be consulted by the Prime Minister on any Government bill which deals with his field of expertise. He may also be consulted by the Prime Minister, the President of the National Assembly or the President of the Senate on any issue which deals with his field of expertise.

VI. – THE SPECIFICITY OF MEDIATION WITH PUBLIC SERVICES

The Defender of Rights is responsible for improving the relations between citizens, administration and public services. This is to be done chiefly by means of mediation.

This concerns administration but also all organizations which provide a public service: public hospitals, family allowance bodies (CAF), public health care bodies (CPAM), the social security scheme for independent workers (RSI), labour exchanges, energy providers (EDF, GDF), public transport providers (SNCF), ministries, consulates, prefectures, town halls, regional and departmental councils.
The Defender of Rights may not answer a referral nor may he make an auto-referral in matters concerning disagreements liable to occur between various public entities and bodies. Neither may he intervene in problems liable to occur between, on the one hand, such public entities and bodies and on the other hand, their employees, on account of the carrying-out of their jobs.

In the implementation of this final mission, the Defender of Rights possesses all the means and the powers provided by the legal instruments but he is neither assisted by a college of experts nor by a deputy.

Provision is simply made for a General Delegate for Mediation who is appointed by the Defender of Rights and who is in charge of the “mediation with public services” mission.
Equal Access for Women and Men to Elected Offices and Positions

Key Points

Although women obtained the right to vote and stand for election with the Ordinance of April 21, 1944, they remain under-represented in elections and elected positions.

So as to make up for the delay in this field in France, the constituent power established, in the Constitution, the principle of “equal access by women and men to elective offices and positions” through the constitutional revision of July 8, 1999. This principle was formally reaffirmed when it was included in article 1 of the Constitution at the time of the constitutional revision of July 23, 2008 (article 1, paragraph 2 of the Constitution). The Constitution also requires legislators, as well as political parties and groupings, to implement this principle (article 4, paragraph 2).

On the basis of this constitutional principle, Parliament has passed several laws intended to encourage gender equality.

The application of this constitutional principle by the legislator has certainly been the cause of a relative improvement in the numbers of women among elected officials.

This increase however differs according to the type of election, whether it be based on a list system, a single seat system or even a binominal system.

By the ordinance of April 21, 1944, enacted by General de Gaulle, which dealt with the organization of public powers in France after the “Liberation”, French women became voters and eligible for election.

However, throughout the second half of the XXth century, they remained under-represented in all French elections. In 1997, for instance, only 10.9% of M.P.s were female and only 5.6% of Senators in 1998. This left France in second to last place in the field of gender equality by comparison with other European countries.

Article 1 of the Constitution clearly states that the law “shall promote equal access by women and men to elective offices and posts” and article 4 that “political parties and groups...shall contribute to the implementation of the principle”.

Several laws were passed which implement this principle:

- Law n° 2000-493 of June 6, 2000 aiming at promoting the equal access by women and men to elective offices and posts;
- Law n° 2000-641 of July 10, 2000 concerning the election of Senators which implemented the principle of gender equality to the election of Senators based on a proportional list system applied in departments electing three or more Senators. This law was modified by the Law n° 2003-697 of July 30, 2003 reforming the election of Senators and which restricted the application of a proportional list system to departments where more than four Senators are elected;
- Law n° 2003-327 of April 11, 2003 concerning the election of regional councillors and representatives of the European Parliament as well as public support for political parties;
- Law n° 2003-1201 of December 18, 2003 dealing with male-female parity for lists of candidates in the election of members of the Assembly of Corsica;
- Law n° 2007-128 of January 31, 2007, aiming at promoting the equal access by women and men to elective offices and posts;
- Law n° 2008-175 of February 26, 2008, opening up equal access by women and men to the position of departmental councillor;
- Law n° 2013-403 of May 17, 2013, concerning the election of departmental councillors, municipal councillors and of community delegates which also modified the electoral calendar;
- Law n° 2013-702 of August 2, 2013 concerning the election of Senators;

The implementation of the principle of gender equality has, generally speaking, led to a distinct increase in the representation of women amongst elected officials. Nonetheless, this increase is still insufficient and from several points of view, appears to be linked to the type of election in which the candidates are involved.

Thus, it can be noticed that for elections based on a list system, the gender parity of candidacies was easily imposed when linked to the notion of a penalty of non-enrolment on the registers of the lists of candidates. In the case of elections for single-seat constituencies, the principle of gender parity places fewer restrictions as it is only enforced by financial penalties for general elections and by the need for a substitute of the opposite sex for senatorial elections in departments electing one or two Senators. Finally, the recent introduction of two-person tickets made up of a woman and a man in departmental elections has led to a substantial increase in the number of women within these assemblies.
I. – GENDER EQUALITY IN ELECTIONS USING A LIST SYSTEM

1. - EQUALITY MECHANISMS IMPLEMENTED FOR MUNICIPAL, INTER-MUNICIPAL, REGIONAL, SENATORIAL AND EUROPEAN ELECTIONS

Law n° 2000-493, of June 6, 2000, aimed at promoting the equal access by men and women to elective offices and posts, imposed a strict female/male alternation on the lists for European and senatorial elections using proportional representation, as well as an alternation for every group of six candidates for regional elections and municipal elections.

In addition, this law made provision for a financial penalty for political parties which did not respect this principle in the putting forward of candidates for general elections.

Law n° 2000-641 of July 10, 2000 applied the principle of gender equality to the election of Senators by broadening the proportional list system to departments electing three or more Senators, i.e. two thirds of Senators, instead of in departments electing five or more Senators.

However, after, Law n° 2003-697 of July 30, 2003 reformed the electoral system for senatorial elections reserving the proportional list system to departments where four or more Senators are elected, i.e. half of all Senators. Thus, the single member system, which includes no obligation as regards gender equality concerned half of all senatorial seats.

Nonetheless, Law n° 2013-702 of August 2, 2013 concerning the election of Senators, once more reformed the mechanisms for the election of Senators by making provision for:

- On the one hand, the application of a list system which leads to a woman-man alternation in the lists of candidates for the departments which elect, at least, three Senators (which represents, at least, 73% of the seats), instead of the previous four;
- On the other hand, the introduction of an obligation for gender equality (woman-man alternation) in the composition of the lists of candidates for the election of the delegates of municipal councils and their substitutes, in municipalities of 1,000 inhabitants or more, with a view to giving more visibility to women in the senatorial electoral college;  
- Finally, in the departments where Senators are elected in a single seat majority system (27% of seats), the adoption of mechanisms which provide the candidate and the substitute should be of the opposite sex.

As regards the election of regional councillors and Members of the European Parliament, Law n° 2003-327 of April 11, 2003 establishes the requirement of respecting strict alternation between women and men in the putting forward of lists of candidates.
Law no 2003-1201 of December 18, 2003 made these same rules obligatory for the election of members of the Assembly of Corsica.

Law no 2007-128 of January 31, 2007, aiming at promoting the equal access by women and men to elective offices and posts extended the requirement of strict female/male alternation in the composition of electoral lists to the election of the executive for regions and municipalities of 3,500 inhabitants or more. The law makes provision for a gender parity requirement on the lists of deputy mayors elected by the municipal councils as well as a strict alternation on the lists for the members of the standing committee of regional councils. It also imposes gender parity regarding candidacies on lists for deputy chairmen of regional councils. The same rules apply to elections of members of the Assembly of French Citizens Living Abroad. In addition, following the Law of May 17, 2013 concerning the election of departmental councillors, municipal councillors and community delegates which modifies the electoral calendar, municipalities of 1,000 inhabitants or more, as to the previous figure of 3,500, now elect their municipal council according to a list system with a female-male alternation.

As regards inter-municipal elections, the Law of May 17, 2013 made provision that, as of 2014, in municipalities of 1,000 inhabitants or more, community councillors would be elected by direct universal suffrage, at the same time as the municipal councillors. The list of the candidates for the inter-municipal council is made up, alternatively, of a candidate of each sex for each municipality. However, obstacles to gender equality still remain, especially when the municipality has only one seat on the inter-municipal council which is, generally speaking, taken by the Mayor (84% of mayors are men) or indeed when the municipality has an uneven number of seats.

As a result of these changes to the electoral code, the principle of a strict female/male alternation applies to all these elections.

This has led to a significant increase in the number of female candidates and in the number of women elected.

2. – THE MAIN RECENT DEVELOPMENTS IN THE NUMBER OF FEMALE CANDIDATES

In March 2014, the percentage of women councillors was 40.3% for all municipalities, as opposed to 35% in 2008, compared with 21.7% in 1995. In municipalities of 1,000 inhabitants or more, the number of elected women is now 48.2%. However, women represent only 16% of elected mayors if one includes all municipalities according to the latest elections (as opposed to 13.8% before and 10.9% in 2001).

At the partial renewals of the Senate in 2008 and 2011, the percentages of female Senators elected by this proportional method were respectively 27.5% i.e. 11 women out of the 40 Senators up for election using this method and 34.8% i.e. 39 women out of the 112 seats up for election using this method.
By comparison, in the 2011 elections, 10 female Senators and 58 male Senators were elected using the majority electoral system, i.e. 17.2% were female. At the senatorial elections of September 2014, the number of women elected progressed, passing from 25% (i.e. ten more female Senators, thus 87 women out of 348 seats) by comparison with 22.1% in 2011, 21.9% in 2008, 16.9% in 2004 and only 5.9% in 1998.

Although women only made up 27.5% of the regional councillors in 1998, they have represented 48% of this same category after the elections of 2010 (and 47.6% after the elections of 2004). In addition, the application of the Law of January 31, 2007 has contributed to the strengthening of the number of females in the regional decision-making bodies as 48.4% of the current vice-presidents are women as opposed to 37.3% in 2004.

In June 2004, of the 78 French MEPs elected to the European Parliament, 34 of them (i.e. 43.6%) were women. On June 7, 2009, the number of women elected represented 44.4% of the French representatives at the European Parliament (i.e. 32 out of 72). In 2014 gender equality stopped making progress with 43.2% of French M.E.P.s being female whilst the overall number of female M.E.P.s stagnated, passing from 35% to 37% between 2009 and 2014.

II. – GENDER PARITY IN SINGLE-SEAT AND BINOMINAL ELECTIONS

1. – GENERAL ELECTION

    As regards general elections, the implementation of the aforementioned Law of June 6, 2000 which provided for financial penalties for political parties which did not apply the rules on gender balance for candidates, had only limited effects.

    Law n° 2000-493 of June 6, 2000, modified law n° 88-227, of March 11, 1988 concerning the financial transparency of political life and aimed at introducing an adjustment in the public aid given to parties which took into account the respective proportions of male and female candidates.

    In accordance with article 9-1 of Law n° 88-227 of March 11, 1988 modified by law n° 2000-493 of June 6, 2000, the first part of this public aid was decreased when the gap between the number of candidates of each sex declaring themselves members of the party in question exceeded 2% of the total number of candidates. The percentage decrease in this public aid was equal to half the gap in respect of the total number of candidates. Thus, if a party put forward 30% women and 70% men as the gap was 40%, public aid was decreased by 20%.

    Law n° 2007-128 of January 31, 2007 raised the percentage of the decrease in public aid to 75% of the gap in respect of the total number of candidates. So, to take the previous example again, public aid will be reduced by 30% if a party only puts forward 30% female candidates. This new percentage did not however concern the June 2007 general elections. It was only applied after the first general
renewal of the National Assembly following January 1, 2008 i.e. the general elections of June 2012.

As a consequence of these measures, the number of women elected to the National Assembly has steadily been progressing from one general election to the next: thus 12.3% of those elected to the National Assembly in June 2002 were women, 18.5% in June 2007, 26.9% in June 2012 and 39.7% in June 2017.

The Law of August 4, 2014 for real equality between women and men provided for the doubling of financial penalties for parties which do not respect gender equality in a general election. Thus, in the case of going beyond the aforementioned 2% threshold, the amount of the assigned public aid to a political party (this amount is calculated on the number of votes obtained by the candidates at the first round of the general election, whilst the second amount is calculated according to the number of M.P.s elected) is decreased by a percentage equal to 150% of the gap gained by the total number of candidates, instead of the previous figure of 75%. This is thus, a huge motivation which, in addition, is underpinned by the reform of the combination of offices following the Institutional Law of February 14, 2014.

2. – CANTONAL OR DEPARTMENTAL ELECTIONS

For cantonal or departmental elections, the principle of a financial penalty was rendered difficult by the number of elected officials not belonging to any political party and by the absence of the reimbursement of electoral expenses in certain cantons. These elections were therefore not included in the reform of June 2000.

At the 2004 elections, which had no legislative constraint, only 10.9% women were elected as departmental councillors.

To enable a growing number of women to progressively sit on departmental councils and to avoid the holding of by-elections too frequently, the Law of January 31, 2007 introduced substitutes for departmental councillors and imposed that the office-holder and his/her substitute should be of different sexes.

Law n° 2008-175 of February 26, 2008, opening up equal access by women and men to the position of departmental councillor, made it automatic that a regional councillor who was retiring on account of a combination of offices, be replaced by his substitute. Previously in fact, the substitute only automatically replaced an elected councillor if the latter died. Otherwise a new election was held and this did not guarantee the substitute the possibility of seeking the position of regional councillor.

Following the cantonal elections of 2011, the number of female departmental councillors, was only, at the time, 13.9%, but it has to be noted that the number of female candidates for these elections was only 23.2%.
The Law n° 2013-403 of May 17, 2013 concerning the election of departmental councillors, municipal councillors and of community delegates which also modified the electoral calendar, introduced a two-round binominal system (one man and one woman elected for each canton), given that the number of cantons was divided by two. The former “general councillors” are now known as “departmental councillors” and the former “cantonal elections” have become “departmental elections”. Candidates thus have to stand, as of the elections in 2015, as pairs made up of one woman and one man. The electoral procedures for the members of the standing committee and of the deputy-presidents of the departmental councils have been changed in favour of the notion of gender equality.

Today all elections are subject to legislative measures aiming at making progress in the field of gender parity between candidates. Encouraging results have been obtained in elections using a list system and as regards single-seat elections there has been considerable progress made with the implementation of gender equality in the departmental assemblies after the 2015 election: thus today, 50% of departmental councillors are female (as opposed to 13.8% previously) and women also represent almost half of the deputy presidents.

Even though real advances have taken place, there is still progress to be made regarding “qualitative gender equality” concerning the gender distribution of positions and delegates (e.g. concerning the representatives most often in charge of social and family affairs as opposed to finance and transport). In addition, men are over-represented as the heads of electoral lists and in local executives (84% of mayors, 90.1% of chairs of departmental councils and 83.3% of regional councils) and in more general terms of the sharing of power between men and women.
The Election of an M.P.

Key Points

The 577 M.P.s of the National Assembly are elected, by universal suffrage, to sit for five years. Every French person of either sex may be a candidate provided he is at least eighteen years old, in possession of his civil and political rights and is not excluded by any law concerning personal or professional ineligibility.

In accordance with the Constitutional Act of July 23, 2008, French nationals living abroad are also represented in the National Assembly and no longer only in the Senate.

The boundaries of constituencies and the distribution of M.P.s’ seats must be based on the application of essentially demographic criteria so that the notion of voting equality is respected. Since the Constitutional Act of July 23, 2008, and in keeping with the Institutional Act of January 13, 2009 which brought into force article 25 of the Constitution, an independent committee publicly expresses an opinion on the Government and Private Members’ Bills defining the constituencies for the election of Members of the National Assembly, or modifying the distribution of the seats of Members of the National Assembly or of Senators.

The organization of the election campaign is essentially a matter for the candidate himself. The Constitutional Council nonetheless monitors the proper conduct of the election and may declare it void, should it consider one candidate to have been given an unfair advantage.

In addition, since the beginning of the 1990s, there has been a strict monitoring of election campaign financing which has guaranteed the openness and fairness of elections.

See also files 1, 4, 15 and 16

I. – VOTING METHOD AND NATURE OF THE ELECTION

1. – ELECTION BY UNINOMINAL MAJORITY IN TWO ROUNDS

M.P.s are elected by direct universal suffrage using a uninominal majority system in two rounds. All French citizens of at least eighteen years old who are in possession of their civil and political rights and who are not in a state of legal incapacity, may vote.

In order to be elected on the first round, a candidate must obtain an absolute majority, i.e. more than half the votes cast and a number of ballots equal at least to one quarter of the voters enrolled.
If no candidate is elected in this way, then a second round is required. Only those candidates, who have obtained a number of ballots in the first round equal at least to 12.5% of the voters enrolled, may stand in the second round. In the second round, a relative majority is enough for election. Thus the candidate with the highest number of votes is deemed elected.

The election is held on a Sunday with the second round, when necessary, taking place on the Sunday following the first round.

2. – LOCAL ELECTION BUT NATIONAL REPRESENTATION

M.P.s are national representatives. Although each of them is elected in a single constituency, they each represent the entire nation. In accordance with the traditional principle underlined in article 27 of the Constitution: “No Member shall be elected with any binding mandate”. As M.P.s are not legally bound by any political commitment, they are free to decide on their orientation in the exercise of their office.

3. – CONSTITUENCIES

The constituencies, in which each M.P. is elected, are drawn up by the Electoral Code within each department, taking into account the size of the population. At present, their number ranges, depending on the department, from 1 to 21. Law n° 2009-39 of January 13, 2009 empowered the Government to re-draw the electoral boundaries by ordinance. The previous redrawing of boundaries was in 1986.

This operation had to respect a certain number of rules laid down by the aforementioned law and sanctioned by the jurisprudence of the Constitutional Council, i.e. the division of the constituencies had to be based on essentially demographic criteria; population discrepancies between constituencies could be justified when certain considerations of a general interest were taken into account; in no case could the population of a constituency differ by more than 20% from the average population in the constituencies of the department. In addition, except in circumstances justifiable for demographic or geographical reasons, constituencies had to be drawn-up on a single territory.

In its draft ordinance, the Government proposed a re-drawing procedure which applied the so-called ‘slicing’ or Adams method to the most recent demographic data. A divisor is established (in this case 125,000 inhabitants) and one seat is allotted for each fraction of the divisor.

In accordance with the Constitutional Law of July 23, 2008 and with the Institutional Law n° 2009-38 of January 13, 2009, applying article 25 of the Constitution, the Government then had to submit, for opinion, this draft boundary re-drawing ordinance to an independent commission. This opinion dealt both the constituencies of M.P.s elected in departments, in overseas territorial communities governed by article 74 of the Constitution, in New Caledonia as well as with those of M.P.s representing the French abroad.
As regards the constituencies of those M.Ps representing the French abroad now represented in the National Assembly in accordance with the Constitutional Law of July 23, 2008, the Constitutional Council accepted that there would be no requirement concerning a maximum demographic gap between the most and the least populated constituency. This exception was specifically justified by geographical constraints. The ordinance thus proposed to create 11 constituencies: 6 for Europe, 2 for America and the 3 others bringing together the countries of Africa and Asia.

With the Law n° 2010-165 of February 23, 2010, Parliament ratified the Ordinance n° 2009-935 of July 29, 2009 which led to a new distribution of M.P.’s seats between the departments of mainland and overseas France, the overseas communities and New Caledonia as well as the specific representation of the French established outside of France, by modifying Table n° 1 annexed to article L. 125 of the electoral code.

4. – LENGTH OF TERM

a) A five-year term

The National Assembly is entirely renewed, in principle, every five years. Thus the powers of the National Assembly expire (the Institutional Act n° 2001-419 of May 15, 2001 modified the expiry date of the powers of the National Assembly), “on the third Tuesday of June of the fifth year following its election” and general elections must take place within the sixty days preceding this date.

b) By-elections

The electoral system limits the number of by-elections by making provision for the election, at the same time as that of the M.P., of a substitute who will replace the M.P. in the case of death, appointment to Government or to the Constitutional Council, of accepting the role of Defender of Rights or of a temporary mission upon the Government’s request for more than six months.

Since the Institutional Law n° 2014-125 of February 14, 2014, prohibiting the combining of local executive functions with the position of MP or of Senator and as of the general election of June 2017, an MP who resigns on account of the combination of offices may also be replaced by his substitute.

In the other cases when a seat becomes vacant (annulment of the election by a judge, dismissal on account of ineligibility, resignation from office because of non-respect of the financing rules concerning the electoral campaign or resignation for personal reasons), a by-election is organized. However, no by-election may take place within the twelve months preceding the end of the term of the National Assembly.
Since the Constitutional Act of July 23, 2008, M.P.s who have been appointed members of Government, may, within a month of their ministerial role coming to an end, retake their seat in the National Assembly (article 25 of the Constitution and article L.O. 176 of the electoral code).

c) **The exercise of the right to dissolve by the President of the Republic**

In addition, the President of the Republic may decide to exercise the right to dissolve the National Assembly, granted to him by article 12 of the Constitution.

In this case, the general elections must take place at the earliest twenty days and at the latest, forty days after the publication of the decree proclaiming the dissolution.

II. – **CONDITIONS OF CANDIDACY AND ELIGIBILITY OF CANDIDATES**

All people who, upon the date of the first round of voting, fulfil the conditions to be a voter and do not correspond to any of the categories concerning ineligibility laid down in the electoral code, may put forward their candidacy and may be elected.

Frenchwomen and Frenchmen over the age of eighteen, in possession of their civil and political rights and not being deemed legally incapacitated, may vote.

1. – **INELIGIBILITY OF AN INDIVIDUAL**

Some specific categories of people may not be elected:

– Those placed under wardship or guardianship;
– Those having been declared ineligible on account of a breach of the rules concerning the financing of electoral campaigns or guilty of fraudulent manipulations leading to a violation of the legality of the ballot.

Similarly, no person not having fulfilled his national service obligations may be elected to Parliament.

2. – **INELIGIBILITY ON ACCOUNT OF ONE’S FUNCTION**

Certain people, whose professions or offices could grant them an unfair advantage in an election, thus creating a clear imbalance between the candidates, are excluded from being elected.

The law clearly states the offices or professions thus concerned as well as the geographical range and the length of such ineligibility to be elected. Therefore:

– The Defender of Rights, his deputies and the General Inspector of Places of Detention are ineligible for election throughout the entire territory during the term of their office;
Prefects are ineligible for election in the constituencies which fall within their sphere of office or offices which they have held within the previous three years;

The following may not be elected in any constituency which falls within the sphere in which they have carried out their office during the previous six months:

* Judges;
* Military officers with a territorial command;
* Some civil servants with managerial or monitoring positions in the foreign, regional and departmental services of the State;
* The members of staff of territorial authorities and of the largest public establishments for inter-communal cooperation.

III. – ELECTION CAMPAIGNS AND THEIR FINANCING

1. – THE RULES OF THE CAMPAIGN

The running of an election campaign is entirely the responsibility of the candidates and is usually dependent on certain objective criteria (size of the constituency, town-country ratio etc.). In this field which is at the very heart of democracy, freedom is essential and prohibitions must be kept to the very minimum. Thus the candidates can, in principle, meet the population, hold meetings or distribute leaflets as they so wish.

Nonetheless, the following are forbidden:

– Unauthorized postering, as special space is given over in each area, during the election campaign, for official posters of each candidate;

– The use for electioneering of commercial advertising either by means of the press or television and radio.

Such abuses committed during the election campaign (e.g. defamation, the use of official speeches, intimidation etc.) are punishable by the judge in charge of supervising the fairness of the election.

This supervision is of a pragmatic nature and aims at assessing if, during the campaign, the rule of equality between candidates has been broken by irregular procedures. Thus, the widespread circulation of a leaflet containing false allegations on the day before an election would certainly lead to the invalidation of the election, especially if the result were very close. However the judge would certainly decide that the communication of defamatory material has had no effect on the election if the candidate who is called into question has had the time to reply and if the margin of victory were to be very wide.
2. – THE FINANCING OF ELECTORAL EXPENDITURE

As regards the financing of his election campaign, every candidate at a general election must follow organizational rules and provisions which limit, both from a quantitative and qualitative point of view, the money which can be spent.

The compliance with such rules and provisions is necessary for the subsequent reimbursement of part of his expenses as well as for, in certain cases, the very validation of the election (see electoral litigation).

a) The appointment of a ‘representative’ and the setting-up of a campaign account

During the year prior to the election (or counting from the date of the dissolution decree), the garnering of the funding necessary for the election must be placed under the responsibility of a representative especially appointed to do so. Such funds must be placed in accounts set up for this purpose.

The representative can be, depending on the choice of the candidate, either a natural person or an association dealing with electoral financing. In either case, the representative must open and manage a deposit account set up specifically for the financial operations of the campaign.

Every candidate in a general election, whether he is elected or not, must set up a campaign account which records all incoming and outgoing financial operations linked to the election. This account must also include both as regards revenue and expenditure, the financial equivalent of all the fringe benefits, benefits in kind and services which the candidate has received or provided from during his campaign.

The campaign account must either be in the black or break even. It cannot be in the red. It must be passed by a certified accountant and communicated, along with all pertaining documents. The account must be presented before 6pm on the tenth Friday following the first round of the election, to the National Committee on Campaign Accounts and Political Financing, which will either approve or reject it in the six months following its filing.

b) Supervising expenditure and revenue

In order to reduce the increase in election campaign expenditure and to maintain openness, as well as to limit the number of private donations in the financing of campaigns, the law has established several boundaries.

As regards funding:

– Only political groupings which, as beneficiaries of public financing or having a financial representative, are under the supervision of the National Committee on Campaign Accounts and Political Financing, can be involved in the financing of candidates’ campaigns;
The involvement of a legal entity in the financing of a candidate’s electoral campaign is prohibited. This is the case for local authorities, companies, public bodies, associations or trade unions and applies to whatever form of financial involvement this might be (gifts, provision of goods, services or other);

Gifts from individuals have an upper limit of €4,600 and every gift over €150 must be payable by cheque, by transfer, by direct debit or by credit/debit card (article L. 52-8 of the Electoral Code). In addition, the total amount of gifts made in cash must be less than or equal to one fifth of the limit of expenditure allowed (article L. 52-8 of the Electoral Code).

As regards expenditure:

In 1993, the law reduced the limit for authorized expenditure from €76,000 to €38,000 plus an allowance of €0.15 per inhabitant of the constituency (article L. 52-11 of the electoral code); Finance Law n° 2011-1977 of December 28, 2011 for 2012, provides that no updating of this figure should occur until a year in which the public deficit reaches zero;

In addition to a reimbursement of election campaign expenditure, the law grants candidates who have obtained at least 5% of the votes cast in the first round of the election, a fixed reimbursement concerning their campaign expenditure.

To take advantage of this, the candidate who is proclaimed elected must:

Remain within the legal limits as regards the opening and the accounting of the campaign account and as regards the limit on electoral expenditure;

Be able to prove that he has lodged his declaration of estate with the High Authority for Transparency in Public Life.

The amount reimbursed is equal to the amount of expenditure which, according to the campaign account, has actually been spent by the candidate or represents his personal debt. Nonetheless this amount cannot exceed 47.5% of the legal limit on electoral expenditure.

IV. – ELECTION LITIGATION PROCEDURE

The Constitutional Council must watch over the fairness of parliamentary elections. Thus, it makes rulings on eligibility, on the holding of the elections and on the respect of the rules on the financing of campaigns for the election of M.P.s.

1. – LITIGATION REGARDING ELIGIBILITY TO BE ELECTED

As regards matters of eligibility, the Constitutional Council is called upon to make rulings after appeal by the administrative tribunals. It only rules on ineligibility to be elected and once this has been ascertained the ruling is absolute. When it is called upon to make such a ruling, the Constitutional Council does so concerning both the candidate and his substitute.
2. – Litigation Regarding Electoral Operations

The procedure concerning electoral operations deals with both the balance of campaign funding and the fairness of the holding of the election itself.

As regards the campaign itself, the electoral code is particularly strict since, outside of that which is allowed (sending official documents and poster in authorized places), everything else is prohibited. In concrete terms, the Constitutional Council judges the impact of irregularities on the outcome of the election less according to the abuse of campaigning itself and rather according to the imbalance between the candidates which can result from it.

Since the Constitutional Council deals with the real issues of electoral operations (it judges the actual holding of the election, the opening of the ballot boxes, as well as the count) its remit is very broad. This may lead it, when it notes an irregularity or electoral fraud which may have a significant impact on the election result, to modify the results or even, when necessary, to declare the election void.

3. – Litigation Regarding the Financing of General Elections

The litigation procedure regarding the financing of general elections deals, first of all, with the supervising of the campaign account. The electoral code makes provision for the ineligibility for election for three years of any candidate who has not presented his campaign account according to the conditions and within the limits laid down.

The judge has the power to assess if he feels there has been a desire to cheat at the election or if there has been a particularly serious breach of the rules concerning the financing of electoral campaigns. In this case, he must declare the candidate ineligible.
The Financing of Political Life: Political Parties and Election Campaigns

**Key Points**

Since 1988, lawmakers have passed many provisions concerning the financing of political life and election campaigns, which have all been aimed at providing greater openness in this area.

Political parties receive state aid depending on their results in elections. This aid now represents their main source of financing. However, gifts from other legal entities are forbidden.

Candidates at elections must respect a ceiling placed on expenditure which is set by law and may also receive public aid. In order to be eligible for such aid they must be able to justify all their expenditure and revenue in a campaign account which is managed by a representative appointed by them and presented by a chartered accountant.

See also files 14 and 16

At election time, political parties and candidates have a substantial amount of expenses. Until 1988, no specific legal structure actually covered the financing of these expenses. This loophole encouraged certain abuses which have been curbed progressively by measures taken since that date.

The current mechanism, which has been gradually fine-tuned, is based on several fundamental principles:

- The legal recognition of a legal status for political parties. The Constitution provides political parties with two objectives: to contribute to the exercise of suffrage; to promote equal access by men and women to elective offices. Parties which fulfil these objectives can take advantage of public financing;

- Party and candidate resources must have a certain number of safeguards attached, thus guaranteeing openness and avoiding secret financing and the financial pressures which might compromise their independence;

Thus, since 1995, public authorities have decided to cut all financial links between companies and the actors in political life (the parties and candidates) and to definitively prohibit legal entities from taking part in the financing of political life;
– Election expenditure has been capped both to avoid a continual rise in communication expenses as well as to ensure greater equality between candidates outside of their personal assets;

– To offset the lack of membership financing, which has always been modest in France, the State has set up a system of financial aid to parties and of reimbursement of a part of the campaign expenses, provided that the parties strictly follow the laws which govern such spending;

– Non-respect of such laws can have a series of consequences for the perpetrators (legal penalties, financial penalties and especially electoral penalties concerning ineligibility for election for the candidates, which have the effect of temporarily forcing those who take the risk of electoral fraud to withdraw from political life);

– The implementation of the rules concerning the financing of parties and election campaigns falls within the remit of an independent administrative authority, the National Committee on Campaign Accounts and Political Financing (CNCCFP), which is under the authority of the electoral judge (i.e. the Constitutional Council for presidential and general elections and the administrative judge for other elections);

– The estate of M.P.s must be declared at the beginning and end of each term in order to be sure that they have not taken advantage of their office to gain undue wealth. This verification is carried out by an independent administrative body, the High Authority for Transparency in Public Life which replaced the Committee for Financial Transparency in Political Life (Institutional Law n° 2013-906 and Law n° 2013-907 of October 11, 2013 concerning transparency in public life).

I. – THE FINANCES OF POLITICAL PARTIES

1. – THE EXPENDITURE OF POLITICAL PARTIES

   Political parties have all sorts of expenses. These include:

   – Salaries for permanent members of staff;
   – Rent of offices and premises;
   – Material, secretarial and postage expenses;
   – Advertising and communication expenses;
   – Drafting, printing and distribution of various publications (newspapers, pamphlets, brochures etc.).

   In addition, parties spend large sums of money at election time, by financially supporting the candidates from within their ranks.
2. — THE RESOURCES OF POLITICAL PARTIES

In order to finance their expenses, political parties have two main sources: private financing, which is usually small and public aid from the State, which has become the most substantial amount.

a) Private financing

Like any association, political parties may receive dues from their members. In practice, such membership contributions only represent a tiny fraction of the resources of the party (the membership fee received from local officials and M.P.s is generally higher but such practices vary from party to party).

Parties may have other private income but only within the limits of legislation which is becoming stricter and stricter: resources coming from the economic activities of the party, bequests etc.

This category also includes donations from natural persons, which are covered by the laws of 1995. Despite the existence of tax incentives, voluntary contributions from natural persons have remained quite small. Law n° 88-227 of March 11, 1988 concerning financial transparency in political life set the amount of donations which can be made and contributions paid to political groupings at €7,500 per natural person. According to Law n° 2013-907 of October 11, 2013, concerning transparency in public life, the annual ceiling on donations from natural persons no longer applies by political party but by donor.

Since 1995, legal entities, whatever they may be (often companies), are no longer allowed to make the slightest donation nor to offer the slightest benefit in kind to political parties.

b) Public financing

The public financing of political parties was progressively covered by a series of laws which were enacted between 1988 and 2010.

Every year, allocations set aside for political parties and groupings are included in the annual Finance Bill. They amount to around €125.82 million for 2018 (in the “Political, Cultural and Associative Life” programme of the “General and Territorial Administration of the State” mission) divided between more than 40 parties or groupings.

These funds are divided between the political parties:

– The first allocation (50%) depends on their results at the first round of the previous general elections. This part of the public financing helps parties with candidates in at least 50 constituencies or in at least one department or overseas community, who obtained at least 1% of the votes cast (this provision was added in 2003 and aimed at reducing the sharp increase in candidacies which had grown from 2,888 at the first round of the 1988 general elections to 8,444 in the 2002 campaign).
The aforementioned law of October 11, 2013, made it clear that a parliamentarian elected in a constituency which is not situated in an overseas French department, cannot stand as a member of a party which only presented candidates in the overseas departments. This first allocation is reduced in cases of non-application of the rules encouraging gender equality between men and women;

- The second allocation (50%) goes to the parties represented in Parliament according to their number of M.P.s. Only those parties which have received funds through the first allocation are eligible for the second.

c) Other types of public aid to political parties

In addition to the aforementioned fiscal incentives, the State also provides political parties, in subsidiary ways, with means which could be considered to have a financial equivalent and can thus be seen as indirect financing:

- Political groupings which are represented by parliamentary groups at the National Assembly or the Senate, have a right, outside of election campaigns, to ‘air time’ which gives them the chance to express themselves on public radio and television channels;

- The State grants political parties tax reductions (company tax at a reduced rate) on some of their own revenues (the rent on their buildings and lands).

II. – THE FINANCING OF ELECTION CAMPAIGNS

The current measures in force are based on several principles:

- Private financing takes the shape of donations coming from natural persons or from political parties (donations from parties have no limit while those from natural persons cannot exceed €4,600 per election);

- The most expensive campaign expenses are prohibited (television and radio advertising and, in the six months prior to the election, telephone and computer marketing, press advertising and poster campaigns);

- Electoral expenditure is limited according to the number of inhabitants. Thus for a general election, this limit which was set in 1993, is €38,000 per candidate plus an allowance of €0.15 per inhabitant of the constituency. Since the Law of April 14, 2011 which simplified the provisions of the electoral code and dealt with the financial transparency of political life, these limits are usually updated every year according to inflation. The initial Finance Law for 2012 and the Institutional Law of February 28, 2012, have however frozen these limits until a balance in public finances has once again been reached. For general elections for example, the current limit is thus that which was set by Decree n° 2008-1300 of December 10, 2008;
Each candidate must appoint a ‘financial representative’ who may, according to the case, be a natural person or an association dealing with electoral financing set up in accordance with the Law of 1901 on associations.

This representative is the only person/body authorized to collect funds which will be used to cover election expenses and to make payments to cover expenses (the candidates are thus prohibited from having any direct financial dealings).

He must set up a campaign account which deals with all the revenues and expenditures linked to the election campaign. Unless the candidate obtains less than 1% of the votes cast, this account, which is passed by a certified accountant, will be submitted for inspection to the National Committee on Campaign Accounts and Political Financing (CNCCFP). The CNCCFP will either approve, revise or reject the campaign account which has been put before it. In the case of rejection, the CNCCFP refers the matter to the electoral judge who may, if an irregularity is established, announce the dismissal of the elected candidate and the ineligibility for election of the guilty candidate for a period as long as three years;

If the account is accepted, the State grants candidates with at least 5% of the ballots cast at the first round, a reimbursement which can reach 47.5% of the expenditure limit.

On top of this set sum which is granted to candidates, the State also directly covers a variety of other expenses (printing of ballot papers, circulars, cost of posterling in the spaces set aside for this etc.).

III. TRANSPARENCY REGARDING AN M.P.’S ESTATE

The aim of the 1988 laws, as well as dealing with the financing of political parties and election campaigns was to ensure transparency regarding an M.P.’s estate, so as to avoid him taking advantage of his elected office to gain undue wealth. Thus the obligation to make a ‘declaration of estate’ at the beginning and end of each term of office was introduced.

Since the entry into force of Institutional Law n° 2013-906 and Law n° 2013-907 of October 11, 2013, dealing with transparency in public life, this obligatory declaration does not only concern members of Parliament. It must be made by members of the Government, members of Parliament, French members of the European Parliament, local executive office-holders, local elected representatives holding a power of attorney, members of staff, members of independent authorities, job and office-holders who are appointed by Government and the Council of Ministers, as well as the chairmen and managing directors of a certain number of companies, firms, establishments and bodies over which the state has complete or partial control.
In accordance with law, the above-mentioned people carrying out these offices or holding such positions, must draw up a declaration of interests or, in the case of members of Parliament a declaration of interests and activities.

The aforementioned law states that the reception, the checking, the monitoring and the publishing of such declarations shall no longer be carried out by the Committee for Financial Transparency in Political Life, but by the High Authority for Transparency in Political Life which the law indeed sets up.

Criminal sanctions have been introduced concerning persons who consciously omit to declare a substantial part of their estate or who provide an untrue assessment which renders their declaration false. The aforementioned law of October 11, 2013 has strengthened this measure by making provision for a three year prison sentence and a €45,000 fine for those persons infringing the law, i.e. those who do not make a declaration of estate or a declaration of interests, those who consciously omit to declare a substantial part of their estate or interests and those who provide an untrue assessment which renders their declaration false.

As regards these offences, the law also provides for additional penalties: the loss of civic rights and the prohibition of holding public office.
Status of the M.P.

Key Points
M.P.s are elected to represent the entire Nation and take part in the exercise of national sovereignty. They pass laws and monitor Government action. Like Senators, they have a protected status. This status was not designed as a privilege but as a means to provide M.P.s with the independence and freedom of speech necessary for the carrying-out of their office. This particular protection is established by the principle of parliamentary immunity which is based on the Constitution itself.

This recognition of a specific status carries with it certain counterweights, as the office of M.P. must be carried out without being submitted to any influence which could impinge upon its free exercise. In addition, parliamentarians have to fulfil certain obligations and respect certain prohibitions.

Beyond the rights and obligations linked to his parliamentary office, the M.P. may also, in his official capacity, carry out various responsibilities both within and outside of the National Assembly.

He is obliged to follow a code of ethical conduct. The Commissioner for Ethical Standards of the National Assembly is tasked with overseeing this aspect.

See also files 15 and 17

I. – PARLIAMENTARY IMMUNITY

Parliamentary immunity is the term used to refer to the group of provisions which provide parliamentarians with a legal system exempting them from the constraints of ordinary law in their dealings with the Law so as to maintain their independence. The wish to reconcile the necessary protection of the exercise of parliamentary office with the principle of the equality of citizens before the Law has led to the definition of two categories of immunity: unaccountability and inviolability.

1. – UNACCOUNTABILITY

The principle of unaccountability, or absolute immunity, shields parliamentarians from prosecution concerning acts linked to the exercise of their office. It is laid down by the Constitution, which in article 26, paragraph one, states that ‘no Member of Parliament shall be prosecuted, investigated, arrested, detained or tried in respect of opinions expressed or votes cast in the performance of his official duties’.
Unaccountability covers all acts of parliamentary office: speeches and votes, bills, amendments, reports or consultations, questions, acts carried out during a mission requested by any parliamentary body.

It protects parliamentarians against any legal proceeding, civil or criminal, which could be brought for acts which, when carried out outside of the framework of parliamentary office, could lead to a criminal prosecution or the civil liability of the person responsible for them (defamation or slander for example). However, jurisprudence has excluded remarks made by a parliamentarian during a radio interview or opinions expressed in a report written for a mission requested by the Government.

So, even if it ensures broad protection, it does not mean total immunity, since during their speeches in plenary sitting, M.P.s remain subject to the disciplinary system provided for by the Rules of Procedure of the National Assembly.

As regards its field of application, the principle of unaccountability has an absolute nature, as it cannot be withdrawn by any procedure. It is permanent since it applies throughout the entire year, including during recess. It is perpetual and is applied to proceedings concerning acts carried out during the term of office even after such a term has come to an end. The implementation of unaccountability falls entirely and purely within the remit of the judiciary. It is a matter of public order and the parliamentarian may not abandon it.

2. – INVOLIABILITY

The principle of inviolability attempts to avoid situations whereby the exercise of parliamentary office is hindered by certain criminal proceedings dealing with deeds carried out by M.P.s acting as normal citizens. It governs the conditions for the application of criminal proceedings concerning acts outside its remit.

Although, since the reform of August 4, 1995, the system of inviolability no longer protects M.P.s from the institution of proceedings (indictment), nonetheless no M.P. can be arrested nor be subjected to any other custodial or semi-custodial measure (judicial supervision) without the authorization of the Bureau, except in the case of a serious crime or other major offence committed flagrante delicto or of a definitive conviction. Inviolability concerns only the person of the parliamentarian. It only applies in matters concerning the criminal or magistrate’s court.

Unlike unaccountability, the application of which is not limited in time, inviolability has a reduced field of application which is limited to the duration of the term of office.

Requests for arrest or for custodial or semi-custodial measures concerning an M.P. are made by the Procureur Général (Principal State Council) to the competent Court of Appeal and are transmitted by the Minister of Justice to the President of the National Assembly and then examined by a delegation of the
Bureau and then by the Bureau itself. The request is not published and the examination is carried out in the strictest confidentiality. Only the decision of the Bureau is published in the Journal officiel and in the Feuilleton.

The role of the Bureau is purely to make a pronouncement on the serious, fair and sincere nature of the request. Judging by the decisions the Bureau has taken since the 1995 constitutional revision, its power of assessment allows it not only to accept or reject the request overall but, if need be, to only take certain aspects of it into consideration.

In application of paragraph 3 of article 26 of the Constitution, the detention, subjection to custodial or semi-custodial measures or any other measure characterizing the proceedings against an M.P. can be suspended by a decision of the National Assembly.

For this to occur, requests for the suspension of legal proceedings, of detention or of custodial or semi-custodial measures are addressed to the President of the National Assembly by one or several M.P.s. They are then distributed and returned to the committee set up in accordance with article 80 of the Rules of Procedure. The M.P. in question or the colleague he has requested to represent him must appear before this committee which then draws up a report. Once this report has been distributed, the discussion of the request is included on the agenda of the National Assembly. A time-limited debate on the examination of the request is held in plenary sitting and, at its conclusion, the Assembly reaches its decision.

This decision is binding on both the administrative and judicial authorities. It leads, for the duration of the session, to either the suspension of all legal proceedings or to the withdrawal of judicial supervision and the release of the imprisoned M.P.

II. – INCOMPATIBILITY

The notion of incompatibility, which is linked to the constitutional principle of the separation of powers, is the legal impossibility of combining certain offices with that of M.P. Such incompatibilities were first decreed in the public sector but this was later on extended to include certain offices carried out in the private sector. As opposed to the notion of ineligibility, the notion of incompatibility does not, in itself, rule out the fact of being elected but requires the elected candidate to make a choice.

1. – INCOMPATIBILITY WITH ELECTED PUBLIC OFFICE

The office of M.P. may not be combined with that of Senator, that of Member of the European Parliament (M.E.P.) and, although no formal text actually states it, with that of President of the Republic.
In addition, in accordance with the law prohibiting the combination of local executive office with that of M.P. or Senator, the position of M.P. or Senator is incompatible with that of mayor, deputy mayor, president of a public establishment for inter-communal cooperation or with any office delegated by a local executive. This incompatibility is also extended to those powers devolved from a local office such as the presidency or vice presidency of a local semi-public company or a local public establishment.

2. – INCOMPATIBILITY WITH NON-ELECTED PUBLIC OFFICE

So as to free M.P.s from the links which might make them dependent on another power or authority, the office of M.P. may not be combined with the position of member of the Government, of the Constitutional Council or of the Economic, Social and Environmental Council. Nor may it be combined with the position of judge or member of the High Council of the Judiciary.

More generally, the combination of non-elected public positions with that of the office of M.P. is considered incompatible. Nonetheless, it is possible for M.P.s to continue to hold certain positions in higher education.

The Institutional Law n° 2013-906 of October 11, 2013 concerning transparency in public life changed the statutory regime for civil servants who are elected to Parliament. Up until now, they were immediately provided with the status of secondment and thus benefitted from the rules concerning promotion. However, as of now, they are given the status of being on “leave of absence”.

Temporary missions at the Government’s request are considered compatible with the office of M.P., as long as they do not exceed six months. The Institutional Law n° 2013-906 of October 11, 2013 made it clear that the carrying-out of such a mission could not be rewarded by any remuneration, allowance or bonus.

3. – INCOMPATIBILITY WITH OTHER PROFESSIONAL ACTIVITIES

The growing role of the State and the importance of certain interests in community life have led to specific positions in companies on a restricted list, as well as the carrying out of certain actions, being forbidden to M.P.s.

Thus it is prohibited to combine the office of M.P. with managerial positions in state-owned companies or in state public bodies, i.e. organizations closely dependent upon public authority (unless the M.P.s are appointed as members of the board of management in accordance with the law governing state-owned companies or state public establishments).

M.P.s are also prohibited from holding a position as a member of an independent public or administrative authority unless they have been so appointed within the scope of their role as M.P. In addition, the position of president of such an authority is also incompatible.
In addition, any remuneration, allowance or bonus offered in recompense for a position held, as a parliamentarian, within an institution or an external body, is prohibited.

Combination is prohibited with managerial positions in certain private companies which have been granted subventions or benefits by the state or public authorities in accordance with their special regulations. Equally, combination is prohibited with positions in companies working mainly in the financial or public savings sector or those whose activities consist of the implementation of work, the provision of services or supplies specifically for, or being subject to a discretionary authorization of, the state, a local authority or a public establishment, as well as those carrying out certain activities in the real estate field. Also included in the field of prohibition are firms which have an actual monitoring function on the aforementioned companies or of which half their capital is made up of participation in such companies or those whose activity consists mainly in providing consulting services to such companies as well as to mixed economy companies.

It is prohibited for an M.P. to carry out the role of a representative of an interest group, either on an individual basis or for legal entities, establishments, groups or bodies enrolled on the list of representatives of interest groups made public by the High Authority on Transparency in Public Life.

The Institutional Law n° 2017-1338 of September 15, 2017 on Trust in Public Life, strengthened, in addition, the restrictions concerning consulting and legal conditions. Certain of these conditions came into effect upon the publication of the institutional law and others will be enforced as of the next renewal of the assemblies.

There are currently three situations governed by incompatibility:

– An M.P. may not begin consulting activities as of his election;
– An M.P. may not obtain control of a consulting company during his term of office;
– An M.P. may not exercise control of a company which itself has consulting activities with firms in which he may not have the managerial functions already mentioned.

In addition, an M.P. may not provide consulting services to these same companies nor to foreign public structures.

As of the next renewal of the National Assembly, a new prohibition shall be enforced: an M.P. shall not be allowed to continue a consulting activity which was begun twelve months before the first day of his taking office and will not be allowed to exercise control of a company acquired within twelve months of that date.
If an M.P. is a lawyer, he may not plead against the State, state-owned companies, or public bodies and establishments. This prohibition also applies to all the members of the legal firm in which the M.P. is employed.

4. – **MONITORING AND PENALTIES**

So as to enable the monitoring of professional activities which are incompatible with parliamentary office by the Bureau of the National Assembly, M.P.s must, within two months of taking up office, submit to the Bureau, as well as to the High Authority for Transparency in Public Life (see below) a declaration of professional activities or of general interests which they intend to continue. Those M.P.s not providing the necessary documents are automatically dismissed and are declared ineligible by the Constitutional Council.

In the case of doubt or of a challenge concerning the compatibility of an activity, the Bureau refers the matter to the Constitutional Council. The Minister of Justice and the M.P. in question may also refer the matter to the Constitutional Council. If the Constitutional Council finds in favour of incompatibility, then the M.P. has thirty days to rectify the situation. If he does not do so within this limit, he is declared to have resigned from office by the Constitutional Council.

In the case of the combination of offices, the M.P. has a thirty-day limit to resign from whichever office he chooses. If he does not comply, the local office which was obtained at the earliest date automatically comes to an end.

When an act contravening the rules in the field of pleading or the use of the title of M.P. has been committed, the penalty is instantaneous. The M.P. in question is declared to have resigned from office by the Constitutional Council, upon the request of the Bureau or the Minister of Justice.

III. – **OBLIGATIONS AND PROHIBITIONS WHICH APPLY TO M.P.S**

1. – **SPECIFIC PROHIBITIONS**

These prohibitions, which deal with very specific acts and situations, exist mainly in an attempt to raise the moral standards of political life:

- To shield the parliamentarian from all forms of pressure, no M.P. nor Senator may receive, except in certain circumstances, any French decoration during his term of office;
- To avoid all violation of the dignity of parliamentary office, neither M.P.s nor Senators may use their position for advertising reasons;
- To avoid any media organization from hiding behind the immunity of its owner/editor so as to avoid prosecution in the case of a press offence, the company must, if its editor is an M.P., appoint a co-director chosen from a group of people who do not enjoy parliamentary immunity. The same applies for communication services to the public via electronic means (internet sites).
2. – Declaration of Estate and Declaration of Interests and Activities

The legal and financial status of an M.P. has a counterweight in the obligation of transparency. Therefore, a monitoring system was set up in 1988 making it possible to check that the exercise of the office of M.P. has not been an undue source of personal wealth for the member. Moreover, the Institutional Law n° 2013-906 of October 11, 2013, added other obligations concerning the fight against the conflict of interest to the provisions on estate.

a) The declaration of estate

The obligation of filling out a declaration of estate at the beginning and at the end of the term is a way of avoiding that M.P.s take advantage of their office to become unduly wealthy.

Thus, each M.P. is required, within two months of his election, to submit to the High Authority for Transparency in Public Life, a precise, exhaustive and honest declaration on his word of honour, of his estate including all his own property as well as that held jointly. These are valued at the date of the election.

A new declaration of estate must be submitted to the same body at the earliest seven months and at the latest six months before the end of the term.

The Institutional Law n° 2013-906 of October 11, 2013 has radically altered the rules concerning the procedures for these declarations. Whilst they were previously strictly confidential, they are, from now on, available (for consultation purposes only), at the “Préfecture” of the Department in which the M.P. was elected, to all voters enrolled on the electoral register. Any disclosure whatsoever of such declarations of estate by any person other than he/she who made the original declaration, is liable to a €45,000 fine.

If this obligation of declaration is not fulfilled, then the High Authority refers the matter to the Bureau of the National Assembly which in turn transmits it to the Constitutional Council. The latter, if need be, may find in favour of ineligibility, and thus declares the M.P. to be dismissed from office. Each infringement to the obligation to declare is punishable by a €15,000 fine: in addition each deliberate omission or each false declaration is punishable by a three-year prison sentence and a €45,000 fine, as well as the loss of civil and political rights.

b) The declaration of interests and activities

The Institutional Law n° 2013-906 of October 11, 2013 dealing with transparency in public life, also altered the system concerning the declarations of professional activities, which served to judge the compatibility of a given professional activity with the office of parliamentarian. The law combined this declaration of activities with the declaration of interests which had been established by the Bureau of the National Assembly in April 2011, and was formerly sent to the Commissioner for Ethical Standards.
This new declaration, now called “the declaration of interests and activities” must now be sent, in the two months following the election, to the High Authority for Transparency in Public Life, as well as to the Bureau of the National Assembly. This declaration allows both the Bureau to assess the compatibility of a professional activity with the rules laid down by the electoral code and the High Authority to fight against the possible conflicts of interest to which the parliamentarians might be subjected.

In addition, contrary to the previous system, the declarations of interests and activities are made public.

The declaration must state:

– The professional activities carried out at the time of the election which lead to remuneration or to bonuses;
– The professional activities carried out which lead to remuneration or to bonuses over the previous five years;
– The consultancy activities carried out at the time of the election and over the previous five years;
– Participation in the governing bodies of public or private institutions or of a private company at the date of the election or during the five previous years;
– The direct financial holdings in the capital of a company at the time of the election, as well as participation, direct or indirect, which grants control of a body whose main activity is in the provision of consulting services;
– The professional activities carried out at the time of the election by the spouse, the partner in a civil union or the common-law wife;
– The voluntary activities which would be liable to give rise to a conflict of interest;
– Other elected offices and positions held at the time of the election;
– The names of parliamentary assistants, as well as the other activities which they have declared;
– The professional activities or activities of a general interest (even non-paid) which the M.P. aims to maintain during his/her term of office;

The declaration must also detail the amount of remuneration, allowance or bonus which he/she has received for the declared activities.

IV. – ETHICAL STANDARDS AT THE NATIONAL ASSEMBLY

The issue of the prevention of conflicts of interest has been the subject of a broad debate both in the political sphere and in the private sphere. The issue is to ensure that parliamentarians should be the representatives of the general interest and should not be influenced by any consideration of a private nature.
As of 2010, the Bureau of the National Assembly thus looked very closely at the ways to prevent any illegitimate suspicion from being directed at M.P.s and at the same time to set up the mechanisms necessary for the resolution of cases which could appear contentious.

It was for this reason that a cross-party working group made up of members of the Bureau, M.P.s appointed by their group and the Chairman of the Law Committee, was set up.

The working group proposed to the Bureau a mechanism for the prevention of the conflict of interest not intended to be based on a punitive but a teaching approach so that each M.P. could avoid finding himself in a position which could lead to criticism.

The Bureau, first of all, drew up a definition of conflict of interest as “a situation of interference between the duties of the M.P. and a private interest which, by its nature and strength, could reasonably be regarded as influencing, or appearing to influence, the carrying-out of his parliamentary office”.

So as to avoid such situations, the Bureau adopted a series of rules based on the following principles:

- the adoption of a Code of Conduct which would set down the essential principles which M.P.s undertake to abide by;
- the signature, at the beginning of the term of office, by each M.P. of a declaration of interests;
- the introduction at the National Assembly of the position of Commissioner for Ethical Standards, in charge of advising the M.P.s on each debatable situation and of alerting the Bureau in the case of infringement.

The Institutional Law n° 2013-906 of October 11, 2013 made certain important modifications to the system set up by the Bureau of the National Assembly in April 2011. In particular it provided for the fact that the declarations of interest which were previously made to the Commissioner for Ethical Standards would now be sent to the High Authority for Transparency in Public Life and would be made public (see above).

The powers of the Commissioner for Ethical Standards were strengthened by Law n° 2017-1339 of September 15, 2017 on Trust in Public Life. On the one hand, it states that the Bureau of each assembly, should set down the mechanisms for paying the expenses linked to the office and the list of such acceptable expenses, after consultation with the body in charge of parliamentary ethics, and, on the other hand, it states that this body must ensure the monitoring of the expenses linked to the office whether they be direct expenses, refunds or advances.
M.P.s’ Allowances and Material Means

Key Points
The free exercise of the office of M.P. cannot be guaranteed alone by its legal independence. The parliamentary allowance, which is an essential element in the democratization of political regimes, is aimed at offsetting the expenses met in the carrying-out of office. It enables every citizen to imagine running for Parliament and guarantees those elected the means to devote all their energy, in total independence, to fulfilling the role for which they have been elected.

The principle of indexing the parliamentary allowance to the salaries of high civil servants has been applied in France since 1938 and was confirmed by the ordinance attached to the Institutional Act n° 58-1210 of December 13, 1958. In addition, the necessary financial independence of the M.P., which for a long time was symbolised by the parliamentary allowance, has been strengthened, at the same time as the development of the means of the executive, by different individual and collective grants and benefits. This trend marks a growing professionalization in the carrying out of the office of M.P.

I. – PARLIAMENTARY ALLOWANCE

1. – THE DIFFERENT ELEMENTS OF THE ALLOWANCE

The allowance includes three components: the basic parliamentary allowance, the residential allowance and the attendance allowance.

The basic parliamentary allowance is indexed to the salary of the highest-ranking state civil servants. It is equal to the mean of the lowest and highest salary of civil servants in the category “hors échelle” (highest level).

In addition, M.P.s receive, as civil servants do, a residential allowance. This represents 3% of the gross basic parliamentary allowance.

On top of this, M.P.s also receive an attendance allowance which is equal to a quarter of the sum of the first two allowances.
As of February 1, 2017, the gross monthly allowances are as follows:

- Basic allowance 5 599.80 €
- Residential allowance (3%) 167.99 €
- Attendance allowance (25% of the total) 1 441.95 €
- Gross monthly allowance 7 209.74 €

In addition, special allowances aimed at covering certain tasks linked to the exercise of specific jobs are attributed to the holders of various positions. They have a ceiling of 1.5 times the overall parliamentary allowance and the attendance allowance.

Their gross monthly amount is the following:

- President: 7 267.43 €;
- Questeurs: 5 003.57 €;
- Vice-presidents: 1 038.20 €;
- Committee chairs and general rapporteurs of the Finance Committee and the Social Affairs Committee: 879.59 €;
- The Chair of the ad hoc Committee in Charge of Clearing Accounts: 879.59 €;
- The Chair of the Parliamentary Office for the Assessment of Scientific and Technological Options: 879.59 €;

From a tax point of view, the basic parliamentary allowance plus the residential allowance and the attendance allowance, as well as the special allowances are taxable at the rates applicable to normal income.

2. DEDUCTIONS FROM THE ALLOWANCE

Most such deductions are obligatory and linked to social welfare schemes. Thus the following must be deducted from the gross monthly allowance:

- Contributions to the pension scheme: 743.32 €
- General social contribution and contribution to the reimbursement of the social debt 699.35 €
- Contribution to the resource guarantee fund 56.00 €

This makes for a net monthly income 5,711.08 €.
3. – THE CAPPING OF ALLOWANCES LINKED TO LOCAL OFFICE

In the case of a combination of the parliamentary allowance and allowances linked to other offices, the principle of a general ceiling was introduced by Institutional Act n° 92-175 of February 25, 1992. An M.P. with locally elected offices may only combine the allowances linked to these offices with the basis parliamentary allowance of his parliamentary office within a limit of one and a half times the latter. Such allowances have a ceiling today fixed at €2,799.90 per month for an M.P.

II. – MATERIAL MEANS AVAILABLE TO M.P.S

Certain individual means are provided to enable M.P.s to carry out their office according to their individual needs.

1. – OPERATIONAL AND SECRETARIAL EXPENSES

Since January 1, 2018, in order to meet the expenses linked to the exercise of their office which are not directly covered or reimbursed by the National Assembly, M.P.s have an advance on operational expenses which increases in line with rises in civil service salaries. This gross monthly allowance represents €5,373. This new mechanism replaces the former operational allowance in compliance with Decision n° 12/XV of November 29, 2017 of the Bureau.

In addition, M.P.s have a Parliamentary staff allowance. Although this allowance is calculated on a basis of three assistants, it may, depending on the M.P., cover anything from one to five people. The M.P. is in fact the employer: he recruits, lays off, and fixes both the work conditions and the salaries of his staff. The allowance allotted to each M.P. is indexed to pay rises in the civil service. The monthly amount of this allocation was €10,581 as of January 1, 2018. The employer’s contributions (social and fiscal) concerning the salaries paid by this line are covered, outside of credit, by the National Assembly.

In the case of non-use of the entire allocation, the remainder returns to the budget of the National Assembly or may be donated by the M.P. to his political group in order to cover the salaries of those employed by the group.

2. – TRANSPORT BENEFITS

The National Assembly covers M.P.s’ journeys on the entire national railway network (SNCF) in first class. To do this it provides M.P.s who regularly take the train to come from their constituency with a personalized rail card.

For travel within Paris and the Parisian area, the National Assembly has a car-pool of around twelve vehicles with chauffeurs which the M.P.s may use subject to their availability and when such travel is linked to their position as M.P. and made to and from the Palais Bourbon within Paris and to airports. These vehicles are also used for hosting official foreign delegations and for travel required for protocol work.
In addition, the expenses linked to the personal use of taxis, mini-cabs, car or bicycle sharing throughout France and abroad, by M.P.s in the performance of their office are reimbursed within the annual ceiling of the M.P.’s Material Allowance (DMD) upon the presentation of invoices. If an M.P. requests so, the National Assembly can provide a non-transferable card giving him unlimited access to the Parisian transport system of the RATP and to the SNCF Transilien network (throughout the greater Paris region).

As regards air travel, the National Assembly covers each year:

- For M.P.s from continental France:
  * 80 trips between Paris and the constituency in the case of a regular air connection;
  * 12 trips in continental France, outside of the constituency.

- For overseas M.P.s:
  * An annual allocation equal to, for M.P.s from overseas departments, the cost of 26 trips in ‘business class’ between Paris and the constituency and, for overseas M.P.s elected for a community of the Pacific, the cost of 16 trips in business class between Paris and the constituency;
  * 8 trips for any destination within continental France.

- For M.P.s representing French people established outside of France:
  * An annual allocation equal to, for M.P.s from the six European constituencies, the cost of 80 trips in ‘premium or economic class’ between Paris and the constituency and, for M.P.s from the five non-European constituencies, the cost of 30 trips in business class between Paris and the constituency;
  * 8 trips for any destination within continental France.

3. – OFFICE AND COMMUNICATION MEANS

Furthermore, M.P.s have certain other material benefits aimed at making the exercise of their office easier. In particular, they have an annual material allowance of 18,950€ per annum. This covers travel in taxis or mini-cabs, telephone and mail expenses etc.

a) Office

Each M.P. has an individual office in the Palais Bourbon or in one of its annexes.

b) Computers

M.P.s have access to internet, to electronic mail and to a certain number of legal and economic databases. They have the right to training and to a multi-annual allowance in the use of computers and telephones which mainly applies to
their constituency and is referred to as the “Telephone and Computer Equipment Allowance” (CETI).

For M.P.s newly elected for the XVth term of Parliament this allowance is 15,500€, as opposed to 13,000€ for re-elected M.P.s. If an M.P. goes over this allowance, his expenses are covered by the Material Allowance (DMD).

The list of materials and services covered by the CETI is strictly set down. M.P.s advance their expenses and are reimbursed upon the presentation of invoices.

c) Telephone and fax

All communications to the entire continental France and overseas territories network, as well as the member states of the European Union and mobile telephone networks, from the telephones in the M.P.s’ offices in the Palais Bourbon are covered by the National Assembly.

The Material Allowance (DMD) also covers the expenses of up to five mobile phone lines (telephone and tablet subscriptions) and the landline and internet connection in their constituency office.

d) Mail

All parliamentary communication, (postal mail, porting, e-mails, text messages) i.e. written by an M.P. in the carrying-out of his office, is covered within the overall Material Allowance package (DMD).

4. – FOOD AND ACCOMMODATION EXPENSES

There are two restaurants and a café/bar available to M.P.s. who can also eat at the two self-service restaurants and the cafeteria as well as the journalists’ café/bar. Under certain conditions they may invite guests to these establishments. The cost is covered by the M.P.s themselves.

Two hundred and forty-two M.P.s have the possibility to sleep in their offices. The other M.P.s, with the exception of those representing Paris or the close Paris area, may make use of one of the 51 rooms available in the National Assembly’s Residence in the Jacques Chaban-Delmas building. If the latter is full when the National Assembly is sitting, they may also avail of a partial reimbursement of their hotel expenses in Paris. The price of a night, local tax included, is covered up to 200€. The price of the breakfast and of the carpark are entirely reimbursed beyond this ceiling.

By means of a public tender, the National Assembly has an agreement with five partner hotels of the management of the Residence, which guarantee a certain number of rooms for M.P.s on Mondays, Tuesdays and Wednesdays, with special prices which vary according to the season or the status of the hotel. In these establishments, the price of the hotel, local tax included, is entirely reimbursed for the M.P.
5. – OTHER BENEFITS

a) Family benefit

M.P.s may also receive family benefits which are the equivalent of those paid by the general social security scheme, with the exception of the free choice to decide upon the means of child care and housing benefits. A childcare allowance is allocated for children younger than three years old. It represents 308.19 € per month.

b) Mutual, differential and decremental insurance allowance for return to work

This allowance which is based on that of employees is managed by the “Caisse des Dépôts et Consignations” (“National Deposits and Consignments Fund”). M.P.s who are not re-elected have access to it when, searching for another job, they do not have their access to the Former M.P.s’ Pension Fund.

The maximum time this allowance may be paid equals the length of the M.P.’s term of office but cannot be shorter than four months and cannot be longer than twenty-four months. This period can be extended to thirty months when the former M.P. is older than 53 and thirty-six months when he is older than 55.

The gross monthly amount of this allowance is 57% of the basic parliamentary allowance, i.e. 3,191€. The allowance is subject to the CSG and to the CRDS (French taxation deductions) and is thus taxable. It does not open up any rights to a retirement scheme.

It is financed by a contribution of the sitting M.P.s equal to 1% of the basic parliamentary allowance, i.e. 56€ per month.

III. – PENSION AND SOCIAL SECURITY SCHEME

1. – Social security

M.P.s must be affiliated to the National Assembly social security scheme which was set up by the Bureau in 1948 and is managed by a committee made up of the three Questeurs and a representative of each of the political groups. This scheme provides sickness and maternity benefits in kind and attributes a lump sum (or allocations) in the case of death.

This fund is made up of a basic insurance which provides sickness and maternity benefits in exactly the same way as the general scheme for employees and of a supplementary and voluntary insurance which tops up the basic insurance.

2. – Pensions

The M.P.s’ pension scheme, which was set up by a resolution of the Chamber of Deputies on December 23, 1904 is funded by a contribution provided by the parliamentary allowance and by a subvention included in the budget of the National Assembly.
The reform of the pension scheme decided upon by the Bureau on November 8, 2017, led to the ending of the voluntary supplementary scheme, to the reduction in the basic contribution and liquidation of the pension and to the alignment of the regime of family premiums with that of the law applied to the civil service in general. This reform came into force on January 1, 2018.

The basis for the contributions and the liquidation of the pensions of an M.P. is equal to his parliamentary allowance which is composed of the basic parliamentary allowance, his residential allowance and attendance allowance. It represents a monthly gross sum of 7,209.74€.

The contribution rate on this basis is 10.31%. It will be 10.58% in 2019 and 10.85% as of January 1, 2020. The pension is calculated according to the number of years of contributions acquired with a ceiling of 41.75 such years.

The age for the opening-up of such pension rights for a former M.P. is 62 years of age.
Arrival and Reception of M.P.s

Key Points
At the beginning of each term of office, the day after the election of M.P.s and the publishing of the results, the administration of the National Assembly organizes a reception procedure for all M.P.s, whether they have been re-elected or newly elected.

This is a very important procedure both for the M.P.s and for the parliamentary civil servants who take part in it. It represents the first contact between the elected members and the administration which will assist them.

It is essential that the M.P.s, and in particular those who are newly elected, have the impression they are “awaited” by the institution of Parliament and feel “at home” in the premises of the National Assembly.

Consequently, the reception procedure has been set up in order to enable M.P.s to receive information on the organization and operation of the National Assembly and to enable the administration to gather the essential information concerning the M.P.s.

The conception and the organization of the reception are prepared by a working group which is made up of parliamentary civil servants working in the departments most concerned by the operation under the authority of the two secretaries general.

This working group begins meeting around 18 months before the beginning of the new term of Parliament. Basing itself on the experience of previous receptions, but also attempting to improve the procedure, in particular thanks to the innovations made possible with new communication techniques, the working group, over the course of its meetings, checks the main features of the organization of the reception.

I. – PREPARATORY PROCEDURES FOR THE RECEPTION OF M.P.S

As regards the gathering of results and the providing of information to M.P.s, in particular those who have been elected for the first time, good relations with the Home Office are essential.
1. — THE GATHERING OF ELECTION RESULTS

The databases (surname, first name, date of birth, department and constituency number) concerning all the candidates are transmitted to the National Assembly by the Ministry of the Interior three weeks before the first round of the elections. This information, which is sent by digital file, is collated with the management reference system at the National Assembly so as to create a complete database for the candidates at the election.

The results are transmitted during the night of the election by means of a specially installed computer link.

The cross-referencing of the candidates’ files with the names of the elected M.P.s enables the publishing of the individual M.P.s’ files which will serve as the basis for the reception procedure for the new term of Parliament. These files will already contain the information which the departments of the National Assembly possess on the new M.P.s.

2. — THE DISTRIBUTION OF AN INFORMATION CIRCULAR ON THE RECESSION

Two weeks before polling day, a letter, signed by the secretaries general of the National Assembly, is sent to Prefects requesting them to transmit to the newly elected M.P.s of their department, as soon as the results were declared, a letter signed by the President of the National Assembly which includes a memorandum providing practical information on the reception procedure at the Palais Bourbon and a provisional timetable for the opening of the new Parliament.

The memorandum enclosed with the letter from the President of the National Assembly contains a login and a personalized password which allows the M.P. to connect to the extranet site especially given over to the reception of M.P.s. On this site the M.P. can find general information concerning the National Assembly and the reception procedure and can fill out, if he/she so wishes, his/her individual information file thus taking some of the tedious nature away from this formality when it is carried out during the reception procedure itself.

II. — THE RECESSION PROCEDURE

As of the day after each round of voting, elected M.P.s may come to the Palais Bourbon where civil servants are mobilized to welcome them. For most of them there is a very short period of time between the second round of the general elections and the first meeting of the National Assembly.

1. — THE OPERATION OF THE RECESSION PROCEDURE

Each M.P. is accompanied upon his entrance to the Palais Bourbon, by a uniformed usher. He is then directed towards a “reception” civil servant whose job it is to process the information necessary for the M.P. to be enrolled by the National Assembly.
The reason for this first contact is to complete or fill out the information file. In the case of a returning M.P., the file will usually be up-to-date and will only require checking and a signature. The same applies if the newly elected M.P. has used the possibility provided to him to fill it out by means of the extranet site. If this is not the case, the file is filled out directly on the screen.

Each M.P. then moves on to the photographic studio where he is photographed. This photograph is published on the internet site of the National Assembly in the directory entitled ‘Notices and Portraits’ and is used for the creation of the badge which is created on the spot and which allows the wearer to automatically pass through the security checks at the entrances to the Palais Bourbon. M.P.s may also, if they so wish, be photographed on the benches of the Chamber and the photograph is immediately made available on a portal. The M.P. is then requested to pay a visit, during the first two weeks of the new term of Parliament, to the Department of Financial and Social Management, so as to carry all the personal formalities which will enable the opening of his social protection scheme, the issuing of his pay slips and the opening of an account which will allow him to pay his assistants.

2. – DOCUMENTATION PROVIDED TO MEMBERS OF PARLIAMENT

The information provided orally to M.P.s is coupled with a welcome brochure summarizing the most useful information and with all the information provided on the internet site of the National Assembly concerning parliamentary work and everything available in every area.

In addition, every M.P. receives a ‘hold-all’ bag containing the symbols of his office; the tricolour scarf, the insignia worn during public ceremonies and usually referred to as the “barometer” on account of its shape, the cockade badge to be placed behind the windscreen of a vehicle, and the computer codes which will allow him access to the automation software and office equipment once his political group has allotted him office space.

3. – THE SETTING-UP OF INFORMATION SESSIONS

Information sessions for new M.P.s and their assistants have been set up. These sessions aim at allowing the new arrivals to become familiar as quickly as possible with parliamentary proceedings be they in standing committee or in plenary sitting. These sessions deal with legislative procedure, the monitoring of the Government and the status of the M.P. and also with standing committees. The Information Systems Department has also, on its side, set up sessions concerning the “Eloi” application.
The President of the National Assembly

Key Points
As the fourth highest dignitary of the State, the President of the National Assembly plays an essential role in French political life.

He is elected for the term of Parliament and has many prerogatives, certain of which are listed in the Constitution. He is thus consulted by the President of the Republic in several cases (the dissolution of the National Assembly, the implementation of the special powers provided by article 16 of the Constitution) and is vested with the power of referral to the Constitutional Council of which he appoints three members.

He particularly has a preeminent role in the organisation of parliamentary work and in the chairing of debates in the public sitting.

\textit{See also files 20, 26, 36 and 69}

The President of the National Assembly plays an essential role in French political life, on account of his position within the institutions of the Republic and his essential contribution to the proper running of the National Assembly. His role has been strengthened by the Constitutional Act of July 23, 2008 and by the subsequent modification in the Rules of Procedure of the National Assembly.


At its first sitting, the newly elected Assembly, chaired by its most senior member, elects its President. This election, which is valid for the term of the Parliament, is held by secret ballot at the rostrum. If the absolute majority of votes cast is not obtained at the first two rounds of the ballot, then a relative majority is enough at the third. In the case of a tie then the eldest candidate is elected.

1. – COMPULSORY CONSULTATION

The President of the National Assembly must be consulted by the President of the Republic in two occasions:

– The dissolution of the National Assembly (article 12 of the Constitution);
– The implementation of emergency powers by the President of the Republic (article 16 of the Constitution).

He is also consulted by the Prime Minister when the latter seeks the holding of extra days of sitting beyond the usual one hundred and twenty days which each Assembly may hold during its normal session (article 28 of the Constitution).

2. – POWERS OF APPOINTMENT OF THE PRESIDENT OF THE NATIONAL ASSEMBLY

The President of the National Assembly appoints, at the same time as the President of the Republic and the President of the Senate, one member of the Constitutional Council at each three-yearly partial renewal of this body (article 56 of the Constitution). Since the revision of July 23, 2008, this appointment is made after the opinion of the Law Committee has been given.

According to the terms of the new version of article 65 of the Constitution, the President of the National Assembly appoints, after the opinion of the Law Committee has been given, two of the six people who will sit in the sections of the High Council of the Judiciary which have jurisdiction over judges and over public prosecutors.

In addition to the appointments he makes in accordance with the Constitution, the President of the National Assembly appoints one or several members of various councils and independent administrative authorities (the High Council for Audio-visual Matters, the Board of Directors of the Bank of France, the National Commission on Data Protection and Liberties, the Financial Markets Authority, the Regulatory Authority for Electronic Communications and Post, the High Authority for Transparency in Political Life, qualified figures working with the Defender of Rights etc.).

He also appoints, by virtue of Law n°2009-39 of January 13, 2009, one of the qualified people on the commission provided for by article 25 of the Constitution which is responsible for publicly expressing an opinion on the Government and Private Members’ Bills defining the constituencies for the election of Members of the National Assembly, or modifying the distribution of the seats of Members of the National Assembly or of Senators. This appointment is made after an opinion is given by the Law Committee.
Furthermore, certain texts grant him the task of appointing one or several M.P.s to sit on bodies on which representation of the parliamentary assemblies is provided for. This is notably the case for the Commission on Access to Administrative Documents, the Steering Committee on Employment or the National Consultative Committee on Ethics in Life Sciences and Health.

3. – **POWERS OF REFERRAL OF THE PRESIDENT OF THE NATIONAL ASSEMBLY**

**a) Referral to the Constitutional Council**

The President of the National Assembly may refer bills to the Constitutional Council before their promulgation (article 61 of the Constitution) and may call on it to decide if an international agreement contains any clauses contrary to the Constitution (article 54 of the Constitution).

In the case of disagreement with the Government, he may call on the Constitutional Council to decide if a Members’ bill or an amendment is, or is not, a matter for statute or is, or is not, contrary to a delegation of authority granted by virtue of article 38 of the Constitution (article 41 of the Constitution).

After thirty days of the exercise of emergency powers, the President of the National Assembly, may, by virtue of article 16 of the Constitution, refer the matter to the Constitutional Council so that it may decide if the conditions laid down in the same article still apply.

According to article 39, paragraph 4, of the Constitution, in the case of a disagreement between the Conference of Presidents and the Government on the matter of knowing if the presentation of bills allows their inclusion on the agenda of the National Assembly, the President of the National Assembly may refer the matter to the Constitutional Council which shall rule within a period of eight days.

**b) Referral to other bodies**

Article 39, paragraph 5 of the Constitution, introduced by the constitutional revision of July 23, 2008, allows the President of the National Assembly to submit a member’s bill tabled by an M.P. for the opinion of the Conseil d’État before its examination in committee subject to the agreement of its author.

The President may also, by law, refer matters to:

- The Court of Budgetary and Financial Discipline;
- The National Consultative Committee on Ethics in Life Sciences and Health;
- The High Council for Audio-visual Matters.

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1. And thus answers the conditions laid down by article 8 of the Institutional Act n° 2009-403 of April 15, 2009, concerning the application of articles 34-1, 39 and 44 of the Constitution (impact study, implementation mechanisms, linking with European law etc.)
He may in addition, at the request of one of the standing committees of the National Assembly, communicate to the Defender of Rights any petition which has been referred to the National Assembly.

Moreover, article 70 of the Constitution provides that Parliament may consult the Economic, Social and Environmental Council. The President of the National Assembly has used this particular prerogative four times since 2009.

The President may also consult the Congress of New Caledonia on member’s bills introducing provisions which concern it and request the High Commissioner of the Republic to make a consultative referral to the Assembly of French Polynesia on a Government or member’s bill which concerns it (Institutional Laws n° 99-209, of March 19, 1999 and n° 2004-192 of February 27, 2004).

4. – CHAIRMANSHIP OF CONGRESS AND OF THE HIGH COURT

The President of the National Assembly presides over the Congress when it is called in order to carry out a constitutional revision, to ratify a membership to the European Union not submitted to referendum or when the President of the Republic takes the floor before it in accordance with article 18 of the Constitution.

When, pursuant to article 68 of the Constitution, Parliament sits as the High Court, it is presided over by the President of the National Assembly.

II. – THE ROLE OF THE PRESIDENT WITHIN THE NATIONAL ASSEMBLY

1. – ROLE CONCERNING THE TERMS AND STATUS OF M.P.s

The President of the National Assembly receives all decisions and communications which could have a bearing on M.P.s’ terms of office or status:

– Decisions of the Constitutional Council concerning electoral disputes, resignations or vacant seats;
– Correspondence concerning parliamentary immunity;
– Membership of political groups and declarations regarding their membership, if that be the case, of the opposition;
– Declarations of membership of parties for the financing of public subsidies to political parties.

He must then implement the procedures provided for in such circumstances either through his own initiative or by referring the matter to the Bureau.

2. – CHAIRMANSHIP OF THE DECISION-MAKING BODIES OF THE ASSEMBLY

Each week, the Conference of Presidents is convened, if necessary, by the President of the National Assembly on the day and at the time which he sets. He may also convene the Conference of Presidents at any moment for any other reason. It may also be convened by the President upon the request of a political
group chair so that it may exercise its prerogatives given to it by the constitutional reform of July 23, 2008: opposition to the inclusion on the agenda of a bill or to the implementation of the accelerated procedure.

The agenda for two weeks out of four is set by the National Assembly on the proposition of the Conference of Presidents, whilst the agenda for the other two weeks is set down by the Government. It is the task of the President of the National Assembly to gather the various proposals for the agenda for these two weeks and to present them to the Conference.

The President convenes and presides over the Bureau of the National Assembly. The Bureau has plenipotentiary powers to regulate the deliberations of the Assembly and to organize and direct all of its departments. In accordance with the terms of article 146-2 of the Rules of Procedure, he chairs the Commission on the Assessment and Monitoring of Public Policies which was set up in 2009.

3. – ROLE OF THE PRESIDENT IN THE RUNNING OF DEBATES

As regards the chairmanship of plenary sittings, it is the President’s duty:

– To open, close or adjourn the sitting;
– To chair the debates in accordance with the decisions taken by the Conference of Presidents;
– To decide the order of speaking and to give speakers the floor;
– To adjourn he discussion of some articles and amendments to a specific time;
– To oversee the respect of the Rules of Procedure, as well as of constitutional or institutional provisions;
– To maintain order in the Chamber.

In the carrying out of these functions, the President may be replaced by one of the 6 Vice Presidents of the National Assembly.

In addition, the President:

– Oversees the running of the Committees which he convenes for their constitution;
– Receives the tabling of all initiatives (Government bills, Members’ bills, resolutions, motions etc.);
– Sends Government and Members’ bills for examination to the relevant committee;
– Oversees the implementation of the correct procedure for written and oral questions;
– Transmits the bills which have been passed to the relevant authorities;
– He makes a decision on the financial admissibility of amendments tabled on a bill discussed in plenary sitting as soon as such amendments are tabled. This power is, in reality, delegated to the Chair of the Finance Committee.
Since the constitutional revision of July 2008, the President of the National Assembly has four new prerogatives which are linked to the legislative procedure:

– Article 39, paragraph 5 of the Constitution allows the President to refer a Member’s bill tabled by an M.P. for an opinion of the Conseil d’État, (see above I, 3, b);

– Article 41, allows him, during the legislative procedure, to argue the inadmissibility of an amendment or of a Member’s bill for not being a matter for statute;

– In accordance with article 45, paragraph 2, the President of the National Assembly and the President of the Senate, acting jointly, may, in the case of a Member’s bill, call a meeting of a joint committee after two readings (a single reading if the accelerated procedure has been implemented);

– The President also monitors the subject of draft resolutions tabled by virtue of article 34-1, since a resolution may not be included on the agenda if it is on the same subject as a previously tabled resolution during the same ordinary session.

4. – OTHER ROLES OF THE PRESIDENT

a) The representative role of the National Assembly

The President of the National Assembly represents the Assembly and ensures the preservation of its interests. In order to do this he may avail of “the length of the term of Parliament” and is thus the only member of the Bureau who is not submitted to periodic re-election.

The Rules of Procedure of the Assembly state that “the communications of the National Assembly shall be made by the President” (article 13) and the law grants him the representation of the institution before jurisdictional bodies.

Beyond these legal aspects, it also falls within the remit of the President to embody the community of M.P.s in certain circumstances. It is thus that he expresses in plenary sitting, the emotion of the national representation during events of particular solemnity (attacks, catastrophes, the death of important personalities, etc.).

He also carries out the representation of the Assembly at official ceremonies (the ceremony of New Year’s wishes of the Bureau to the President of the Republic) and at certain international bodies (the co-chairmanship of the French group to the Inter-parliamentary Union, the Conference of Presidents of European Parliamentary Assemblies, the summits of the Presidents of the Parliaments of the G8/G20). He often grants interviews to Heads of State or members of foreign Governments visiting Paris.
b) The role of the President in security matters

The President of the National Assembly is in charge of the internal and external security of the National Assembly (ordinance no. 58-1100 of November 17, 1958 concerning the running of parliamentary assemblies; article 13 of the Rules of Procedure). He thus has at his disposal and under his orders, a military unit, whose responsibility it is to oversee the security of the *Palais Bourbon* and the parliamentary precincts.
The Bureau of the National Assembly

Key Points
Even if the Constitution only mentions the Bureau of the National Assembly in passing (articles 26 and 89), the Bureau is nonetheless the highest collective decision-making body of the National Assembly.

By uninterrupted tradition, the Bureau has general competence, either directly or by the delegation of powers to certain of its members, over the organization and the internal running of the National Assembly.

This idea is expressed in article 14, paragraph one, of the Rules of Procedure: “The Bureau shall have complete power to run the deliberations of the House and to organize and direct departments”.

See also files 16, 21, 34, 53, 58, 59, 60 and 62

I. – COMPOSITION AND ELECTION OF THE BUREAU

1. – COMPOSITION

   The Bureau is made up of 22 members:
   – The President of the National Assembly, the only member to be elected for the whole term of the Parliament,
   – The 6 Vice Presidents,
   – The 3 Questeurs,
   – The 12 Secretaries.

   In order to deal with certain decisions, delegations were formed within the Bureau. There are currently six such delegations:
   – The delegation in charge of communication and the press;
   – The delegation in charge of M.P.s’ status;
   – The delegation in charge of study groups and representatives of interest groups;
   – The delegation in charge of international activities;
   – The delegation in charge of artistic and cultural heritage;
   – The delegation in charge of examining the financial admissibility of Members’ bills.
Each of these delegations is chaired by one of the Vice Presidents. In addition, three of them also have as members, a Questeur acting in his official capacity (communication, international activities, artistic and cultural heritage). The chairman of each delegation reports to the Bureau on the conclusions of the delegation which he chairs.

2. – METHOD OF ELECTION

a) The provisional Bureau

The first sitting of the Parliament is chaired by the eldest M.P. who is aided by the six youngest M.P.s who fulfil the role of Secretaries until the election of the Bureau. The Provisional Bureau only operates in order to carry out the election of the President of the National Assembly. Although no debate may take place under the chairmanship of the most senior member, it is customary for him to make a speech to his colleagues in which he shares his thoughts inspired by his experience in Parliament.

b) Election of the President of the National Assembly

The President of the National Assembly is elected by secret ballot at the rostrum. Tellers, drawn by lots, count the votes and the eldest M.P. announces the result. If an absolute majority of votes cast is not obtained at the first two rounds, a relative majority is enough at the third round; in the case of a draw, the eldest candidate is deemed elected. As soon as he is elected, the President mounts the rostrum, makes a speech and announces the date of the following sitting during which the members of the Bureau of the National Assembly will, themselves, be elected.

c) Election of the Vice Presidents, the Questeurs and the Secretaries

The other members of the Bureau (the Vice Presidents, the Questeurs and the Secretaries) are elected at the beginning of each term of Parliament, during the sitting which follows the election of the President and are renewed at the beginning of each ordinary session, with the exception of that preceding the renewal of the National Assembly.

The composition of the Bureau attempts to reproduce the political make-up of the National Assembly. In October 2017, a reform of the Rules of Procedure, clarified the way in which this principle was to be applied. Paragraphs 5-7 of article 10 of the Rules of Procedure set down the criteria according to which the groups divide up the positions and create the principle that one of the Questeur positions is reserved for the opposition:

“Each position in the Bureau is allocated a number of points: 4 points for the position of President, 2 points for that of Vice President, 2.5 for that of Questeur and 1 point for that of Secretary.”
All the positions together represent a total of 35.5 points which are divided between the groups in a proportional manner in order to represent the political make-up of the National Assembly.

The chairs of the groups choose, according to the number of points which they have, the positions which they wish to have for their group. This distribution is carried out in priority order according to the number of members of the respective groups and, in the case of equal numbers of members, by drawing lots. One of the Questeur positions is reserved for an M.P. who belongs to a group which has declared that it is in the opposition”.

However, if the groups do not manage to reach an agreement, a vote is organized for each type of position for which the number of candidates is higher than the number of offices available.

After the election of the Bureau, the President of the National Assembly notifies the President of the Republic, the Prime Minister and the President of the Senate of its composition.

II. – THE POWERS OF THE BUREAU

Article 14, paragraph 1, of the Rules of Procedure states that “The Bureau shall have complete power to run the deliberations of the House and to organize and direct departments”.

The Bureau represents the National Assembly at external events, interprets and applies the Rules of Procedure, rules on major incidents during sittings and ensures equality of treatment in media coverage.

1. – POWERS OF THE BUREAU CONCERNING LEGISLATIVE ACTIVITIES OF THE NATIONAL ASSEMBLY

a) In plenary sitting

In plenary sitting the President (or one of the Vice Presidents replacing him) directs the debates. He may, at any time, adjourn or end the sitting.

The Secretaries of the Bureau check the voting operations and the count for certain ballots: ordinary public ballots using ballot papers (in cases where the electronic voting system fails to work) public ballots at the rostrum or in the rooms adjoining the Chamber (e.g. vote on a censure motion), secret ballots for personal appointments.

b) In parliamentary procedure

The Bureau has the power to assess the financial admissibility of Members’ bills upon their tabling. This power is carried out by one of its delegations. The President of the National Assembly may also refer questions of the financial admissibility of amendments to the Bureau although this provision is not applied.
2. – **Powers of the Bureau Concerning the Administrative Running of the National Assembly**

The *Bureau* has wide statutory powers:

– It decides upon the Internal Rules which establish the organization, the powers and the working of the departments of the National Assembly;

– It sets down the terms of application, of interpretation and of implementation of the Internal Rules by the various departments;

– It establishes the status, the retirement scheme and the social security system of the staff, as well as the terms of the relationship between the administration of the National Assembly and the professional organizations representing the personnel;

– It has a power of appointment to the highest positions in the administration of the National Assembly: it thus appoints the secretaries-general, the general directors and the directors of departments;

– Under the supervision of the *Bureau*, the *Questeurs* have responsibility for financial and administrative departments and in this capacity they present each year the predicted budget of the Assembly; they report to the *Bureau* on the main decisions falling within their remit and, should circumstances so require, ask it to make a decision on certain matters which in particular affect the material aspects of the status of the personnel or the means available to M.P.s and to the bodies of the National Assembly.

3. – **Other Statutory Powers of the Bureau**

So as to ensure the respect of the prohibitions mentioned in article 23 of the Rules of Procedure, which ban the forming of groups defending private, local or occupational interests, the *Bureau* approves, upon a report of its relevant delegation, the study groups which are allowed to be formed within the National Assembly.

It coordinates the international activities of the National Assembly.

In the field of communication, the *Bureau* has the final say on the conditions of production, transmission and distribution of the audio-visual account of the debates.

4. – **The Constitutional and Legislative Powers of the Bureau**

There are several specific elements in this remit which the *Bureau* possesses on account of various constitutional and legislative provisions. To be particularly noted is:

– The system of authorization concerning custodial or semi-custodial legal measures (article 26 of the Constitution);
– The responsibility of the Bureau to become the Bureau of Congress when the latter meets in order to carry out a constitutional revision (article 89 of the Constitution);

– The verification of incompatibility with parliamentary office as laid down by the electoral code (article L.O. 151-2 of the electoral code);

– The registration of M.P.s as regards their membership of parties and political groups eligible for the distribution of public subsidies, as laid down by the laws on the financing of political life (article 9 of Law n° 88-227 of March 11, 1988);

– The setting-down of the rules regarding the prevention and monitoring of conflicts of interest (Law n° 2013-906 of October 11, 2013). These rules were established after consultation with the body in charge of parliamentary ethical standards. In addition, the law provides the Bureau with the task of overseeing the respect and the monitoring of these rules concerning ethical standards.

5. – POWERS AS REGARDS APPOINTMENTS

According to the rules drawn up by the Bureau of the XIII\textsuperscript{th} term of Parliament on April 6, 2011, it is within the remit of the Bureau, upon a proposal of the President, to appoint the Commissioner for Ethical Standards of the National Assembly, after the agreement of at least one president of an opposition group.

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The Bureau meets around eight times a year. Each meeting leads to a publication in the Assembly bulletin (Feuilleton) and on the internet site of the Assembly, of the minutes of the decisions taken, certain of which are published in the Journal officiel.
**The Questeurs**

**Key Points**

The term and the position of questeur date from the Senatus Consultum of 28 frimaire, year XII (December 20, 1803). There are three Questeurs since the Third Republic. It is a tradition, since 1973, that two of them should come from the ranks of the Government majority and one from the opposition.

The Questeurs are members of and act under the authority of the Bureau of the National Assembly and thus of the President of the National Assembly. They "shall be responsible for financial and administrative matters. No new expenditure shall be incurred without their prior agreement" (Article 15, paragraph one, of the Rules of Procedure of the National Assembly). No expenditure can thus be incurred directly by any of the departments under their authority.

They are elected by their peers at the beginning of each term of Parliament, and then every year at the beginning of each ordinary session, except that which precedes the renewal of the National Assembly.

In practice, the Questeurs manage, by delegation of the Bureau, the administrative and material sides of the life of the National Assembly.

See also files 20, 67, 68, 70 and 71

Chaired by the President, the Bureau is the supreme body of the National Assembly but its size (22 members) means it must delegate some of its powers.

The Questeurs are the members of the Bureau who, under its authority, carry out the administrative and financial management of the National Assembly.

In particular they draw up the budget of the National Assembly, manage the funds and decide upon expenditure.

The position of Questeur illustrates the principle of administrative and financial autonomy of parliamentary assemblies set down in article 7 of the Ordinance of November 17, 1958 relative to the running of parliamentary assemblies.
I. – THE QUESTEURS: A COLLEGIAL BODY

1. – COMPOSITION

The Questeurs are three M.P.s elected by their peers at the beginning of each term of Parliament, and then every year at the beginning of each ordinary session, except that which precedes the renewal of the National Assembly. In practice there is quite a large amount of stability in the function of Questeur.

The Questeurs are a reflection of the political make-up of the National Assembly. Since 1973, two of the Questeurs have been members of the parliamentary majority and the third Questeur has been a member of the opposition.

The fact of having Questeurs from different political parties means that a consensus can be reached between the political groups on decisions of an administrative nature and this avoids such issues being exploited for political reasons.

2. – WORKING

The Questeurs meet every week during session with the two Secretaries General to discuss all the questions which fall within their remit.

The decisions of the Questeurs are taken collegially. The collegial nature of decisions is somewhat tempered by the existence of the notion of ‘delegated’ or ‘lead’ Questeur. The latter is chosen by his colleagues to act in their name. Each of the three Questeurs carries out this responsibility in turn for a one-month period.

The General Secretariat of the Questure prepares the meetings of the Questure and in collaboration with the different departments draws up the files to be put before the Questeurs, writes up the minutes, records the decisions and assures their implementation and communication (in particular via the intranet site of the National Assembly).

After each meeting of the Questure, the Secretary General of the Questure and the Director General of Administrative Services, bring together the heads of departments to inform them of the decisions taken and to establish the practical aspects of their implementation.

II. – POWERS OF THE QUESTEURS

1. – THE QUESTEURS AND THE BUDGET OF THE NATIONAL ASSEMBLY

a) The preparation of the budget

The financial autonomy of the parliamentary assemblies allows them to fix their draft budget without the executive power intervening. The draft budget is thus prepared and settled by the Questeurs and is then presented to the Bureau.
The amount of the annual allocation provided by the State to ensure the running of each parliamentary assembly is drawn up by the ‘joint committee in charge of deciding credits’ which is made up of the *Questeurs* of the two assemblies and is chaired by the president of a chamber of the Court of Accounts, aided by two assessorial judges acting as *rapporteurs*. The report drawn up by the *Questeurs* presenting the draft budget guidelines as set down in the previously described conditions, is then referred to the Chairman of the joint committee.

A report signed by the seven members of the joint committee and drawn up by its chairman and the assessorial judges accompanies the request for credits and outlines the reasons. It is reproduced in its entirety in the budgetary booklet for the “public powers” mission which is annexed to the year’s finance bill.

The joint committee sets down the amount of the allocation requested. It is the task of the *Questeurs*, after the passing of the Finance Act in which the allocation is included, to distribute the credits between the various chapters and expenditures.

**b) Implementation of the budget**

The *Questeurs* are empowered with a general delegation regarding financial and accounting matters. Expenditure may only be authorized with their agreement, except when the amount of such expenditure is relatively insubstantial. In such cases the agreement of the Secretary General of the *Questure* by proxy is sufficient.

Expenditure is examined by the *Questeurs*, upon the basis of files prepared by the various departments of the National Assembly.

The procedure of approval of such expenditure illustrates the financial autonomy of the assemblies as the *Questeurs* approve the expenditure without the agreement of a financial inspector, the civil servant who represents the executive power.

**c) Monitoring the implementation of the budget**

In the same way, the auditing and the balancing of the accounts are matters for an internal body of the National Assembly: the *ad-hoc* committee in charge of auditing and balancing the accounts, set up by article 16 of the Rules of Procedure of the National Assembly is made up of 15 members appointed to proportionally represent the political groups. Only an M.P. belonging to a group which has declared itself as in the opposition may be elected to the chairmanship. The committee is renewed each year at the beginning of the ordinary session. The members of the Bureau and thus the *Questeurs* may not sit on this committee.
At the end of the financial year, the **Questeurs** draw up, on a proposal of the Secretary General of the **Questure**, a report for the **ad-hoc** committee on the implementation of budgetary operations, the technical preparation of which is the task of the Budget, Financial Monitoring and Markets Department. This report is made public.

The **Questeurs** appear before and answer for their management to the **ad-hoc** committee which is in charge of granting them discharge and of definitively approving the accounts for the financial year. The committee also gives discharge for his management to the Treasurer of the National Assembly. In the performance of its duties, the committee has substantial powers of oversight: its members may examine all payment orders and accompanying invoices and may question the **Questeurs** orally or in writing, in particular at the moment of the examination of the management of the financial year which has just ended. The Chairman of the **ad-hoc** committee draws up, every year, a report on the accounts of the previous year. This report is made public and is published on the internet site of the National Assembly.

In the framework of the certification procedure for the general accounts of the State introduced by the Institutional Law of August 1, 2001, concerning finance acts, a specific procedure has been implemented so as to reconcile the technical requirements of this certification with the autonomy of the parliamentary assemblies. The Court of Accounts has been, by a convention dated July 23, 2013, tasked with carrying out an audit of the accounts of the National Assembly with a view to declaring their true and fair nature in the sense of accountancy norms. The certification report which is drawn up at the end of the work, is transmitted by the First President of the Court of Accounts to the President of the National Assembly who in turn, passes it on to the Chair of the **ad-hoc** committee. This report is published on the internet site of the National Assembly.

### 2. – THE GENERAL ADMINISTRATION OF THE NATIONAL ASSEMBLY

The **Questeurs** are expected to be aware of problems arising from the general administration of the institution. Each of the following areas partially or completely fall within their remit, under the authority of the **Bureau**: personnel management, social security systems, pensions, the maintenance of the **Palais-Bourbon**, its grounds and attached buildings, the car pool, the catering facilities, the provision of material means to their colleagues.

#### a) Personnel management

The President of the National Assembly and the **Questeurs** are together in charge of personnel management (with the exception of the porters, security staff, skilled workers, restaurant employees and temporary staff who fall entirely within the remit of the **Questeurs** alone).
Within this area, they are in charge of all the provisions concerning the recruitment of civil servants by competitive examination, their promotion, their secondment, their leave of absence or their retirement as well as those provisions concerning disciplinary action. The Questeurs decide upon salary increases due to seniority but the Bureau is the only body which decides upon the salary index scale of the staff.

b) **Powers of the Questeurs regarding social security matters**

This element of the remit covers M.P.s and former M.P.s, as well as retired or present staff. The Questeurs are in charge of the pension scheme and are members, by right, of the Social Security Management Committee for M.P.s and former M.P.s. They have the same powers of administration for the Social Security system of the staff.

c) **Security, control of access and movement in the Palais Bourbon**

According to article 3 of the Ordinance of November 17, 1958 and to article 13 of the Rules of Procedure of the National Assembly, the President of the National Assembly is in charge of overseeing the internal and external security of the Palais Bourbon and all the other premises of Parliament. He decides upon the size of the military force he deems necessary and this force is under his command. The President of the National Assembly may, if he so desires, delegate certain of these powers to the Questeurs.

d) **Powers concerning the working of the National Assembly**

The Questeurs are also in charge of certain tasks directly related to the working of the National Assembly. At the end of a discussion with the secretaries general of groups at the beginning of each term of Parliament, they ratify in particular the distribution of offices and meeting rooms for the secretariats of the political groups and for the M.P.s.

In addition, the Questeurs do all within their power to help the M.P.s in the carrying out of their office (transport, telephone, office equipment).
The political groups, which have been recognized by the Constitution since the revision of July 2008, are the formal representation of political parties and movements in the National Assembly and allow MPs to come together according to their affinities.

They are represented in the Bureau and in the standing committees proportionally, according to the number of seats they hold. The allotted time for speaking during the plenary sittings is also decided upon by the number of members they have.

The chairmen of political groups enjoy certain prerogatives within the legislative procedure. These are particularly aimed at safeguarding the rights of the Opposition.

Outside of the prerogatives of their chairmen, the opposition and minority groups have a number of recognized rights in accordance with article 51-1 of the Constitution.

The political groups are the formal representation of political parties and movements in the National Assembly. They are nonetheless distinct from these and in fact the Rules of Procedure make provision for the setting-up and the organizing of political groups in a way which is completely autonomous from the legal system applied to political parties.

I. – RULES FOR THE SETTING-UP OF POLITICAL GROUPS

The Rules of Procedure of the National Assembly state that “M.P.s may form groups according to their political affinities”.

To be created, a group must meet two conditions:

– It must bring together a minimum number of M.P.s. This number has been changed from twenty to fifteen in the National Assembly with the reform of the Rules of Procedure on May 27, 2009;

– It must transmit to the President's office a political statement signed by its members and put forward by the chairman they have chosen.

An M.P. may only be a member of one political group.

It is also possible, with the authorization of the Bureau of a group, to be a part of that group, not as a fully-fledged member but as an associated member.
The associated members are not included in the minimum number necessary for the setting-up of a group but they are included in the group numbers concerning all other aspects of parliamentary life.

It is not mandatory to be a member of a group or to be associated to a group. M.P.s who are in such a position are named on the list of Members of Parliament as ‘belonging to no group’ and are usually referred to as ‘non-enrolled’.

Changes may occur after the initial setting-up of a group. In the case of new membership or enrolment, the double signature of the chairman and the M.P. in question are required whilst in the case of resignation or expulsion only the signature of one or the other is necessary.

The Rules of Procedure also state that no group which presents itself as a group representing private, local or professional interests or which forces its members to accept a binding vote, can be created.

II. – THE INTERNAL ORGANIZATION OF POLITICAL GROUPS

The groups are set up as an association which is presided over by the chair of the group. With that proviso, they have the right to decide upon their own internal organization and their own procedures (they may draw up their own statutes and standing orders). The groups are serviced by an administrative secretariat which they recruit but whose conditions of access to, and working arrangements in, the National Assembly are decided upon by the Bureau.

The National Assembly provides the groups with a financial contribution to ensure their proper running. This contribution varies according to the number of members in the group.

Generally speaking, political groups meet at least once a week so as to decide their position on the bills on the agenda, draw up the list of their speakers, nominate their candidates to certain bodies and debate current affairs.

The importance of political groups in the life of the National Assembly is symbolized by their seating in the plenary chamber from the ‘left’ to the ‘right’ of the President’s rostrum.

At the beginning of a term of Parliament, the President brings together their representatives in order to ‘divide the Chamber up politically’. This in fact means the creation of sectors which will be given over to each group for the seating of their members in the Chamber. Each group then provides each of its members with a seat within the sector. This seat will then be fitted with the member’s individual voting panel.
III. – THE ROLE OF POLITICAL GROUPS IN THE WORKING OF THE NATIONAL ASSEMBLY

1. – THE REPRESENTATION OF POLITICAL GROUPS IN THE BUREAU AND IN STANDING COMMITTEES

The groups play a role in the setting-up of the internal bodies of the National Assembly, by providing, in accordance with the legal rules and established customs, the appointments to many positions.

The Bureau of the National Assembly is thus elected with “every endeavour being made to ensure that it reflects the political make-up of the Assembly” (article 10, paragraph 2 of the Rules of Procedure) i.e. on the basis of an agreement between the groups as to the distribution of the various positions concerned (vice-presidents, Questeurs, secretaries). If no agreement between the groups is reached, a ballot is held.

In the standing committees the groups have a number of seats proportional to their membership, with each group free to distribute its members between the various standing committees within its quota. In the make-up of the bureaux of the standing committees every endeavour is made to ensure that they reflect the political make-up of the Assembly and that all the opinions of the Assembly are represented.

The participation of groups is also required in the setting-up of anybody based on proportional representation (the European Affairs Committee, ad-hoc committees, commissions of inquiry, parliamentary offices and delegations) or in the distribution of positions based on rules respecting the pluralism of political groups (joint committees, representation in extra-parliamentary bodies, the attribution of the chairmanship of study groups and of friendship groups).

Furthermore, the thirty-six members of the Commission for the Assessment and Monitoring of Public Policies are appointed proportionately according to the size of the groups.

2. – PARTICIPATION IN THE DEBATES IN PLENARY SITTING

The exercise of those rights concerning the work in plenary sitting, especially those concerning the speaking time, are carried out through the political groups.

This is the case when the Conference of Presidents decides on the organization of a general debate on bills, on the consideration of a bill in a set time limit or the organization of debates on Government statements or on motions of censure. In these cases an allotted speaking time is given to each group, which then, in practice, has the responsibility of distributing it amongst the speakers it appoints.

In the same way, the organization of question time is based on the allotment of a number of questions to each group and whose management is in the hands of the group itself.
Similarly, the explanations of votes on all Government or Member’s bills, with the exception of personal explanations of votes authorized during the consideration of bills when the set time limit is applied, are made through a single speech given by a representative appointed by each group.

IV. – THE PREROGATIVES OF THE PRESIDENTS OF POLITICAL GROUPS

1. – THE CONFERENCE OF PRESIDENTS

The presidents of groups are members by right of the Conference of Presidents and take part in the discussion on the drawing-up of the agenda and on the organizational measures which are associated with it. They may submit proposals to the Conference of Presidents concerning the agenda. When a vote occurs within the Conference of Presidents, quite a rare event in fact, each chairman of a political group is granted a number of votes equal to the number of members of his group (minus those who already participate in the Conference in another capacity: vice-presidents, chairmen of committees). Since the constitutional revision of July 23, 2008, as the agenda is shared between the Government and the Assembly, the political groups (and in particular the political groups belonging to the governing majority) play a decisive role in the drawing-up of the Assembly’s agenda.

2. – THE PREROGATIVES OF THE PRESIDENTS OF POLITICAL GROUPS IN THE LEGISLATIVE PROCEDURE

In addition, the presidents of political groups have a substantial number of prerogatives concerning the working of the legislative procedure and the holding of plenary sittings. Thus the Rules of Procedure (or in certain cases custom) recognize their right, in particular, to:

- Ask for the setting-up of an ad-hoc committee (or to oppose it);
- Obtain, by right, the adjournment of a sitting in order to organize a meeting of their group;
- Hold a public ballot when they ask for it;
- Ask, personally during the sitting, for the verification of the quorum when a vote is held, on the condition that the majority of the members of their group are actually present in the Chamber;
- Ask to extend a night sitting beyond the normal finishing time of 1am;
- Require that the application of a set time limit on a bill be not less than a specific time limit set by the Conference of Presidents (thirty hours during the XIVth term of Parliament);
- Obtain, once per session, an extension of the time for consideration of a bill which leads to the application of a set time limit along with an additional
period of ten minutes per group every time an amendment is tabled outside the usual time limits by the Government or the committee;

– Oppose the application of a set time limit on a bill when its consideration on first reading occurs less than six weeks after its tabling or less than four weeks after its transmission;

– Propose the implementation of the simplified procedures for examination (or oppose such implementation);

– Have a European draft resolution become the subject of a report by the European Affairs Committee within a one-month time limit.

In addition, within the framework of the application of the set time limit, each group chairman is granted a specific speaking time which is not subtracted from his group’s time.

V. – SPECIFIC RIGHTS GRANTED TO OPPOSITION AND MINORITY GROUPS

Article 51-1 of the Constitution states that “The Rules of Procedure of each House... recognize that opposition groups in the House concerned, as well as minority groups, have specific rights”. For a group to obtain the status of opposition group its chairman must make a declaration to the Presidency of the National Assembly. This declaration may be made or withdrawn at any moment. However the status of a minority group is certified: the minority groups are defined as those who have not made a declaration of membership of the opposition to the Presidency, with the exception of that group which has the largest number of members.

These specific rights are attributed on the basis of the group’s situation at the beginning of the term of Parliament for one year and then every year after that at the beginning of the ordinary session.

The opposition and minority groups, in particular, may take advantage of one day per month given over to an agenda set entirely by them. These sittings are divided between the opposition and the minority groups according to their numerical size with each group having at least three sittings per ordinary session.

Each opposition or minority group may also, seek and be granted, once per ordinary session, the setting-up of a commission of inquiry or of a fact-finding mission. This possibility is however not available during the session immediately preceding general elections.

The opposition groups have other rights which are recognized such as the chairmanship of the Finance Committee and of the Committee in Charge of Auditing and Balancing Accounts, the allocation each week of half the questions at Government question time as well as half of the speaking time during debates subsequent to a Government declaration.
The Place of Opposition and Minority Groups

Key Points

In July 2008, Parliament gathered in Congress, inserted a new article into the Constitution which allowed the Rules of Procedure of each assembly to determine the rights of parliamentary groups and, in particular, to recognize the "specific rights" of opposition and minority groups.

This ruling extended the efforts which had been made for several years to preserve and then strengthen the rights of the opposition.

Monitoring and Assessment are particularly favourable to such a trend: it is possible, in these areas, to counter-balance the dominance which the ruling majority holds in the legislative field in accordance with the principle of representativity.

The National Assembly has taken advantage of the possibility offered by article 51-1 of the Constitution. Its Rules of Procedure now recognize many specific rights belonging to opposition and minority groups.

See also files 22, 49, 50 and 51

The element which was previously missing was established by the Constitutional Act of July 23, 2008. Since then, the new article 51-1 which was inserted into the Constitution provides that “the Rules of Procedure of each House shall determine the rights of the parliamentary groups set up within it. They shall recognize that opposition groups in the House concerned, as well as minority groups, have specific rights”.

M.P.s and Senators thus made sure that the assemblies would provide specific rights to certain groups and not to others.

I. – OPPOSITION AND MINORITY GROUPS

At the National Assembly, M.P.s may gather together by political affinity. Since the entry into force of the motion of May 27, 2009, a group may be constituted as of fifteen members, as opposed to twenty previously. To do so, it must transmit a written political statement signed by all its members to the President of the National Assembly.
As specific rights are recognized for opposition and for minority groups, it appeared necessary to include in the Rules of Procedure a definition which would allow such groups to be identified.

This definition appears in article 19 of the Rules of Procedure. It is based on a declaratory procedure (this solution was considered as the most satisfactory and the one which best respected individual freedom) and comes directly from the very terms of the Constitution.

1. – **OPPOSITION GROUPS ARE THOSE WHICH DECLARE THEMSELVES AS SUCH**

   Upon their constitution, groups may declare, in the political statement signed by their members which they transmit to the President, their membership of the opposition.

   This statement may be made, or withdrawn, at any time. Nonetheless, it is made clear that the “specific rights”, which are recognized for opposition groups and which must necessarily be granted over a period of time, are attributed or not, according to the status of the group at the beginning of each term of Parliament and then annually at the beginning of the ordinary session, for one year.

2. – **MINORITY GROUPS ARE THE OTHER GROUPS WITH THE EXCEPTION OF THE LARGEST**

   Minority groups are those which have not declared themselves members of the opposition with the exception of that which has the largest number of members. In concrete terms, they are the smaller groups of the governing majority or groups which are neither in the opposition nor in the governing majority.

   Minority groups also have specific rights which are attributed over the same time-scale as for those of the opposition.

II. – **BETTER REPRESENTATION IN THE DECISION-MAKING BODIES OF THE ASSEMBLY**

   “Every endeavour shall be made to ensure that the Bureau reflects the political make-up of the House and the respect of gender parity between women and men” (article 10, paragraph 2 of the Rules of Procedure). The distribution of positions between the groups is carried out according to their numbers in accordance with a procedure described in paragraphs 5-17 of the same article of the Rules of Procedure. One of the three questeur positions is reserved for an M.P. attached to the opposition (article 10, paragraph 7 of the Rules of Procedure).

   In the XVth term of Parliament, opposition groups also hold eight of the twenty-two positions (three of the six deputy speakers, one of the three positions of questeur and four of the twelve positions of secretary).
The opposition is represented in the Conference of Presidents by the chairmen of its groups and by these vice-presidents (article 47 of the Rules of Procedure) as well as by the Chairman of the Finance Committee who must belong to an opposition group (article 39 of the Rules of Procedure).

With the reforms of the Rules of Procedure resulting from the motions of May 27, 2009, and November 28, 2014, the representation of all political tendencies within the decision-making bodies of the Assembly has been strengthened.

1. – **THE RULES OF PROCEDURE PROVIDE THE OPPOSITION WITH THE CHAIRMANSHIP OF CERTAIN BODIES**

By virtue of article 39 of the Rules of Procedure, only an M.P. belonging to a group having declared itself in the opposition may be elected to the chairmanship of the Finance, General Economy and Budgetary Monitoring Committee.

Since the XIV\(^{\text{th}}\) term of Parliament, the chairmanship of the *ad-hoc* committee in charge of checking and auditing the accounts of the National Assembly is also, automatically, granted to the opposition (article 16 of the Rules of Procedure).

2. – **THE RULES OF PROCEDURE PROVIDE FOR THE REPRESENTATION OF ALL TENDENCIES WITHIN THE BODIES OF THE ASSEMBLY**

This requirement of representativity has a particularly broad field of application.

It is applied, in particular, as regards the *bureaux* of legislative standing committees (four deputy chairmen and four secretaries) of which it is said that every endeavour shall be made to ensure that they reflect the political make-up of the House and represent all of its members (article 39).

An identical rule is provided for the *ad-hoc* committee in charge of checking and auditing the accounts of the National Assembly (article 16), for commissions of inquiry (article 143) and for fact-finding missions set up by the Conference of Presidents upon the request of the President of the National Assembly (article 145).

As regards fact-finding missions set up by committees, the rule is that those which are composed of two members must include one M.P. belonging to an opposition group. A mission which is composed of more than two members must make every endeavour to make sure that it reflects the political make-up of the Assembly (article 145).

The overall make-up of the Commission for the Assessment and Monitoring of Public Policies, set up in 2009, reproduces a proportional representation of the political make-up of the Assembly (article 146-2). Its *bureau* must include at least one deputy chairman from the opposition.
3. – THE RULES OF PROCEDURE SUPERVISE THE BALANCE OF APPOINTMENTS MADE TO THE COMMITTEES

Every effort has been implemented, since the XIVth term of Parliament, to make sure that these appointments, especially those of the budgetary rapporteurs reflect the political make-up of the Assembly (articles 28 and 146 of the Rules of Procedure).

III. – SHARED RESPONSABILITY IN MONITORING AND ASSESSMENT ACTIVITIES

The Rules of Procedure recognize the opposition’s right to take the initiative and even to pilot certain monitoring and assessment missions.

1. – A RIGHT TO REQUEST FOR COMMISSIONS OF INQUIRY AND FOR FACT-FINDING MISSIONS

Commissions of inquiry have, for some time now, provided the opposition with efficient means of information and monitoring, in particular thanks to the broadening of their powers of investigation since 1977 and to the public nature of their hearings since 1991.

Two important stages were reached in 2009 and 2014, so as to provide a “right to request” to opposition and minority groups in the field of the setting-up of commissions of inquiry and of fact-finding missions.

First of all, the motion of May 27, 2009, provided that each opposition or minority group chairman could request, once per ordinary session, (with the exception of that preceding the renewal of the Assembly), during the Conference of Presidents, that a debate on a draft motion aiming at the setting-up of a commission of inquiry be automatically included on the agenda of a sitting during the first week of monitoring and assessment. A request for the setting-up of a commission of inquiry which is made in the framework of this “right to request” procedure could only be rejected if three-fifths of the members of the Assembly voted against it.

The motion of November 28, 2014, modified and broadened this mechanism so as to render the “right to request” granted to opposition or minority groups more effective: since then, once per ordinary session, but nonetheless with the exception of the session preceding the renewal of the Assembly, the creation of a commission of inquiry or of a fact-finding mission is automatically granted upon the request of an opposition or minority group. The Rules of Procedure no longer allow the Assembly to oppose such a request with a three-fifths majority of its members. This new prerogative however alternates: if a group has requested the setting-up of a commission of inquiry, it may not ask for the establishment of a fact-finding mission during the same session. In the same way, a group may not exercise its “right to request” as long as a previous commission of inquiry or fact-finding mission, set up upon its request on the same basis, has not completed its work.
2. – The positions of chair or rapporteur of a commission of inquiry or of a fact-finding mission are shared

Since 2003, the Rules of Procedure of the National Assembly provide that the positions of chair or of rapporteur are to be held automatically by a member of the group of which the first signatory of the draft resolution which led to the setting-up of the commission belongs. In addition, commissions of inquiry have always been composed proportionally according to group size; this practice, which was the result of a compromise, was included in the Rules of Procedure in 1991.

Now that the existence of opposition groups has been included in the Rules of Procedure, it has become possible to have a specific mention of the rule of the sharing of the positions of chairman and rapporteur.

Thus, as regards commissions of inquiry, it is provided that one of these two positions will be held automatically by an M.P. belonging to an opposition group. When the commission of inquiry has been created on the basis of the “right to a turn” procedure, one of these two positions is automatically held by a member of the group which has called for the commission (article 143): this is particularly the case when a commission is set up on the initiative of a minority group.

A similar provision was included in article 145 of the Rules of Procedure concerning fact-finding missions set up by the Conference of Presidents: the position of chairman or rapporteur is automatically held by an M.P. of the opposition if these positions are not carried out by the same person.

3. – The distribution between ruling majority and opposition is the rule for the activities of the Commission for the Assessment and Monitoring of Public Policies

Once per ordinary session, each group may automatically carry out an assessment report in the framework of the Commission for the Assessment and Monitoring of Public Policies (CEC).

In addition, the Rules of Procedure provide that once the work programme has been decided upon, the commission should appoint two rapporteurs, from among the members chosen by the committees to take part in the assessment, or from amongst its own members: one of these two rapporteurs must belong to an opposition group (article 146-3).

From this point of view, the rules which apply to the CEC have been borrowed from those within the Assessment and Monitoring Mission (MEC), set up in 1999 by the Finance Committee, and within the Assessment and Monitoring Mission for Social Security Financing Laws (MECSS), set up in 2004 by the Cultural, Family and Social Affairs Committee.
4. – THE FOLLOW-UP OF THE IMPLEMENTATION OF LAWS IS GIVEN TO RULING
MAJORITY-OPPOSITION PAIRS

At the end of a period of six months following the entry into force of a law
whose implementation requires the publication of regulatory decisions, a report on
the implementation must be presented to the relevant committee.

This report describes the regulations which have been published and the
decrees which have been issued in order to implement the said law, as well as the
provisions which have not been subject to the necessary implementation
instruments.

Since the motion of May 27, 2009, the Rules of Procedure provide that this
report be presented by two M.P.s, one of whom must belong to an opposition
group (article 145-7).

The reform of the Rules of Procedure of November 28, 2014, broadened the
prerogatives of such a “co-rapporteur” from an opposition group: he may now be
appointed at the same time as the rapporteur which opens up the possibility to
identify, from the beginning of the discussion, the person who will be one of the
principal speakers representing the opposition on the bill; he also automatically
has the right, during first reading, to have a written contribution appear in the
commission’s report, and, in addition, he may take the floor in plenary sitting
before the general discussion after the rapporteur of the lead committee and the
consultative rapporteurs.

IV. – THE RIGHTS OF THE OPPOSITION AND MINORITY GROUPS IN
PLENARY SITTING

The rights of the opposition are also applied in plenary sitting and, in the
legislative field, they fit in with the idea that there is a majority supporting the
Government.

1. – THE SHARING OF MONITORING AND ASSESSMENT ACTIVITIES CONTINUES IN THE
CHAMBER

Article 48 of the Rules of Procedure provides that each opposition or
minority group chairman automatically obtains the inclusion on the agenda during
a “monitoring week” (i.e. a week given over to the mission mentioned in
article 48, paragraph 4 of the Constitution) of a debate, without vote, or of a
question sitting dealing with the conclusions of a report by a commission of
inquiry or of a fact-finding mission, on the conclusions of an information or
evaluation report provided for in articles 145-7, 145-8 or 146, paragraph 3, or on
the conclusions of an assessment or follow-up report in application of
article 146-3.
In the case of questions (which are procedures involving direct dialogue that have become a major element in monitoring and assessment), the rules concerning the involvement of all political tendencies are very precise:

- Every week, half of the questions to the Government are asked by opposition M.P.s. In addition, the first question is automatically allotted to an opposition or minority group or else to an M.P. belonging to no group;
- Half of the oral questions without debate are asked by M.P.s who are members of an opposition group.

2. **The sharing of speaking time is provided for during the main debates**

Article 132 of the Rules of Procedure provides that, during debates which give rise to Government statements made on the basis of the new article 50-1 of the Constitution (statements which may be followed by a vote without them becoming an issue of confidence for the Government), half the time provided to groups is allotted to opposition groups. The time allotted to opposition groups, on the one hand, and to other groups, on the other hand, is then divided between them proportionally according to their size.

This rule also applies to debates held, in accordance with the first paragraph of article 49 of the Constitution, when the Prime Minister makes the Government’s programme or a statement of general policy, an issue of confidence in the Government (article 152 of the Rules of Procedure).

3. **One day of sitting per month is reserved for opposition and minority groups**

Since the constitutional revision of July 23, 2008, article 48 of the Constitution provides that “one day of sitting per month shall be given over to an agenda determined by each House upon the initiative of the opposition groups in the relevant House, as well as upon that of the minority groups”.

The impact of this provision is important since the former wording of article 48 (resulting from the constitutional reform of August 1995) only gave over one sitting per month to an agenda set by each assembly, even if that particular practice had doubled the number of such sittings. In addition, no right was guaranteed to opposition and minority groups who, in practice, controlled only eight sittings per year in comparison with twenty-seven.

In article 48, the Rules of Procedure made the mechanisms for the application of this new provision clear:

- The sittings are distributed, at the beginning of each ordinary session, between the opposition groups and the minority groups proportionally according to their size;
– Each of these groups has at least three sittings per ordinary session (such sittings, may, since the reform of the Rules of Procedure of November 28, 2014, be divided over several days of the same month upon the request of the group in question;

– The Conference of Presidents draws up, once a month, the agenda for the day of sitting given over to opposition and minority groups;

    The group chairs can decide to include on the agenda, the discussion of a Member’s bill, the consideration of a motion or a debate.

4. – **THE RIGHT TO SPEAK OF ALL GROUPS IS GUARANTEED DURING LEGISLATIVE DEBATES**

    The National Assembly has decided to introduce a “Set Time Limit Debate Procedure” which fixes the time periods for the examination of bills in plenary sitting so as to enable better organization of the debates, as is the case in many foreign parliaments.

    The implementation of this reform is based on mechanisms which guarantee the right to speak for all groups and in particular for the opposition and minority groups.

    These guarantees which appear in article 49 of the new Rules of Procedure, number five in all:

– The rules concerning the allotment of time are not the same for the governing majority and for the opposition. Thus it is provided that the minimum time allotted to each group must be longer for the opposition groups. Furthermore, 60% of additional time is allotted to opposition groups and is divided among them proportionally according to their size;

– The speeches of all group chairmen are not counted in the pre-set time limit if they do not exceed one hour per group chairman. When the overall time allotted between groups is more than forty hours, this limit is raised to two hours;

– The chair of any group may automatically obtain “extended set debate time”, equal to a minimum length set by the Conference of Presidents (30 hours at the moment);

– Once per session, a group chairman may automatically obtain “extraordinary set debate time” (50 hours at the moment);

– When the discussion of a bill on first reading occurs less than six weeks after its tabling or less than four weeks after its transmission, a group chair can avoid the implementation of the Set Time Limit Debate Procedure.
Standing Committees

**Key Points**
As the essential working bodies of the National Assembly, the standing committees have a double role:

– To prepare the legislative debate in plenary sitting;
– To inform the National Assembly and monitor the Government.

In their efforts to set up a form of rationalized parliamentarianism, the framers of the 1958 Constitution attempted to strictly limit the role and influence of the standing committees (in particular by restricting the number of standing committees to six).

The practical reality has not fulfilled their expectations. Today the work of the standing committees represents an important contribution to the drawing-up of the law. The constitutional revision of July 23, 2008, drew the necessary conclusions from this development and introduced rules whereby the bills debated in plenary sitting are those which emanate from the work in committee and the maximum number of standing committees was increased from six to eight.

In addition, various constitutional and statutory revisions have provided the standing committees with much more varied means of monitoring governmental action and have increased the publicity surrounding their work.

See also files 32, 33, 34, 35, 37, 40, 48, 49, 50, 52 and 56

Being the essential working bodies of the National Assembly, the main role of the standing committees is to prepare the legislative debate in plenary sitting. The importance of their role was strengthened by the constitutional revision of July 23, 2008, which introduced rules whereby the bills debated in plenary sitting are those which emanate from the work in committee.

However, far from confining themselves to this role, the standing committees have been extending their sphere of influence, much like in many other parliaments, to activities in other areas, including keeping the National Assembly informed and monitoring the Government.
I. – THE COMMITTEES: WHERE THE LEGISLATIVE DEBATE IN PLENARY SITTING IS PREPARED

1. – NUMBER AND POWERS OF THE COMMITTEES

The framers of the Constitution of 1958 attempted to strictly limit the influence of the standing committees. This explains:

- The stress placed by the Constitution itself on the number of standing committees. This number was limited to six and was thus distinctly lower than that in the other parliaments of the European Union. This clearly marked a break with the practice of the Fourth Republic with its eighteen committees;

- The determination to make referral to an ad-hoc committee the rule and referral to a standing committee the exception (see the original wording of article 43 of the Constitution). Parliamentary practice however did not follow this provision, because the ad-hoc committees proved difficult to handle for a variety of reasons. (For the Government there was the loss of the reference points of the standing committees as well as the fact that the standing committees operated in parallel. In addition, the standing committees themselves put a break on the setting-up of a body which usurped part of their prerogatives whilst the whole legislative procedure was slowed down by the fact that, as an ad-hoc committee ceased to exist once the bill referred to it had been passed, it was in its interest to extend the period of examination of said bill).

The constitutional revision of July 23, 2008, increased the maximum number of standing committees from six to eight and, so as to consecrate a common practice, made referral of a bill to a standing committee the rule and the setting-up of an ad-hoc committee, the exception.

Article 36 of the Rules of Procedure of the National Assembly which states the names and the areas of responsibility of the standing committees was thus modified accordingly. The increase from six to eight committees was introduced by dividing the two committees which each represented a quarter of the members of the Assembly: the Cultural, Family and Social Affairs Committee and the Economic, Environmental and Regional Planning Committee. The result is a more even distribution of M.P.s between the eight committees, so that each committee is now composed of one eighth of the members of the Assembly (i.e. 72):

- Cultural and Education Affairs Committee
- Economic Affairs Committee
- Foreign Affairs Committee
- Social Affairs Committee
- National Defence and Armed Forces Committee
- Sustainable Development, Spatial and Regional Planning Committee
– Finance, General Economy and Budgetary Monitoring Committee

As before, each M.P. may only be a member of one standing committee.

2. – SETTING-UP AND WORKING OF THE COMMITTEES

At the beginning of each term of Parliament, and from then on, every year at the beginning of the ordinary session, the National Assembly appoints, on the basis of the proportional representation of the political groups and upon the nomination of the chairmen of these groups, the members of the standing committees. Each committee then appoints a bureau to run it. This bureau is made up of a chair, four deputy chairs and four secretaries. The Finance Committee also appoints a general rapporteur and may only elect as its chairman, a member of an opposition group. The make-up of the bureau of each committee ensures that every endeavour is carried out so that it reflects the political make-up of the Assembly and represents all its opinions.

Each committee has at its disposal:

– Its own meeting room with a public address system and the equipment necessary for the digital recording of debates (this is an essential guarantee in case the minutes are contested);
– Two teams of parliamentary civil servants: one led by a head of secretariat which deals with the legislative work of the committee; the other placed under the leadership of a head of unit which deals the monitoring and legislative studies with which the committee deals (except for the defence and foreign affairs committees which have the support of the other units in the International and Defence Affairs Department). In all, the secretariats of standing committees and the monitoring and legislative studies units are staffed by 175 civil servants¹;
– Specific financial means allowing it, for example, to cover travel expenses and study costs.

The standing committees are extremely active and this is borne out by the following data pertaining to the XIVth term of Parliament:

– 3,555 meetings making up a total of 5,941 hours (of which 948 hours were given over to the budget debate);
– 2,837 hearings (including 596 of members of Government);
– 1,775 reports filed (including 1,278 legislative reports).

¹. This does not include the secretariats of the Parliamentary Office for Scientific and Technological Assessment, of the International Parliamentary Assemblies Unit and of the Inter-parliamentary Cooperation Unit, of the Parliamentary Relations and International Studies Unit as well as the whole of the European Affairs Department.
The standing committees face one major challenge: time. They do not, in principle, sit at the same time as the plenary sitting of the National Assembly is taking place, except to complete the consideration of a bill on the agenda, in accordance with the first paragraph of article 41 of the Rules of Procedure. This principle is, however, very difficult to respect, especially since the introduction of the single ordinary session (in 1995) which has concentrated the plenary sittings on three days (Tuesday, Wednesday and Thursday). Wednesday morning is reserved for committee work. Almost all committee meetings take place on Tuesday afternoon and on Wednesday.

However the most difficult time limit is, without doubt, that imposed by the agenda. In order to alleviate this difficulty, the constitutional revision of July 23, 2008 introduced the requirement of a period of six weeks between the tabling of a bill and its consideration on initial reading before the first Assembly to which it is referred and then a further four-week period between the transmission of the bill and its examination on initial reading before the second House. The committee is thus, in principle, ensured of having the necessary time to carry out its working meetings and its hearings, with that of the minister in charge of presenting the bill being a priority. These time periods do not apply however when the accelerated procedure is implemented by the Government. Nor do they apply to finance or social security financing bills. This is also the case for bills pertaining to states of crisis.

3. – REFERRAL TO COMMITTEE

a) Ad-hoc Committee or Standing Committee?

The constitutional revision of July 23, 2008 reversed the idea introduced at the beginning of the Fifth Republic which aimed at decreasing the power of the standing committees by privileging the consideration of bills by ad-hoc committees. The new wording of article 43 of the Constitution in taking note of the practice, established the rule of referral of a bill (tabled either by Government or by one or more M.P.s) to a standing committee and made referral to an ad-hoc committee, the exception.

Nonetheless the setting-up, as of right, of an ad-hoc committee remains possible if the Government requests it or if such a request is made by one or several political group chairmen, if the overall membership of the group or groups concerned, is equal to the absolute majority of members of the National Assembly. (However, this request cannot be made in the case of finance bills).

In other cases, when the request for the setting-up of a select committee comes from a standing committee, a political group chairman or fifteen M.P.s, it is considered passed unless there is opposition from the Government, the chairman of a standing committee or the president of a political group. In the case of opposition, the decision lies with the National Assembly.
In practice, almost all bills are sent to a standing committee (during the XIVth term of Parliament only 6 texts were examined by an ad-hoc committee). If there is a conflict between two standing committees concerning areas of responsibility, the final decision lies with the National Assembly. This is a very rare occurrence as the last example dates back to 1979.

**b) Referral to Committee for opinion (Consultative Committees)**

The almost total absence of conflict regarding areas of responsibility can be explained partly by the flexibility of the procedure of referral for opinion which allows each standing committee to express its view on all or on a part of a text which has been sent for examination to another standing committee.

Thus, every year, in the case of the finance bill which is sent to the Finance committee for examination, the seven other standing committees give their opinion.

Nonetheless, outside of the finance bill, the procedure of ‘referral for opinion’ is rarely used: there were only 28 cases of its implementation during the 2015-2016 session. This can be explained by several reasons:

- The ‘frustrating’ nature of the referral for opinion procedure. For the committee and its rapporteur it represents a relatively large amount of work for an often relatively inconsequential result;
- The possibility which is now granted to M.P.s who are not members of a committee to attend the work of another committee (in the past only the rapporteur appointed to give his opinion could attend with a consultative voice).

**4. – CARRYING OUT COMMITTEE RESPONSIBILITIES IN LEGISLATIVE MATTERS**

**a) A new place for the Committees in the legislative procedure**

The constitutional revision of July 23, 2008 modified article 42 of the Constitution so that as of March 1, 2009, the consideration of Government and Members’ bills, in plenary sitting, would be on the text passed by the lead committee (this rule previously only applied to the examination of a Member’s bill on first reading before the first assembly to which it was referred). Thus, it is now only in cases where a committee cannot produce a text, either because it has rejected it or because it has not been able to complete the examination of the text in time, that the bill discussed in plenary sitting will be that initially referred to the Assembly. Disregard for this rule leads to the cancelling of the whole law (Decision n° 2012-655 DC of the Constitutional Council of October 2012).

This new rule has introduced a substantial change in the place and the role of the committees in the legislative procedure. From now on, the amendments adopted by the lead committee will be integrated into the bill discussed in plenary sitting and no longer have to be presented, discussed and adopted during that sitting.
As a result, if M.P.s wish to attack the position adopted by the lead committee, they must table an amendment in the opposite direction during the plenary sitting. This inverted discussion procedure has consequences not only for all the parliamentarians but also for the Government which no longer controls, as before, the basis for the discussion in plenary sitting.

An exception to this new examination rule was nonetheless provided for in paragraph 2 of article 42 of the Constitution. This concerns constitutional revision bills, finance bills and social security financing bills. The discussion of such bills in plenary sitting, on first reading before the first assembly to which they have been referred, will be on the text tabled by the Government and on subsequent readings, on the bill transmitted by the other Assembly.

b) The work of the Rapporteur

For each Government or Private Members’ bill, the relevant committee appoints a rapporteur amongst its members.

The rapporteur has no specific powers of investigation\(^1\), but does carry out a double task:

– An assessment mission which leads to the filing of a report;
– A proposal mission which leads to the introduction of amendments.

In these tasks he is helped by parliamentary civil servants made available to him.

Since the revision of the Rules of Procedure, the hearings of the rapporteur are systematically open to all members of the committee. The rapporteur of the lead committee is obliged, in addition, to communicate to his fellow committee members a document which describes the state of his work during the week which precedes the consideration of the bill in committee since the time period between the tabling and the examination of the bill in plenary sitting is six weeks.

c) The examination of texts in committee

The examination of the report by the committee closely resembles the procedure followed in plenary sitting.

It usually begins with a general debate, sometimes preceded by or even replaced by, the interviewing of the relevant minister. No procedural motions may be introduced at this stage.

\(^1\) The only members who have the power to examine all documents required are the special rapporteurs i.e. members of the Finance Committee in charge of examining the budgets of a specific minister, the Chair and the General Rapporteur of the Finance Committee, who is in charge of the examination of the whole finance bill, the Chair of the Social Affairs Committee, the Chair of the Assessment and Monitoring Mission for Social Security Financing Laws and the rapporteurs of the Social Affairs Committee in charge of the social security financing bill.
The committee then moves to the examination of the text, article by article, as well as all the amendments, including those introduced by M.P.s who are not members of the committee. The amendments adopted by a consultative committee are tabled by its rapporteur before the lead committee. The chairman of the committee ensures the conformity to article 40 of the Constitution (financial admissibility) of the amendments tabled in committee, if necessary after having consulted the Chairman of the Finance Committee, so as to avoid the committee introducing inadmissible provisions into the text to be discussed in plenary sitting.

In principle, the Government may attend this examination, but, in practice, this possibility was rarely used until the entry into force, on March 1, 2009, of the constitutional provision introducing the examination in plenary sitting of the bill emanating from the work of the committee. Since then, a member of the Government is usually present at the examination in committee of Government bills, even if the procedures for his participation in the debate are quite variable. Certain ministers do not hesitate to speak quite often whilst others limit themselves to giving their opinion only when the committee asks for it.

The committee debate finishes with a vote on the entire text. The report of the committee, which recap all the work, concludes therefore with an adoption with amendments, with the original text or with a rejection of the Government or Member’s bill. Annexed to the report is the bill passed by the committee. This text will serve as the basis, except for bills mentioned in the second paragraph of article 42 of the Constitution (see above), for the debate in plenary sitting. In addition, upon first reading, the reports also contain in an annex, upon their request, the contributions of opposition and of minority groups, as well as, as the case may be, those of the co-rapporteur for the application of the law who must belong to the opposition. This latter contribution may deal with the impact study attached to the bill.

d) The prerogatives of Committees in Plenary Sitting

In plenary sitting, the committee is represented by its chair and by its rapporteur. They, and if it be the case, the consultative rapporteurs, as well the co-rapporteur for application, speak first of all, before the general discussion. In his presentation, the rapporteur is the spokesman of the committee and he must defend its opinions, even if they are the opposite of his own, which he can nonetheless express “in his personal capacity”. The rapporteur expresses the position of the committee on each of the amendments submitted to the National Assembly.

The chair and the rapporteur of the committee responsible for the bill have one particular privilege: they may speak in plenary sitting when they wish. When a set time limit is fixed for the discussion of a bill, by virtue of article 49 of the Rules of Procedure, their speaking time is not deducted and nor is that of any consultative rapporteurs. In addition, they may, by right, request an adjournment of the sitting, a public ballot, a deferment of the debate or a second deliberation.
II. – EXTENSION OF THE ROLE OF STANDING COMMITTEES

1. – THE REINFORCEMENT OF INFORMATION AND MONITORING ACTIVITIES

   Article 145 of the Rules of Procedure of the National Assembly states that the standing committees must keep the National Assembly informed so as to allow it to carry out its function of monitoring Government policy.

   Although the power of the standing committees concerning monitoring remained almost dormant for a long time, it has since the middle of the 1990s become more and more frequently used.

   a) Hearings in Committee

   Hearings in committee, and in particular, interviews of ministers, have become a traditional and privileged method of working for the standing committees.

   Since the Law of June 14, 1996, the committees have also been given the right to call for interview any person they so wish (the fact of not replying to such a summons being punishable by a €7 500 fine) whilst taking into account, on the one hand, subjects of a secret nature concerning national defence, foreign affairs and the internal or external security of the State and, on the other hand, the respect of the principle of the separation of the legal authority and the other powers.

   b) Temporary fact-finding missions

   The temporary fact-finding missions, which are set up within each committee and are sometimes shared by several committees, have become more and more numerous since 1990. Their work leads to the publication of information reports. In addition, since 1996, the standing committees may take on the powers of investigation enjoyed by the commissions of inquiry, in the case of a specific mission which does not exceed six months. This possibility was not availed of for almost twenty years and was first used by the Law Committee in November 2015 to monitor the implementation of the State of Emergency. The popularity of such missions (more than thirty are established each year) is mainly due to the lack of formality required in their setting-up. Henceforth, they must include members of the opposition (article 145 of the Rules of Procedure).

   c) Assessment and monitoring missions

   Since 1999, within the Finance Committee, there has been an Assessment and Monitoring Mission (MEC) based on the National Audit Office of the British Parliament. Every year it carries out an assessment of public policies through its work on various topics predetermined by the Bureau of the Finance Committee. It is co-chaired by a member of the governing majority and a member of the opposition.
In order to better monitor the financing of the social security system, the Cultural, Family and Social Affairs Committee created an Assessment and Monitoring Mission on the laws governing the financing of social security, in 2004. This mission was based on the MEC and began its work in January 2005. It usually carries out studies on several themes each year.

Usually, these two missions work in close cooperation with the Court of Accounts.

d) Law implementation reports

Since 2004, the rapporteur of a law requiring the publication of regulatory texts presents an implementation report to the relevant committee, at the end of a six-month period following the coming into force of said law. This report describes the current situation regarding the necessary implementation regulations.

The implementation reports on laws are not always restricted to this kind of follow-up of regulatory texts but may also lead to an assessment of the legislative provisions which have been passed. At the end of his work, the rapporteur presents his conclusions to the relevant committee, possibly in the presence of the member of the Government concerned. The latter may, if necessary, give the reasons for the delay in the publication of certain implementation regulations and point out the problems encountered in the application of the law.

So as to provide such work with greater impact in the monitoring and assessment field, an obligation for the appointment of two rapporteurs for each implementation report, one of whom has to be an M.P. of the opposition, was introduced in 2009. In addition, since the reform of the Rules of Procedure of November 28, 2014, two M.P.s, one of whom must belong to the opposition, present to the relevant committee, at the end of a three-year period after the coming into effect of the law, an impact assessment report of the law.

2. – Committees and the European Normative Apparatus

Since 1992, the Government has submitted to the National Assembly and to the Senate the proposals for Community instruments with provisions of a legislative nature. This transmission has since been extended to all draft European instruments regardless of whether they contain provisions of a legislative nature or not. The European Affairs Committee, previously called the Delegation for the European Union, files, as it thinks fit, reports, generally accompanied by motions for resolution on certain of these instruments. Motions for resolution on European Union instruments are first of all examined by the European Affairs Committee. The text which emerges from this examination is then referred to a standing committee which is considered to have passed it without modification unless it examines it within one month. If there is no request to include the motion for resolution on the agenda of the plenary sitting within fifteen days following its adoption (positive or tacit) by the lead committee, then the motion is considered carried.
3. – Modification of the Rules Concerning the Public Nature of Committee Proceedings

Until 1994 the public nature of committee proceedings was limited to the publication of the analytical minutes which were released as quickly as possible (usually the day after the meeting).

In 1994, the public nature of the proceedings was strengthened as the Bureau of a committee can now decide to open meetings, during which interviews are carried out, to the press. M.P.s who are not members of the committee may also, without taking part in the votes, attend meetings and take the floor during them. This is also the case for the Government.

The rules concerning the public nature of the proceedings were even further strengthened by the reform of the Rules of Procedure on May 27, 2009. This reform provided the bureau of each standing committee the task of organizing the public nature of its proceedings as it so wished. The bureau of each committee may, in particular, decide to produce an audio-visual report of its works and the meeting rooms are equipped to allow this. In practice, the proceedings are placed online on the internet site of the Assembly. In addition, the minutes of the committee proceedings are now drawn up mostly by a specific department (the Committee Report Department). Thus the obligation put forward by the Constitutional Council “that a precise report of speeches made in committees, of the reasons for the modifications proposed to bills referred to committees and of the votes cast in committees, be drawn up” has indeed been met.
The Rhythm of Sessions and Sittings

Key Points

Time at the French Parliament is measured in three different categories: the parliamentary term, which, unless there is a dissolution, lasts five years, the session and the sitting.

Session refers to the period of the year when the Parliament meets to deliberate in plenary sitting. Since the constitutional reform of August 4, 1995, a single nine-month session has replaced the previous rhythm of two three-month sessions which had been in operation from 1958.

The rhythm of sessions – ordinary, extraordinary and sessions as of right – is laid down by the Constitution, which also determines the maximum number of days of sitting to be held during the different types of session.

However, the assemblies themselves decide the weeks of sitting, as well as the days and the timetable.

See also files 26, 27 and 36

I. – THE RHYTHM OF SESSIONS

According to article 28 of the 1958 Constitution, (in its revised version since the constitutional amendment of 1995), Parliament shall convene as of right in one ordinary session. Upon the request of the Prime Minister or of a majority of members of the National Assembly, it may be convened in extraordinary session, which is opened and closed by decree of the President of the Republic (articles 29 and 30 of the Constitution). In addition, exceptional circumstances may occur during the recess and require the holding of sittings of the National Assembly and of the Senate (e.g. the implementation of emergency powers according to article 16 of the Constitution or the gathering to listen to a message from the President of the Republic). The National Assembly is also convened, as of right, after the general elections following a dissolution.

Outside of these periods, which are specifically set down by the Constitution, the assemblies may not hold plenary sittings and may not pass any laws. However nothing bars their internal bodies, in particular the standing committees, from meeting in order to prepare the legislative work for the following session or to carry out their job of monitoring the Government.
1. – ORDINARY SESSION

a) The origins of the Constitutional Revision of 1995

In its previous version, the 1958 Constitution made provision for two ordinary sessions of about three months each: the first in the autumn, lasting 80 days from October 2 and the second in the spring, lasting ninety days from April 21. The two were separated by parliamentary recesses. The opening of the ordinary session in April was the reference point which marked the beginning of the new term of Parliament, except in the case of dissolution (“The powers of the National Assembly expire upon the opening of the fifth ordinary session in April following its election”).

By instituting a single nine-month session, the 1995 constitutional revision had a double objective:

– To strengthen the importance of the parliamentary assemblies within the institutions, by allowing them to carry out their monitoring role over Government and also over the institutions of the European Union, in a more continuous fashion;

– To adapt the rhythm of the meetings of Parliament to the requirements of the legislative work. From 1958, the number of days of sitting of the National Assembly had continued to increase almost systematically (from 90 between 1959 and 1970, it had reached 100 by 1971 and was more than 150 in 1982). The narrowness of the time limits imposed by the Constitution had led to the implementation of compensatory measures or practices. The number of night sittings and especially extraordinary sessions had increased substantially (between 1958 and 1995, Parliament was summoned 60 times for sessions which were becoming less and less ‘extraordinary’. Of these 60 extraordinary sessions, 59 were convened upon the request of the Prime Minister).

b) The single session

The Congress, gathered at Versailles on July 31, 1995, adopted the following text: “Parliament shall sit as of right in one ordinary session which shall start on the first working day of October and shall end on the last working day of June”.

Nevertheless, in order to avoid the situation where the move to the single session might increase the trend towards ‘legislative inflation’ which had been denounced by the parliamentarians themselves, but also by such institutions as the Conseil d’État, or the Constitutional Council, the 1995 constitutional revision placed a limit of 120 on the number of days of sitting during which each assembly could meet in the normal course of a session.

1. In its original version, amended on December 30, 1963, the Constitution made provision for the spring session to open on the last Tuesday of April.
The holding of additional days of sitting may however be decided by the Prime Minister, after consultation with the President of the relevant assembly, or by a majority of the members of each assembly. The limit of 120 days was exceeded for the first time during the 2008-09 parliamentary session.

The length of the ordinary session is not affected by the expiry of the powers of the National Assembly, whether this be upon the reaching of the end of its normal term on “the third Tuesday in June of the fifth year following its election” (article L.O. 121 of the electoral code), or upon its dissolution by the President of the Republic in accordance with article 12 of the Constitution. The closing of a session, either ordinary or extraordinary, and the limit on the number of days of sitting should not prevent Parliament and in particular the National Assembly, from carrying out the most essential of its prerogatives. This is why article 51 of the Constitution makes provision for this closing to be postponed or for additional sittings to be held by right, to allow the National Assembly to make Government accountability an issue of confidence.

Likewise in accordance with article 26 of the Constitution, the National Assembly and the Senate must be able to continue their proceedings beyond the 120-day sitting limit, in order to decide upon the suspension of the detention, of the subjection to custodial or semi-custodial measures, or of the prosecution, of one of their members.

2. – EXTRAORDINARY SESSIONS

Parliament shall convene in extraordinary session, at the request of the Prime Minister or of the majority of the members of the National Assembly, to consider a specific agenda (article 29, paragraph one, of the Constitution). Extraordinary sessions shall be opened and closed by decree of the President of the Republic (article 30).

Where an extraordinary session is held at the request of the majority of M.P.s, the decree closing it shall take effect once Parliament has dealt with the agenda for which it was convened, or twelve days after the opening of the session, whichever shall be the earlier.

Institutional practice has in fact made the right to convene Parliament in extraordinary session a discretionary power of the President of the Republic. The President is not required to follow the proposal of the Prime Minister or of the majority of M.P.s. In practice, since the beginning of the Fifth Republic, only one extraordinary session has been called at the request of a majority of M.P.s: the session from 14-16 March 1979, which dealt with two draft resolutions calling for the setting-up of commissions of inquiry on the employment situation and the conditions concerning public information.

Only the Prime Minister may request a new session before the end of the month following the decree closing an extraordinary session.
In practice, both the National Assembly and the Senate are convened but it has happened in the past that the agenda of the extraordinary session has only concerned one of the two assemblies.

The introduction of the single session system has not brought an end to the increase in the number of extraordinary sessions. Thus, during the XIV\textsuperscript{th} term of Parliament, extraordinary sessions were systematically held at the request of the Prime Minister, in July and September.

3. – \textbf{Sessions as of right}

Parliament is also convened, as of right, outside of the annual session and if it is not already in session, in three specific circumstances laid down by the Constitution:

– Article 16 makes provision for the convening, as of right, of the two assemblies when the President of the Republic decides to have recourse to the emergency powers which the said article grants him;

– Article 18 makes provision for the two assemblies to be specially convened, out of session, in order to listen to the reading of a message from the President of the Republic;

– Article 12 makes provision for the convening of the National Assembly, newly elected after a dissolution, on the second Thursday following its election. Should it so convene outside the period prescribed for the ordinary session, a session (during which the two assemblies may meet) shall be called by right for a fifteen-day period. If this first meeting is held less than fifteen days after the end of the ordinary session, the latter is extended accordingly by a session as of right.

II. – \textbf{Rules concerning the rhythm and length of plenary sittings}

When the National Assembly is convened and in particular during the ordinary session, it is not always in sitting. In fact it sits according to a calendar organized by the week, by the day of sitting and by the sitting. Certain sittings are given over to a specific agenda.

The organization of the plenary sittings in the National Assembly attempts to fulfil several objectives which are not always easily reconcilable:

– To make provision for the time necessary for the examination of the items on the agenda;

– To avoid having the plenary sittings interfere with the meetings of other bodies of the National Assembly and in particular with meetings of political groups, and committees;
To allow M.P.s to carry out, in the best conditions possible, their other activities and, in particular, those linked to the work they must carry out in their constituency.

The diversity of these objectives and the variation in the time constraints which they lead to, means that the organization of the “parliamentary week” is as much based on custom or the agreement of the various actors concerned (the President of the National Assembly, the Government, the political groups of the governing majority and of the opposition) as it is on the application, to the letter, of the texts which regulate this field.

The new wording of article 48 of the Constitution, subsequent to the constitutional revision of July 23, 2008, changed the rules concerning the setting of the agenda. It is now stated that the agenda “shall be determined by each House”. Beyond the Government bills whose examination takes priority (the Finance Bill and the Social Security Financing Bill in particular but, to a lesser extent, bills transmitted by the other Assembly at least six weeks previously), the Government has control of the agenda for two weeks out of four and the Parliament has control over the other two, with one of these two weeks being set aside in priority, and in the order set by each assembly, to the monitoring of Government action and to the assessment of public policies. Furthermore, one day per month is to be given over to an agenda set by each assembly upon the initiative of the opposition and the minority groups in the said assembly.

The same article 48 states that at least one sitting per week shall be given over, in priority, to questions from members of Parliament and to answers by the Government. In accordance with article 133 of the Rules of Procedure, the Conference of Presidents sets the sittings for Government question time during the ordinary sessions. Traditionally these are held at the beginning of the sittings on Tuesday and Wednesday afternoons.

In 2009, the Constitution broadened the aforementioned rule to extraordinary sessions. Since then, the practice has been to hold only one sitting of Government question time per week during extraordinary sessions.

Apart from this, article 28 of the Constitution allows the assemblies to determine their weeks of sitting. In practice, it is more a case for them to determine the weeks they will not sit (during holiday periods or election campaigns for example). The article then states that the days and the hours of sittings shall be determined by the Rules of Procedure of each assembly.

On this basis, the Rules of Procedure of the National Assembly provide that the Assembly will sit each week on Tuesday mornings, afternoons and evenings, as well as Wednesday afternoons and evenings and Thursday mornings, afternoons and evenings. Wednesday mornings are given over to committee work. The times of sittings are the following: 9.30a.m.-1p.m., 3p.m.-8p.m. and 9.30p.m.-1a.m.
In order to maintain the necessary flexibility of the system, the Rules of Procedure also establish the procedures which can modify these rules, whilst, at the same time, respecting the limit set down in the second paragraph of article 28 of the Constitution: additional sittings may be held upon the proposal of the Conference of Presidents or, by right, upon the request of the government so it may implement its priority right to include certain bills on the order paper: the finance bills or those governing the financing of social security, bills which have been transmitted by the Senate at least six weeks previously, bills concerning a state of crisis and requests for the extension of military operations abroad.

In the same way, the National Assembly may decide to depart from the timetable set down by the Rules of Procedure, either upon a proposal of the Conference of Presidents (on a specific agenda) or upon a proposal of the relevant committee or of a group chair or of the Government to continue the debate which is being held. The extension of a night sitting beyond 1am is only allowed in order to finish a discussion in progress.

These possibilities of departing from the normal time procedure are particularly used during the period when the National Assembly is examining the finance bill (approximately from mid-October to mid-November) when sittings are held on Fridays and sometimes Mondays in addition to the three days provided for in the Rules of Procedure and even, at times, on Saturday and Sunday, if necessary.
The Setting of the Agenda and the Conference of Presidents

Key Points
The original wording of the 1958 Constitution gave the Government sole control of the priority agenda of the assemblies.

The constitutional reform of July 23, 2008, henceforth allows for the sharing of the agenda between the Government and Parliament.

In practice, the agenda is set by the Conference of Presidents.

See also files 22, 23, 27, 44, 45 and 49

I. – THE AGENDA IS SHARED BETWEEN THE GOVERNMENT AND PARLIAMENT

In its original wording, article 48 of the Constitution provided that the agenda of the assemblies included, as a priority and in the order that the Government set, the discussion of bills tabled by the Government and Members’ bills which it, the Government, had accepted. With the exception of sittings given over, at least once a week, to Government question time and, once a month, to a priority agenda set by each assembly, article 48 provided for a priority Government agenda which could take up all the time available in plenary sitting.

The new wording of article 48 consequent to the Constitutional Act of July 23, 2008, states that the agenda shall be set by each assembly and introduces a sharing of the agenda between the Government and Parliament.

The agenda is determined by the Conference of Presidents (see III below) in sequences of four weeks and must follow the priorities laid down in article 48 of the Constitution.

So as to enable the Executive to implement the legislative reforms which it considers essential within a reasonable time limit, a part of the agenda, two weeks of sitting out of four, are given over to the exclusive initiative of the Government. According to the Constitution, the Government may decide the bills (including Members’ bills) which it wishes to see included on the agenda for these two weeks and it may set the order in which they will be considered. Neither the Conference of Presidents nor the Assembly may have a say on this chosen order.
As well as having the right to set this part of the agenda, the Government is also free to change it. A letter addressed to the President of the National Assembly or even, although this is much rarer, a simple statement made in plenary sitting by a member of the Government, suffice to change the order of the bills included on the agenda, to withdraw a bill or even, in exceptional circumstances, to table a bill which has not previously been planned.

The Assembly itself sets the agenda for the two remaining weeks. One week concerns the monitoring of Government action and the assessment of public policies whilst the other is given over to the consideration of bills which it wishes to see debated (referred to as the “Assembly Week”). The Conference of Presidents draws up the list of bills which the President of the National Assembly will submit to the latter which will then vote on the whole thing and no amendment is allowed.

The order of business which is drawn up is published in the *Journal officiel* and on the website of the National Assembly.

**II. – EXCEPTIONS TO THE PRINCIPLE**

1. – **GOVERNMENT PRIORITY IS MAINTAINED FOR CERTAIN BILLS**

   The third paragraph of article 48 does provide for the priority inclusion on the agenda of certain bills upon the request of the Government and outside of the weeks which are in any case given over to Government business.

   Finance bills and social security financing bills may thus be given priority inclusion on the agenda, including during the weeks usually reserved for monitoring or the so-called “Assembly” weeks. This priority can be explained by the fact that such bills are essential to the implementation of Government policy and their examination is subject to very strict time constraints which are imposed by the Constitution (see articles 47 and 47-1 of the Constitution).

   Government and Members’ bills which have been passed by the other assembly and which were transmitted at least six weeks previously, Government bills concerning a state of crisis and requests for authorization, by virtue of article 35 of the Constitution, concerning an intervention of the armed forces abroad for a period of more than four months or a declaration of war, may be given priority inclusion on the weeks normally set aside for the Assembly’s agenda (but not during the monitoring weeks).

   Insofar as the first paragraph of article 48 of the Rules of Procedure henceforth bestows a general principle of competence on the Conference of Presidents, the Government informs the Conference of Presidents, at the latest, the day before it meets, before including bills on the agenda.
2. – RESPECT OF THE TIME LIMITS LAID DOWN BY THE CONSTITUTION

The constitutional revision of 2008 significantly modified article 42 of the Constitution by stating that the examination of a Government or Member’s bill in plenary sitting shall concern the text drawn up by the committees. So as to allow a reasonable time span to the committees in order to examine the bills submitted to them, a minimal limit has been set by the Constitution between the tabling and the discussion in plenary sitting.

Thus the discussion on first reading of a Government or Member’s bill cannot take place before the first assembly where it was tabled until the end of a six-week period after its tabling. In the case of a bill which has been transmitted by the other assembly, this period is reduced to four weeks as of the date of transmission. This does not apply to finance bills, social security financing bills and bills pertaining to a state of crisis, nor when the accelerated procedure has been applied (article 45 of the Constitution).

In accordance with paragraph 2 of article 46 of the Constitution, the same time limits apply to institutional acts unless the accelerated procedure has been implemented. In this case, a period of fifteen days must elapse between the introduction of a bill of an institutional nature and its debate in the assembly where it was tabled.

The discussion of censure motions (articles 49, paragraphs 2 and 3 of the Constitution) must take place, at the latest, the third day of sitting following the end of the constitutional limit of forty-eight hours after the tabling of the motion. This date is set by the Conference of Presidents. Furthermore, article 51 of the Constitution states that “the closing of the ordinary session or the extraordinary sessions shall be automatically postponed, in order to permit the application of article 49 if the case arises”. For the same reasons, additional sittings are of right.

3. – QUESTIONS TO THE GOVERNMENT

Article 48, paragraph 6 of the Constitution, states that “during at least one sitting per week, including during the extraordinary sittings provided for in article 29, priority shall be given to questions from Members of Parliament and to answers from the Government”.

In practice question time is divided between questions to the Government and oral questions without debate.

These Government question time sittings take place twice a week at the National Assembly: on Tuesday and Wednesday afternoons, between 3pm and 4pm. In the case of extraordinary sessions, the practice which has been followed since 2009 is to set aside only one sitting of Government question time per week.

Oral questions without debate mainly take place on Tuesday and Thursday mornings during the week reserved for the monitoring of Government action and the assessment of public policies.
4. – THE RESERVED AGENDA FOR OPPOSITION AND MINORITY GROUPS

The recognition of the rights of opposition and minority groups which is provided by article 51-1 of the Constitution, is the direct result of the constitutional revision of July 23, 2008. Article 48, paragraph 5, of the Constitution, states that: “One day of sitting per month shall be given over to an agenda determined by each House upon the initiative of the opposition groups in the relevant House, as well as upon that of the minority groups”.

The role provided to the opposition in the setting of the agenda has quite substantially been increased. In fact the priority agenda which is provided to the opposition corresponds to “one day of sitting per month”. Whilst groups belonging to the opposition could have, according to the old Rules of Procedure, seven sittings with parliamentary initiative per session, they now have twenty-seven such sittings per session (i.e. three sittings for each of their days).

The Conference of Presidents determines the agenda of this day on the basis of bills proposed for inclusion by the opposition or minority groups.

III. – THE CONFERENCE OF PRESIDENTS

The Conference of Presidents is the competent body as regards the preparation of the organization of the work of the National Assembly in plenary sitting. It is convened by the President of the National Assembly once a week, usually on a Tuesday, or more often if necessary.

1. – COMPOSITION

The Conference of Presidents is made up, apart from the President, of the six vice-presidents, the eight chairs of the standing committees, the General Rapporteurs of the Social Affairs Committee and of the Finance Committee, the Chair of the European Affairs Committee and the chairs of the political groups. The chairs of ad-hoc committees may be invited to attend upon their request.

The Government is represented by one of its members, usually the Minister in Charge of Relations with the Parliament. This person transmits to the Conference of Presidents the plans of the Government for the sittings weeks during which it has priority.

2. – ROLE

The new wording of article 48 of the Constitution lays down the principle of the setting of the agenda by the assembly. It is the task of the Conference of Presidents to determine the order of business whilst taking into account the limits laid down by the Constitution.
First of all, the Government informs the Conference of Presidents of its overall plans concerning the timetable of the session. Thus the Minister in Charge of Relations with Parliament transmits to the Conference of Presidents, before the opening of the session or after the appointment of the Government, the weeks which the Government plans to reserve during the session for the consideration of bills and debates which it requests to be included on the agenda.

The Conference of Presidents also lays down, for the whole session, the timetable of monthly sittings given over in priority to an agenda set by the opposition or minority groups (article 48, paragraph 5 of the Constitution). The sittings are divided up, at the beginning of each session, between the opposition groups and the minority groups according to their number of members with each group having control over the agenda of at least three sittings per ordinary session.

Based on these priorities, the Conference of Presidents draws up the overall provisional timetable for the ordinary session and it is then posted up and published. Modifications may be made during the year, for example if the Government wishes to intervene during certain weeks.

The agenda is then drawn up by the Conference of Presidents for each four-week sequence. On account of the constitutional priority which is given to Government in the setting of the agenda (paragraphs 2 and 3 of article 48 of the Constitution), the Conference of Presidents does not decide on the order of business which is transmitted to it concerning the two weeks reserved for the Government nor on the bills which are the Government priority. Nonetheless, even for this part of the agenda, the meeting of the Conference of Presidents can be the forum for an exchange of views which might lead the Government, in addition to the prior consultations which it has already had, to change certain of the plans it had previously set out.

In regards to the two other weeks, the Conference of Presidents has broad leeway in setting the agenda.

Group and committee chairs may make proposals for inclusion on the agenda of the “Assembly’s Week”: their proposals must be addressed to the President of the National Assembly, at the latest four days before the Conference meets. As regards the weeks of monitoring, each opposition or minority group has the right to include one debate without a vote or one question sitting dealing with the conclusions of a report by a commission of inquiry or a fact-finding mission, on an information or assessment report mentioned in articles 145-7, 145-8 or 146, paragraph 3 of the Rules of Procedure, or those of an assessment report or follow-up report set down in application of article 146-3.

At the beginning of the term of Parliament, the Conference of Presidents organizes the general discussion of the texts included on the agenda, notably by sharing out the length of speaking time which will be provided to speakers whatever the context (governmental or parliamentary initiative) of the bills in question.
In exceptional circumstances, the Conference may accept to override the time period on a specific bill, especially if it politically very important. It also decides upon, when necessary, the organization of debates included on the order paper.

In addition, in accordance with article 45 of the Constitution, the Conference of Presidents of the two assemblies may decide jointly to oppose the implementation of the accelerated procedure.

The Rules of Procedure also consider the following within the remit of the Conference of Presidents:

– Organizing the sittings of oral questions, whether it be the oral questions without debate or the two sittings of questions to the Government;

– Expressing its opinion on the conformity of an impact study associated with a bill, to the presentation conditions laid down by the institutional law relating to the application of article 39 of the Constitution;

– Setting the maximum length of time for the overall consideration of a bill (set time limit);

– Drawing up the conditions and the length of the discussion on the annual finance bill. This deals both with the first part of this discussion and with the second part when the budgetary missions are examined;

– Deciding that there will be a ‘solemn vote’ by public ballot, on important bills and setting the dates of such votes in advance;

– Setting the day for the examination of censure motions and organizing their discussion.
The Minister in Charge of Relations with the Parliament

Key Points
The Ministry in Charge of Relations with the Parliament was created during the Fourth Republic and was institutionalized during the Fifth Republic. It is the Government body responsible for the facilitation of relations between the executive and the legislative power. This ministerial department, which has no administrative structure of its own and is essentially made up of its own staff of advisors, participates in the organization of governmental work and plays a central role in the setting of Parliament's agenda.

See also files 25 and 26

The position of Minister in Charge of Relations with the Parliament was born in the aftermath of the Second World War and appeared in various Governments of the Fourth Republic. It became however essential for the operation of the institutions of the Fifth Republic, especially within the framework of the notion of “rationalized parliamentarism”. Although the Government had witnessed, since 1958, a substantial increase in its powers to intervene in the legislative process, it appeared necessary that one of its members, having the rank of Minister or of Secretary of State, should not only ensure Government coordination concerning work in this field but should also play the role of mediator between the ministers and the parliamentarians and in particular those who are members of the ruling majority.

I. – THE MINISTER IN CHARGE OF RELATIONS WITH THE PARLIAMENT PLAYS AN IMPORTANT ROLE IN THE IMPLEMENTATION OF GOVERNMENTAL POLICY

1. – HE COORDINATES THE LEGISLATIVE PROGRAMME OF THE GOVERNMENT

The implementation of governmental policy is carried out mainly through the passing of laws. The setting of the legislative agenda of the assemblies is partly in the hands of the Minister or Secretary of State in Charge of Relations with the Parliament who must take into account at the same time the desires of the ministers, the progress of the bills they present and the workload of the Parliament.
Thus, he must be aware of the progress of the bills proposed by his colleagues in the Government and of the wishes of the agenda set down by the assemblies.

So as to be aware of the consequences of the different governmental bills and the technical or political problems which might arise during parliamentary debates, he is represented at the inter-ministerial meetings which take place in order to harmonize the positions of the various ministries.

He also takes part in the arbitration meetings which select the Government or Members’ bills liable to be included on the agendas of the assemblies and which decide on the calendar for the examination of these bills.

He is included in the drawing-up of the legislative part in the Council of Ministers and this enables him to set a priority calendar for the bills and to propose their inclusion on the agendas of one or other of the assemblies.

2. – **HE PLAYS A ROLE OF POLITICAL MEDIATION BETWEEN PARLIAMENT AND GOVERNMENT**

Generally speaking, the Minister or Secretary of State in Charge of Relations with the Parliament must facilitate relations between ministers and parliamentarians. Notably he must foresee the possibility of difficulties arising between the Government and the governing majority.

In order to do this, he participates in meetings of the political groups which make up the ruling majority and he gives them information concerning governmental policy. This allows him to alert his colleagues to the reactions of the political groups and to the positions of M.P.s. Traditionally he also attends the meetings of the main leaders of the ruling majority groups.

II. – **THE MINISTER OR SECRETARY OF STATE IN CHARGE OF RELATIONS WITH THE PARLIAMENT IS INVOLVED IN THE PLANNING OF PARLIAMENTARY WORK AND ENSURES THE AVAILABILITY OF MINISTERS TO ANSWER QUESTIONS RAISED BY PARLIAMENT**

1. – **HE CONTRIBUTES TO THE DRAWING-UP OF THE AGENDA**

The Minister or Secretary of State in Charge of Relations with the Parliament attends, during the sessions, the meetings of the Conference of Presidents which take place in each of the assemblies (every week at the National Assembly and every three weeks on average at the Senate) and which, under the chairmanship of the President of the assembly concerned, bring together the vice-presidents, the chairs of the standing committees, the chairs of current *ad-hoc* committees when they exist, the General *Rapporteurs* of the Social Affairs Committee and of the Finance Committee, the Chair of the European Affairs Committee and the chair of the political groups in order to set the agenda of the Assembly.
Before the constitutional revision of July 23, 2008, the Government, in accordance with article 48 of the Constitution, had almost complete control over the agenda of the assemblies. Since the adoption of this revision, it shares this role with the assemblies. Only two out of four weeks of sittings are given over in priority to bills and to debates which the Government has requested to be included on the agenda. The two remaining weeks are given over to an agenda set down by the two assemblies on a proposal of the Conference of Presidents. One of these weeks is reserved for the monitoring of Government action. It should nonetheless be stressed that the Government may have certain types of bill included on the agenda with priority. These include finance bills and social security financing bills.

Before the opening of the session, the Minister or Secretary of State in Charge of Relations with the Parliament gives an indication to the Conference of Presidents of the National Assembly, of the weeks which the Government intends to use for the tabling of its bills.

The day before the Conference of Presidents, the Minister or Secretary of State in Charge of Relations with the Parliament transmits, by letter addressed to the President of the Assembly, the Government’s requests for priority inclusion on the agenda of the weeks set aside for its bills. During the Conference of Presidents, he ensures the synchronization between the inclusion of the bills and the debates on the agenda during the weeks set aside for parliamentary initiative and the timetables of the relevant ministers.

The Government may, at any time, request changes to the agenda of the assemblies in accordance with the powers provided to it by article 48 of the Constitution i.e. concerning the weeks set aside for the Government and the bills it can include with priority by a letter of revision or by a statement in plenary sitting. In such a case, Parliament is usually informed by a letter from the Minister or the Secretary of State in Charge of Relations with the Parliament and the Conference of Presidents may be convened if necessary. In certain cases, the change to the agenda may merely be announced in a statement coming from a minister present on the Government bench. The latter however speaks in the name of the Government and with the agreement of the Minister or the Secretary of State in Charge of Relations with the Parliament.

2. – He ensures the permanent availability of the Government to answer Parliament’s questions

During the legislative debates, he ensures that there is a permanent governmental presence in the sitting and makes sure that the relevant ministers are present during the debates which concern them.

He plays the same role in the various debates organized particularly during the weeks given over to the monitoring and the assessment of public policies.
During oral question sittings he collects the parliamentarians’ questions and organizes the Government’s means of reply.

He also makes sure, in collaboration with the General Secretariat of the Government and the Prime Minister’s staff, that the ministers reply within the time limits to the written questions asked by M.P.s.

3. – HE FOLLOWS THE DEBATES

The Minister or the Secretary of State in Charge of Relations with the Parliament is very much present during the sittings of the assemblies. It can happen that he replaces his absent colleagues, notably during question time.

He ensures, notably through his assistants, who are present during all discussions, the correct running of the debates. It is also his task to advise members of the Government on the parliamentary procedure and the attitude to adopt in one circumstance or another. On account of his knowledge of parliamentary procedure and parliamentary life, he is called to play a leading role in the implementation of the instruments of rationalized parliamentarianism (application of the accelerated procedure, forced votes, second deliberations, confidence votes on bills, etc.).
The General Secretariat of the Government

Key Points
The General Secretariat of the Government was created in 1935 and is a light administrative body (it numbers about one hundred civil servants). It is under the authority of the Prime Minister and is headed by the Secretary General of the Government. Its task is to ensure the correct functioning and the legality of Government action. As such it is a key contact for the departments of the National Assembly.

See also files 2 and 3


The missions of the General Secretariat of the Government (SGG) are fourfold:
– The organization of governmental work and the respect of procedures,
– Providing legal advice to the Government,
– The continuity of governmental action in the case of the formation of a new Government,
– Monitoring the services of the Prime Minister.

1. – THE ORGANIZATION OF GOVERNMENTAL WORK

The General Secretariat of the Government is involved at all stages in the development of Government decisions.

First of all, it convenes the inter-ministerial meetings and draws up the minutes which it files and distributes. In this way, the General Secretariat of the Government fulfils the role of “the Clerk of the Republic”. It is also responsible for the transmission of the most important texts (laws, ordinances etc.) to the consultative formations of the Conseil d’État, for putting forward the Government’s point of view and for ensuring the coherence of the speeches of the various ministers as well as for following the development of the debates.
A representative of the General Secretariat of the Government attends the deliberations of the Conseil d’État so as to ensure the coherence of the speeches of the representatives of the ministries. The General Secretariat of the Government pays particular attention to the legal positions taken by the Conseil d’État so as to avoid subsequent censure of the text, either through an appeal against a decree by the litigation formations of the Conseil d’État itself or through an appeal against a law by the Constitutional Council.

The General Secretariat of the Government is also responsible for the secretariat of the Council of Ministers and prepares its agenda and the files for the questions which are included on the agenda. It also records the decisions taken.

2. – Legal Advice to the Government

The General Secretariat of the Government has a role as legal adviser to the Prime Minister’s and the other ministers’ staff.

The members of the General Secretariat of the Government and in particular the ‘chargés de mission’ examine the legality and the formality of the texts.

The General Secretariat of the Government may be consulted by ministers or their staff on certain legal questions when they wish to have the opinion of a body with a ‘horizontal expertise’.

In collaboration with the ministries concerned, the General Secretariat of the Government defends before the Conseil d’État the decrees which have been the subject of an appeal. It also ensures a ‘constitutional oversight’, at all stages of the procedure, on the problems of constitutionality which are raised by a text and writes up observations in the name of the Government in the case of a referral to the Constitutional Council.

In addition, the General Secretariat of the Government ensures the distribution on internet of legislative and regulatory documents through the site Legifrance, as well as of a legal guide intended to improve the drafting quality of such documents.

3. – The Specific Remit of the General Secretariat of the Government upon the Formation of a New Government

The General Secretariat of the Government is a permanent administrative body and thus its members are not replaced when the Prime Minister leaves his position.

It is in fact the duty of the General Secretariat of the Government “to guide” the new Government upon its arrival in office. The General Secretariat of the Government is the guarantor of the continuity of governmental action despite political changes.
It prepares the decrees of attribution and of delegation which define the remit of each member of Government. It distributes the logistical means (buildings, offices etc.) to the new ministerial teams and it provides them with all the necessary information (on the progress of such and such reform, on the procedures of Government work).

4. – Monitoring the Services of the Prime Minister

The General Secretary of the Government also directs all of the services under the authority of the Prime Minister and attempts to play a key role in the area of the modernization of the administration.

II. – The General Secretariat of the Government: A Key Contact for the Departments of the National Assembly

The General Secretariat of the Government plays a major role in parliamentary life by ensuring the publication and the transmission to the assemblies of information concerning the organization of sessions and sittings (decrees convening extraordinary sessions, requests for the extension of military operations abroad beyond four months etc.). It has a central position in the legislative process and is a key contact for the Parliament in the carrying-out of numerous tasks which represent quite a substantial share of parliamentary work.

1. – The General Secretariat of the Government Plays a Discreet But Indispensable Role in the Legislative Procedure

The General Secretariat of the Government, in collaboration with the Minister or Secretary of State in Charge of Relations with the Parliament and the minister responsible for defending a bill before Parliament, ensures the preparation of the decree presenting the bill and follows the legislative procedure. It is notably the job of the General Secretariat of the Government to “physically” bring the bill to the “table” of the parliamentary assemblies. In a similar fashion, he is involved at every stage of the parliamentary “shuttle” (the to and fro movement of a bill between the two chambers) to ensure the transmission of bills passed by the assemblies.

In addition, according to article 115 of the Rules of Procedure of the National Assembly, when a Government or Member’s bill which has been passed by the Senate, is then passed by the National Assembly without modification, the President of the National Assembly “shall transmit the final instrument to the President of the Republic for promulgation through the Secretariat-General of the Government”. It is thus the duty of the General Secretariat of the Government to gather the signatures required by the Constitution and to ensure the publication of the text in the Journal officiel. In the case of referral to the Constitutional Council, the General Secretariat of the Government plays an important role as it is responsible for presenting Government observations concerning the appeal against the bill which has been passed.
Similarly after the passing of a law, the General Secretariat of the Government ensures that the application decrees, i.e. those necessary for the settling of all the details which the law could not deal with, are enforced in a reasonable time limit and draws up a report on them to the Prime Minister.

2. – **THE GENERAL SECRETARIAT OF THE GOVERNMENT: A KEY CONTACT FOR PARLIAMENT**

Its position as a “secretariat” for governmental work and its role regarding the respect for procedures makes the General Secretariat of the Government a real crossroads for the relations between Government and the National Assembly in the carrying-out of numerous tasks and operations which make up parliamentary work.

The General Secretariat of the Government is particularly involved in the procedure regarding written questions. In this area, it centralizes the replies of the different ministries, monitors their content and transmits them to the assemblies for publication in the *Journal officiel*. This centralization role also applies for the transmission to Parliament of the reports which are provided for by various bills. For example, an administration cannot, by itself, send a report provided for by law, to Parliament. It must pass through the General Secretariat of the Government which checks on the legality of the report and transmits it to the Table Office of the relevant assembly which can then table it.

The General Secretariat of the Government also supervises the correct composition of extra-parliamentary bodies i.e. those on which M.P.s and Senators sit by virtue of specific laws. The representatives of Parliament are appointed to such bodies by the President of each chamber.

The appointment of parliamentarians to missions, in accordance with article L.O. 144 of the Electoral Code, also passes through the General Secretariat of the Government which ensures that the appointment decree for such missions are published and informs the assembly in which the said appointee sits.

Finally, the same procedure applies for consultation requests on certain appointments envisaged by the Executive. In fact, article 13 of the Constitution, states that for certain posts and positions important “*in the guaranteeing of the rights and freedoms or the economic and social life of the Nation, the power of appointment vested in the President of the Republic shall be exercised after public consultation with the relevant standing committee in each House*”. The Institutional Law n° 2010-837 of July 23, 2010, draws up the list of such posts amongst which figure in particular the chairmen of various independent administrative authorities and public companies. This procedure implies a referral by the Prime Minister which, in practice, passes through the General Secretariat of the Government.
The Rules of Procedure of the National Assembly

Key Points
The Rules of Procedure of the National Assembly constitute its “internal law”.
The provisions of the Rules of Procedure do not have a constitutional status, although some of them apply constitutional obligations. The Rules of Procedure must comply with the Constitution, with the institutional acts concerning their application and with the Ordinance of November 17, 1958 on the working of the parliamentary assemblies.
The Rules of Procedure, which were adopted and are liable to modification by a motion of the National Assembly, organize the internal working of the National Assembly, lay down the procedures concerning deliberation and determine the disciplinary measures applicable to its members.
It is the responsibility of the President of the National Assembly to have the Rules of Procedure respected and to do so he particularly relies on “precedent”. During the plenary sitting M.P.s may call upon the provisions of the Rules of Procedure through the use of “points of order”.

See also files 19 to 56

The Rules of Procedure of the National Assembly were adopted on June 3, 1959 and were recognized as compliant with the Constitution by a decision of the Constitutional Council on July 24, 1959. They constitute one of the key sources of parliamentary law, although their importance was nonetheless reduced in 1958. The mode of adoption and modification of the Rules of Procedure, the content and the way in which they are applied, all display important characteristics which are vital to the understanding of the position and role of Parliament in the institutions of the Fifth republic.

I. – THE RULES OF PROCEDURE OF THE NATIONAL ASSEMBLY, A SOURCE OF PARLIAMENTARY LAW

In his treatise on political, electoral and parliamentary law, Eugène Pierre wrote: “Outwardly, the Rules of Procedure merely represent the internal law of the assemblies, a collection of instructions designed to apply a methodological approach to the running of a meeting where many contradictory aspirations meet
and clash. In reality, they are a formidable weapon in the hands of the parties. The Rules of Procedure often have more influence than the Constitution itself on the course of public matters”. This statement, which was made during the Third Republic, continued to be valid during the Fourth Republic but could no longer be made today. This is due to the fact that the Constituent of 1958 sought to protect itself from the excesses of parliamentarianism observed during the preceding regimes.

Thus, though the Rules of Procedure remain one of the sources of parliamentary law whose legal nature should be detailed, it is nonetheless a source which is limited and monitored.

1. – **The Legal Nature of the Rules of Procedure of the National Assembly**

As Paul Bastid emphasized in 1954, “the Rules of Procedure are the internal laws of each chamber, laid down by themselves. The Chamber in establishing its Rules of Procedure acts not as a branch of the legislative power but as an autonomous corporation possessing the power of organization and wielding disciplinary authority over its members”.

The Rules of Procedure are part of the legal category of measures of an internal nature, i.e. the validity of the rules it lays down is limited to their internal application.

As regards the position of the Rules of Procedure in the hierarchy of legal norms, the Constitutional Council has continued to judge that the provisions of the Rules of Procedure of the assemblies do not have a constitutional status. This means notably that the simple lack of regard for the Rules of Procedure could not, in itself, be cited in support of an appeal to the Constitutional Council.

Certain provisions of the Rules of Procedure however represent constitutional obligations and could as such not be ignored without calling into question the legality of the legislative procedure. In addition, the Constitution refers directly to the Rules of Procedure of the assemblies. This has been the case, since the constitutional revision of July 23, 2008, of articles 44 (the right of amendment may be used in plenary sitting or in committee under the conditions set down by the Rules of Procedure of the assemblies, according to the framework determined by an Institutional Act), 51-1 (the Rules of Procedure of each House shall determine the rights of the parliamentary groups: they shall recognize that opposition groups in the House concerned, as well as minority groups, have specific rights), and 51-2 (the conditions for the setting-up of commissions of inquiry are determined by the Rules of Procedure of each assembly).

2. – **A Highly Regulated and Monitored Source**

According to article 61 of the Constitution, the Rules of Procedure of the parliamentary assemblies must be compliant with the Constitution.
The obligatory and preliminary monitoring by the Constitutional Council marks a break with French constitutional tradition which, in accordance with the principle of the autonomy of the parliamentary assemblies, provided the assemblies with exclusive jurisdiction over their own Rules of Procedure. Michel Debré accepts this change in his memoirs: “The monitoring of the Rules of Procedure of the assemblies is a vital measure...my experience allowed me to notice to what extent the Rules of Procedure add to the Constitution and in a way which is often detrimental for governmental authority and for the value of legislative work”. It was for this reason he wrote that “a final precaution was taken. The Rules of Procedure of the parliamentary assemblies, before their implementation, will be submitted to the Constitutional Council which will thus have the power to strike out the articles which are contrary to fundamental law and its spirit”.

Henceforth, as Jean Gicquel writes, “the assemblies are no longer masters of their own households”.

The texts which regulate the Rules of Procedure of the assemblies are both numerous and important as regards their contents.

The Constitutional Council thus decided that this requirement of compliance should be extended to the provisions of institutional acts concerning Parliament which were passed in application of the Constitution. In fact, the vast majority of such laws were decided upon by edict in the four months following the promulgation of the Constitution. They are innumerable and concern such important fields as the length of the powers of each assembly, the number of their members, their allowances, the conditions of eligibility and ineligibility as well as incompatibility, the conditions for the election of those replacing M.P.s in the case of a seat being made vacant, the regulation of proxy voting or the vote on the finance bill or of that governing the financing of social security. The Institutional Law of April 15, 2009, concerning the application of articles 34-1, 39 and 44 of the Constitution, deals, amongst other things, with provisions relating to the procedure on impact studies and the conditions for the tabling and the examination of resolutions and amendments.

The Constitutional Council also decided that the Ordinance of November 17, 1958 concerning the working of the parliamentary assemblies, which has a simple legislative status, took primacy over the Rules of Procedure of the assemblies. This clarification is significant, as this text, in addition to the traditional provisions concerning the premises provided to the parliamentary assemblies, their financial autonomy or their civil liability, contains other rules concerning, for example, commissions of inquiry, parliamentary petitions and delegations or, since 2009, the consultation of the Conseil d’État on a Member’s bill.

The main lines of jurisprudence of the Constitutional Council were set down as early as the decisions concerning the definitive Rules of Procedure of the assemblies in the spring of 1959.
As regards the extent of this monitoring, Pierre Avril and Jean Gicquel underline in their manual of parliamentary law that, “the jurisprudence of the Constitutional Council considers that the provisions of the Rules of Procedure which apply a constitutional rule must strictly respect the letter of that rule, without adding or subtracting anything, whilst those which are not, strictly speaking, in the field of constitutional provisions, must simply not enter into conflict with them.”

II. – MODES OF ADOPTION AND MODIFICATION OF THE RULES OF PROCEDURE OF THE NATIONAL ASSEMBLY

In this particular field, the initiative is strictly in the hands of the M.P.s in keeping with the principle of the autonomy of the parliamentary assemblies. In concrete terms, this means the tabling of a motion for resolution, which, to be admissible, must, according to article 82 of the Rules of Procedure of the National Assembly, “formulate internal measures or decisions which, since they have to do with the operation and discipline of the Assembly, are entirely within its jurisdiction”.

The procedure of examination of such a motion is the same as that applicable to Members’ bills on first reading. Once it has been tabled, the motion for resolution is examined by the Law Committee and adopted in plenary sitting.

The provisions of articles 34, 40 and 41 of the Constitution (financial inadmissibility and respect of matters for statute) are not applicable to such motions.

Since coming into force (which required three decisions of the Constitutional Council between May and July 1959), the Rules of Procedure of the National Assembly have been modified thirty-two times.

Among the most recent of these modifications, the most significant have been that of January 26, 1994 which aimed at improving legislative work by giving greater importance to the role of the standing committees, through the reduction of the role of the plenary sitting and the strengthening of the monitoring procedures. Also deserving mention is that of October 10, 1995 which implemented the consequences of the constitutional revision of August 1995 and that of October 3, 1996 which introduced clarifications regarding the laws governing the financing of the social security system and the monitoring powers of committees.

During the XIIth term of Parliament, the resolution of March 26, 2003 should be mentioned. It allowed the Conference of Presidents, upon the proposal of the President of the National Assembly, to set up fact-finding missions and recognized the opposition’s right to hold the position of rapporteur or chair of a commission of inquiry set up on its own initiative.
The change of February 12, 2004 which provided for the presentation of a report on the implementation of laws six months after their entry on the statute book or on the application of the recommendations of committees of inquiry six months after the publication of their reports was also important. So too was that of June 7, 2006 which limited the length of time for the introduction of procedural motions and set the time limit for the tabling of amendments at 5pm the preceding day.

Most of the modifications of the Rules of Procedure deal only with a few articles. Only seven motions have modified more than ten articles. These figures should be considered in the light of the changes carried out through the motion adopted on May 27, 2009. Nearly one hundred and fifty articles were modified, introduced or repealed at this time. This reform, which had had no equivalent for over fifty years, implemented the Constitutional Act of July 23, 2008 and brought all the Rules of Procedure of the National Assembly up-to-date.

During the XIVth term of Parliament, the Motion of September 17, 2014 provided that political groups come together in the form of an association. The Motion of November 28, 2014, notably set down the universalization of the public nature of committee meetings, the establishment and the strengthening of the ethical obligations of M.P.s, the creation of the position of General Rapporteur of the Social Affairs Committee, as well as the improvement of the organization of sittings and the increasing of the rights of opposition and minority groups, in particular by means of a renewal in the mechanisms concerning the implementation of the “right to a turn”.


Generally speaking, the Rules of Procedure of parliamentary assemblies are meant to organize the internal working of the assemblies, to set out the procedures of deliberation and to determine the disciplinary rules which apply to their members.

The Rules of Procedure of the National Assembly contain 200 articles set out in four sections.

Title 1 concerns the organization and the working of the National Assembly and contains provisions dealing with the Bureau, the Office of the President, the political groups, the committees, appointments, the Conference of Presidents, the agenda, the holding of plenary sittings, the methods of voting and discipline.

Title 2 deals with the legislative procedure and looks successively at the ordinary legislative procedure, the legislative procedure to be applied to constitutional revisions, to finance bills and to bills governing the financing of the social security system (whose discussion in plenary sitting still deals with the Government text or with the text transmitted by the other assembly) as well as special legislative procedures (referendum motions, consultations concerning
Title 3 focuses on parliamentary monitoring and describes the information, assessment and supervision procedures (Government statements, questions, motions in accordance with article 34-1 of the Constitution, commissions of inquiry, budgetary monitoring, the commission of assessment and monitoring of public policies, European affairs), motions of confidence concerning Government accountability and the criminal liability of the President of the Republic and members of Government (the High Court of Justice and the Court of Justice of the Republic).

Title 4 brings together miscellaneous provisions.

In accordance with its own articles 14 and 17, the Rules of Procedure of the National Assembly are specified and completed by the General Instruction of the Bureau.

IV. – THE APPLICATION OF THE RULES OF PROCEDURE OF THE NATIONAL ASSEMBLY

The President of the National Assembly applies the provisions of the Rules of Procedure. As Eugène Pierre explained in his aforementioned work, “it is the duty of the President of the National Assembly to interpret the texts and to apply them to the various situations which might arise”. In doing so, he often makes reference to previous practices (“precedent”). The M.P.s may, at any moment, call for the respect of the Rules of Procedure by asking a point of order.

1. – PRECEDENT

It can happen that during a plenary sitting, certain problems linked to the Rules of Procedure may arise. In this case, the President refers to a precedent in order to see how such a problem was dealt with in the past. The Table Office keeps an up-to-date record of such precedents. Reference to a precedent may be useful in avoiding having to improvise decisions in the heat of the action, but it is not obligatory. In fact, even if the precedent enables the definition of a well-established ‘jurisprudence’ in a particular case, the President is not obliged to follow it. He maintains, in all cases, total liberty of decision.

It should however be stated that, in practice, precedents play an important role in the application of the provisions of the Rules of Procedure.

2. – POINTS OF ORDER

The M.P.s may, at any time, make a point of order; they have two minutes to do this. They are given the floor either immediately or at the end of the speech taking place. These requests have priority over the main issue and can lead to a suspension of the discussion.
Points of order must concern the Rules of Procedure or the running of the sitting. They may not call the set agenda into question. If these rules are not respected the President may deprive the speaker of the right to speak.

Points of order are regulated by article 58 of the Rules of Procedure. It may happen that the President replies by stating that he will refer the matter to the Bureau or to the Conference of Presidents. In practice, points of order are often used to make reference to an event without any clear link to the discussion or in order to slow down a discussion. They can then appear to be a means of filibustering. They are in fact, a right which the President and vice-presidents must handle with much dexterity.

In the framework of the set time limit procedure, which is based on the overall allocation of a maximum speaking time to each of the political groups, the time spent on points of order is counted when the President considers that such points clearly have no link with the Rules of Procedure or the running of the sitting. Nonetheless in its decision of June 25, 2009, the Constitutional Council judges that “whilst the setting of time limits for the consideration of a bill in plenary sitting allows for the counting of the time spent particularly on requests for the adjournment of the sitting and on points of order, M.P.s may not be deprived of any possibility of calling upon the provisions of the Rules of Procedure so as to ask for the application of constitutional provisions”.

The Law: Expression of the Legislative Power of Parliament

**Key Points**

The law is the expression of the general will.

The prerogative of initiating laws belongs to the Prime Minister and to parliamentarians.

In addition to the so-called “ordinary” laws, there are other categories of laws provided for by the Constitution. Specific rules and procedures apply to each of these categories.

All laws, except referendum laws, are passed by Parliament.

An enabling law may allow the Government to have temporary recourse to ordinances, in the area which is usually reserved to the legislative process.

See also files 31, 32, 33, 34, 39, 42 and 43

I. – “ORDINARY” LAWS

“The law is a commandment”, said Portalis, one of the authors of the Civil code.

A more institutional approach defines the law as a prescriptive text passed by Parliament, promulgated by the President of the Republic, if need be after a decision of the Constitutional Council, which sets rules and fundamental principles in the areas listed in article 34 of the Constitution. A law may also be passed by referendum, according to the rules laid down in article 11 of the Constitution. The prerogative of initiating laws belongs to the Prime Minister and to parliamentarians.

In all cases, as article 6 of the Declaration of the Rights of Man and the Citizen of 1789 states, the law is the expression of the general will.

The Constitutional Council, after having repeated the terms of article 6 of the 1789 Declaration, itself considered, from 2004 on, that “the purpose of the law is to set down rules and it must therefore have a prescriptive scope”.

1. This principle was once again underlined in ruling 2012-647 DC of February 28, 2012 concerning the law aimed at sanctioning challenges to the existence of genocides recognized by the law: “Considering that, on the one hand, in the terms of article 6 of the Declaration of 1789,
In addition to the so-called “ordinary laws”, there are other categories of law provided for by the Constitution. Specific rules and procedures apply to each of these categories.

II. – SPECIFIC LAWS PASSED BY PARLIAMENT

1. – CONSTITUTIONAL LAWS

Constitutional laws amend the Constitution according to the procedure set down in article 89 of the Constitution.

The initiative to amend the Constitution belongs to the President of the Republic, upon a proposal by the Prime Minister, as well as to M.P.s and Senators. The constitutional bill must be adopted in identical terms by the two assemblies. The revision becomes definitive once it has been approved by referendum. Nonetheless, if it is a Government sponsored bill, the President of the Republic may decide not to put it to a referendum but to the Parliament convened in Congress which must approve it by a majority of three fifths of the votes cast.

The area of constitutional revision has a double limitation. It is limited in:
– Time. No amendment procedure may be commenced or continued if the integrity of the territory is jeopardized or in the case of an interim presidency;
– Its field of application. Constitutional laws may not call into question the republican form of government.

2. – INSTITUTIONAL ACTS

Institutional acts set down the rules of organization and running of public authorities in the cases provided for in the Constitution.

Government and Members’ bills attempting to modify institutional acts or dealing with a matter upon which the Constitution has bestowed an institutional nature must contain in their title a direct reference to their nature. They may not contain provisions of any other nature.

The Constitutional Council decided that an institutional law “may only deal with areas and subjects set down in a list by the Constitution” (decision n° 87-234 DC of January 7, 1988) and stated further that “in the text of an institutional act, the inclusion of provisions which are not of such a nature could distort the scope of such an act” (decision n° 2005-519 DC of July 29, 2005).

‘the Law is the expression of the general will’, it stems from this article, as from all other laws of a constitutional value relative to the object of the law, that notwithstanding specific provisions laid down by the Constitution, the purpose of the law is to set down rules and it must therefore have a prescriptive scope’.
Nonetheless when non-institutional provisions are included in an institutional act, the Constitutional Council only “relegates” them i.e. downgrades them by giving them the value of “ordinary” laws (which means that they can be modified using the procedure which is applicable to ordinary laws).

Government and members’ institutional bills are submitted to a specific adoption procedure:

- Like ordinary laws they may only be examined by the first assembly in which they have been first tabled after a six-week limit has expired following their tabling. Nonetheless, in the case of the implementation of the accelerated procedure, there is a specific fifteen-day limit which is not the case for other laws;
- No amendment may be made nor article added to them which introduces provisions which are not of an institutional nature;
- In the case of a disagreement between the assemblies, the institutional act may only be passed on final reading by the National Assembly with the absolute majority of its members in favour;
- Institutional acts regarding the conditions for the application of article 88-3 of the Constitution (granting the right to vote and to stand in municipal elections), as well as those concerning the Senate must be passed in identical terms by the two assemblies. In 2009, the Constitutional Council limited the scope of the idea of institutional acts which “concerned the Senate” to the provisions which directly or specifically affected the Senate. An act does not “concern” the Senate when both of the assemblies are concerned by the same provisions; an institutional act may only be promulgated after a statement by the Constitutional Council of its conformity to the Constitution.

3. – Finance acts

There are three types of finance acts:

- The finance act of the year (often called the “initial” finance law) which every year lays down the resources, the expenditure and the amount of the state budget surplus or deficit;
- The “corrected” finances act, the aim of which is mainly to adjust the forecasts for resources for the current year or to modify expenditure and its distribution;
- The settlement act which states the financial results of each calendar year.

In accordance with article 39 of the Constitution, finance bills are presented first to the National Assembly. The Constitutional Council decided that the same would apply to Government amendments which, in this particular case, include new measures (decisions n° 76-73 DC of December 28, 1976 and n° 2006-544 of December 14, 2006).
The Parliament has a time limit of 70 days to announce its decision (40 days for first reading at the National Assembly and 15 or 20 days for first reading at the Senate). If Parliament has not reached a decision within this limit, then the provisions of the bill may be enforced by ordinance.

The finance law is passed in two distinct parts; first of all that concerning resources and the general balance and then that dealing with expenditure and measures having no effect on the balance. The finance bill is submitted for a single reading in each assembly before the Government can convene the meeting of a joint committee in charge of suggesting a text on the provisions remaining in discussion.

4. – SOCIAL SECURITY FINANCING ACTS

The social security financing acts are a category of laws introduced by the constitutional revision of February 22, 1996. They determine the general conditions of the financial balance of the social security and, by taking into account the forecast for its revenue, set the objectives for its spending. They also determine the main direction of health and social security policy and forecast, for each category, the revenue of all the basic obligatory schemes whose expenditure objectives are set for each branch.

The social security financing bills are examined every year in the autumn, according to similar rules of procedure as those applicable to the finance bills. They are first tabled in the National Assembly and the same applies to amendments which, in this case, include new measures. Parliament has a limit of 50 days in which to reach a decision (20 days for first reading at the National Assembly and 15 days for first reading at the Senate). If Parliament has not reached a decision within this 50-day limit, then the provisions of the bill may be enforced by ordinance.

The social security financing acts have four parts: the first corresponds to the settlement law, the second to the “corrected” financing law for the current year, the third brings together all the revenue for the coming year and the fourth, all the expenditure.

Supplementary “corrected” financing laws may, during the year, modify the provisions of the social security financing laws for the particular year.

5. – PROGRAMMING LAWS

Programming laws (which replace laws which were formerly called “programme” laws since the constitutional act of July 23, 2008) determine the objectives of the action of the State in a particular area (national education, military spending etc.) for a period of several years (often five) as well as the financial means it intends investing.
However, the corresponding credits can only be provided by a finance act passed for each budgetary year. The programming laws thus do not have a prescriptive or an obligatory nature from a financial point of view. However plans approved of by Parliament which set down long term objectives may receive financial commitments from the State, although this procedure on planning laws has fallen into abeyance (the last law of this type was that of July 10, 1989 which approved the tenth plan). However since 2008, programming laws may set down the multi-annual guidelines for public finances.

6. – LAWS AUTHORIZING THE RATIFICATION OF TREATIES

Treaties and agreements which are legally ratified or approved have, as of their publication, a superior authority to that of laws, provided of course that each agreement or treaty is applied by the other party.

The treaties and agreements, dealing with the fields listed in article 53 of the Constitution, can only be ratified by the President of the Republic after a vote authorizing him to do so. Such treaties include peace treaties, trade treaties, treaties or agreements concerning the organization of international affairs, those involving State finances, those which modify provisions which are a matter for statute, those concerning the status of persons and those dealing with the transfer, exchange or addition of territory.

During the examination by the assemblies of the ratification bill, the articles contained in the treaties or the agreements submitted for ratification are not voted upon. No amendment may be tabled on the text of a treaty. The National Assembly may only vote in favour of or against the ratification or for postponement.

If the Constitutional Council, having received a referral by the President of the Republic, the Prime Minister, the President of either assembly or by sixty M.P.s or sixty Senators, declares that an international commitment includes a clause running contrary to the Constitution, the authorization to ratify or approve that international commitment can only be passed after a revision of the Constitution.

III. – LAWS NOT PASSED BY PARLIAMENT: REFERENDUM LAWS

Article 11 of the Constitution does not use the term “referendum laws” but it does make provision that in certain fields a Government bill be put to referendum, i.e. to all voters. As they are passed by universal suffrage, referendum laws are not subject to the monitoring of their constitutionality (decision of the Constitutional Council of November 6, 1962).
The bill to be put to referendum must deal with the organization of public authorities, with reforms relating to the economic, social or environmental policy of the Nation and the public services involved, or provide for authorization to ratify a treaty that, although not contrary to the Constitution, would affect the functioning of the institutions.

The decision to hold a referendum is taken by the President of the Republic, upon a proposal of the Prime Minister during a parliamentary session or upon a joint proposal by the two assemblies. In practice Parliament has never used its right to initiate a referendum. As for Government, its proposal has, more often than not, been purely a matter of form as the real initiative comes from the President of the Republic.

The Constitutional Law of July 23, 2008 modified article 11 of the Constitution so as to introduce the aforementioned reference to bills dealing with the environmental policy of the Nation but also in order to set down a new means of calling a referendum. Henceforth, a referendum may now be held on the initiative of one fifth of the members of Parliament, supported by one tenth of the voters enrolled on the electoral register. This initiative takes the form of a Member’s bill but cannot have as its objective the repeal of a legislative provision which has been promulgated less than a year previously. If this Member’s bill has not been examined at least once by the two assemblies within a time limit of six months as of the decision of the Constitutional Council declaring that it has indeed received the support of at least one tenth of the voters, the President of the Republic shall submit it to a referendum.

In addition to the procedure provided for by article 89 of the Constitution, General de Gaulle had recourse to the referendum law procedure in order to revise the Constitution so as to introduce the election of the President of the Republic by universal suffrage (Constitutional Act of November 6, 1962).

IV. – THE SPECIAL CASE OF ENABLING ACTS

In accordance with article 38 of the Constitution, the Government may request the Parliament for the authorization to take measures by ordinance that are normally a matter for statute. The authorization is granted by a law which sets the time limit for such a situation, as well as its purpose and the areas in which the Government intends to take measures.

The ordinances are taken in Council of Ministers, after consultation with the Conseil d’État. They may only be ratified in explicit terms. They come into force as soon as they are published but they lapse if a ratification bill is not tabled before the Parliament before the date set by the enabling act. At the end of the time limit mentioned in the enabling law passed by Parliament, the ordinances may only be modified by the law for matters falling within its ambit of statute.
The Legislative Field

Key Points
The distinction between a legislative field and a regulatory field was a new concept introduced by the 1958 Constitution. Article 34 of the Constitution which defines the legislative field however leaves quite a broad scope for that particular area. In addition, the jurisprudence of the Constitutional Council and institutional practice have enabled the legislative field to be progressively broadened.

I. – THE DEFINITION OF THE LEGISLATIVE FIELD

During the Third and Fourth Republics, the law was defined in a formal way: it was an act passed by Parliament according to the legislative procedure and promulgated by the President of the Republic. The legislative field (matters for statute) had no boundaries. A law could deal with any subject and could even be applied to an individual case. A legislative act could only be modified by another legislative act.

The regulatory power of Government was essentially a power to implement the laws. There was no difference in field between the “law” and “regulation”, only a difference in form: the law was an act passed by Parliament and regulations came from the executive. The absolute supremacy of the law, as an expression of the will of the Nation, was conveyed by the inadmissibility of any appeal against the law before a court.

In 1958, the framers of the Constitution of the Fifth Republic wished to protect the very field of Government action and to remove from the legislative field many questions which were more rightly matters for administration or the everyday management of public affairs. In his memoirs, Michel Debré had no doubt that these provisions witnessed “the birth of a high-quality form of parliamentarianism”. He explained this in front of the Conseil d’État: “From the point of view of principles the definition is normal and it is indeed the confusion between law, regulation and even individual measures which is absurd”.

The Constitution of the Fifth Republic defines the legislative field. Article 34 distinguishes matters for which Parliament sets rules and those for which it determines the fundamental principles.
Until 2008, the “law” or “statutes” set the rules concerning:

– Civic rights and the fundamental guarantees granted to citizens for the exercise of their public liberties; the obligations imposed for the purposes of national defence upon citizens in respect of their persons and their property;

– Nationality, the status and legal capacity of persons, matrimonial regimes, inheritance and gifts;

– The definition of serious crimes and other major offences and the penalties applicable to them; criminal procedure; amnesty; the establishment of new classes of courts and tribunals and the regulations governing the members of the judiciary;

– The base, rates and methods of collection of taxes of all types; the issue of currency;

– The electoral systems of parliamentary assemblies and local assemblies;

– The creation of categories of public establishments;

– The fundamental guarantees granted to civil and military personnel employed by the State;

– The nationalization of enterprises and transfers of ownership in enterprises from the public to the private sector.

   The “law” or “statutes” set the fundamental principles of:

– The general organization of national defence;

– The self-government of territorial units, their powers and their resources;

– Education;

– The preservation of the environment (introduced by the Constitutional Law of March 1, 2005);

– The regime governing ownership, rights in rem and civil and commercial obligations;

– Labour law, trade-union law and social security.

Article 34 also stated that “Finance Acts shall determine the resources and obligations of the State in the manner and with the reservations specified in an institutional Act”, and that “social security financing Acts shall determine the general conditions for the financial balance of social security and, in the light of their revenue forecasts, shall determine expenditure targets”. Programme Acts were provided with the role of determining the objectives of the economic and social action of the State.
II. – THE EXTENSION OF THE LEGISLATIVE FIELD

The legislative field has its limits and yet is quite broad. It has gradually been widened on account of the double effect of the liberal jurisprudence of the Constitutional Council and the desire of the framers of the constitutional reform of 2008.

The jurisprudence of the Constitutional Council has led to the de facto extension of the legislative field.

The Constitutional Council recalled that the field set down by article 34 was not exhaustive; other articles of the Constitution and indeed its preamble also lay down legislative matters (declaration of war, state of siege, the authorization of the ratification of certain treaties, the provisions of articles 72-74 concerning territorial units). The Charter for the Environment which refers to the “law” (in particular in articles 3, 4 and 7) also broadens the field of the legislator.

In addition, the Constitutional Council prevents the legislator from abandoning or neglecting his own field:

– By stating that the legislator cannot take away the legal guarantee of a rule, a principle or an objective with a constitutional value (decision n° 85-185 DC of January 18, 1985);

– By considering that the legislator cannot rely on regulation to clarify certain provisions that the Constitution imposes on him to define himself. Thus, through the penalty of “negative incompetence” the Constitutional Council has ensured for quite some time that the law does include certain characteristics.

This is especially the case since, in an important decision (n° 82-143 DC) on July 30, 1982 the Constitutional Council decided that “through articles 34 and 37, paragraph one, the Constitution had not intended to declare the unconstitutionality of a provision of a regulatory nature contained in a law, but had wished to recognize that beside the field reserved for legislative instruments there was a separate field in which the regulatory authority had competence, and to provide the Government, through the implementation of the specific procedures of articles 37, paragraph 2 and 41, with the power to ensure the protection of the regulatory field from the possibility of encroachment by the legislative field”.

On their side, the framers of the constitutional reform finally decided to extend the scope of the legislative field in July 2008.

Thus, article one of the Constitution henceforth permits the law to promote equal access by women and men not only to elective offices and posts but also to positions of professional and social responsibility.

Article 4 provides that the law shall guarantee the expression of diverse opinions and the equitable participation of political parties and groups in the democratic life of the Nation.
In accordance with article 51-2 the law shall determine the rules of organization and operation of committees of inquiry.

The following have been added to article 34:
– The freedom, diversity and the independence of the media;
– The system for electing representative bodies of French nationals living abroad;
– The conditions for holding elective offices and positions for the members of the deliberative assemblies of the territorial communities;
– The multiannual guidelines for public finances.

The legislative field was extended at the same time to the setting-up of new procedures. Thus, the following fall within the scope of the legislator:
– Appointments to the posts or positions, concerning which, on account of their importance in the guaranteeing of the rights and freedoms or the economic and social life of the Nation, the power of appointment vested in the President of the Republic shall be exercised after public consultation with the relevant standing committee in each assembly (article 13 of the Constitution);
– The composition, organization and working of the independent commission in charge of giving an opinion on the bills defining the constituencies for the election of Members of the National Assembly or modifying the distribution of the seats of Members of the National Assembly or of Senators (article 25).

III. – THE PROTECTION OF THE LEGISLATIVE AND REGULATORY FIELDS RESPECTIVELY

The definition of the legislative field goes hand in hand with the recognition of an autonomous regulatory power and with provisions which allow the protection of the limits which have been so-defined between the remit of the legislator and the rest.

1. – THE REGULATORY FIELD

That which does not fall within the legislative field, falls within the regulatory field. Article 37 is thus an extension of article 34: it defines the regulatory field within which the Government may make decrees, i.e. everything which is not specifically listed in the legislative field.

Article 37 opens up a broad field of action to the regulatory power, not only as regards the application of the law but also in matters which are, in principle, excluded from the legislative field. This is why a distinction is drawn between the regulatory power dealing with the application of laws and the “autonomous” regulatory power which is defined by exclusion from matters which are for statute as listed in article 34.
For example: civil procedure falls exclusively within the regulatory field, as well as the rules concerning fines as long as the penalties do not include custodial measures.

2. – **INADMISSIBILITY (ARTICLE 41 OF THE CONSTITUTION)**

Article 41 of the Constitution allows the Government, as well as, since the Constitutional Act of July 23, 2008, the President of the relevant assembly, to object, during the legislative procedure, to Members’ bills and to amendments which do not fall within the legislative field, on the grounds of inadmissibility.

This procedure which was frequently used at the beginning of the Vth Republic has been very sparsely implemented since 1980. Inadmissibility was, for example, raised by the Government during a debate on the bill concerning territorial development in 1994. During the consideration of a bill concerning the regulation of postal activities in 2005, the President of the National Assembly declared inadmissible, upon the request of the Government, 14,587 amendments during first reading and 101 during second reading.

In the case of a disagreement between the Government and the President of the relevant assembly the matter is referred to the Constitutional Council which delivers a judgment within eight days.

This procedure has been rarely used since the beginning of the Vth Republic. Only 11 decisions concerning such admissibility have been taken by the Constitutional Council since 1958.

3. – **THE PROCEDURE OF “DELEGALISATION” (ARTICLE 37, PARAGRAPH 2 OF THE CONSTITUTION)**

When a law has been passed in an area falling within the field of regulation, a procedure of “delegalisation” can be implemented to enable the Government to modify its provisions. This procedure avoids systematically having to return to Parliament to modify texts which are of a statutory origin but of a regulatory nature.

The procedure begins with a referral of the matter to the Constitutional Council, which, if it recognizes the regulatory nature of the text, will authorize its modification by decree. Texts of a legislative nature dating from before 1958 can be directly modified by decree after consultation of the Conseil d’État.

In the vast majority of the decisions handed down by the Constitutional Council, it has acceded to the request of the Prime Minister and has allowed the “delegalisation” of the provisions which were submitted to it.
The Legislative Procedure

**Key Points**

The legislative procedure has three main phases: the tabling of a bill, its examination by Parliament and its promulgation by the President of the Republic (after a possible referral to the Constitutional Council for the examination of its conformity with the Constitution).

The overriding spirit behind it is the search for consensus between the two assemblies:

- The bill follows a to-and-fro movement between the National Assembly and the Senate, during which the only articles which remain in discussion are those which have not been passed in identical terms by the two assemblies: this is referred to as “the shuttle”;

- If the shuttle does not lead to the passing of a common text by the two assemblies or if it takes too much time, the Government can decide to resort to an arbitration procedure by convening a joint committee made up of seven M.P.’s and seven Senators. In the case of Members’ bills, the presidents of the two assemblies may also convene such a committee. These joint committees are entrusted with the task of drawing up a compromise bill which the Government can submit to the two assemblies.

If the arbitration procedure fails, the Government will generally use the possibility it has of giving the final say to the National Assembly.

The moment it is passed, the bill is transmitted to the General Secretariat of the Government which presents it to the President of the Republic for signature and promulgation. However the promulgation can be delayed if the bill is referred to the Constitutional Council for it to check its conformity to the Constitution (it can even be stopped, if the Constitutional Council declares it unconstitutional), or if, under exceptional circumstances, the President of the Republic requests a new deliberation.

*See also files 30, 31, 33, 34, 35, 36, 37, 42, 44 and 45*

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I. – THE TABLING OF THE BILL

The prerogative of initiating laws belongs to the Prime Minister and to M.P.’s and Senators. Bills initiated by the Prime Minister are called “projets de loi” or Government bills, whilst those initiated by parliamentarians are referred to as “propositions de loi” or Member’s bills.
Before being examined, each bill is tabled. This requires following a number of prior formalities:

– For Government bills, tabling is preceded by consultation of the Conseil d’État for its opinion. In this case the Conseil d’État acts as an adviser to the Government and not as an administrative court. This is followed by deliberation in the Council of Ministers;

– Members’ bills may be tabled by one or several M.P.s or one or several Senators, on the condition that their adoption does not have the consequence of either a diminution of public resources or the creation or increase of an item of public expenditure (article 40 of the Constitution): the Bureau of each assembly has the responsibility of checking the financial admissibility of Members’ bills. Since the constitutional revision of 2008, paragraph of article 39 of the Constitution enables the President of either assembly to submit a member’s bill to the Conseil d’État unless the author opposes this procedure.

Finance bills and social security financing bills must be first tabled in the National Assembly. On the contrary, bills which deal principally with the organization of territorial units are, first of all, introduced in the Senate (article 39, paragraph 2 of the Constitution). Outside of these cases, the examination of a bill can begin in either of the two assemblies.

Following its tabling, which requires official public notice, each bill is printed and sent for examination to a standing committee or an ad hoc committee.

The Government and Members’ bills are divided into two parts:

– The presentation of the case, in which the arguments of the bill’s author are put forward with the support of modifications and any new legislative provisions envisaged;

– The main body, drawn up in article form with each article clearly and successively numbered. This is the prescriptive section and will be the only part submitted for examination by the two assemblies. The object of each article is either to remove or modify a provision of a law already in force or to enact a new legislative provision.

Since the constitutional revision of July 23, 2008, Government bills must follow certain conditions concerning presentation which were laid down in an institutional act dating from April 15, 2009. When they are tabled, such bills must be accompanied by an impact study which sets out the desired objectives, presents the motives for the introduction of new legislation, describes the current state of the law in the relevant field, situates the bill in the context of European law, assesses the economic, financial, social and environmental consequences of the bill, as well as examining the application measures envisaged along with their consequences.
If the Conference of Presidents of the assembly before which the bill has been presented decides that, within a ten-day period dating from the tabling of the bill, the conditions concerning presentation have not been respected, then the bill cannot be included on the agenda. In the case of disagreement between the Conference of Presidents and the Government, the matter may be referred to the Constitutional Council by the Prime Minister or the president of the relevant assembly. The Constitutional Council makes a ruling within eight days.

II. – THE SHUTTLE

Each Government or Members’ bill is examined successively by the two assemblies of Parliament with the view to passing an identical text. A bill passed in identical terms by the two assemblies is definitive: it constitutes the letter of the law.

The procedure which leads to the definitive adoption of a bill consists of a to-and-fro movement between the two assemblies (hence the term “shuttle”). Each assembly is called upon to examine and possibly to modify the bill adopted by the other. At each stage only the articles over which there is divergence remain in discussion. The shuttle comes to an end when one of the two assemblies passes the bill without modification and with all its articles, as it has been previously passed by the other assembly. Each examination by an assembly is called a “reading”.

1. – EXAMINATION IN FIRST READING

Examination in first reading of a bill tabled before an assembly includes several stages: examination by a committee, inclusion on the agenda and finally, discussion in plenary sitting at the end of which the bill will be transmitted to the other assembly. This transmission of the bill to the other assembly initiates the shuttle.

The procedure which is described hereafter is that followed by the National Assembly. This procedure is mostly the same at the Senate although there are some differences, not always small ones, in the procedures of the two assemblies.

a) Examination in Committee

Once a bill has been tabled it is sent for examination to a committee. Except in the case of the setting-up of an ad-hoc committee, i.e. a committee specially created for the examination of a particular Government or Member’s bill, this examination is carried out by one of the eight standing committees of the National Assembly (seven in the Senate).

The referral of the bill to one or another of the standing committees is carried out by the President of the National Assembly according to their respective remits as they are laid down in the Rules of Procedure of the National Assembly. One or several other standing committees may refer the matter to themselves for consultation.
The committee to which the text is referred (called the lead committee) appoints from amongst its members a *rapporteur*, who is responsible for presenting, on its behalf, a report which will be printed, distributed and made available on-line. One of the main tasks of the *rapporteur* is to interview the representatives of the various organizations (trade unions, associations, etc) concerned by the bill of which he is in charge.

On the basis of the last paragraph of article 39 of the Constitution in the wording subsequent to Constitutional Law of July 23, 2008 and of article 4 bis of the Ordinance of November 17, 1958 concerning the functioning of the parliamentary assemblies, the President of an assembly may now submit a member’s bill to the *Conseil d’Etat* before its examination in committee unless the author disagrees.

The committee may carry out preliminary hearings before the consideration of the bill. The rules applying to this consideration, whether it be its organization or the admissibility of amendments, are similar to those concerning the plenary sitting. The Government has the automatic right to be represented during the proceedings of the committee. At the end of such proceedings the lead committee adopts a report which presents its conclusions. Since the constitutional revision of July 23, 2008, the discussion in plenary sitting is carried out, except in the cases of constitutional bills, finance bills and social security financing bills, on the text which has been adopted in committee and not on the text which was originally tabled or transmitted. Thus, the committee may:

- Propose a new text which includes the M.P.s’ or Government amendments which the committee has accepted;
- Adopt the text in its original version;
- Reject the text.

If the committee presents no text at all, the discussion in plenary sitting will be carried out on the original text.

**b) Inclusion on the Agenda**

In order to be discussed in plenary sitting, a Government or Member’s bill must be included on the agenda of the assembly.

Since the constitutional revision of July 23, 2008, the Constitution provides for a minimum time period of six weeks between the tabling of a bill and its consideration in plenary sitting (four weeks for bills transmitted by the other assembly). These limits are not applied to finance bills, to social security financing bills or to bills concerning states of crisis. They are not applied either if the Government decides to implement the accelerated procedure (in this case a minimum period of fifteen days is maintained only for Government or Members’ institutional bills) and the two Conferences of Presidents have not jointly opposed such a procedure.
Since the 2008 revision, the Constitution has introduced a sharing of the agenda which is set by each assembly:

- Two weeks out of four are given over to a priority agenda set by the Government. According to this priority, the Government decides upon the list of bills it wishes to see included on the agenda and determines the order in which they will be discussed, as well as the date of their consideration. So as to ensure a smooth planning of the business, the Government gives prior warning to the assemblies and in particular to their standing committees;

- One week out of four is given over in priority to monitoring Government action and to public policy assessment;

- One week out of four is given over to a legislative agenda set by each assembly;

- One day per month is devoted to an agenda reserved for opposition and minority group initiatives.

The various proposals for the agenda which are made concerning the two weeks reserved for the assembly to set its own business are gathered by the Conference of Presidents. The Conference of Presidents makes a summary of them and submits this document to the vote in the relevant assembly. According to the Constitution certain bills will always have priority. The Government can thus have finance bills and social security financing bills included on the agenda during the “assembly” or the monitoring weeks. It can also include bills transmitted by the other assembly more than six weeks previously and bills relating to states of crisis during the “assembly” weeks.

In addition, practice has shown that the respective areas of the monitoring and the “assembly” weeks are not totally reserved: the majority group may request the inclusion of Government bills and may even ask for the holding of a debate during the Assembly’s legislative week and in the other direction, the slots available during the monitoring weeks are sometimes used for a legislative agenda.

c) Examination in Plenary Sitting

The discussion in plenary sitting takes place in two phases: the general examination phase and the detailed examination phase. The Conference of Presidents may organize either the general examination phase or the entire discussion.

➢ The general examination phase

The general examination phase is essentially a presentation phase. The chair of the sitting, after having called the bill on the agenda, gives the floor to the Government which is usually represented by the minister concerned by the discussion and then to the rapporteur of the committee. For the discussion of members’ bills, the floor is, first of all given to the rapporteur.
During this phase of the examination, procedural motions may also be introduced (preliminary rejection motions, motions for referral to committee) whose adoption, which is very unusual, leads to the rejection of the bill (preliminary rejection motion) or the suspension of the debate (motion for referral) before the detailed examination of the bill has even begun.

The Conference of Presidents organizes the general discussion on a bill, setting an overall time limit for the discussion, divided then between the political groups according to their membership.

The M.P.s are enrolled for the general discussion by the chairman of their political group and the order of speaking is decided upon by the President of the National Assembly. An alternation between the political groups is respected.

- The detailed examination phase

The detailed examination phase consists of the discussion of the bill article by article.

- The examination of the articles

Amendments may be introduced by all the participants in the debate: the Government, the lead or the consultative committees and M.P.s acting in a personal capacity. For the smooth running of the debates, the amendments, with the exception of those presented by Government or the lead committee, must be tabled, unless the Conference of Presidents decides otherwise, at the latest, by 5pm on the third working day preceding the beginning of the consideration of the bill in plenary sitting (specific limits apply to the discussion of finance bills).

With the exception of Government amendments, all amendments must fall within, just as Members’ bills, the conditions of financial admissibility. They must also respect the provisions of article 41 of the Constitution, i.e. fall within the ambit of statute and not be contrary to a delegation of power given to the Government in accordance with article 38. Every amendment may be admissible on first reading provided that it has a link, even an indirect one, with the bill under consideration.

The chair of the sitting calls the articles in their numbered order, except in exceptional circumstances when some articles may be deferred or have priority. The discussion deals with each article and with all the amendments concerning it. The M.P.s may enrol, for two minutes, in the discussion of an article. When two speakers of differing opinions have expressed themselves, the closure of the debate may be decided upon by the chair of the sitting or be proposed by a member of the Assembly (the Assembly then decides after one speaker, at the most, has taken the floor against the closure).

After these speeches, the chair of the sitting calls the amendments. The floor is given to the author of the amendment for two minutes, then to the rapporteur of the lead committee and if the need arises, to the rapporteur of the consultative committee as well as to the minister, so that they may give their opinion, and
finally to a speaker against the amendment. The chairman of the sitting has the right to authorize a speaker to reply to the committee and another one to reply to the Government (in the case of identical opinions, a single speaker may be authorized to reply at the same time to the committee and to the Government).

The order of calling the amendments is of great importance in the running of the debate, if only because the adoption of one solution automatically entails the elimination of other counter solutions. The basic principles of the discussion of amendments lead to the notion of moving from the general to the specific: the suppression of an article is called before the suppression of a paragraph, the suppression of a paragraph is called before that of a sentence included in that paragraph etc. When several amendments deal with the same part of a text, they are called according to how far they differ from the original text. The amendments are discussed and then voted upon one by one following the order ensuing from these principles.

- **Votes**

After the discussion of the last amendment presented on an article, the assembly votes on this article, which may have been modified, and the discussion of the bill continues in the same way, article by article, until the final one.

At the end of the examination of the articles, a second deliberation on all or part of the bill may be held. This second deliberation is held of right upon the request of the Government or the committee. The chairman of the sitting then puts the whole of the bill, which may be modified by the amendments previously adopted, to a vote. This final vote may be preceded by an explanation of vote, which is granted to one speaker per group for five minutes.

Votes are normally held by show of hands. In the case of doubt concerning a result by show of hands, the chairman of the sitting requires a sitting or standing vote. In either case there is no detail given in the official report of the debate on the way the MPs present have voted. This is not the case for public ballots, which can be requested by the Government, the chairman or the rapporteur of the committee, the chairmen of political groups or their representatives as well as by the chair of the sitting. For certain important bills, the Conference of Presidents itself decides on a public ballot, setting its date at a time when all M.P.s might be present (in general on Tuesdays after Government question time). This type of ballot is called a “solemn vote”.

- **“Set Time Limit for Debate”**

Since the reform of the Rules of Procedure of the National Assembly of May 27, 2009, the Conference of Presidents may also decide, under certain conditions, on the application of a “set time limit for debate” on bills. This possibility was introduced by the Institutional Law of April 15, 2009 on the basis of article 44 of the Constitution in its wording subsequent to the constitutional revision of July 23, 2008.
This involves the setting of a maximum time limit for the consideration of a whole bill with 60% of the time allotted to the opposition groups. This allocation is then divided up between the opposition groups proportionally according to their size. The rest of the time is divided up in the same way between the groups belonging to the ruling majority. Non-aligned members have a specific speaking time.

All speeches made by M.P.s are counted in the time allotted to their group with the exception of those of the chairs of groups (who each, individually have additional time), of the rapporteurs of the lead and consultative committees and of the chairman of the lead committee.

The chairs of groups may automatically request (and obtain) that a minimum time limit be given over to a bill considered according to this procedure and once per session they may obtain an extraordinary extension of this time limit within a maximum time period. These minimum and maximum time limits have been respectively set at thirty and fifty hours by the Conference of Presidents which, at any moment, may increase the limit planned for the consideration of a bill if it considers that such a limit is insufficient.

When the “set time limit for debate” procedure is applied, the length of the general discussion is not limited and depends upon the length of time which the different groups wish to devote to it. The speaking time on each article, just as that for the defence of each amendment, is not limited either. However, when a group has used up all its allotted time, its members will no longer be allowed leave to speak and its amendments are put to a vote without debate.

Additional time is allowed to each group and to non-aligned members, upon the request of a group chairman, when the Government or a lead committee table an amendment after the expiry of the limits applicable to M.P.s. This additional time may only be used concerning the article or additional article to which the late amendment refers.

When the “set time limit for debate” procedure is applied, all the M.P.s who so wish, have five minutes at the end of the examination of the articles, to give a personal explanation of their vote and this time is not deducted from the overall time of their group.

If the chair of a group is opposed to it, the “set time limit for debate” procedure cannot be applied when the discussion of a bill on first reading occurs less than six weeks after its tabling or four weeks after its transmission.

2. – TRANSMISSION AND SUCCESSIVE READINGS

The bill, once adopted by the first assembly to which it was referred, is transmitted without delay to the other assembly which, in turn, examines it, on first reading, according to the same method: examination in committee, inclusion on the agenda, discussion in plenary sitting.
If the second assembly adopts all the articles of the bill without modification, then the bill is passed definitively.

If this is not the case, then the shuttle between the two assemblies carries on. As of the second reading, the articles which have been previously adopted in identical terms by the two assemblies are no longer voted upon: the shuttle no longer deals with such articles now referred to as “in conformity”. The only articles which remain in discussion are those upon which the two assemblies have not reached agreement on a common text. After the first reading, the rule of the “entonnoir”, (“funnel”) is applied: amendments must have a direct link with a provision which is still under consideration and the only exceptions concern amendments dealing with the respect of the Constitution, those which are coordinated with bills being considered and those which correct a material mistake. The shuttle continues for a second, third, fourth reading or even more as long as all the articles have not been adopted in the same terms.

Nonetheless, the 1958 Constitution introduced an arbitration procedure which allows the Government to speed up the definitive vote on a bill by interrupting the normal course of the shuttle.

### III. – RECOURSE TO THE ARBITRATION PROCEDURE: THE JOINT COMMITTEE

This arbitration procedure, after two readings of a bill in the two assemblies (or a single reading if the Government has announced in advance the implementation of the accelerated procedure), consists in convening a meeting of a committee with seven M.P.s and seven Senators (plus an equal number of substitutes) from which we get the name ‘joint committee’ (CMP).

The political make-up of these CMPs must reflect the composition of the assemblies. Thus, during the XIVth term of Parliament, four of the appointed members of these committees belong to the ruling majority groups whilst the other three belong to the opposition groups. In the Senate, the membership of the CMPs is not fixed but always reflects a balance of four Senators from the majority party in the Senate and three from the opposition. This applies both to the appointed members and to their substitutes.

This committee appoints its Bureau. The chairman of the joint committee is traditionally the chairman of the lead committee of the assembly where the joint committee meetings are held. The deputy-chairman is traditionally the chairman of the lead committee in the other assembly. The Bureau is also made up of two rapporteurs, one M.P. and one Senator, who are in charge of making a report on the committee’s work to their respective assemblies. Generally speaking, these positions are held by the rapporteurs of the two lead committees.
During this meeting, the members of the joint committee attempt to find a compromise text for all the articles which are still in discussion. They can decide to maintain the version previously adopted by one or the other of the two assemblies or to draw up, for certain articles, a new.

There are no rules set down concerning the running of the debates in joint committee (the articles may or may not be called in their numerical order).

Votes are rare (if there has to be a vote on a provision, consensus, by definition, has not been reached) and are usually by show of hands. Substitutes vote only to maintain parity between the two Chambers.

The work of this joint committee is set down in a report. If the members of the committee draw up and pass a compromise text, then, this text is reproduced in the report. If this is not the case, then the report sets down the reasons why arbitration was not successful.

At this stage there are various avenues which can be followed in the procedure of the adoption of the bill, each with different consequences.

1. – THE JOINT COMMITTEE REACHES AGREEMENT ON A COMPROMISE TEXT

The Government may submit this bill for the approval of the first assembly, then the other. It may, in particular if the compromise text does not suit it, not require the two assemblies to make a decision on the bill. In this case, the shuttle begins again at the stage where it was interrupted and must continue until the bill is passed in identical terms by the two assemblies.

The discussion in plenary sitting on the conclusions of the joint committee report begins with a presentation by the rapporteur of the joint committee, followed by Government speeches, if necessary by a defence of the preliminary rejection motion and then by speakers enrolled in the general discussion. The discussion of the articles only deals with the discussion and vote on the amendments. During this reading, only Government amendments or those accepted by the Government can be tabled. The National Assembly then votes on the entire bill in the version drawn up by the joint committee which has possibly been modified by the amendments.

If each assembly passes the entire Government or members’ bill in the version drawn up by the joint committee which has possibly been modified by the same amendments, then the arbitration procedure is a success and the bill is definitive.

2. – THE FAILURE OF THE ARBITRATION PROCEDURE: THE NATIONAL ASSEMBLY HAS THE FINAL SAY

If the compromise text is rejected by one or the other of the assemblies or if the amendments to the joint committee text are adopted by one assembly but not by the other, then the arbitration procedure has failed.
A failure can also come about if the joint committee does not reach a compromise text. In these different cases, the Government has the possibility of granting the final say to the National Assembly.

This procedure has three stages which take place in the following order: a new reading by the National Assembly, a new reading by the Senate and the definitive reading by the National Assembly.

During the new reading, the National Assembly deliberates on the final bill adopted before the beginning of the arbitration procedure. This means that in the case of a bill tabled on first reading in the Senate, the National Assembly re-examines the bill which it passed in the end. This bill is examined in committee and is discussed following the normal procedure. The bill passed by the National Assembly is transmitted to the Senate which also examines it following the normal procedure. If the Senate adopts it without modification, then the bill is definitively passed. If not, it is transmitted to the National Assembly for a definitive reading.

During the definitive reading, the National Assembly deliberates within very strict limits. It makes its decision upon a proposal of the committee, either on the bill drawn up by the joint committee, if there has been one, or on the bill which it adopted itself during the new reading. In this particular case, it may only adopt amendments which were adopted by the Senate during its new reading.

IV. – SPECIFIC ADOPTION PROCEDURES

1. – THE SIMPLIFIED EXAMINATION PROCEDURE

The National Assembly has only a limited time for its plenary sittings. However Parliament is often called upon to deal with bills which certainly require the attention of the legislator, but which often are of a more technical than political nature.

It is largely for the consideration of such bills that the National Assembly possesses a simplified examination procedure. When this procedure is implemented there is no general discussion. Only articles on which amendments are tabled are put to the vote. There are no speeches on articles and for each amendment the only speakers permitted to take the floor, in addition to the Government, are one of the authors, the chairman or the rapporteur of the lead committee and one speaker against. When there are no amendments, the entire bill is immediately put to the vote.

The implementation rules of this procedure guarantee the M.P.s’ right to speak and in particular that of the members of the opposition. In fact, although the procedure may be introduced by the Conference of Presidents upon the request of the President of the National Assembly, of the Government, of the chairman of the lead committee or of the chairman of a political group, a right to oppose the procedure is, at the same time, available to the same authorities (with the exception of the President of the National Assembly) right up until the eve of the discussion at 1p.m.
If such a right is used, then the bill is examined according to the ordinary law procedure. Another guarantee is provided by the provision which states that the tabling by the Government of an amendment after the time limit for opposing the procedure has run out, automatically leads to the withdrawal of the bill from the agenda of the National Assembly. The bill may then be included on the agenda for the following sitting and will follow the ordinary law procedure.

This simplified examination procedure is in practice usually applied to bills authorizing the ratification of a treaty or the acceptance of an international agreement. It is always preceded by the consideration of the bill in committee.

2. – THE “FORCED VOTE”

The forced vote, which is a procedure provided for in article 44, paragraph 3 of the Constitution, enables the Government to request one or the other assembly to make a decision in a sole vote on all or part of a text being discussed, keeping only the amendments proposed or accepted by it.

Government has broad leeway in the implementation of this procedure. It is free to choose the moment to announce its intention to use it. It also has the prerogative of defining the text to which the forced vote will apply: a part of the bill being discussed (one article or a group of articles) or the whole bill. It also decides upon the amendments which will be maintained.

The implementation of this procedure has the effect of eliminating a vote on the amendments and the articles which are subject to the forced vote. It does not enable the blocking of the discussion of all the articles and their corresponding amendments, including those not maintained by the Government.

3. – THE GOVERNMENT MAKES THE PASSING OF A BILL AN ISSUE OF CONFIDENCE

The Constitution (article 49, paragraph 3) allows the Prime Minister, after consultation in the Council of Ministers, to make the passing of a finance bill, a social security financing bill or once per session one other Government or Member’s bill per session, an issue of confidence in the Government before the National Assembly. This procedure cannot be implemented before the Senate, as the Government is not directly accountable to that assembly.

As in the case of the forced vote, the Government is free to choose the moment when it makes the passing of a bill an issue of confidence and is free to choose the content of the bill on which it does so.

However, unlike for the forced vote, this procedure brings about the immediate suspension of the discussion of the bill in question.

From the moment that the procedure is introduced, a period of 24 hours begins during which M.P.s may table a censure motion.
A motion of censure is only admissible if it is signed by at least one tenth of the members of the National Assembly. If a motion of censure is tabled, its tabling is formally recorded. This motion is then discussed and voted upon in the time limits and under the conditions set by the Constitution and the Rules of Procedure of the National Assembly (the vote cannot be held within 48 hours of the tabling of the motion and the discussion must take place at the latest on the third day of sitting after this time limit expires). The motion is only carried if it obtains a majority of the votes of the members making up the National Assembly. Only M.P.s in favour of the motion actually take part in the vote.

If no censure motion is tabled in the 24-hour limit or if the motion is not carried, the bill on which the Government has called for confidence is considered passed. Such a procedure only applies to the reading during which it is implemented and thus has no effect on the process of the shuttle.

If the censure motion is carried, the Prime Minister must tender the resignation of his Government and, in addition, the bill on which confidence was called, is considered rejected. Such a situation has not occurred in the lifetime of the Fifth Republic.

V. – PROMULGATION OF THE LAW

1. – PROMULGATION

The definitive passing of a Government or Member’s bill in principle brings the parliamentary phase of the legislative procedure to a close and usually leads to the promulgation of the law.

The definitive bill is transmitted to the General Secretariat of the Government which is, in particular, in charge of presenting it for signature to the President of the Republic. The President of the Republic has the power to promulgate laws (i.e. to give them their binding power). The President of the Republic has fifteen days to promulgate the law. The law is then published in the Journal officiel of the French Republic.

However, the promulgation of a law may be delayed or stopped in two cases: the monitoring of the constitutionality of the law and a new deliberation on the law.

2. – THE EFFECTS OF THE MONITORING OF CONSTITUTIONALITY

The Constitutional Council is, among other powers, responsible for the monitoring of the conformity to the Constitution of the laws passed by Parliament.

a) Referral to the Constitutional Council

This monitoring takes place automatically in the case of institutional laws, i.e. laws so defined by the Constitution and which deal with the implementation of constitutional provisions.
For the other, so-called ordinary laws, this monitoring only takes place upon the request of certain authorities: the President of the Republic, the Prime Minister, the President of the Senate, the President of the National Assembly and, since the constitutional revision of 1974, sixty M.P.s or sixty Senators.

The referral must take place during the time limit for promulgation and it suspends this time limit. Upon referral, the Constitutional Council has one month to pass its decision or eight days in urgent cases if the Government so requests. Its decisions are binding on all and there is no recourse to appeal.

b) The effects of decisions of the Constitutional Council

When the Constitutional Council declares a law in conformity to the Constitution, the law may then be promulgated.

On the contrary, a decision which declares an entire law contrary to the Constitution blocks its promulgation. The legislative procedure which has led to the passing of such a law is annulled and the only solution is to return to the beginning, unless the reason for non-conformity constitutes a decisive obstacle which would require, for example, a prior amendment to the Constitution itself.

The Constitutional Council may also decide that a law is partly in conformity to the Constitution. In such a case, the law may be promulgated with the exception of the articles, or parts of articles which are contrary to the Constitution.

3. – The new deliberation requested by the President of the Republic

Within a fifteen-day time limit of the passing of the law by Parliament, the President of the Republic may also request a new deliberation of the law, in particular to find a solution to a declaration of unconstitutionality.

This procedure, which has only been used three times since 1958, is introduced by a decree of the President of the Republic countersigned by the Prime Minister. The time limit for promulgation is suspended. An additional phase of the legislative procedure is then opened as Parliament will be requested to begin again, for the entire bill or part of it, the examination of the bill it has just passed. This additional phase follows the rules of the ordinary legislative procedure previously described (tabling of the bill, shuttle and, if need be, arbitration procedure and finally definitive passing).

VI. – A specific procedure: ordinances

According to article 38 of the Constitution, “in order to implement its programme, the Government may ask Parliament for authorization, for a limited period, to take measures by ordinance that are normally the preserve of statute law”.

Several conditions are necessary for this to apply:

- An enabling law must be first passed by Parliament according to the aforementioned legislative procedure. This enabling law may result from an article of a Government bill but on no account may it result from a Member’s bill or from an amendment of parliamentary initiative;

- This enabling law must detail the legislative matters which could be the subject of ordinances;

- It must also set the time limit during which the Government may apply such ordinances;

- It must, in addition, detail the time limit provided to Government for the tabling before Parliament of its ratification bill.

Ordinances are discussed in the Council of Ministers but must be the subject of an opinion given by the Conseil d’État and must be countersigned by the Prime Minister and the relevant ministers as well as that of the President of the Republic.

If the Government provides no ratification bill upon the expiry of the set time limit, the ordinances become null and void.

When the Government has tabled a ratification bill, Parliament may ratify the ordinances and provide them with a legislative value or may not be called upon to debate them. In the latter case, the ordinances remain instruments of the regulatory authority. Since the revision of July 23, 2008, the Constitution states that ordinances may only be ratified in explicit terms and thus this excludes “implicit ratification” of ordinances which was a practice previously tolerated by the Constitutional Council.
Government’s Right to Initiate Legislation

Key Points

“Projets de loi” or Government bills go through, before their tabling in Parliament, an arbitration phase within the Government, obligatory consultation of the Conseil d’État and adoption in the Council of Ministers.

In certain cases, the opinion of other institutions may be required beforehand (the Economic, Social and Environmental Council in particular).

See also files 2, 3, 7 and 10

Although the right to initiate legislation is legally held by both parliamentarians and the Prime Minister, the vast majority of the laws passed in France are traditionally initiated by Government. Even when the laws authorizing the ratification or acceptance of international commitments are excluded, the percentage of laws whose origin was in a Government bill hovered around the 80% mark up to and including the XIIth term of Parliament.

This fact, which is a reflection of the primacy of the executive in the institutions of the Fifth Republic, is not limited to France.

The introduction, through the constitutional reform of July 23, 2008, of a shared agenda which facilitates the passing of a greater number of Member’s bills has certainly contributed to modifying this situation. The share of Members’ bills in the texts which were definitively passed, outside of conventions, has continued to increase overall passing from more than 30% during the XIIIth term of Parliament to more than 40% during the XIVth term of Parliament.

I. – THE DRAWING-UP OF A DRAFT BILL

1. – THE ARBITRATION PHASE

To begin with, the departments and the staff of the relevant minister draw up a draft bill which must meet with the approval of all the ministers concerned.
In order to do this, inter-ministerial meetings are held. These are chaired by a member of the Prime Minister’s staff and are attended by representatives of the ministers concerned. In the case of a disagreement, the Prime Minister makes a ruling. The secretariat of these meetings (from the invitations to attend to the distribution of the minutes) is carried out by the General Secretariat of the Government. More than one thousand such meetings take place every year.

2. – THE CONSULTATION PHASE

The Government may request the opinion of the Economic, Social and Environmental Council on a bill.

In addition, the advice of various institutions is required for certain specific bills by the Constitution or by the law. Some examples are:

– The opinion of the Economic, Social and Environmental Council on draft programming bills of an economic, social or environmental nature;

– The opinion of the territorial assemblies of overseas units with a special status, on bills concerning them;

– The opinion of the Committee on Local Finances on bills dealing with the resources of territorial units.

All such official consultations are reported in the impact study which accompanies the bill.

3. – IMPACT STUDIES

In accordance with article 39 of the Constitution, after the constitutional reform of July 23, 2008, every draft bill is presented before the Conseil d’État for its opinion. An institutional act shall determine the conditions in which Government bills are tabled before the parliamentary assemblies.

In addition, the Institutional Act of April 15, 2009, states that Government bills, upon their transmission to the Conseil d’État, shall be preceded by a presentation explaining their objectives and accompanied by an impact study. This impact study lays down in detail how the bill fits into European law and it sets down the mechanisms envisaged for its application, its economic, financial, social and environmental consequences, as well as its effect on public employment. It also explains the conditions which will apply to its implementation in the overseas territorial units.

Although the aforementioned procedure of preliminary assessment is the rule, the institutional law does make provision for bills of a very specific type. Certain bills, (constitutional bills, finance bills, social security financing bills, programming bills, bills concerning a state of crisis) are not subject to the rule concerning the presentation of a preliminary assessment. In fact, in the case of Government bills authorizing the ratification of a treaty as well as bills enabling the Government to enact ordinances, adapted assessments must be provided.
Article 39 of the Constitution provides the Conferences of Presidents of the assemblies with the possibility of opposing the inclusion on the agenda of a bill which does not comply with the conditions determined by the institutional law.\(^1\)

In the case of a disagreement between the Conference of Presidents of the relevant assembly and the Government, the Constitutional Council must make a decision.

4. — **EXAMINATION OF THE BILL BY THE CONSEIL D'ÉTAT**

a) **The procedure**

The **Conseil d'État** is both the highest administrative court and the legal adviser to the Government. It is in this second role that it is automatically consulted by the Government on bills in accordance with article 39 of the Constitution.

The bill is transmitted to it by the General Secretariat of the Government. The **Conseil d'État** passes it on to one of its five administrative sections (Interior section, Finance Section, Public Works Section, Social Section and Administration Section) whose President appoints one or several **rapporteurs**.

Using the Government draft bill as a basis, the **rapporteur** draws up his own bill. It is this bill which is debated by the relevant section.

The **rapporteur**'s bill is examined by the section in the presence of Government commissioners who are the representatives of the administration. The bill is first examined in its entirety and then article by article. The bill which emerges from this examination is, in turn, submitted to the general assembly of the **Conseil d'État** following the same procedure. It is then the task of the section **rapporteur** to defend the bill which emerged from the section stage, before the assembly.

This examination leads to the adoption by the general assembly of a definitive bill which represents the ‘opinion’ the **Conseil d'État** gives to the Government. The general assembly may also reject the bill. This opinion, which is not binding on the Government, is reserved for its use only. Nonetheless, since March 2015, the opinions of the **Conseil d'État** are made public subsequent to the Council of Ministers which has debated them and are attached to the bill which is tabled in one of the two assemblies, so as to enlighten the parliamentary debates and better inform citizens.

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1. The Conference of Presidents has already been convened to ensure that an impact study associated to a Government bill is in conformity with the rules laid down by the institutional law. This was the case on April 27 and August 31, 2010 and September 30, 2013, respectively on the bill concerning immigration, on that dealing with retirement pension reform and on that guaranteeing the future and the fairness of the retirement scheme.
For the opinion of the Conseil d’État to enlighten the Government, it is necessary that all the questions posed by the bill which is in the end submitted to the Council of Ministers, be, first of all, examined by the Conseil d’État. If the Government introduces new provisions between the examination by the Conseil d’État and that by the Council of Ministers, without the prior consultation of the the Conseil d’État these provisions, once they have been passed by Parliament, will risk censure by the Constitutional Council for non-compliance with the consultation procedure provided for in article 39 of the Constitution (Constitutional Council, decision n° 2003-468 DC of April 3, 2003).

An emergency procedure may be implemented. In this case, the standing committee of the Conseil d’État examines the bill which has been submitted by the rapporteur without any prior examination in section. The use of this procedure is rarer.

b) The field of contribution

The examination of the bill by the Conseil d’État, deals with both content and form.

As regards the form, the Conseil d’État checks the structure of the bill, its compatibility with existing law and the respect of the rules of procedure.

As regards the content, the Conseil d’État examines the foreseeable effects of the bill in comparison with its aims.

Examination of the bill by the Conseil d’État limits the risk of a partial or complete annulment by the Constitutional Council if the bill is referred to it after the vote by Parliament. The Conseil d’État in fact examines the compatibility of the bill with the Constitution. It also checks that the bill meets the international conventions to which France is party as well as European Union law.

The Government is not bound by this opinion, but ignoring it has real risks.

II. – THE ADOPTION OF THE BILL BY THE COUNCIL OF MINISTERS AND ITS TABLING BEFORE ONE OF THE ASSEMBLIES

The draft bill which emerges from the Conseil d’État is examined by the Council of Ministers and then becomes a bill in the strict meaning of the term. Generally, the bill is no longer modified at this stage.

The bill is then tabled before one of the two assemblies, i.e. transmitted by the General Secretariat of the Government to the Table Office of the assembly concerned. In concrete terms, since 2008, this transmission is carried out electronically and the bill is sent using a communications module (Solex) which is shared by the two assemblies and the Secretariat General of the Government.
The choice of the assembly where the bill is tabled is free (except for finance bills and social security financing bills which must, first of all, be examined by the National Assembly and for bills whose main aim is the organization of the territorial units which go for consideration, in the first place, to the Senate).

The bill is made up of three elements:

– The presentation of the case which explains the reason for the bill and its aims. This may contain a short explanation of each article;

– The “main body” which is the part of the bill put to a vote before the assemblies. In the case of framework laws and programme laws, it is supplemented by explanatory annexes;

– The impact study.

The bill is accompanied by a presentation decree to Parliament which states the bodies which have deliberated on it, determines the assembly before which the bill will be first tabled and appoints the members of Government who will support the bill before the two assemblies. This decree is signed by the Prime Minister and countersigned by the ministers so appointed. At this stage the Government can no longer modify the bill except by a “corrective letter”. This customary procedure which is not provided for in any law, takes the form of a letter from the Prime Minister, directly correcting the content of a bill which has been previously tabled. This “corrective letter” is transmitted, like the bill, to the Conseil d’État. It leads to the reworking of the bill which will serve as the basis for parliamentary discussion.

III. – THE RIGHT OF AMENDMENT

According to article 44 of the Constitution, the Government, as well as parliamentarians, has the right of amendment. This was an innovation introduced by the 1958 Constitution and is a corollary of the incompatibility of office of a member of Government and a parliamentarian.

The Government, like the lead committee, is exonerated from the tabling time limits which apply to the amendments made by members of the assemblies. However, in the case of tabling outside of the said time limits, such limits cannot be applied to amendments to articles on which the Government or the lead committee has brought at least one amendment or to those which are liable to be jointly discussed with amendments introducing additional articles tabled by the same authors. Such time limits do not apply however to the tabling of sub-amendments.

In addition, contrary to the right of amendment of a parliamentarian, the right of amendment held by Government is not submitted to article 40 of the Constitution which only deals with parliamentary initiatives. However, the Government must respect the other conditions concerning the use of the right of amendment set down by the Institutional Act of April 15, 2009. These include a written presentation and a summary of the objectives.
Similarly, the President of one of the two assemblies could object to a Government bill on the grounds of article 41 of the Constitution. This provision aims at excluding from debate all subjects which are not matters for statute. In the case of a disagreement between the President of the relevant assembly and the Government, the Constitutional Council makes a decision.
Parliament’s Right to Initiate Legislation

Key Points

In legislative matters the right to initiate legislation may take two forms: the tabling of a complete bill (a Government bill, initiated, as its name suggests, by Government or a Member’s bill, initiated by a parliamentarian) or the tabling of an amendment, i.e. a proposal for the modification of a provision in either of the aforementioned types of bill.

These two types of right to initiate legislation are shared by the Government and the members of the two assemblies. Nonetheless Parliament’s right to initiate legislation is subject to certain restrictions laid down by the Constitution.

The balance between Government and parliamentary initiative as regards the tabling of bills is weighted clearly against the latter. However the implementation of a shared agenda has slightly modified this situation as the proportion of bills with a parliamentary origin amongst the overall number of bills passed continued to increase since the XIIIth term of Parliament.

See also files 30, 31, 32, 33, 37 and 38

I. – THE EXERCISE OF PARLIAMENT’S RIGHT TO INITIATE LEGISLATION

1. – CONCURRENT EXERCISE

According to article 39, paragraph 1 of the Constitution, “both the Prime Minister and Members of Parliament have the right to initiate legislation”. The Constitution lays down the principle of equality between the right of the Government and the right of Parliament to initiate legislation, even if other constitutional provisions set down restrictions which apply to bills that are initiated by Parliament.

The only exceptions to this equality of the right to initiate legislation are those bills for which the Government possesses, de jure or de facto, a monopoly on tabling. This is, first of all, the case for finances bills and social security financing bills in accordance, respectively with articles 47 and 47-1 of the Constitution. It is also the case for programming laws as well as, following institutional logic, for laws enabling the Government to take ordinances for matters in the legislative field, and for laws authorizing the ratification or the acceptance of international treaties or agreements mentioned in article 53 of the Constitution. Parliamentarians have the possibility of tabling amendments on all these texts within, for the last two categories, certain conditions.
The corollary of the right to initiate legislation, i.e. the right to withdraw legislation, is also open to the Government and to M.P.s. The methods of the application of this right are set down by article 84 of the Rules of Procedure of the National Assembly. The author, or if there are several, the first signatory of a Members’ bill, may withdraw it at any moment, but only up to its adoption on first reading.

2. – THE METHODS OF APPLICATION OF PARLIAMENT’S PRINCIPLE RIGHT TO INITIATE LEGISLATION

a) The form of a Members’ Bill

A Member’s bill has two main parts. The “presentation of the case” puts forward the arguments of the author to support the legislative modification or the new provisions which he proposes. The actual prescriptive part, referred to as the “main body” must be drafted in the form of articles.

As for the content of a Member’s bill, it must correspond to the “legislative field”, i.e. to the area of legal matters which require being covered by a law. Article 34 of the Constitution lists the matters which fall within this field but several other constitutional articles make provision for coverage by the law (in particular those which refer to institutional acts) or imply it (by setting down principles of a constitutional value whose implementation depends on the legislator).

b) The conditions for the application of Parliament’s right to initiate legislation

Although the financial admissibility of a Member’s bill is checked when it is tabled, such bills are not, in principle, submitted to the Conseil d’État, as is the case for Government bills.

The constitutional revision of July 23, 2008, nonetheless states that “the President of either House may submit a Private Member’s Bill tabled by a Member of the said House, before it is considered in committee, to the Conseil d’État for its opinion, unless the Member who tabled it disagrees”, (article 39 of the Constitution). Seven such opinions were handed down during the XIIIth term of Parliament and six during the XIVth term of Parliament.

In addition, Parliament’s right to initiate legislation belongs individually to each member of Parliament. It is a prerogative which is normally carried out individually, in their respective assembly, by each M.P. and by each Senator. However, nothing prevents several M.P.s, several Senators or even the members of one or several political groups from coming together to table a single Members’ bill. In practice, the same legislative question is often dealt with, in more or less different terms, by several distinct Members’ bills.
c) The specific case of draft resolutions

Resolutions are non-legislative instruments passed by a single parliamentary assembly. Seven different types of draft resolutions can be listed:

– Resolutions dealing with modifications in the Rules of Procedure;
– Resolutions dealing with the setting-up of a commission of inquiry;
– Resolutions dealing with the suspension of proceedings against or the suspension of detention of a member of Parliament in accordance with article 26 of the Constitution;
– Resolutions dealing with the indictment of the President of the Republic before the High Court of Justice in accordance with articles 67 and 68 of the Constitution (these are the only draft resolutions which must be passed in identical terms by the two assemblies);
– European resolutions dealing with drafts of or proposals for acts of the European Communities and of the European Union submitted in accordance with article 88-4 of the Constitution as well as with any document issuing from a European Union Institution;
– European resolutions tabled in accordance with article 88-6 of the Constitution aimed at ensuring the respect by European institutions of the principle of subsidiarity;
– Resolutions tabled in accordance with article 34-1 of the Constitution which propose that the Assembly provides an opinion on a specific question. This new procedure was introduced by the constitutional revision of July 23, 2008.

The procedure for the passing of draft resolutions is identical within each of the two assemblies, to that applied to Members' bills, with the exception of draft European resolutions for which examination in plenary sitting is not systematic. A specific procedure is also applied to draft resolutions tabled in accordance with article 34-1 of the Constitution: the Government may, in particular, declare them inadmissible if it considers that their adoption or rejection would entail an issue of confidence or that they contain an injunction to it. In addition, they may not be sent to a committee and may not be amended.

d) Parliament's and Government's right to initiate legislation: what is the balance?

The legislative procedure is more often initiated by Government than by Parliament, even though the latter has begun to do so more frequently since the introduction, in October 1995, of monthly sittings given over to a priority agenda set by the National Assembly and, especially as of 2009, of an agenda shared between each assembly and the Executive.

Traditionally, 80% of the laws passed, outside of international conventions, had their origin in a Government bill, thus reflecting the weight of the Executive in the legislative process.
With the introduction of a shared agenda, after the constitutional reform of July 23, 2008, the share of Members’ bills in the texts which were definitively passed, outside of conventions, continued to increase overall: from 30% during the XIIIth term of Parliament to more than 40% during the XIVth.

In addition, even if the majority of laws remain Government sponsored, their very wording is subject to modification, which can be large or small, through parliamentary initiative: the right to make amendments re-establishes a certain balance to which statistical analysis does not entirely do justice. Moreover, since March 2009 the discussion of Government bills in plenary sitting deals, with the text which is passed in committee, except for constitutional reform bills, finance bills and social security financing bills. This had already been the case since 1958 for Members’ bills and it certainly increases the influence of parliamentary initiative on the content of the legislation passed by Parliament.

3. – The Right of Amendment or the Derived Parliamentary Right to Initiate Legislation

The right of amendment, i.e. the right to present modifications to the provisions of Government and Members' bills, is also recognized equally for parliamentarians and for Government. Article 44, paragraph 1 of the Constitution states, in fact, that “members of Parliament and the Government shall have the right of amendment”.

The right of amendment includes not only the possibility of proposing the suppression, complete or partial, or the modification, general or specific, of articles of a Government or Member’s bill, but also that of adding new provisions to the bill in the form of amendments introducing additional articles.

The Constitution, the Institutional Act of April 15, 2009 concerning the application of articles 34-1, 39 and 44 of the Constitution and the Rules of Procedure of the National Assembly set down the conditions in which the right to amendment may be used:

- Amendments must be presented in writing and accompanied by a brief explanation of their grounds. They may only deal with one article;
- They are subject to a time limit for tabling (generally speaking they must be presented to the Table Office at the latest, by 5pm, on the third working day before the consideration of the bill);
- They may be subject to prior assessment by the Committee for the Assessment and Monitoring of Public Policies upon the author’s request and with the agreement of the lead committee;
- They are admissible, on first reading, if they have a link, even an indirect one, with the bill being discussed. The existence of such a link shall be judged by the President;
After the first reading, the rule of the “funnel” shall be applied: amendments must have a direct connection with a provision which is still being considered. The only exceptions to this rule are for amendments aiming at ensuring the respect of the Constitution, at implementing coordination with bills being discussed or at correcting a mistake.

II. – RESTRICTIONS OF A GENERAL NATURE ON PARLIAMENT’S RIGHT TO INITIATE LEGISLATION

The bills and amendments put forward by members of Parliament are submitted to two restrictions of a general nature: financial inadmissibility (article 40 of the Constitution) and legislative inadmissibility (article 41 of the Constitution). The conditions of the application of these provisions during the legislative process have important differences.

1. – FINANCIAL INADMISSIBILITY

In accordance with article 40 of the Constitution, legislation initiated by Parliament “are not admissible where their adoption would have as a consequence either a diminution of public resources or the creation or increase of an item of public expenditure”.

In addition, the final paragraph of article 47 of the Institutional Law of August 1, 2001 (LOLF), which applies to all amendments whatever the bill they are made to, renders inadmissible the amendments which are not in conformity to the institutional rules concerning the finance acts, and in particular the exclusive power of the finance acts to govern certain matters.

Similarly, article L.O. 111-7-1 of the Social Security Code makes provision for the inadmissibility of amendments that are contrary to the institutional provisions concerning the social security financing acts.

Initiatives tabled by M.P.s are submitted, at the time of their tabling, to an automatic monitoring of their financial inadmissibility, which is carried out by various bodies of the National Assembly.

The Members' bills are transmitted, in accordance with article 89 of the Rules of Procedure, to a sub-committee of the Bureau of the assembly. This sub-committee carries out the monitoring of their admissibility.

It is necessary to distinguish, as far as amendments are concerned, between those tabled in committee and those in plenary sitting.

In the former case, it is the task of the chairman of the committee and, in case of doubt, the committee’s bureau, to decide on the admissibility of an amendment as regards article 40 of the Constitution. This may be done, if necessary, after consultation with the Chairman or the General Rapporteur of the Finance Committee. The amendments which are declared inadmissible are not considered by the committee.
The Government or an M.P. may, at any time, invoke article 40 of the Constitution concerning a modification brought by a committee to the text of a Government or Member’s bill, i.e. concerning an amendment adopted by a committee and introduced into a bill which will serve as the basis for the consideration in plenary sitting. Inadmissibility will be judged by the Chairman or the General Rapporteur of the Finance Committee.

In the case of tabled amendments concerning consideration in plenary sitting, it is the President of the National Assembly who is responsible for deciding on their financial admissibility. However, it is common practice for the President to almost always follow the advice of the Chairman of the Finance Committee or, failing that, of the General Rapporteur or of a member of the bureau of the Finance Committee appointed for that reason (article 89, paragraph 3 of the Rules of Procedure makes provision for this consultation “in the case of doubt”). All disputed amendments are thus sent, upon being recorded, to the Chairman of the Finance Committee, and his opinion plays a decisive role. When that opinion is that the amendment is inadmissible, the amendment is returned to the author. It is not even distributed and is not called during the discussion.

This monitoring procedure does not mean that financial inadmissibility cannot be applied later on to Members' bills and to amendments. This possibility, provided for by article 89, paragraph 4 of the Rules of Procedure, is granted to both the Government and to every M.P. In practice, at least for the amendments, such an objection is rarely made at this stage since the first verification, at the time of tabling, should have automatically eliminated all initiatives entailing inadmissibility.

Financial inadmissibility can however be objected to amendments which have been distributed. In this case, the judgement on admissibility is made in the same conditions as during the tabling, i.e. upon a decision of the President of the National Assembly made after consulting with the Chairman of the Finance Committee. Given the systematic examination of the financial admissibility of amendments upon their tabling, there is no real need for a new consultation, except in exceptional cases. This would be the case, for example, if the discussion were to bring to light a new fact which would call into question the opinion formulated concerning financial admissibility at the time of tabling.

It should be noted that the monitoring procedure on financial admissibility, set up by the Rules of Procedure, grants only parliamentary bodies the right to make decisions on questions of admissibility during the legislative procedure. In the case of a dispute on the admissibility of an amendment, in particular when the Government contests the admissibility stated by the relevant parliamentary authority, it is the decision of the latter which has primacy, without appeal, at this stage, over an external judge, as is the case in matters concerning “legislative” admissibility.
Decisions by parliamentary authorities in the field of financial admissibility can only be contested through the avenue of appeal to the Constitutional Council, in accordance with article 61, paragraph 2 of the Constitution, after passing of the law. The Constitutional Council has the power to judge if article 40 of the Constitution has been correctly applied in the course of the legislative procedure, whether it be in the case of decisions of financial admissibility or inadmissibility. In the latter case, however, the Constitutional Council considers that a matter may only be referred to it if the objection of admissibility has been raised before the Parliament.

2. – LEGISLATIVE INADMISSIBILITY

Article 41 of the Constitution provides that “if, during the legislative process, it appears that a Private Member’s Bill or amendment is not a matter for statute…the Government or the President of the House concerned, may argue that it is inadmissible”. In the event of a disagreement between them, “the Constitutional Council, at the request of one or the other, shall give its ruling within eight days”.

A major difference between this procedure and that aimed at ensuring the respect of article 40 of the Constitution is that legislative admissibility is not systematically monitored at the time of the tabling of Members' bill or amendments. In fact, it requires the intervention of the Government or of the President of the National Assembly. This mechanism was originally aimed at protecting the field of matters for regulation, as set out in article 37, paragraph one of the Constitution and the procedure set down in article 41 could only be applied, until 2009 by the Government alone. The constitutional revision of July 23, 2008, extended this possibility to the Presidents of the assemblies who can now, not only apply inadmissibility to the encroachment of the legislative field on the regulatory field through the bills and amendments of their colleagues, but can also do the same to Government amendments.

In implementing article 41 of the Constitution, article 93 of the Rules of Procedure of the National Assembly sets down that the inadmissibility of a Member’s bill or of an amendment may be claimed at any time by either the President of the Assembly or by the Government. It also states that an amendment which takes the form of a provision of the bill resulting from the work in committee may also be subject to such a claim. The second and third paragraphs of article 93 respectively deal with the case of inadmissibility claimed by the Government and that claimed by the President of the National Assembly. If inadmissibility is claimed by the Government, it is the task of the President of the National Assembly to decide. If the President of the National Assembly is in disagreement with the Government, he refers the matter to the Constitutional Council. If inadmissibility is claimed by the President of the National Assembly, he must consult the Government and if the two do not agree, then the President of the National Assembly refers the matter to the Constitutional Council.
In cases where the President of the National Assembly considers claiming inadmissibility or must make a decision on inadmissibility claimed by the Government, provision is made for him to consult the Chairman of the Law Committee or a member of the *bureau* of this committee appointed for this reason.

In practice, the handling of legislative inadmissibility is, generally speaking, quite heavy and so its use has become quite rare. The last decision of the Constitutional Council taken in accordance with article 41 goes back as far as 1979 (decision n° 79-11 FNR of May 23, 1979). The wording of article 93 of the Rules of Procedure of the National Assembly before the reform of May 27, 2009, provided for the suspension of the sitting or an automatic deferment in the case of the claiming of legislative inadmissibility when the President of the National Assembly was not chairing the sitting. The current wording renders such deferment or suspension optional.
The Examination of Bills in Committee

**Key Points**

Government and Members’ bills tabled before the National Assembly are sent for examination to one of the eight standing committees of the National Assembly. The other committees may give an opinion on all or part of the bill which has been tabled. An ad-hoc committee may also be set up.

The committee shall appoint a *rapporteur* from amongst its own members whose brief is to throw light on the work of the committee by presenting a report on the proposed bill and, where necessary, to produce the amendments which he considers necessary.

The committee may also organize hearings of the relevant ministers or of experts in the field.

After a presentation by the *rapporteur*, the committee holds a general discussion on the bill and then moves to an examination of the articles and the amendments pertaining to them. The bill emerging from such deliberations which are referred to in the report (containing in particular a general presentation, an analysis of each article and the ensuing debates) serves as the basis for the discussion in plenary sitting (except for finance bills, social security financing bills and constitutional revision bills which are discussed on the basis of the text originally tabled or transmitted). The rule now is that these proceedings are public.

Supplementary sittings are organized so that the committee may give its opinion, before the discussion in plenary sitting, on the amendments which were not submitted to it during the examination of the report.

Six months after the entry into force of the law, the *rapporteur* and another M.P., (one of whom must belong to an opposition group), who may be appointed as soon as a Government bill or a member’s bill is referred to a committee, present an information report to the committee upon the publishing of the necessary application rules.

See also files 24, 32, 40 and 41

I. – DECIDING UPON THE COMPETENT COMMITTEE

Government bills and Members’ bills, once the latter have been declared financially admissible, which are tabled before the National Assembly, are sent for examination to the relevant lead standing committee. Where necessary, standing committees other than that deemed relevant, are permitted to give an opinion on the bill in question.
In addition, since the reform of the Rules of Procedure of May 27, 2009, the European Affairs Committee (which is not a standing committee in the sense of article 43 of the Constitution) may also provide its observations on any bill dealing with an area covered by the activities of the European Union.

1. – THE LEAD COMMITTEE

This committee may be either a committee especially set up in order to examine a given bill or one of the eight standing committees of the National Assembly.

a) Referral to a Standing Committee

Article 43 of the Constitution initially provided that the setting-up of an ad-hoc committee would be the rule and referral to a standing committee the exception. However, in practice, in the vast majority of cases, standing committees retained the referral remit and the constitutional revision of July 23, 2008 drew a lesson from this reality by making referral of a bill to a standing committee the rule and the setting-up of an ad-hoc committee the exception.

The President of the Assembly decides upon the referral of a bill to a committee upon the tabling of the bill before the Assembly. This decision is taken according to the various remits laid down by article 36 of the Rules of Procedure of the National Assembly.

It is rare for a committee to contest such a decision. If there is a disagreement over areas of competence, or if the committee appointed as the relevant committee were to declare the bill beyond its remit, article 85, paragraph 2 of the Rules of Procedure of the National Assembly provides that, after a debate during which only the Government or the proposer of a bill and the chairmen of the committees concerned may speak, the President may propose to the National Assembly the setting-up of an ad-hoc committee. If this motion is rejected, then the President may submit the question of the choice of the relevant standing committee to the National Assembly.

b) Setting-up of an Ad-Hoc Committee

An ad-hoc committee may be set up, as of right, when the Government so requests (article 30 of the Rules of Procedure) or when one or several chairmen of political groups representing an absolute majority of M.P.s, ask for it (article 32 of the Rules of Procedure). In addition, it may be requested by the chairman of a standing committee, the chairman of a political group or by at least fifteen M.P.s (article 31 of the Rules of Procedure). Such a request is deemed to be adopted if no objection has been submitted by the Government, by the chairman of a standing committee or by the chairman of a political group. When such an objection is submitted, the National Assembly is required to vote on it after a limited debate.
The membership of an *ad-hoc* committee is restricted to 70 M.P.s (the committee may add at the most two non-aligned M.P.s to this number) and the number of its members belonging to the same standing committee may not be more than 34 (article 33 of the Rules of Procedure). A chairman of a standing committee may now also chair an *ad-hoc* committee. This was not the case before the reform of the Rules of Procedure dating from May 27, 2009.

2. – **THE POSSIBILITY OF REFERRAL FOR OPINION**

Article 87 of the Rules of Procedure of the National Assembly enables standing committees to present an opinion on all or part of a Government bill, a Members’ bill or on all or part of the credits for budget appropriation. In the case of the initial finance bill, it is customary that the seven standing committees, other than the Finance Committee, which is the lead committee in accordance with article 39 of the Institutional Act of August 1, 2001 (LOLF), present an opinion on the budget of the missions which fall within their remit. Thus logically, there is no referral for opinion in the case of the setting-up of an *ad-hoc* committee.

Since the constitutional revision of July 23, 2008 led to the debate in plenary sitting being based on the bill passed by the lead committee, the Rules of Procedure were changed so as to oblige the consultative committees to meet before the lead committee (article 87, paragraph 3 of the Rules of Procedure) so that their amendments could be considered and, where necessary, included in the bill discussed in plenary.

II. – **EXAMINATION PROCEDURE**

1. – **THE DRAWING-UP OF A REPORT**

Every committee which has a bill referred to it, whether it be a standing committee or an *ad-hoc* committee, a lead committee or a consultative committee, first of all appoints a *rapporteur* from amongst its members. The *rapporteur'*s role is to throw light upon the work of a committee by presenting to it a report in which he lays down his views on the bill and, where necessary, proposes amendments.

So as to provide the committees with enough time to consider bills, the constitutional revision of July 23, 2008, set a minimum time limit of six weeks between the tabling of a bill and its examination in plenary sitting on first reading before the assembly to which it was first referred. The revision also set a minimum limit of four weeks between the tabling of a bill and its consideration in plenary sitting on first reading before the second assembly to which it was referred. These limits are no longer obligatory if the bill is examined in accordance with the accelerated procedure. Nonetheless the Constitution does impose a 15-day minimum limit before the first assembly referred to, in the case of an institutional bill.
With the assistance of one or more civil servants belonging to the secretariat of the relevant committee, the *rapporteur* begins his work by compiling information on the bill in question. This means that:

- He generally organizes meetings with the representatives of the relevant ministry or ministries (ministerial staff, central administrative departments etc.);
- He holds meetings, if he feels it necessary, with representatives of the various associations and socio-professional groups involved as well as with qualified figures;
- He gathers a broad range of documents on the subjects dealt with by the bill.

The special *rapporteurs* of the Finance Committee are the only *rapporteurs* provided with legal powers of investigation concerning the Executive. In practice, the other *rapporteurs* have no great difficulty in obtaining the information they require.

When the *rapporteur* deems it desirable that the committee hears other opinions than his own on a particular bill, he may suggest the organization of hearings with experts in the field. It is also quite usual for the minister(s) concerned to appear before the committee especially in the case of a Government bill.

Since the reform of the Rules of Procedure of the National Assembly of November 28, 2014, article 46 states that the proceedings of committees are, in principle, public and this allows the press or the general public to attend them or to have a reproduction or a broadcast of the proceedings, unless there is a reasoned contrary decision of the *bureau* of the committee. The *rapporteur*’s hearings are systematically open to all the members of the committee (article 46, paragraph 1 of the Rules of Procedure). The *rapporteur* of the lead committee is, in addition, required, when the time limit between the tabling and examination of the bill in plenary sitting is six weeks, to communicate to all the members of the committee a document setting down the state of his work during the week preceding the consideration of the bill in committee (article 86, paragraph 2 of the Rules of Procedure).

2. – **EXAMINATION OF THE REPORT**

Once the preparatory work has been completed, the examination of the report is included on the agenda of a meeting of the relevant committee. This examination in committee should usually take place on first reading in such a time period that the committee may conclude its work and that the bill passed by it may be made available to M.P.s at least seven days before its consideration in plenary sitting (article 86, paragraph 4 of the Rules of Procedure).
a) **Attendance at meetings**

In addition to the members of the committee, the meetings concerning the examination of the report by the lead committee may be attended by interested members of the Government, as well as by members of other committees and therefore the initiator(s) of the Members’ bill or of amendments (article 86, paragraph 6 of the Rules of Procedure) and the *rapporteurs* of the consultative committees (article 87, paragraph 2 of the Rules of Procedure).

Amendments may be tabled on the bill considered in committee by any M.P. up until 5pm of the third working day preceding the examination in committee, unless the chairman of the committee has decided otherwise (article 86, paragraph 5 of the Rules of Procedure). The Constitutional Council considers that this possibility granted to the chairman of the committee “should allow the guaranteeing of the effective nature of the carrying-out of the right to amendment provided to parliamentarians by article 44 of the Constitution”.

The *rapporteur*, the consultative *rapporteurs*, if there are any and the Government, are not bound by this time limit concerning the tabling of amendments in committee.

b) **Procedure of the meeting**

The examination phase begins with a general discussion which is opened by the *rapporteur’s* presentation. However, when the examination of the report has been directly preceded by the hearing of a minister, the committee may decide that such a hearing and the ensuing debates may be considered as replacing the general discussion.

In all other cases, after a general discussion, the committee examines the articles of the bill along with the amendments put forward by the *rapporteur* and the other members of the committee as well as those of M.P.s from outside the committee and of the Government.

Each committee chairman must ensure the conformity of the amendments tabled in committee to article 40 of the Constitution (financial admissibility). He may, in so doing, consult the Chairman of the Finance Committee so as to prevent the committee from including any inadmissible provisions in the bill to be discussed in plenary sitting, (article 89, paragraph 2 of the Rules of Procedure).

In addition, the consultative committees are bound to meet before the lead committee so that their proposals may be taken into account during the drawing-up of the bill to be discussed in plenary sitting (article 87, paragraph 3 of the Rules of Procedure).

Furthermore, the Government, whose presence during the consideration of bills in committee was a right provided for by paragraph one of article 45 of the Rules of Procedure but which remained largely unused until the coming into force of the new provisions on the legislative procedure in 2009, is now frequently present during the examination of Government bills.
The Rules of Procedure nonetheless exclude the Government from attending during votes concerning finance bills, social security financing bills and constitutional revision bills (article 117-1, paragraph 3 of the Rules of Procedure), which are not discussed in plenary sitting on the basis of the committee text.

The committee votes on each of the amendments defended and on each of the articles and then it concludes its work with a vote on the whole bill.

c) The Effect of Committee Decisions

The effect of committee decisions depends upon the nature of the bills submitted to it for examination.

Since March 1, 2009, amendments adopted by the lead committee for a Government or Member’s bill have been immediately included in the bill which is then examined in plenary sitting in this modified form (whilst this rule only applied before to the consideration on first reading of Members’ bills before the first assembly to which they had been referred). Now the only time that a bill discussed in plenary sitting is the one originally referred to the assembly, is when a bill cannot be drawn up by the committee, i.e. either when the committee votes to reject the bill or when it has not managed to complete its examination of the bill in time.

However, as regards constitutional revision bills, finance bills and social security financing bills, the discussion in plenary sitting is on the basis of the bill proposed by the Government or transmitted by the Senate. In these cases, the proposals made by the committees thus take the form of amendments which are subject to the same rules of financial admissibility and to the same conditions of examination as those of political groups or individual M.P.s.

d) Rules of Procedure

In principle, the Rules of Procedure applied in committee are those, *mutatis mutandis*, followed in the Chamber, with the exception of procedural motions which are no longer raised except during the general discussion of bills in plenary sitting.

In practice however, these rules are applied in a more flexible manner. Discussions generally take place in a relaxed atmosphere and decisions are taken with a minimum of formality: a vote by public ballot, which, because of the absence of electronic voting machines, could not take place in the same conditions as in the plenary sitting, is almost never requested. In addition, the “quorum” (i.e. the presence of a majority of members of the committee) whose checking can be requested by one third of the members present, is very rarely called for and has, in fact, lost much of its interest as a means of obstruction. If it is not reached, the vote may only be held at the following sitting which may now be held fifteen minutes afterwards as opposed to three hours previously (article 43 of the Rules of Procedure).
e) The Drawing-up of the Report

The deliberations of the committee are brought together in a report which is distributed before the plenary debate. This document, which is often very long, includes:

- A general analysis of the bill, its context concerning the law which it modifies along with international comparisons, as well as an overall political judgement;
- An analysis of the content of each article as well as the minutes of the ensuing debates (including the new articles which have been introduced by the committee);
- Where necessary, several information annexes: one on the European law applicable or being drawn up which recalls the positions taken by the Assembly through motions, another establishing the list of laws liable to be repealed or modified upon the examination of the new legislation and a third presenting the observations which have been collected on the impact studies accompanying the bill.
- In certain cases, a contribution by opposition or minority groups, as well as, where it applies, that of the M.P. who is appointed, along with the rapporteur, to monitor the application of the law (see below III).

The bill which emerges from the committee’s work will be printed and transmitted and will be the reference basis for the tabling of amendments in preparation of the examination in plenary sitting.

3. – THE EXAMINATION OF AMENDMENTS AFTER THE ADOPTION OF THE REPORT

Amendments which could not be tabled in time to be examined at the same time as the report, must be examined by the lead committee, the day before or the day itself of the plenary sitting, during one or several meetings held in accordance with article 88 of the Rules of Procedure of the National Assembly.

During such meetings the rapporteur may table amendments. If such amendments are accepted by the committee, they will however be considered as amendments tabled by an individual M.P. and not as committee amendments.

If necessary, a final amendment examination meeting may take place before the opening of the discussion of the articles in plenary sitting (article 91, paragraph 11 of the Rules of Procedure).

4. – OTHER MEETINGS AFTER THE ADOPTION OF A REPORT

There are three other cases in which the committee may be reconvened when dealing with a bill under discussion:

- The committee may avail of the possibility granted by the Rules of Procedure to adopt an amendment with a view to its examination in plenary sitting, after the expiry of the time limit on the tabling of amendments (article 99, paragraph 2 of the Rules of Procedure);
The adoption of a motion of referral back to the committee. In this case the committee must produce a new report within a time limit set down by the Government if the text is included on the priority agenda, or by the National Assembly in the opposite case (article 91, paragraph 6 of the Rules of Procedure);

Before the ‘explanations of voting’, the National Assembly may demand a second deliberation on all or part of the bill if the Government or the committee request such a procedure or if the committee accepts such a request from an individual M.P. The committee must then produce a new report, usually verbal and immediate, on the provisions which have been returned (article 101 of the Rules of Procedure).

5. – THE PUBLIC NATURE OF COMMITTEE WORK

Detailed minutes of a committee’s debates and votes are written for each meeting. These minutes are available on the internet site of the National Assembly. In addition, the report of the work of each committee is now drawn up mainly by a specific department (the Committee Report Department). Thus, the requirement stipulated by the Constitutional Council has been fulfilled: “that there should be a precise report of speeches made before committees, of the reasons given for the proposed modifications to the bills which have been referred to the committees and of the votes held within committees”.

These rules concerning the public nature have been gradually strengthened right up until the reform of the Rules of Procedure of November 28, 2014 made the public nature of the committee work a rule, unless there be a contrary and reasoned decision of the bureau of the relevant committee. The most usual practice is now to open proceedings to the press and to the public and to produce a televisual report of its works.

III. – THE ROLE OF COMMITTEES IN THE IMPLEMENTATION OF THE LAWS

M.P.s who had been rapporteurs to their committee on a legislative bill were naturally inclined to follow the implementation of such a bill personally and it happened quite frequently that information reports on the application of the bill were published several months after the law was passed.

A provision which was introduced to the Rules of Procedure in 2004, provided such assessment with a statutory framework. Six months after the coming into force of a law requiring the publication of regulatory texts, the rapporteur, or failing this, another member of the committee, must produce a report detailing the publication of the necessary implementation decrees, circulars and instructions which have been introduced.
The implementation reports are not always limited to this aspect of the follow-up of regulatory texts and may enable the assessment of the legislative provisions which have been passed. At the end of his work, the *rapporteur* presents his conclusions before the relevant committee, in the presence of the member of the Government concerned who can, if necessary, explain the delay in the publication of certain regulatory texts or the problems met in the implementation of the legislation.

If implementation instruments have not yet been applied, the *rapporteur* must reappear before the committee before the end of a second period of six months.

In order to provide this work with a greater monitoring and assessment impact, the reform of the Rules of Procedure introduced the obligation of the appointment of two *rapporteurs* on each implementation report, one of whom has to belong to an opposition group (article 145-7, paragraph 1 of the Rules of Procedure). The reform of the Rules of Procedure of November 28, 2014, added that the M.P., other than the *rapporteur* who participates in this work may be appointed by the committee as soon as a Government bill or member’s bill is referred for consideration (article 145-7, paragraph 2); he may thus avail of speaking time during plenary sitting (article 91, paragraph 2).
The Plenary Sitting

Key Points

The plenary sitting is one of the highpoints of parliamentary life because it is in the Chamber that laws are passed and that the Government may be held to account. One week out of four is, in addition, outside of the period of discussion of the budget, given over to the monitoring of Government action and to the assessment of public policies.

The plenary sitting is also called the “public sitting”, thus testifying to the importance attached to the public nature of the debates. This constitutes an essential element in all parliamentary democracies.

The Rules of Procedure of the National Assembly give a special place and role to the main actors in the plenary sitting: the President of the National Assembly, the rapporteurs, the M.P.s and the Government.

They also lay down the general rules of the debates and the votes and attempt to facilitate the expression of all shades of opinion.

See also files 19, 22, 23, 24, 25, 26, 27, 37, 44, 45, 46, 51, 72 and 75

“The sitting is open”. These words, spoken by the President or a vice-president of the National Assembly, mark the opening of an essential stage in parliamentary life: the plenary sitting. It is in fact in the Chamber that the M.P.s fully carry out the powers which have been granted to them by the Constitution: passing the law, monitoring Government action and assessing public policies.

The raison d’être of the plenary sitting is to ensure the public nature of debates for, without this, the representative system would cease to be a true democracy. In order for the plenary sitting to be run correctly, the main actors, the President of the National Assembly, the M.P.s and the Government, must have a place and a role which are strictly defined and the discussions themselves must respect certain rules.

I. – THE SITTING IS PUBLIC

“The sittings of the two assemblies shall be public. A verbatim report of the debates shall be published in the Journal officiel” (article 33, paragraph 1 of the Constitution).
This principle, set down by the Constitution, finds expression, first of all, in the fact that the general public can sit in the galleries, space permitting, and can attend the deliberations. It also requires the publication of a verbatim report in the Journal officiel. Special facilities are also made available to the press so that they may report on parliamentary proceedings. In addition, the opening-up of the plenary sitting to televised pictures since 1994, the creation of the internet site of the National Assembly and the setting up of a parliamentary channel, have all led to the broadening of the ‘capacity of the galleries’ to all citizens.

1. – The Presence of the General Public

a) The Galleries and Public Access

The various galleries which surround the Chamber enable the general public to attend the plenary sittings. 273 such seats are available. In addition, 191 seats are reserved for certain official dignitaries as well as for the “official state corps”, in particular, the diplomatic corps and the prefectorial corps. 198 seats are also allocated to journalists of the French and foreign press.

Public access to the galleries is organized, at the National Assembly, by article 26 (XII) of the General Instruction of the Bureau of the National Assembly. Thus, all the following, upon the verification of their identity, may attend the plenary sitting:

- Those with a ticket for the sitting;
- Groups with collective authorization.

b) Dress Code for the General Public

According to article 8 of the General Instructions of the Bureau of the National Assembly, the “general public who are admitted into the galleries must remain seated, heads uncovered and silent. They may consult parliamentary documents and take notes”. In addition, they must make no sign of agreement or disagreement.

c) An Exception to the Public Nature of Plenary Sittings: the Secret Committee

Article 33, paragraph 2 of the Constitution provides that each assembly may sit in camera upon the request of the Prime Minister or one tenth of its members. This provision was applied for the last time on April 19, 1940.

2. – The Official Report of the Sitting

In addition to the general public’s right to access the Chamber, an official report of the debates is drawn up and is made available to every citizen.

Since 1848, there has been a full official report, which has been included in the Journal officiel since 1869.
a) **Documents of the transcription of debates**

The National Assembly nowadays ensures the public nature of debates in two ways:

- The verbatim report represents the minutes of the plenary sitting. Its publication in the *Journal officiel* (*Débats parlementaires – Assemblée nationale*) enables every citizen to be kept informed on the proceedings of the plenary sittings;

- The debates are broadcast live or recorded (and all videos are available upon request on the internet site of the National Assembly). The images filmed by the Audio-visual Department of the National Assembly are made available to “La Chaîne Parlementaire – Assemblée nationale” (LCP-AN) as well as to all other television channels (including *France 3* for Government question time).

b) **The drawing-up of the verbatim official report**

This document is drawn up by the Sittings Report Department “under the authority of the President of the National Assembly as well as of the Secretary General of the Assembly and of the Presidency”.

The debate drafters, who are in charge of the verbatim report, are seated at the foot of the speakers’ rostrum. They replace each other every fifteen minutes. They take as detailed notes as possible on the speech of the main speaker without neglecting either interruptions or movement in the Chamber. Then, once they have returned to their office, they draw up a report with the help of a digital recording. The transposition into written language of speeches which are often improvised must respect the thought process of the speaker but nonetheless requires a certain tidying-up to eliminate the errors, inaccuracies and cumbersome turns of phrase of spoken language. For the legislative part of the debates, the official report must also be in conformity with the Rules of Procedure.

The work of the writers is revised and, if necessary, corrected by the “heads of sitting” who have, in their own turn, the responsibility of the official report of the sitting they have attended. The speakers may have access to their speeches before publication and may make purely formal modifications to them.

The official verbatim report of a sitting is made available as it is drawn up on the internet site of the National Assembly in the “*Dans l’hémicycle*” (“In the Chamber”) section. Its completed version can be read there around six hours after the morning and afternoon sittings and the day after night sittings.

Once the definitive version of the report has been drawn up, it is transmitted and published internally and is immediately distributed and sent (on average within twenty-four hours) digitally to the *Journal officiel* which is in charge of its official printing.
3. – THE PARLIAMENTARY PRESS

The National Assembly has a broad policy of openness to the press and media in general. Over 350 French journalists are permanently accredited in the Palais Bourbon, as well as 40 of their foreign colleagues from more than 20 countries.

Both public and private television companies frequently broadcast parliamentary debates and show extracts in their programmes. Since 1957 television has become a familiar aspect of parliamentary life. In addition, since 1982, Government question time has been broadcast live.

An important step was made by the Law of December 30, 1999 which set up “The Parliamentary (TV) Channel”. This is a true citizens’ television channel for both the National Assembly and the Senate and is a consortium of two companies which are legally separate: “LCP-AN” and “Public Sénat”. “La Chaîne Parlementaire” (The Parliamentary (TV) Channel) has been available since March 31, 2005, on over-the-air reception and on the free terrestrial television packages (TNT). It is also broadcast on all the cable networks, satellite packages and broadband networks thanks to a legal provision which obliges operators to provide the programmes of the channel to their subscribers for free.

The various political groupings must, of course, be dealt with in an equal fashion by the television media. Thus, the Bureau of the National Assembly, under whose supervision the broadcasting of debates has been carried out since the Law of June 27, 1964, has set up a sub-committee in charge of communication and the press from amongst its own members, to deal more specifically with this question.

II. – THE ACTORS IN THE DEBATE

The Chamber is above all else a place of work, but it is also a type of “haven”, for, apart from the M.P.s and certain public servants of the National Assembly, only the members of Government and their assistants are permitted entry.

The President of the Republic himself does not have access to the Chamber in accordance with the principle of the separation of powers. He communicates with the two assemblies by messages which he orders to be read (article 18, paragraph one, of the Constitution). He may only take the floor in front of Parliament when it has been convened for this reason in Congress (article 18, paragraph 2 resulting from the Constitutional Act of July 23, 2008).

Since 1993 several foreign dignitaries have been received in the Chamber. For the first of such events, there was no dialogue opened between the guests and the M.P.s. However, in March 2005, Mr. José Luis Zapatero, President of the Government of the Kingdom of Spain, and in January 2006, Mr. José Manuel Barroso, President of the European Commission, both, after making introductory speeches, answered one question asked by a representative of each political group.
1. – THE M.P.s

On June 17, 1789 the representatives of the third estate came together in a National Assembly and invited their colleagues from the nobility and the clergy to join them. This act had huge consequences. Sovereignty was, from now on, shared between the King and the assembled representatives of the Nation.

Today, the National Assembly has 577 M.P.s. (this is the maximum number allowed in accordance with paragraph 3 of article 24 of the Constitution in its wording resulting from the Constitutional Act of July 23, 2008). Under the authority of the President of the National Assembly, the chairmen of the political groups divide the Chamber into sectors at the beginning of each Parliament. Once this division has been carried out, the chairmen allocate a seat within the sector which has been allotted to their group, to each of its members.

It is from his seat that the M.P. will vote by show of hands or by sitting or standing according to the procedures of ordinary law or by electronic vote when there is a public ballot.

It is also from his seat that the M.P. will take the floor after having been so allowed by the chairman of the sitting. The speakers’ rostrum is reserved for the most important speeches. Other speeches are delivered from the benches.

2. – THE PRESIDENT OF THE NATIONAL ASSEMBLY

The President of the National Assembly, or the Vice-President who substitutes him, dominates the Chamber from his chair, (the “perchoir” or “perch”) above the speakers’ rostrum, which is that used by Lucien Bonaparte when he presided over the Council of the Five Hundred.

Article 52 of the Rules of Procedure states that “the President shall open the sitting, direct its debates, enforce the Rules of Procedures and keep order; he may at any time suspend or adjourn the sitting”.

The main principle that he must uphold is to carry out his office outside of all political party considerations. Running the sitting requires the chairman to constantly pay attention so as to bring together two conditions which are absolutely essential to the proper conduct of the proceedings: he must make sure that the Rules of Procedure are observed and yet allow all opinions to be expressed.

The high number of sittings means that the President of the National Assembly cannot always chair the proceedings. Thus six Vice-Presidents take turns along with him in the chair. The distribution of these positions is carried out within the Bureau, so as to respect the political make-up of the Assembly.
3. – THE PRESIDENT OF THE SITTING

In accordance with the Rules of Procedure, the President opens the sitting. This procedure is not only formal. As long as the ritualistic words “the sitting is opened” have not been spoken, no one has the right to take the floor.

a) Announcements, before the examination of the matters on the agenda

Before moving to the agenda, the President of the sitting announces to the Assembly information which concerns it (such as the resignation or replacement of an M.P.) and then the official messages from the Prime Minister (such as the convening of Parliament in extraordinary sitting). The President may also officially greet, on behalf of the Assembly, any delegation of foreign parliamentarians who may be in the galleries and who have been officially invited by one of the bodies of the Assembly. He may also express the deep feelings of the Assembly following a particularly dramatic event or he may pay homage to the memory of an M.P. who has passed away during his term of office.

b) Chairing the debates

In accordance with article 52 of the Rules of Procedure, the President enforces the Rules of Procedure and keeps order. He gives the floor to the speaker and he may also ask the speaker to conclude when he feels that the Assembly has been sufficiently informed. He may take the floor away from the speaker if the latter strays from the question being debated or, on the contrary, he may allow him, in the interest of the debate, to continue his speech beyond the time limit originally allotted to him.

The President adjourns the sitting and may suspend it, if necessary.

To assist him in his task, particularly in the framework of the “set time limit debate” procedure (see later), the President has information on the speaking time which has passed. This is provided by a timing device. In the case of a need to call for order, he may cut off all the microphones in the Chamber. If order is not restored he may suspend the sitting.

The examination of legislative bills (which may entail a large number of amendments) requires great vigilance on the part of the President. He is helped in this task by the civil servants of the General Secretariat of the Presidency and of the Table Office who sit behind him. The quality of the way the laws passed are written and even their internal coherence may depend, in fact, on the order in which amendments are called and on their compatibility.

4. – THE CHAIRMEN AND RAPPORTEURS OF COMMITTEES

The chairmen of committees and the rapporteurs who are appointed by the committees play an essential role in plenary sitting. They have special seats on the “committee bench” in the front row.
The *rapporteur* is the centrepiece of the legislative procedure and plays a double role: he studies the bill with a view to its examination by the committee and he presents, in plenary sitting, the bill adopted by or the positions taken by the committee in the case of texts concerning which the discussion deals with the actual Government bill or the bill transmitted by the other assembly (constitutional revisions, finance bills or social security financing bills). His speeches enable the M.P.s to come to an understanding of the bill under discussion. In addition to his general presentation, the *rapporteur* gives the opinion of the committee on each of the amendments proposed.

The chairman and the *rapporteur* of the committee have many prerogatives. For instance, they have an unreserved right to speak. Their speeches are not counted in the overall time allotted to their group within the framework of the set time limit debate procedure. They may, by right, request and obtain suspension of the sitting, a vote by division, a vote by public ballot, deferment (which changes the order of the discussion) and second deliberation (whose aim is to ask the Assembly for a final modification of the bill under discussion). They are aided by public servants of the National Assembly.

The *consultative rapporteurs* are responsible for presenting the text or the report of the committee which has appointed them and, along with the *rapporteur* of the lead committee, have the right to speak on the amendments. They do not, however, have the other powers which the Rules of Procedure grant to the *rapporteur* of the lead committee. Their speeches are not counted in their group’s time allotment when the set time limit debate procedure is applied.

### 5. – THE CHAIRMEN OF POLITICAL GROUPS

Before the debate in the Chamber, the chairmen of the political groups bring their M.P.s together to decide on the position the group will take publicly, to set out the tactics to be followed and to determine how they will vote, especially when it comes to a final ballot.

During the actual sitting, they may obtain, by right, suspensions of the sitting to bring their group together or public ballots on the decisions they consider to be the most important. In the case of absence, they may confer their prerogatives to a member of the group whom they appoint. However, they must be present in person in the Chamber if they wish to request, before a vote, the checking of the “quorum”, i.e. the presence on the premises of the National Assembly of an absolute majority of members of the Assembly. (This procedure requires, since the reform of the Rules of Procedure of May 27, 2009, that the majority of M.P.s representing the group which has requested the quorum be present in the Chamber.)

Within the framework of the set time limit debate procedure the group chairmen have specific prerogatives (see below, III-1-d).
6. — THE GOVERNMENT

In the first row of benches, beside the committee bench, is the “ministers’ bench”.

The Government is systematically represented by one of its members during the debates. The exceptions are rare (the only cases have been when draft resolutions have been discussed). The Government may speak at any moment. Nonetheless, no matter how important the powers that it has are, the Government must always use them within the rules and customs recognized within Parliament.

Government bills which are tabled by the Prime Minister, in accordance with article 39 of the Constitution, are introduced by a minister, in charge of presenting the case and of supporting the discussion. In most legislative debates, this minister sits alone on the Government bench.

The Prime Minister may ask the National Assembly for its confidence on his Government’s programme or on a statement of general policy. He may also ask for its confidence on the voting of a finance bill or of a social security financing bill or once per session on another Government or Member’s bill. In addition, in cases where confidence in the Government is called into question by the tabling of a censure motion, it is the task of the Prime Minister to defend his Government’s policy. He may also present the most important bills. Similarly, he may reply to questions put to the Government on issues which he feels may require him to do so from a political point of view.

The Minister in Charge of Relations with the Parliament represents the Government at the National Assembly. He is kept informed of the proceedings of all the debates and makes sure that such proceedings are compatible with the agenda which has been set down. He is the permanent interlocutor with the bodies of the Assembly and attends the weekly meetings of the Conference of Presidents.

The discussion of a Government or a Member’s bill is the opportunity for a constant dialogue between the M.P.s and the Government. During this dialogue the Government may take the floor when it so requests and has prerogatives which the Rules of Procedure grant it and which are also granted to the standing committees. Thus, upon request, the Government will obtain a suspension of sitting, a public ballot, deferment and a second deliberation. In addition, the Government may, in particular use the weapons which the 1958 Constitution grants it: the passing of a bill without a vote in the conditions described above (article 49, paragraph 3), the objection of legislative inadmissibility (article 41), objection to the discussion of amendments which have not been submitted beforehand to the committee (article 44, paragraph 2), the “forced vote” on all or part of a bill under discussion retaining only those amendments proposed or accepted by the Government itself (article 44, paragraph 3).
III. – THE RUNNING OF THE DEBATE

The date and the time of sittings are determined by the regulatory and constitutional provisions. The structure of the sitting will depend on the nature of the tasks carried out by the M.P.s: in the Chamber the Assembly passes the law but it also monitors Government action and assesses public policies.

1. – THE PASSING OF THE LAW

The discussion of a legislative bill in plenary sitting usually takes place in several phases: the examination of any procedural motions, the general discussion and the discussion of articles and amendments which are proposed to them.

The rules however differ according to whether or not the “set time limit debate” procedure has been implemented.

a) Procedural motions

Preliminary rejection motions (whose aim is to have a bill recognized as being contrary to one or several constitutional provisions or to have a decision taken so that there will be no discussion and whose adoption leads to the rejection of the bill) and motions of referral to committee (whose effect, if carried, is to suspend discussion until the committee presents a new report) are examined before the general discussion except during a sitting given over to the opposition or a minority group. In the latter cases procedural motions are debated at the end of the general discussion.

Since the changes in the Rules of Procedure which were introduced in June 2006 and May 2009, the defence of such a motion is limited to thirty minutes on first reading and fifteen minutes as of the second reading, unless decided otherwise by the Conference of Presidents.

b) The general discussion

The general discussion is organized by the Conference of Presidents which sets the overall speaking time limit, according to the importance of the subject and the observations of the group chairmen. This speaking time is allotted to the groups using a weighted proportional system which guarantees a minimal speaking time to the smallest groups.

Each group chairman declares, within a specific time limit provided by the presidency, the names of the speakers appointed to take the floor and the time allotted to each of them. Generally speaking, each group gives over a substantial amount of its time to a spokesperson whom it enrolls, in most cases, as the first of its speakers.

At the presidency’s behest, the order of speakers is decided in such a way as to allow an alternation between groups. Thus, as one debate follows another, each group can be certain of having for itself the coveted position of “first speaker”.
During the sitting, the President is responsible for making sure that each speaker remains within the time limit allotted to him. The M.P.s who speak at the rostrum may consult a timing device which is situated right beside the microphones. A red light, which is in the same place, flashes when the speaking time has been used up.

c) Speeches on Articles and Amendments

Speeches made during the examination of the articles of Government and Members' bills and the corresponding amendments tend to be much more specific and technical.

On the articles themselves, each M.P. may, of his own initiative, enrol to speak for a period of two minutes. The Assembly then moves on to the discussion on the amendments. At this time, the following may take the floor for two minutes: the author of the amendment; the chairman or the rapporteur of the lead committee; the chairman or the rapporteur of the consultative committee; the Government (whose time is not limited); one speaker against the amendment.

Although this phase of the debate is highly regulated, it often leads to lively exchanges. In the interest of the discussion, the chairmen of the sitting often allow interruptions which lead to two sets of arguments being put forward. In addition, as article 56 of the Rules of Procedure provides, they may “allow a speaker to reply to the Government or to the committee”. Certain important amendments thus lead to broad discussions.

d) The Use of the Set Time Limit Debate Procedure

The Set Time Limit Debate Procedure, which is provided for by articles 49 and 55 of the Rules of Procedure, allows the Conference of Presidents to fix the length not only of the general discussion but also of the entire examination of a bill, including the consideration of its articles. Its use is an option. The Set Time Limit Debate Procedure cannot be applied to finance bills, to social security financing bills nor to constitutional revision bills.

The Conference of Presidents sets the time allocated to groups and to M.P.s who are non-aligned. The ‘committees’ and Government’s speaking time is not limited.

The setting of the time limits is carried out in respect of the principles contained in the Rules of Procedure and which are aimed at ensuring the right of speech for groups in general and for opposition groups in particular (the latter have around 60% of the overall group speaking time). The chairmen of groups may avail of prerogatives which allow them, where necessary, to have the speaking time allotted to a group increased (the set time limit is extended) or even to oppose the implementation of the Set Time Limit Debate Procedure.
As the speaking time is taken overall, most speeches are not subject to a specific limit (this is the case, for example, concerning speeches on procedural motions, on an article or on an amendment).

All the speeches made by M.P.s are deducted from the overall group time limit. There are several exceptions to this rule: speeches made by a chairman or rapporteur of a lead committee, by the rapporteurs of consultative committees if there are any and in addition by group chairmen. All the latter may speak for one hour maximum when the Set Time Limit Debate Procedure has been fixed by the Conference of Presidents at forty hours or less and for two hours in cases beyond this limit.

When a group has used up the time which it has been allocated, leave to speak will no longer be given to its members. An amendment tabled by an M.P. belonging to such a group shall be voted upon without debate. The chair of the group can no longer request a public ballot, except on the overall bill. Nonetheless the chairman of the sitting will request the opinion of the committee and of the Government on the amendments tabled by the members of this group so that the vote of the Assembly shall be made clear.

e) Votes

During the consideration of a bill in plenary sitting, all votes are public and take place:

– By show of hands (or by standing and sitting in the case of doubt after a show of hands);

– By ordinary public ballot (this vote is held by right upon a decision of the President of the National Assembly or upon a request by the Government, by the lead committee or by the chairman of a political group). It may also be decided upon by the Conference of Presidents, when the latter wishes to hold a “formal” vote for the most important bills. It takes place electronically.

2. – Monitoring and Assessment

M.P.s may also carry out, in the Chamber, their constitutional mission of monitoring Government action and of assessing public policies.

Furthermore, article 48 of the Constitution, in its wording as of March 1, 2009, gives over one week of sittings out of four to monitoring and assessment, with the exception of the consideration of finance bills and social security financing bills for which the Government has priority.

In addition, in accordance with the last paragraph of article 48 of the Constitution, “during at least one sitting per week, including during the extraordinary sittings, priority shall be given to questions from Members of Parliament and to answers from the Government”.

These monitoring and assessment activities may, in plenary sitting, take a variety of forms.

a) Making Government accountability an issue of confidence

The power to call into question, by means of a vote, the very existence of the Government which constitutes the first characteristic of a parliamentary regime, may be carried out in the Chamber.

Article 20 of the Constitution states that the Government “shall be accountable to Parliament in accordance with the terms and procedures set out in articles 49 and 50”.

Article 49 of the Constitution sets down three procedures making Government accountability an issue of confidence before the National Assembly: the Government making its own programme or a statement of general policy an issue of confidence (paragraph 1), the tabling of a motion of censure by M.P.s (paragraph 2) and the making of the passing of a bill an issue of confidence by the Government (paragraph 3). In accordance with article 50, this issue of confidence may lead to the resignation of the Government tendered by the Prime Minister to the President of the Republic.

In such cases debates are organized by the Conference of Presidents and the vote is held by public ballot at the rostrum. In order to speed up the procedure, the vote may also be held in the rooms adjoining the Chamber. This means that several polling stations may be opened and is a practice which has become systematic in recent years.

b) The monitoring week

The agenda of the monitoring and assessment week is set by the Assembly upon a proposal of the Conference of Presidents. The Assembly may however include legislative texts on this agenda.

This week may be given over to debates on Government statements, to considering motions or to holding question sittings (see after). Debates may also be held on the initiative of a committee or of a group. The new article 48 of the Rules of Procedure provides that each chairman of an opposition or minority group may obtain, as of right, the inclusion on the agenda for this week of a subject in the field of assessment or monitoring.

Some of these debates initiated by M.P.s are liable to be based on the reports of committees dealing with, for example, the application of a law.

One sitting is reserved by priority for European questions.

The Committee for the Assessment and Monitoring of Public Policies may make proposals to the Conference of Presidents concerning the agenda for the week given over to monitoring. It may, in particular, propose the setting-up, in plenary sitting, of a debate without a vote or of question sittings dealing with the conclusions of its own reports or of the reports of fact-finding missions.
Since the XIIIth term of Parliament, certain monitoring debates have been held in the “Salle Lamartine”. The fact of moving these debates to another space means that outside personalities can be hosted and leads to more spontaneous exchanges. Such debates have the same public nature as those held in the Chamber.

c) Statements followed by a debate

Article 50-1 of the Constitution allows a parliamentary group to request the Government to make, before either of the two assemblies, a statement on a given subject which gives rise to a debate. The Government itself may also take the initiative to make such a declaration. It can decide that such a declaration shall give rise to a vote without making it an issue of confidence.

For the debate to which the declaration gives rise, the Conference of Presidents sets the overall speaking time limit allotted to groups and to M.P.s not belonging to any group. Half of the speaking time attributed to groups is allotted to opposition groups. Each half is then distributed, on the one hand, between the opposition groups and, on the other hand, between the remaining groups in proportion of their size. Each group has a minimum of ten minutes speaking time.

When the Government decides that its statement shall give rise to a vote, the Conference of Presidents may accept explanations of vote. In this case, leave to speak is given, for five minutes after the closing of the debate, to one speaker for each group. The vote is held by public ballot at the rostrum.

d) Motions/resolutions

Article 34-1 of the Constitution in its wording after the Constitutional Act of July 23, 2008, allows each assembly to pass motions/resolutions which must be tabled by M.P.s individually or by a group chair in the name of his group.

A motion is the instrument by which an assembly provides an opinion on a specific question: its aim is not to make Government accountability an issue of confidence and the Government may declare it inadmissible if it considers that such is the case.

Motions are debated in plenary sitting: they are not sent for referral to committee nor may they have any amendments tabled to them.

Their inclusion on the agenda may be requested by the group chairmen, by committee chairmen or by Government.

This inclusion may not occur less than six full days after the tabling of the bill and may not concern a draft motion considered by the President to deal with the same subject as a previous motion included on the agenda during the same ordinary session.
e) Questions

The holding, every week, on Tuesdays and Wednesdays, of a sitting given over to questions to the Government, is one of the basic markers of the rhythm of parliamentary proceedings. The constitutional revision of July 23, 2008, took this into account by extending this procedure to extraordinary sessions (article 48).

Furthermore, the wording of article 133 of the Rules of Procedure after the motion of May 27, 2009, provides that:

- Every week, one half of the questions shall be asked by M.P.s of the opposition;
- During each sitting, each group shall ask, at least, one question;
- The first question shall be automatically allotted to an opposition or a minority group, or else to an M.P. belonging to no group.

To make the exchanges livelier and to allow for more questions to be asked, the speaking time allotted to each speaker, both M.P.s and Government members alike, has been limited, since March 1, 2009, to two minutes instead of the previous two and a half minutes.

As for the sittings of oral questions without debate, they involve the obtaining of a precise ministerial answer on a given subject which often concerns local issues. In the framework of the wording of the Rules of Procedure after the motion of May 27, 2009, oral questions without debate have taken a natural position during the week of monitoring on Tuesday morning and Thursday morning. Half of the questions are asked by M.P.s of the opposition. The time available for each question is now set at six minutes: this includes the question itself, the Government’s answer and the reply, if there is one, by the question’s author.

In addition, several sittings of questions to a minister have been held in the framework of the monitoring weeks. The groups have great freedom in the minister(s) they can choose to question, and such sittings are not necessarily based on prior parliamentary proceedings. The questions may deal with the entire remit of a minister or with a preordained topic. The Conference of Presidents lays down the rules for these sittings.
The Use of the Right to Amend

**Key Points**

Nowadays, the right to amend is the main expression of the right of M.P.s to initiate legislation. Several thousand such amendments are tabled annually.

Although this right, which M.P.s share with Government, is free and unlimited, it nonetheless must follow a series of constitutional, institutional and regulatory provisions which are based on the notion of “rationalized parliamentarism”.

The most important of these provisions deal with the financial admissibility (parliamentary amendments are not admissible in cases where their adoption would have as a consequence either a diminution of public resources or the creation or increase of an item of public expenditure) and the legislative admissibility (amendments must be matters for statute) of amendments.

There are other additional restrictions, in particular those dealing with the time limits on tabling, on the prior examination by the lead committee, on the link with the bill under discussion or on the restrictions which apply after first reading.

During the plenary sitting, the order in which amendments are called and the procedures concerning their discussion are strictly laid down in precise regulatory provisions which ensure that debates are organized in an orderly fashion and that all opinions are expressed.

See also files 32, 33, 34, 35, 36 and 38

The right to amend is the right to have the parliamentary assemblies vote on modifications to texts which they examine. These texts may be Government bills, Members’ bills. It may be regarded as an “extension” of the right to initiate legislation. Over time, it has even, in many Parliaments, and in particular in France, become the main form of expression of M.P.s right to initiate legislation.

It has its basis in the first paragraph of article 44 of the Constitution which states that “Members of Parliament and the Government shall have the right of amendment”. Since the constitutional revision of July 2008, this article declares even more precisely that this right “may be used in plenary sitting or in committee under the conditions set down by the Rules of Procedure of the Houses, according to the framework determined by an Institutional Act”.
There are three main characteristics of the right to amend:

– It is a right shared between Government and parliamentarians;
– It is an individual or collective right (on the contrary of questions for example, amendments may be co-signed);
– It is an unlimited right (subject to limits laid down hereafter) which means that it may be used as a blocking tactic.

The general principle, which is laid down in article 45 of the Constitution, is that the right to amend can be freely used at the stage of the first reading of a bill: any amendment which, at this stage, has a link, even an indirect one, with the bill, is admissible. During the subsequent readings, amendments may only deal with provisions which are still in discussion and this thus excludes all amendments introducing new provisions. In addition, this right is set down in the Constitution which established its uses clearly in the context of “rationalized parliamentarism”.

I. – THE FRAMEWORK OF THE RIGHT TO AMEND

The following rules are applicable to amendments and to sub-amendments alike. Nonetheless sub-amendments are not admissible when they contradict the meaning of the amendment or go beyond its scope. However the time limits concerning tabling do not apply to them.

1. – THE MONITORING OF THE FINANCIAL ADMISSIBILITY OF AMENDMENTS

a) General principles

Article 40 of the Constitution states that amendments introduced by Members of Parliament shall not be admissible where their adoption would have as a consequence either a diminution of public resources or the creation or increase of an item of public expenditure. The wording of the article enables the introduction of an amendment which decreases a public resource as long as it is balanced by the increase in another public resource. However, it prohibits all compensation in the field of public expenditure.

Constitutional jurisprudence has made the scope of financial inadmissibility clear. Thus a decision was taken that it not only applied to State expenditure but also to that of other public entities and that the effect of the proposed measures was to be judged in relation to the bill under examination and to existing law if it were to be more favourable.

b) The financial admissibility of amendments to finance bills and to social security financing bills

The monitoring of the financial admissibility of amendments to finance bills and to social security financing bills follows certain specific rules.
The rules pertaining to the finance bills have been loosened up since the examination of the 2006 Finance Bill, which was the first to be introduced in accordance with the institutional act of August 1, 2001 concerning finance laws (LOLF).

This institutional law changed Parliament’s method of monitoring the budget. It replaced the former division of credits by ministry, by appropriation and by budgetary item with a system setting out around 50 State missions and within these around 170 programmes. Article 47 of the aforementioned institutional act states that the idea of public expenditure must be understood in the context of each mission and this now allows parliamentarians to propose, within the same mission, increases in the credits for one programme which will be balanced by a decrease in funding for another programme. In addition, parliamentarians may set up new programmes as long as they balance this increase by a decrease in the credits allocated to another programme in the same mission.

As for social security financing bills, paragraph IV of article L.O. 111-7-1 of the Social Security Code states that, as far as amendments dealing with the expenditure targets included in the finance act are concerned, the expenditure refers to each expenditure target per branch or to the National Health Insurance Expenditure Target (ONDAM).

This recent easing of the rules, introduced by the institutional law of August 2, 2005, enables parliamentarians to carry out arbitration within the National Health Insurance Expenditure Target or the expenditure targets.

c) Monitoring Procedures

It is necessary to distinguish between amendments tabled in committee and those tabled in plenary sitting.

In the first case, it is the task of the chair of the committee and, in case of doubt, its bureau, to judge the admissibility of an amendment as regards article 40 of the Constitution. If necessary, he may request the opinion of the Chair or the General Rapporteur of the Finance Committee or any member of the bureau of the Finance Committee so appointed. Amendments which are declared inadmissible are not examined by the committee.

The Government or an M.P. may, at any time, invoke article 40 of the Constitution concerning a modification which has been made by a committee to a Government or Member’s bill i.e. an amendment adopted by a committee and included in the text which will serve as the basis for the discussion in plenary sitting. Such inadmissibility is decided upon by the Chair or the General Rapporteur of the Finance Committee, or any member of the bureau of the Finance Committee so appointed.
In the case of amendments which have been tabled with a view to their consideration in plenary sitting, it is the President of the National Assembly who is responsible for deciding on their financial admissibility. However, it is customary that the President almost always follows the advice of the Chairman of the Finance Committee or, failing that, of the General Rapporteur or of a member of the Finance Committee appointed for that reason (article 89, paragraph 3 of the Rules of Procedure provides for such a consultation in the case of doubt). All contentious amendments are thus referred, upon their being recorded, to the Chairman of the Finance Committee and his opinion will play a decisive role. When the declared opinion is one of inadmissibility the amendment is sent back to the author. It is not distributed and will not be called for discussion.

This advance monitoring procedure does not mean that financial inadmissibility cannot be declared at a later stage for Members’ bills and for amendments. This possibility which is provided for by article 89, paragraph 4 of the Rules of Procedure is an option both for the Government and for any M.P. However in practice a declaration of financial inadmissibility will rarely be made at later stages since the first check which is carried out at the moment of tabling, should have eliminated all initiatives which might run such a risk.

Nonetheless, financial inadmissibility can be declared concerning amendments which have been distributed. In this case the judgement concerning admissibility is carried out in the same way as upon tabling, i.e. upon a decision of the President of the National Assembly following an opinion of the Chairman of the Finance Committee. Given the systematic checking of the admissibility of amendments upon their tabling, such a new consultation would only occur in exceptional circumstances: this might be the case, for example, when the discussion brings to light new facts which might call into the question the opinion concerning admissibility which was reached at the time of tabling.

It should be noted that the procedure for the monitoring of financial admissibility which is laid down by the Rules of Procedure grants the power of decision-making on admissibility during the legislative procedure to parliamentary bodies and to parliamentary bodies alone. In the case of a dispute concerning the admissibility of an amendment, in particular if the Government were to contest the admissibility declared by the relevant parliamentary authority, it is the decision of the said authority which, at this stage, has primacy, without appeal over an external judge. This is the contrary of what is provided for in cases of “legislative” admissibility.

Decisions taken by parliamentary bodies in the area of financial admissibility may only be contested by means of appeal before the Constitutional Council, in the procedure laid down by article 61, paragraph 2 of the Constitution, after the law has been passed. The Constitutional Council recognizes its jurisdiction to decide whether or not a correct decision has been taken, during the legislative procedure, concerning the application of article 40 of the Constitution in the field of judgements on financial inadmissibility or admissibility.
In the latter case however, the Constitutional Council considers that such a matter may only be referred to it if the objection of inadmissibility has been raised before the first assembly in which the amendment was brought.

2. – THE MONITORING OF THE LEGISLATIVE ADMISSIBILITY OF AMENDMENTS

Article 41 of the Constitution provides that “If, during the legislative process, it appears that a Private Member’s Bill or amendment is not a matter for statute… the Government or the President of the House concerned, may argue that it is inadmissible”. In case of disagreement between them, “the Constitutional Council, at the request of one or the other, shall give its ruling within eight days”.

Initially, only the Government could claim inadmissibility and, in practice, the complexity of the procedure meant that it was only rarely used. By granting this right to the President of the National Assembly, the constitutional revision of July 23, 2008, intended to increase its use.

A major difference between this procedure and that which deals with the respect of article 40, is that legislative admissibility is not systematically checked at the moment of the tabling of Members’ bills and parliamentary amendments: such monitoring requires the intervention of the Government or of the President of the National Assembly.

Thus, in application of article 41 of the Constitution, article 93 of the Rules of Procedure of the National Assembly provides that the inadmissibility of a Member’s bill or of an amendment may be claimed at any moment by either the President of the National Assembly or by the Government. It also states that an amendment which takes the form of a provision of a text resulting from the work of a committee may also be subject to such a claim.

The second and third paragraphs of article 93 respectively envisage the case of inadmissibility claimed by the Government and that of inadmissibility claimed by the President of the National Assembly. If inadmissibility is claimed by the Government, it is the task of the President of the National Assembly to make a decision. If the President of the National Assembly is in disagreement with the Government, he refers the matter to the Constitutional Council. If inadmissibility is claimed by the President of the National Assembly, he must consult the Government and in the case of disagreement with the latter, he must refer the matter to the Constitutional Council. In cases where the President of the National Assembly envisages claiming inadmissibility or must judge the inadmissibility which is claimed by the Government, it is provided that he may consult the Chairman of the Law Committee or a member of this committee who is specially appointed for this purpose.
3. – **Other restrictions to the right to amend**

**a) Restrictions linked to the proper organization of parliamentary debates**

So that the discussion of the articles of a bill and the amendments linked to them may be ordered and coherent and so that each actor in the debate (Government, rapporteur and M.P.s) may be provided with the time to prepare the discussion, it is necessary to set down a date for the tabling of amendments. The reform of the Rules of Procedure of May 27, 2009, institutionalized the time limits for tabling amendments in committee: amendments must be tabled at the secretariat of the committee, at the latest by 5pm on the third working day before the examination of the bill in committee. The reform modified the time limit for amendments tabled on a bill discussed in plenary sitting. This time limit is now also set at 5pm on the third working day before the examination of the bill in plenary sitting as opposed to the previous limit which had been, from 2006, 5pm on the day before the discussion.

The Constitutional Council accepted the setting of such time limits provided that the chairmen of committees, in the case of the examination of bills by their committee or the Conference of Presidents, in the case of the plenary sitting, could set another time limit if the limit fixed by ordinary law did not enable the respect of the “needs for the clarity and regularity” of the debates thus fully guaranteeing “the effective nature of the right to amend granted to parliamentarians by article 44 of the Constitution” (Decision n° 2009-581 DC of June 25, 2009). As regards amendments in plenary sitting, the Institutional Act of April 15, 2009, states that in any case, M.P.s’ amendments must, by obligation, be tabled before the beginning of the examination of the text in plenary sitting.

Beyond the time limit for tabling, the only amendments which are admissible are sub-amendments and amendments presented by the Government and the lead committees as well as amendments dealing with articles modified or added by a Government or lead committee amendment which was tabled after the time limit expired.

**b) Inadmissibility linked to the subject of the amendment**

Article 98 of the Rules of Procedure of the National Assembly states that amendments shall only relate to a single article. Sub-amendments may not contradict the meaning of the amendment they refer to and shall not be amended. In addition, in accordance with article 45 of the Constitution, the same article 98 accepts the admissibility, on first reading, of any amendment which has a link, even an indirect one, with the bill which has been tabled or transmitted. In all cases, it is the task of the President of the National Assembly to judge the admissibility of the amendments so tabled, regarding the application of these provisions.
c) **Restriction linked to examination in Committee**

In accordance with article 44, paragraph 2 of the Constitution, the Government may object to the consideration of any amendment which has not previously been referred to a lead committee. This procedural weapon is usually only used in the case of a clear filibustering tactic for amendments tabled after the last meeting of the committee.

d) **Restrictions linked to the needs of the legislative procedure**

As has been previously seen, the legislative procedure, based as it is on a system of “shuttles” between the two assemblies, attempts to gradually bring their two points of view closer together so that an identical bill will be passed by both Houses. Thus, it is logical that all the articles of a law which, at a certain stage in the procedure, have been passed in the same terms by the two assemblies, should no longer need to follow the “shuttle” and should no longer be modifiable by amendment. This is also the case for amendments which would call into question provisions which have been properly passed, by introducing incompatible additions to the bill. The only exceptions to the aforementioned rules would be in the case of ensuring coordination with other bills being examined, of correcting a mistake or of ensuring the respect of a constitutional provision.

After first reading, amendments must have a direct link with a provision which is still in discussion, with the exception of the three cases already stated. This rule which has been included in the Rules of Procedure of the assemblies for a long time, was progressively accepted by the Constitutional Council between 1998 and 2006. It prohibits, in principle, the introduction of additional articles at this stage of the “shuttle”. In addition, the Constitutional Council has not hesitated to censure new provisions which have been introduced in the form of new paragraphs to an article which is still being considered.

The text which emerges from the deliberations of the joint committee is also subject to specific restrictions regarding the right to amend based on the letter of article 45, paragraph 3 of the Constitution which makes provision that the only admissible amendments to this text are those made by the Government or made by parliamentarians and whose tabling has been accepted by the Government. These restrictions are justified by the need to avoid misrepresenting the agreement reached by the two assemblies on a common text.

When the Government decides, in accordance with article 45, paragraph 4 of the Constitution, to give the final say to the National Assembly by means of a last reading called the “definitive reading”, the only amendments which are admissible to the final bill passed by the National Assembly are those which have been previously passed in plenary sitting or in committee by the Senate during the new reading.
e) The Forced Vote

As a logical consequence of the existence of restrictive passing procedures which reflect the “rationalized parliamentarism” so designed by the framers of the 1958 Constitution, article 44, paragraph 3 of the Constitution authorizes the Government to request the Assembly examining the bill to decide by a forced vote on all or part of the bill under discussion. In this case the only amendments admitted are those proposed or accepted by the Government.

f) Restrictions Linked to the Nature of the Bill under Discussion

Given their very nature, certain texts may not be amended. This is the case, for example, of motions aiming at putting certain bills to a referendum, of motions tabled in accordance with article 34-1 of the Constitution and indeed, of proposals made by the Conference of Presidents concerning the agenda.

In a similar vein, texts of international conventions annexed to bills authorizing their ratification are not subject to amendments, as the National Assembly may only pass, reject or postpone such bills of a very specific nature.


1. – The Physical Presentation and Circulation

a) Physical presentation

Amendments must be written down, signed by at least one of their authors and placed on the Table of the Assembly (i.e. in practice, handed in to the Table Office) or tabled in committee. The same requirements of written presentation apply to sub-amendments.

Each amendment consists of a statement which precisely sets out the proposed insertion in the bill, along with its content and a short presentation which briefly explains the reason for the amendment.

Upon the request of its author and if the lead committee agrees, an amendment may be the subject of a preliminary assessment by the Committee for the Assessment and Monitoring of Public Policies (article 146-6 of the Rules of Procedure of the National Assembly).

b) Circulation

The amendments and sub-amendments are printed, distributed and placed online on the site of the National Assembly. In practical terms, the M.P.s, both in committee and in plenary sitting, are given a bundle with all the amendments and sub-amendments listed by order of examination, (see below). Every amendment bears the name of its author. In committee, amendments may have as their authors, the Government, the rapporteur, if applicable the rapporteur of the consultative committee or the other M.P.s.
In plenary sitting, there are Government amendments, lead committee amendments, consultative committee amendments and amendments from M.P.s. It should be underlined that amendments adopted by the committee after the meeting given over to the examination of the report, are included in the text which will serve as the basis for the discussion in plenary sitting (except in cases where the discussion in plenary sitting is based on the original bill).

2. – ORGANIZATION OF THE DISCUSSION OF AMENDMENTS

a) Order of calling

The way in which amendments are listed is very important as the passing of one amendment can have the consequence of the “dropping” (i.e. rendering obsolete) of all amendments proposing concurrent solutions.

The method used is based on two principles:

- From a formal point of view, the order of listing must go from the general to the specific: the deletion of an article is called before the deletion of a paragraph, and the latter is called before the deletion of a sentence which itself will come before the simple deletion of words etc.;
- As regards the meaning of the amendments, they are voted upon beginning with those which are furthest from the proposed text. These are followed, in order, by amendments which differ from the original text, which are to be inserted and by those to be added to it.

When several amendments, exclusive of each other, are in competition, the chair of the sitting may have them discussed together so that the M.P.s can hear all the authors before the amendments are voted upon separately.

It should also be stated that amendments tabled by the Government or the lead committee have priority during discussion over those tabled by M.P.s on identical subjects.

Practically speaking, the order of calling is actually written down bearing the list of amendments in their order. This document is available in two formats and can be accessed through the internet site of the National Assembly: the first is placed on-line before the sitting and the second is updated during the sitting. This information is also transmitted on the screens in the Chamber.

b) Procedures during discussion

During the examination of an amendment, the chairman of the sitting will successively give the floor to:

- The author, or one of the authors, of the amendment to present the subject and defend the purpose (amendments whose authors are not present are not called);
- The rapporteur or the chairman of the lead committee, who recalls the committee’s position;
– If need be, the rapporteur or the chairman of the consultative committee;
– The Government;
– Finally, a speaker of the opposite opinion.

He may also give the floor to a speaker to reply to the Government or to the committee. When the Government’s opinion and that of the committee are identical, only one speaker shall be authorized to reply to them.

The amendment is then put to a vote by the chair of the sitting who will recall the opinion expressed by the Government and the lead committee.

It should be noted that the time allowed to present an amendment will differ according to the procedure which governs the examination of the Government or Member’s bill to which the amendment applies. Generally speaking, speeches on amendments, other than Government speeches (which have no time limit) may not exceed two minutes. Nonetheless, if the Conference of Presidents has decided to fix a maximum length for the examination of the bill (the Set Time Limit Debate Procedure), speeches during the general discussion, on articles or on amendments are not limited as long as the time allotted to the group to which the speaker belongs, has not been used up. When a group has used up all its speaking time, its members may no longer speak. Their amendments are then put to a vote without debate.
ANNEX

Main Formulae for Amendments

So as to simplify the presentation of amendments, each of the paragraphs in the bills submitted to the National Assembly, is numbered. An amendment which refers to one or several paragraphs in a bill will thus refer to these numbers.

1. **Deletions**

   Delete this article.

   paragraph n.

   the n-th phrase in paragraph n.

   In the n-th phrase in paragraph n., delete the words: "..."

2. **Re-writing**

   Rewrite as follows this article.

   paragraph n.

   the n-th phrase in paragraph n.

   Substitute in the place of paragraph n the following paragraphs: "..."

   Substitute in the place of the n-th phrase the following phrases: "...".

   Substitute in the place of the n-th and m-th phrases of paragraph n the following phrase: "..."

3. **Substitutions**

   In the n-th phrase of paragraph n, substitute for the words: "..." the words: "..."

   Rewrite the beginning of this article thus: "...", (the rest without change).

   From paragraph n: "...", (the rest without change)

   the n-th phrase of paragraph n: "...", (the rest without change).

   After the words: « ... », rewrite the end of this article thus: "...",

   From paragraph n: "...",

   the n-th phrase of paragraph n: "...

4. **Insertions and additions**

   - After paragraph n,

     Before paragraph n, insert the following paragraph: "..."

     Complete this article with the following paragraph: "...

   - At the beginning of paragraph n,

     After the n-th phrase of paragraph n, insert the following phrase: "...

     After the last phrase of paragraph n,

     Complete paragraph n with the following phrase: "...

     Rewrite the beginning of the n-th phrase of paragraph n thus: "...", (the rest without change).

     In the n-th phrase of phrase of paragraph n, after the word(s): "...", insert the words "...

     Complete the n-th phrase of paragraph n by the word(s): "...

5. **Additional Articles**

   ADDITIONAL ARTICLE

   AFTER ARTICLE N, INSERT THE FOLLOWING ARTICLE: "..."

**Key Points**

Article 40 of the Constitution limits the power of parliamentarians to initiate legislation in financial matters. It prohibits the creation or the increase of an item of public expenditure and only authorizes the diminution of public resources when such a measure is balanced by the increase of other public resources. In the case of credits released by finance bills, the Institutional Act of August 1, 2001, concerning finance acts, reduced the rigidity of this restriction by authorizing parliamentarians to carry out transfers between programmes within the same mission as long as the overall amount of funds allocated to the mission was not increased.

Beyond article 40 of the Constitution, the respect of the institutional provisions pertaining to finance laws (LOLF) and to social security financing laws (Institutional provisions concerning the social security code) is also monitored.

See also files 37 and 40

Article 40 of the Constitution, which has remained unchanged since 1958, provides that “bills and amendments introduced by Members of Parliament shall not be admissible where their adoption would have as a consequence either a diminution of public resources or the creation or increase of an item of public expenditure”.

This restriction on the right of parliamentarians to initiate financial measures is one of the constituent components of the “rationalized parliamentarianism” which characterizes the institutions of the Fifth Republic.
I. – THE PROCEDURE

The means of monitoring are set by article 89 of the Rules of Procedure of the National Assembly. In accordance with paragraph 5 of this article, the procedure which is set down hereafter is applicable in the same conditions to the respect of the institutional provisions (LOLF and LOLFSS).

1. – PRIOR TO TABLING

According to the jurisprudence of the Constitutional Council, “the respect of article 40 of the Constitution requires a systematic examination of the admissibility...of Members’ bills and amendments formulated by M.P.s. This must be carried out prior to the announcement of their tabling” and “before they may be published, distributed and put to discussion” (decision no 2009-581 DC of June 25, 2009).

a) Members’ Bills

In accordance with article 89, paragraph 1, of the Rules of Procedure of the National Assembly, the judgement of their admissibility is granted to a delegation of the Bureau of the National Assembly which shall refuse the tabling of Members’ bills “where it appears that their passing would have the results set out in article 40 of the Constitution”. As all Member’s bills will not actually be considered in plenary sitting, the Bureau now applies a certain flexibility to constitutional provisions so as not to excessively limit parliamentary initiative. Consequently, it accepts that, for example, an item of expenditure can be balanced.

In addition, Member’s bills subject to referendums are systematically passed on to the Constitutional Council in accordance with the institutional law implementing article 11 of the Constitution. Moreover, in the decision no 2013-681 DC handed down on December 5, 2013, the Constitutional Council stated that the examination of the compliance of such Member’s bills with article 40 of the Constitution is systematic, including when the question of financial admissibility has not been raised before, during the parliamentary discussion.

b) Amendments

In practice, the opinions handed down by the Chairman of the Finance Committee regarding the admissibility of amendments are always followed by the President of the National Assembly and by the chairs of the relevant committees, even though they are not obliged to do so.

- In committee

Article 89, paragraph 2, of the Rules of Procedure of the National Assembly provides that inadmissibility will be decided, for amendments tabled in committee, by the chairman of the lead committee and, in case of doubt, by its bureau. The chairman of the lead committee may consult, if he feels it necessary, his counterpart on the Finance Committee.
In Plenary Sitting

According to article 89, paragraph 3, of the Rules of Procedure of the National Assembly, the President of the National Assembly must refuse the tabling of an amendment in plenary sitting if it appears that it would result in either a diminution of public revenue or the creation or increase of any public expenditure. In the case of doubt, he takes his decision after having consulted the Chairman of the Finance Committee.

2. – AFTER TABLING

The provisions of article 40 of the Constitution may be applied “at any moment” during the legislative procedure, by the Government or by any M.P., to Members’ bills, including those which have been previously declared admissible by the Bureau of the National Assembly, and to amendments as well as to modifications introduced by committees to bills which have been referred to them.

In such a case, it is the responsibility of the Chairman of the Finance Committee to decide upon their admissibility (article 89, paragraph 4, of the Rules of Procedure of the National Assembly).

II. – GENERAL PRINCIPLES: FIELD OF APPLICATION AND THE REFERENCE BASE

1. – THE FIELD OF APPLICATION

Article 40 of the Constitution is aimed at public resources and expenditure. Its field of application covers State resources and expenditure, those of territorial units and authorities and the social security bodies (with the exception of complementary systems), as well as the unemployment benefit system.

By extension, article 40 can be applied to public bodies receiving public financing: public establishments of an administrative nature and to most public industrial and commercial establishments. Article 40 does not, however, concern public companies and professional training organizations.

2. – THE REFERENCE BASE

The reference base is the comparative term chosen to decide the “cost” of a parliamentary initiative, i.e. either the loss in revenue or the creation of or increase in expenditure it would generate.

The following are the possible reference bases:

– Existing law (in particular the legislative and regulatory laws in force);
– Proposed law (bill under discussion);
– The different versions of the bill under discussion which have been previously adopted by one of the two Chambers.
The choice between these three bases is always, in theory, made on the side of that which is most favourable to the parliamentary initiative.

The law which is proposed may also be the result of an intention of the Government seen as an unequivocal commitment which has been clearly expressed in committee or in plenary sitting. This must be expressed prior to the examination of admissibility. The explanatory statement or the impact studies may also be considered as reflecting the intention of the Government.

III. – THE RELATIVE OUTLAWING OF DECREASING PUBLIC RESOURCES

Article 40 of the Constitution prohibits the diminution of public resources by parliamentary initiative. The use of the plural form of “resources” has the effect of authorizing the balancing of the loss of one form of revenue by the increase in another form of revenue.

This balancing, usually referred to as the “guarantee”, conditions the admissibility of an amendment or of a Member’s bill which would lead to a decrease in revenue. The balancing must benefit the authority or the body which undergoes the loss in revenue. Thus, it is not possible to balance a loss in resources for the State by an increase in taxes received by territorial units.

The guarantee must be real and the revenue which is generated by it must be received in real terms. It is however accepted that the guarantee may consist of the creation of a new tax or the increase in the rate of an existing tax “at the same level” as the loss of revenue thus balanced. This practice makes the writing of amendments easier. In practice, during discussion in plenary sitting, the Government very often abolishes the guarantee before the passing of an amendment which it has decided to accept or not to oppose.

IV. – THE ABSOLUTE PROHIBITION OF INCREASING PUBLIC EXPENDITURE

- Article 40 of the Constitution may be applied to a parliamentary initiative which creates or increases an item of public expenditure. The use of the singular has the effect of prohibiting any type of balancing: the creation or the increase of an item of public expenditure cannot be guaranteed either by the establishment or the increase in revenue or by the decrease in expenditure. Thus the fact that the creation of a new item of expenditure may lead to more than proportional savings elsewhere has no effect as regards article 40: the amendment or the Member’s bill will be inadmissible.

The definition of items of expenditure covers direct and certain expenditure but also potential or optional expenditure; thus amendments which open up the legal possibility of spending are inadmissible.
However, simple management expenditure is not inadmissible as it is defined as a measure whose cost for public finances could apparently be covered by the mobilization of already existing administrative means without extending the missions of the bodies concerned. The same applies to non-prescriptive provisions and to those requesting the Government to present a report to Parliament. These are always financially admissible.

Thus article 40 is extremely severe regarding expenditure matters whilst it is, in practice, much less restrictive concerning parliamentary initiative in the area of revenue (see III).

Since the introduction of the Institutional Act of August 1, 2001 concerning finance acts (LOLF), the conditions governing the application of article 40 to amendments dealing with finance bills have become clearer and more flexible.

Article 47 of the LOLF provides that, for the application of article 40 of the Constitution, “expenditure is taken, in the context of amendments concerning credits, to mean the expenditure of the mission”. Parliamentarians can thus propose the transfer of credits between the programmes of the same mission without increasing the overall amount of the expenditure of this mission. The basis of the right of amendment, which before was carried out at the level of the budgetary chapter, has thus been broadened. This distinct relaxation only concerns amendments calculated according to the credits.

Credit amendments must have precise motives, i.e. both the increase in the credits for one programme and the decrease in those for one or several other programmes must be justified and must be set out in a precise cost allocation calculation.

The Institutional Act of August 2, 2005 concerning social security financing acts provides for a similar financial admissibility system for such bills. It states, in particular, that “expenditure is taken to mean, in the case of amendments to social security financing bills dealing with expenditure targets, each expenditure target per branch or for the national expenditure target for health insurance”. Parliamentarians may thus introduce amendments increasing the figure for one or several sub-targets in an expenditure target as long as the overall amount of this target is not increased, i.e. by decreasing in an equal fashion, one or several other sub-targets.

V. – THE APPLICATION OF INSTITUTIONAL PROVISIONS TO PARLIAMENTARY INITIATIVES

1. – THE INSTITUTIONAL LAW CONCERNING FINANCE LAWS

In application of the last paragraph of article 47 of the LOLF, all amendments no matter what texts they deal with, must comply with the provisions of the institutional act.
This provision has the notable effect of:

– maintaining the particularity of finance acts by preventing any insertion within them of provisions which are outside their scope; such provisions, which are referred to as “cavaliers budgétaires” or “budgetary cavaliers” may not appear in finance acts. On this basis, amendments concerning the relations between a bank and its customers or those dealing with the modification of a criminal offense, have been declared inadmissible;

– protecting the exclusive area of finance acts: an “ordinary” law may not include any of the provisions which the LOLF reserves exclusively for the area of finance acts (for example the assigning of resources due to the state to any other legal person).

The LOLF reaffirms the two-fold division of the finance laws: all provisions with an impact on the general balance must be included in the first part (concerning resources and balance). Whilst those provisions having an impact on a later budgetary year other than that dealt with by the specific finance bill, or those concerning uncapped charges or local taxation must be included in the second part (concerning expenditure). Consequently, if they wish to avoid being rendered inadmissible, amendments must be tabled on the required section of the law.

2. – THE INSTITUTIONAL PROVISIONS CONCERNING SOCIAL SECURITY FINANCING LAWS

As it prohibits “cavaliers sociaux” or “social cavaliers”, i.e. all provisions outside the area of the social security financing laws, article L.O. 111-3 of the Social Security Code, resulting from the Institutional Law of August 2, 2005, (LOLFSS) also provides protection for the area of these specific laws and in particular in their exclusive area (e.g. the allocation of revenue that belongs exclusively to the social systems to another body).

* *

At regular intervals since 1971, several chairs of the Finance Committee have published information reports describing the conditions in which they implemented their monitoring of the financial admissibility of parliamentary initiatives. The most recent report was that of Mr. Gilles Carrez (XIVth term of Parliament, n° 4546).
Monitoring the Constitutionality of Laws

**Key Points**

The monitoring of the constitutionality of laws (as well as of treaties and international commitments) is carried out by the Constitutional Council.

The Constitutional Council may have such matters referred to it by the President of the Republic, the Prime Minister, the President of the National Assembly, the President of the Senate, or since the constitutional revision of 1974 by 60 M.P.s or 60 Senators. Such referrals concern the monitoring of the constitutionality of a law between the moment of its passing in Parliament and of its promulgation. It is a written, inquisitorial procedure *in camera*.

Institutional laws and the Rules of Procedure of the parliamentary assemblies are referred automatically to the Constitutional Council.

A decision which declares a law unconstitutional blocks its promulgation. If only a part of the bill is declared unconstitutional, the law may be partly promulgated if the articles which are not in conformity are "separable" from the rest of the provisions.

In addition, the Constitutional Council may declare legislative provisions in conformity with the Constitution, subject to certain interpretations.

In July 2008, a new article was inserted into the Constitution. This article, 61-1, provides for the possibility of a referral to the Constitutional Council open to any person involved in legal proceedings, if, during proceedings in progress before a court of law, it is claimed that a statutory provision infringes the rights and freedoms guaranteed by the Constitution. This new right which is known as the "priority preliminary ruling on the issue of constitutionality" has been applicable since March 1, 2010.

* See also files 6, 27, 30 and 31

The monitoring of the constitutionality of laws enables the checking of the conformity of such laws to constitutional provisions. The introduction of the monitoring of constitutionality in France in 1958 strengthened the power of the Constitution and led to a jurisprudence with significant consequences.
1. THE VARIOUS MONITORING MECHANISMS

1. – OBLIGATORY MONITORING (ARTICLE 61, PARAGRAPH 1 OF THE CONSTITUTION)

Institutional acts before their promulgation and the Rules of Procedure of the assemblies (National Assembly, Senate, Congress and the High Court) before their implementation, are automatically transmitted to the Constitutional Council which makes a decision on their conformity with the Constitution, within a time limit of one month (the said limit can be reduced, in the case of an emergency situation to 8 days upon the request of the Government).

The monitoring of the constitutionality is not limited to the conformity with the Constitution in the strictest sense, but can be broadened to what could be called “the body of constitutional rules”. This includes, in particular, the principles included in the “Declaration of the Rights of Man and of the Citizen” dating from 1789, those included in the preamble to the Constitution of 1946, the “fundamental principles recognized by the laws of the Republic” and “the principles particularly for our time” as enshrined in the preamble of 1946, such as the Charter on the Environment.

Regarding the requirements which are imposed by the hierarchy of norms, the conformity of the Rules of Procedure of the assemblies to the Constitution must be considered, and the Constitution (thus the “body of constitutional rules”), and the institutional laws provided for by said Constitution, as well as the legislative measures taken for its application, must be taken into account.

2. – THE PRIOR MONITORING OF ORDINARY LAWS (ARTICLE 61, PARAGRAPH 2 OF THE CONSTITUTION)

The Constitutional Council’s jurisdiction only applies to ordinary laws passed by Parliament. The Constitutional Council has declared laws passed by referendum to be outside its jurisdiction.

Matters may be referred to the Constitutional Council by the President of the Republic, the Prime Minister, the President of the National Assembly, the President of the Senate, or, since the constitutional revision of 1974, by sixty M.P.s or sixty Senators. The referral must take place in the period between a bill being passed by Parliament and its promulgation, i.e. during 15 days at the most. Such a referral postpones the promulgation of the bill.

The text of the referral is transmitted to the relevant authorities who refer it to the Constitutional Council. The Secretary General of the Government automatically ensures the defence of the law before the Constitutional Council in the name of the Prime Minister. In this capacity, he provides written observations in reply to the arguments put forward in the referral.
The Constitutional Council must make its declaration in the same time limit as for the monitoring of institutional laws and for the Rules of Procedure of the assemblies (the one-month time limit may be shortened to 8 days in urgent circumstances upon the request of the Government).

When the Constitutional Council declares the law in conformity with the Constitution, it may be promulgated.

On the contrary, a decision which declares the whole law to be unconstitutional blocks its promulgation. The legislative procedure which has led to the passing of such a law is annulled and there is no other solution than to begin again from the beginning, unless the reason for the non-conformity constitutes a decisive obstacle which implies, for example, a prior revision of the Constitution itself.

The Constitutional Council may also decide that a law is partly in conformity with the Constitution. In such a case, the law may be promulgated except for the articles or parts of articles which have been declared unconstitutional (and on the condition such articles or parts of articles are “separable” from the rest of the provisions).

3. – THE SUBSEQUENT MONITORING OF ORDINARY LAWS (ARTICLE 61-1, PARAGRAPH 1 OF THE CONSTITUTION)

Until recently the Constitution made no provision for the monitoring of a law once it had been promulgated. Nonetheless, as of a decision of January 25, 1985, the Constitutional Council accepted that the constitutionality of a law which had been promulgated “may well be contested upon the examination of legislative provisions which modify it, supplement it or affect its field of application”.

Article 61-1 of the Constitution introduced by means of the Constitutional Act of July 23, 2008, opened up a new right to people involved in legal proceedings which allowed for referral to the Constitutional Council in the cases of proceedings before administrative and judicial courts, concerning the conformity of statutory promulgated provisions with the rights and freedoms constitutionally guaranteed.

The Institutional Law of December 10, 2009 concerning the application of article 61-1 of the Constitution provides that a referral may be made to any court by a party concerning a priority preliminary ruling on constitutionality. The court must then, examine the question without delay (hence the priority nature of such an issue which takes precedence over all others) and transmit it to the highest court in its order if it deals with a provision applicable to litigation which has not yet been declared compliant by the Constitutional Council (except in the case of new circumstances) and which is of a serious nature.
The transmission of the question has the effect of immediately suspending the proceedings of the court before which it was raised (except when a person has been detained on account of that court and when it must provide a decision in a limited period of time or in an emergency).

A second filter is then provided by the Conseil d’État or by the Court of Cassation to whom the priority preliminary ruling on constitutionality has been referred by a court of their own order or who have had a direct referral. They are tasked to check, within a three-month period, that the question deals with a provision which is applicable to litigation, that it has not been declared compliant by the Constitutional Council (except in the case of new circumstances) and that it is new and of a serious nature.

If the question answers these criteria, it is transmitted to the Constitutional Council which then hands down a decision within three months on the compliance with the Constitution of the contested legal provision. A question which has not been examined by the Conseil d’État or by the Court of Cassation within the three-month time limit provided to them is automatically transmitted to the Constitutional Council.

The Constitutional Council may also directly be referred to concerning a priority preliminary ruling on constitutionality when the latter concerns a litigation of which the Constitutional Council is judge (litigations on legislative and senatorial elections and litigations on preparatory acts for the election of the President of the Republic.

The Constitutional Council only examines the contested provisions which are of a legislative nature (which is not the case for provisions introduced by an ordinance which has not yet been ratified) and it refuses, as in an a priori monitoring mechanism, to recognize the legislative provisions adopted by a referendum procedure.

In the framework of a priority preliminary ruling on constitutionality, the Constitutional Council examines only the provision which is contested concerning “the rights and freedoms guaranteed by the Constitution”. The respect of the other constitutional requirements (in particular the rules concerning the procedure of the passing of law) is not examined at this moment; it can only be examined during an a priori monitoring procedure.

If the Constitutional Council decides that the contested provision is not compliant with the Constitution then it repeals said provision. The second paragraph of article 62 of the Constitution allows it to modulate the effects of its decision over time and to decide upon the conditions and the limits in which the effects that the repealed provision has created are liable to be called into question.
4. – THE MONITORING OF INTERNATIONAL COMMITMENTS (ARTICLE 54 OF THE CONSTITUTION)

This form of monitoring deals with treaties as well as all other international commitments. The procedure which is followed is the same as that for laws and such matters can be referred to the Constitutional Council by the same people (although the referral by 60 M.P.s and 60 Senators was only introduced in 1992) up until the ratification of the treaty. If the treaty is not in conformity with the Constitution then the latter must be revised prior to any ratification.

5. – THE MONITORING OF MEMBER’S BILLS ACCORDING TO PARAGRAPH 3 OF ARTICLE 11 OF THE CONSTITUTION

The constitutional revision of July 23, 2008, opened up the possibility, in certain conditions, of organizing a referendum on a member’s bill dealing with one of the subjects mentioned in the first paragraph of article 11 of the Constitution (the organization of public authorities, reforms concerning the economic, social or environmental policy of the nation and the connected public services, or the authorization to ratify a treaty).

In accordance with the Institutional Law of December 6, 2013, when such a member’s bill is tabled by, at least, one fifth of the members of Parliament in one of the assembles, the Constitutional Council, to whom this bill is transmitted, must check, within a one-month period of its transmission, that none of its provisions is unconstitutional and that it fulfils the other requirements of the institutional law.

It is only after the Constitutional Council has declared the member’s bill compliant with the Constitution that the gathering of support amongst voters can begin. Once a referral has been made to the Constitutional Council, the procedure provided for by article 11 of the Constitution cannot be interrupted by the withdrawal of the member’s bill.

Since the coming into force of this reform on January 1, 2015, no referral has been made to the Constitutional Council concerning any Member’s bill in application of the third paragraph of article 11 of the Constitution.

II. – THE CONTENT AND THE IMPLEMENTATION OF DECISIONS

1. – THE CONTENT OF DECISIONS

In the case of prior monitoring, the procedure is written and inquisitorial. The text of the referral (since 1983) and the observations of the Secretary General of the Government (since 1984) are published in the Journal officiel.

The procedure which is to be adopted before the Constitutional Council in cases of priority preliminary rulings on the issue of constitutionality has been established by the Institutional Law of December 10, 2009 and the internal Rules of Procedure of the Council. The parties are allowed to present their observations
in the presence of the other parties. The proceedings are public, except in exceptional circumstances. The President of the Republic, the Prime Minister and the presidents of the two assemblies who are informed of any priority preliminary ruling on the issue of constitutionality which is referred to the Constitutional Council, may address their observations to the latter. In practice, only the Secretary General of the Government systematically addresses observations on behalf of the Prime Minister.

As regards international commitments, institutional laws and the Rules of Procedure of the assemblies, the Constitutional Council must check the conformity to the Constitution of the entire text.

When it examines an ordinary law, if it is only held to reply to the questions asked in the referral, the Constitutional Council may, nonetheless, refer to other provisions of the bill or to procedural questions which have not been raised in the referral.

When it monitors an institutional law, the Constitutional Council may state that one of its provisions is not of an institutional nature. In such a case, it reclassifies it and this leads to a modification of this provision by an ordinary law, even if it remains formally included in an institutional law.

The Constitutional Council may declare some legislative provisions in conformity only if subject to certain interpretations, either by detailing the way in which they must be interpreted (neutralizing interpretation), by adding to them (constructive interpretation) or by making clear the way in which they must be applied (directive interpretation).

2. – THE IMPLEMENTATION OF DECISIONS

A treaty which is declared unconstitutional cannot be ratified without a revision of the Constitution.

A provision of the Rules of Procedure of an assembly which is declared unconstitutional cannot be applied whilst that of a law cannot be promulgated. In the case of a law, the President of the Republic may, nonetheless, promulgate the law minus the provision(s) or request a new deliberation of Parliament (article 10, paragraph 2, of the Constitution).

In the case of subsequent monitoring, the unconstitutional legislative provision is repealed. Exercising its power to modulate over time, the Constitutional Council may decide that repeal can be delayed (giving a date for the actual repeal). This allows lawmakers to understand the consequences of the declaration of unconstitutionality.

The decisions of the Constitutional Council are published in the *Journal officiel* and have the force of res judicata which applies not only to the provision but also to the motives. Such decisions “shall be binding on public authorities and on all administrative authorities and all courts” (article 62 of the Constitution).
The Parliamentary Examination of Finance Acts

**Key Points**

The examination of finance bills by the National Assembly is governed by constitutional rules supplemented by the Institutional Act of August 1, 2001 (LOLF) and is carried out in quite a different way from the examination of other bills. The budget debate in the autumn of each year mobilizes a large number of M.P.s and is one of the most important moments in the parliamentary calendar.

*See also files 37, 38 and 50*

Article 34 of the Constitution provides that “Finance Acts shall determine the revenue and expenditure of the State in the conditions and with the reservations provided for by an Institutional Act”. The particular rules which apply to such acts have been significantly changed by the Institutional Act on Finance Laws dating from August 1, 2001 (LOLF) which replaced the ordinance incorporating the Institutional Act of January 2, 1959, which had remained almost unchanged for more than forty years.

The finance act is the legal act which makes provision for and authorizes the State’s budget. It determines for a budgetary year (i.e. which corresponds to a calendar year) the nature, the amount and the allocation of State resources and expenditure as well as the budgetary and financial balance which results from them (LOLF, article 1).

Only the Government can present finance acts which can only be the result of the adoption of a finance bill (article 47 of the Constitution).

There are three categories of finance acts:

- The finance act of the year,
- The “corrected” finance act,
- The settlement act.

Finance acts must present in a regular way, all of the revenue and the expenditure of the State (LOLF, article 32) and their regularity must be considered taking into account all available information and forecasts which can reasonably be expected as a consequence at the moment they are passed.
I. – THE FINANCE ACT OF THE YEAR

The finance act of the year which is prepared by Government has its presentation and content precisely laid down by the LOLF. It is considered by Parliament according to a procedure which differs, on substantial points, from the usual legal procedure for the examination of other bills.

A. – A CLEARLY DEFINED PRESENTATION AND CONTENT

The finance act of the year is divided into two parts (LOLF, article 34):

- The first part authorizes the raising of taxes, includes the fiscal provisions which impact upon the budgetary balance of the year, as well as provisions concerning revenue levies (in favour of territorial communities and the European Union) assesses State resources, sets the ceiling on expenditure and lays down the general figures concerning budgetary balance (presented in a balance sheet),

- The second part sets the amount of credits for each of the State budget missions and the employment authorization ceiling for each ministry; it may also include fiscal provisions which do not impact upon the budgetary balance of the year (these articles are referred to as “non-attached”), provisions which impact directly upon the budgetary balance of the year (these articles are referred to as “attached” to a mission) and provisions concerning the informing of Parliament and its monitoring of the management of public finances. It also includes, since the Institutional Law of December 17, 2012 concerning the programming and the governance of public finances, an introductory article presenting a summary table laying down the state of the forecasts for the structural balance and the real balance for all public administrations (article 7 of this institutional law).

The credits for the general budget of the state, which were, until the LOLF, presented by ministry and by type of expenditure (by title - operational, investment, intervention and then by chapter) are today presented in a a three-tier structure:

- Missions, either ministerial or inter-ministerial,
- Programmes,
- Actions.

Missions, which can only be initiated by Government, include a series of programmes linked to a specific public policy falling into the remit of one or several ministries.

Programmes group together all the credits for the implementation of an action or a coherent group of actions which are within the remit of the same ministry and which include precise targets as well as expected results and which are subject to assessment (LOLF, article 7).
Actions constitute the third level of the presentation of expenditure about which the LOLF gives no precise detail. They are only of an informative nature and attempt to identify the components of public policies and examine their costs.

The presentation of credits by category (staff, operation, debt servicing, investment, subsidies, financial operations etc.) is only given as an indication and is subject to the category of staff expenditure (category 2) which is limited according to each programme.

The general state budget in 2017 had 32 missions bringing together 122 programmes to which must be added 2 annexed budgets and 29 special accounts, (special allocations, financial assistance accounts, trade accounts and monetary operation accounts).

This new budgetary architecture has led to the broadening of the right of amendment for parliamentarians. Article 47 of the LOLF allows them to modify the amount and the distribution of credits between the programmes within the same mission, as long as they do not increase the ceiling of its overall credits.

The finance bill has, by necessity, many annexes which are meant to keep parliamentarians well-informed:

- The Annual Performance Plans (PAP) (blue-coloured budgetary documents) set out within each mission, the credits allocated to each of its programmes and which detail, for each action, the targets and the performance indicators;

- The information annexes (yellow-coloured budgetary documents), (e.g. report concerning state shareholdings; the report concerning the implementation and the follow-up of future investments; report on the current state of the civil service and salaries; the report on financial relations with the European Union; the report on independent public authorities). There are 28 of these annexes for the 2017 finance bill;

- The orange-coloured documents deal with multi-faceted policies which present in great detail certain policies pertaining to several ministries (e.g. internal security, overseas units, town planning, tourism) which are concerned with programmes whose scope deals with different missions. These concern the strategy applied, the budget, the aims and the indicators which are relevant. The list of these 19 documents is in article 128 of the corrected finance act for 2005 and has been modified several times;

- The annex referred to as “ways and means” which re-examines all the assessments of State revenue and fiscal expenditure;

- Other budgetary documents which enable, in particular, the budget bill to be placed in its economic, social and financial context: report on obligatory contributions; economic, social and financial report; report on the Nation’s accounts.
In accordance with the constitutional revision of July 2008 and the Institutional Law of April 15, 2009, the finance bill also includes an annex which presents all the preliminary assessments of the measures which it puts forward. This represents the equivalent of the impact studies for non-financial bills. As this annex does not constitute an impact study in the strictest sense, it is not subject to the challenge before the Conference of Presidents which is provided for by article 47-1 of the Rules of Procedure of the National Assembly.

B. – DRAFTING BY THE GOVERNMENT ALONE

The process of the drafting of the finance law and the State budget falls entirely within the remit of the Government, as laid down by article 38 of the LOLF which states that “under the authority of the Prime Minister, the Minister in Charge of Finances prepares the finance bills which are examined in the Council of Ministers.”

It begins as of the start of the year preceding the implementation of the budget and represents a substantial amount of work concerning the forecasts and negotiations between the Ministry in Charge of the Budget and the other ministries.

Before its approval by the Council of Ministers, the finance bill is submitted, like all bills, to the Conseil d'État, for its opinion.

The bill is then discussed in the Council of Ministers at a date which enables its tabling within the timetable set down by article 39 of the Constitution, i.e. before the first Tuesday in October of the year preceding that of its implementation.

1. – NEW GUIDELINES

Although the finance law only deals with a single year, in accordance with the principle of budgetary annuality, its preparation falls more and more within the scope of the multi-annual programming of public finances. It is no longer, in addition, a strictly internal matter since the advent of greater monitoring of budgetary policies was implemented within the framework of the Eurozone and of the European Union.

It is for this reason that the Institutional Law of December 17, 2012 concerning the planning and the governance of public finances changed the budgetary procedures so that they became compliant with the Treaty on Stability, Coordination and Governance (TSCG) within the economic and monetary union which was ratified on October 11, 2012.
a) The multi-annual programming of public finances

The Constitutional Law of July 23, 2008 made provision for a new category of programming laws which, strictly speaking are not finance laws but which, given their subject, are very close to so-being. These programming laws set down “the multi-annual guidelines for public finances” and contain “the aim of balancing public administration accounts” (penultimate paragraph of article 34 of the Constitution).

These programming laws, whose content is now decided by the aforementioned Institutional Law of December 17, 2012, are examined by Parliament according to the ordinary legislative procedure.

These programming laws, which deal with a minimum period of three years, must lay down a mid-term objective, in the form of a structural target amount for the accounts of all public administrations. They must also set down the multi-annual method to reach such targets, as well as the means to be employed for a correction mechanism in the case of there being a substantial gap concerning the structural amount at the moment of the settlement act. They lay down the maximum amount of the general state budget credits, of levies on its revenue, as well as the credit ceiling allocated to the missions of the general state budget. An annex is attached to them which must be approved by Parliament and which, in particular, presents the hypotheses and the methods used to reach this programming, as well as the calculations used to obtain the structural amount and the measures implemented in order to guarantee the respect of the programming.

Their legal effect was made clear by the Constitutional Council in its decision of December 13, 2012 on the institutional law: “Considering that the multi-annual orientations laid down by the Public Finance Programming Law do not have the effect of modifying the discretion and adaptation of the Government’s implementation of article 20 of the Constitution in the setting-down and the conduct of the policy of the nation and that they, in the same vein, do not affect the prerogatives of Parliament when it examines and passes finance and social security financing bills or any other Government bill or member’s bill.”

b) Community monitoring of the budgetary policies of member states

Community monitoring of the budgetary policies of member states has been, since 2011, part of the framework of the “European semester”: the member states transmit every year to the European authorities, before the end of the month of April, their stability programme (or their convergence programme for the states which are not part of the Eurozone) as well as their national reform programme.
This exercise should enable member states to better take into consideration European recommendations when it comes to important choices in their economic and budgetary policies at the moment of the passing of their budget. It nonetheless respects the powers of each respective Parliament. It should also enable greater flexibility between budgetary monitoring and that concerning growth policies within the framework of the Europe 2020 strategy.

In accordance with article 14 of the programming law on public finances for the period 2001-2014, maintained by the following programming laws, the Government now transmits the stability programme draft to Parliament, at least two weeks before sending it to the European Commission. Parliament may thus discuss it and provide its decision through a vote. Every year, the Finance Committee carries out interviews with the Government and the President of the High Council for Public Finances and publishes a fact-finding report written by its General Rapporteur.

In addition, in the framework of the follow-up and the assessment of the draft budgets of member states of the Eurozone, the latter must now transmit to the Eurogroup and to the European Commission, before October 15, their draft budget for the following year. The Commission may give an opinion on this budget, before November 30 and this opinion may be accompanied by a request to revise if there is a particularly serious infringement of the budgetary policy obligations set down in the stability pact.

c) The High Council for Public Finances

The TSCG requires that an independent supervision body be created in each country so as to warn Governments which stray from the structural objectives or to judge the possibility of “exceptional circumstances”. This requirement is further strengthened by a rule stating that there must be an independent body which validates the macroeconomic forecasts concerning possible growth in national budgets.

It is for this reason that the Institutional Law of December 17, 2012, set up the High Council for Public Finances (HCFP) in charge of informing the Government and Parliament’s choices and of overseeing the coherence of the path towards the return to balanced public finances with France’s European commitments. In order to achieve this, it takes into account the realistic nature of the macroeconomic forecasts of the Government and provides an opinion on the coherence of the annual objectives presented in the financial bills (finance bill, corrected finance bill etc.) with the multi-annual objectives for public finances.

The High Council must provide an opinion on the macroeconomic hypotheses, used by the Government in the preparation of the main texts dealing with public finances, before their presentation to Parliament: public finance programming bills, finance bills, social security financing bills, corrected finance
bills and draft stability and growth programmes transmitted each year to the European Commission and to the Council of the European Union.

The High Council oversees the coherence of the path towards the return to balanced public finances (State, territorial communities, social security) with France’s European commitments. Thus, when the Government presents a finance bill or a social security financing bill in September each year, the High Council provides its prior opinion on the coherence of such bills with the multi-annual programming envisaged. It is then led to examine if the forecasts for revenue and expenditure presented by the Government are compatible with the mid-term path towards the return to structurally balanced public finances.

For each of the opinions provided by the High Council, the Finance Committee may request the President of the High Council (who is the First President of the Court of Accounts) to appear before it.

2. – LIMITED INVOLVEMENT OF PARLIAMENT

Since 1996, Parliament has taken part in the preparation of the finance bill by means of an orientation debate on public finances, usually organized in July, after the first reading of the settlement bill of the previous year and provided for by the LOLF (article 48).

This debate is held on the basis of a Government report on the development of the national economy and on the trends in public finances. The report must include the list of missions and programmes, along with their performance indicators, which are envisaged for the finance bill of the following year. Since 2013, this report has included, in addition, a section setting out the amount of credits by ministry.

In order to prepare this debate, the Finance Committee of the National Assembly interviews the First President of the Court of Accounts. The latter presents the Court’s report which is specially published for this hearing. The report deals with the situation and the perspectives for public finances. The Finance Committee also publishes a preparatory fact-finding report before the orientation debate which is signed by its General Rapporteur.

C. – A SPECIFIC LEGISLATIVE PROCEDURE

The examination procedure of the finance act of the year was not changed by the constitutional revision of 2008 and thus differs significantly from the procedure applied to ordinary law.

1. – A BUDGETARY DISCUSSION WITHIN STRICT CONSTITUTIONAL TIME LIMITS

The finance bill of the year must be tabled at the National Assembly which possesses constitutional priority over the Senate, before the first Tuesday in October of the year preceding that of its implementation. For several years now, it has been, in fact, tabled during the last week of September.
Article 47 of the Constitution sets a 70-day time limit for Parliament to reach a decision on the finance bill.

The time limits are thus set out as follows (LOLF, article 40):

- First reading at the National Assembly: 40 days;
- First reading at the Senate: 20 days;
- Parliamentary “shuttle”: 10 days.

The starting point for the countdown of this 70-day period is not the day the finance bill is tabled but, by agreement between the Government and the National Assembly, the day after the Prime Minister has addressed a letter to the President of the National Assembly drawing up a list of all the obligatory annexes transmitted to the National Assembly, i.e. usually between October 10-14.

Articles 47 of the Constitution and 45 of the LOLF detail the consequences if the overall period of 70 days is exceeded:

- If the overall time limit of 70 days is exceeded on account of Parliament, the Government may have recourse to an ordinance to enforce the provisions;
- If the overall time limit of 70 days is exceeded on account of the Government in the case of non-respect of the constitutional period for the tabling of the bill, the latter may either ask Parliament to solely pass the first part of the finance bill (the second part being considered at a later date) or request a vote on a special law which would allow it to receive the existing taxes until the passing of the finance law. In either case the credits are temporarily distributed according to the services which have been voted, i.e. the minimum budget considered necessary by the Government to enable the State to function according to the conditions prevailing the previous year.

Article 45 of the LOLF also provides for the case in which the enactment of the finance act before January 1, is made impossible by a decision of the Constitutional Council. In such a case, the Government may table a special bill which allows it to continue to collect taxes until the passing of the new finance law which will take place at the same time.

These rules which are restrictive for Parliament but also for Government (which is also required to respect the tabling deadlines for the explanatory annexes) aim at ensuring, thanks to the passing of the budget before the beginning of the calendar year, that the Nation continues to function.

2. – PROCEDURAL SPECIFICITY STRENGTHENED BY THE CONSTITUTIONAL REVISION OF 2008

The Constitutional Act of July 23, 2008 as well as the provisions of the Rules of Procedure of the National Assembly which result from it, introduced substantial changes into the relationship between Parliament and Government as well as in the ordinary legislative procedure.
Many of these, however, do not apply to finance acts:

- In the case of the examination of finance bills in committee, ministers may not attend votes which in fact, disallows them from participating in debates;

- The examination of finance bills may be included with priority status, at any moment, on the agenda of the National Assembly, upon the request of the Government, including during weeks given over, in principle, to a parliamentary agenda (article 48 of the Constitution);

- The discussion on first reading, in plenary sitting, before the National Assembly is on the text presented by the Government and not on the text passed by the committee (article 42 of the Constitution); on other readings, the discussion is on the basis of the bill transmitted by the other assembly and not on that of the committee;

- The so-called Set Time Limit Debate Procedure (the setting of the maximum time for the examination of a bill) is not applicable to the examination of finance bills;

- The possibility for the Government to have recourse to article 49-3 of the Constitution (making the passing of a bill an issue of confidence) has been maintained without any limitation in the case of a vote on the finance bill.

3. – EXAMINATION MOBILIZING THE EIGHT STANDING COMMITTEES

The institutional act (LOLF, article 39) provides for the referral of the finance bill to the Finance Committee and thus excludes the possibility of setting up an ad hoc committee. However, even though the Finance Committee plays a decisive role in the examination of the bill, the seven other committees are also referred to for opinion.

a) The predominant role of the Finance Committee

The examination of the finance bill traditionally begins with the hearing of the minister(s) in charge of finances and of the budget immediately following the end of the Council of Ministers which has adopted the bill. The next step of the involvement of the committee in the examination of the bill involves the General Rapporteur and the special rapporteurs.

- The role of the General Rapporteur

The General Rapporteur is elected every year at the same time as the Chairman of the Committee and the members of its bureau but traditionally he is maintained in his position for the entire length of the term of Parliament. The general report on the finance bill for the year is automatically entrusted to him as well as the reports on the corrected finance bill, the finance settlement bill and/or the bill on the programming of public finances.
The General Rapporteur examines all the provisions of the first part of the bill, as well as the “non-attached” articles of the second part. In this context, he puts before the committee the relevant amendments and is in charge of defending, in plenary sitting, the positions adopted by the committee on all the amendments tabled. Upon the first reading of the finance bill, the general report, drawn up by the General Rapporteur is made up of three volumes:

- Volume I is devoted to an overall analysis of the budget placed in its economic and financial context;
- Volume II includes, commentaries on the provisions of the first part of the finance bill;
- Volume III includes commentaries on the “non-attached” articles of the second part.

- The role of special rapporteurs

The detailed examination of credits is carried out by special rapporteurs to whom the institutional act (LOLF, article 57) has granted powers of investigation including giving them access to all evidence and the right to communicate information and documents of a financial and administrative nature (subject to such documents and information not being covered by national defence secrets, internal or external state secrets or by legal confidentiality).

These special rapporteurs are nominated by the Finance Committee during the first term of the year and are permanently responsible for the monitoring of the handling of the budget in their particular field of competence. Each year, they send questionnaires to the ministers before July 10 in preparation for their reports on the finance bill. The Government is obliged to make a written reply by October 10, at the latest (LOLF, article 49).

Each special rapporteur is in charge of the examination of the credits of a mission or in certain cases of one or several programmes within the same mission. If required, his special report presents the article or articles of the finance bill which are attached to the mission of which he is in charge.

The special rapporteurs belong to all the political groups of the National Assembly.

b) The role of the other Standing Committees

Referral is made to the seven other standing committees concerning the second part of the finance bill through their “rapporteurs for opinion” who are in charge of the examination of missions (all or part thereof) falling within their field of competence. It should be noted that for the examination of recent finance bills, auto-referral was also made to certain standing committees concerning the first part.
4. – THE DISCUSSION OF THE FIRST PART OF THE BILL

The discussion of the first part of the finance bill, both in the Finance Committee and in the plenary sitting, takes place in the same way as for a non-financial bill.

During the examination in the Finance Committee, the General Rapporteur plays the principal role. He proposes his own amendments and gives his opinion on those tabled by the other members of the committee. As was stated above, the committee adopts only the amendments and thus does not lay down a text which will serve as a basis for the discussion in plenary sitting.

The debate in plenary sitting, which takes place as of the week following the examination of the bill in committee, is organized by the Conference of Presidents of the National Assembly. The discussion opens with a general discussion during which the Government, the General Rapporteur, the Chair of the Finance Committee, the spokespersons of the political groups and the M.P.s who are enrolled, take the floor. The discussion of the articles also follows the normal rules. Some years, the article concerning the revenue contribution to the European Union is organized in a specific way.

The particularity of the finance bill is due to a “balancing article” and to the provisions of article 42 of the LOLF which makes the passing of the first part a pre-requisite for the discussion of the second part of the bill. In fact, it is this article which assesses the overall budget resources of the State and which places the ceiling on expenditure, thus setting the financial balance. The decision of the Constitutional Council of December 24, 1979, annulled the Finance Act for 1980, because it did not comply with this obligation. The debate in plenary sitting usually takes up between five and six days of sitting, i.e. around fifty hours.

5. – THE DISCUSSION OF THE SECOND PART OF THE BILL

The discussion on the second part does however follow the usual rules. Its organization has undergone significant changes which are due to the desire to render the debates in plenary sitting more dynamic and the wish to strengthen the interactivity of the exchanges between parliamentarians and the Government.

These developments appear to have reached a stable position centred around the practice, which was initiated during the XIth term of Parliament and which was enshrined in the Rules of Procedure of June 2006, introducing enlarged committees which take place before the plenary sitting debate on credits.

These enlarged committees are in fact a joint meeting of the Finance Committee and the other concerned committee(s). The Government is represented at these meetings and their public nature is similar to that of the plenary sitting. These enlarged committees are the moment when the rapporteurs and the M.P.s can ask questions to the ministers regarding the credits of their mission.
Since the examination of the finance bill of 2014 this procedure has been made general. The overall length of time given over to meetings of the 26 enlarged committees represents around sixty hours over nearly three weeks.

At the end of the discussion in enlarged committees, the relevant committees hold a short meeting to decide upon the credits for the missions and the articles which may be so-associated and to make a decision on the amendments which have been tabled by their members.

Examination in plenary sitting is also organized by the Conference of Presidents.

At the end of the debate on the missions, the National Assembly examines the articles not linked to the second part of the finance bill, the so-called “recapitulation” articles (articles which refer to annexed documents and which relate the distribution of credits by mission)\(^1\), and moves to a formal vote on the entire finance bill.

In total, the National Assembly devotes between 70 and 80 hours every year in plenary sitting to the first reading of the second part of the finance bill.

6. – The Parliamentary “Shuttle” and the promulgation of the law

As the accelerated procedure is automatically applied to the finance bill, it becomes the subject of a single reading in each assembly, after which the Government convenes a meeting of a joint National Assembly/Senate committee (CMP) which is responsible for examining the provisions remaining under discussion.

The procedure following the meeting of a CMP is the normal one applied to all bills.

If the CMP and the adoption of a single text on the provisions still in discussion is successful, this bill is put to a vote by the two assemblies. Its approval puts an end to the parliamentary “shuttle” and leads to the definitive passing of the finance bill. This is the traditional scenario when the majorities in each House agree.

In the case where the CMP fails or the text laid down by it is rejected by one of the Houses, the National Assembly and the Senate must move to a new reading. If the disagreement continues, the Government requests the National Assembly to make a final decision on a definitive reading. For the examination during a new reading, the General Rapporteur presents all of the provisions of the finance law and the special rapporteurs are no longer involved. Such an examination takes place more quickly, both in committee and in plenary sitting as the missions are not re-discussed one after another.

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\(^1\) These articles were subject to a prior discussion in the Finance Committee in the same conditions as those of the first part of the bill.
Before its promulgation, the finance act is usually submitted to the Constitutional Council for its opinion. The Constitutional Council has developed a substantial jurisprudence in budgetary matters and checks in particular the respect of the institutional rules concerning finance acts.

II. – THE EXAMINATION OF THE OTHER FINANCE ACTS: “CORRECTED” FINANCE ACTS AND SETTLEMENT ACTS

1. – “CORRECTED FINANCE ACTS”

“Corrected” finance acts modify the finance act of the year during its year of application and have the same two-part structure.

The main aim of the “corrected” finance act, which is commonly referred to as the “budgetary collective” or “mini-budget”, is to take into account the revised assessments of state resources (to include the disparities between the forecasts and the revenue actually received), to apply to credits the necessary modifications which exceed those which the Government is authorized to carry out through regulations, to validate the others and to decide on the new budgetary balance as a result.

Certain such “mini-budgets”, particularly in the case of a change of Government, or an unforeseen economic situation, may bring about a significant change in fiscal or budgetary policy or imply the necessity of a major measure specifically linked to a crisis situation (e.g. the State guaranteeing a national or a European financial mechanism).

Even if the tabling of a corrected finance bill is solely dependent on Government initiative and can occur at any time, Parliament’s approval is nonetheless systematically required in November at the time of the “budgetary collective”. In addition to the provisions concerning the general balancing of the budget and modifying the credits of the missions (e.g. the annulment or the approval of credits), this bill also includes a substantial number of permanent fiscal provisions which will only be applied during the following year.

In principle, the examination of a corrected finance bill will only concern the Finance Committee as it rarely happens that another committee will be referred to for its opinion. As for the finance bill of the year, the committee interviews the Government representative following the Council of Ministers during which the “mini-budget” has been adopted. The mini-budget is then examined by the committee on the report of the General Rapporteur, in the same conditions as for the first part of the Finance Act of the year.

The discussion of credits does not take place mission by mission and only the Budget Minister is responsible for supporting the bill in plenary sitting. The debates are relatively short and usually take up one week of the business of the National Assembly on first reading. The parliamentary “shuttle” takes place as previously described.
2. – SETTLEMENT ACTS

The main aim of the settlement act is to “settle” the definitive amount of the budget revenues and expenditure to which it refers and to establish the budgetary result which is a consequence.

The time limit for the tabling of the settlement bill is set for June 1 of the year following that to which the budget applied (LOLF, article 46). It is supported by the Annual Performance Reports (RAP), in a red back, which enable a comparison between the implementation of the budget, including its results and the forecasts made in the Annual Performance Plans (PAP), or “blue papers”, which are annexed to the finance bill of the year.

The settlement bill is examined according to the normal rules, although article 41 of the LOLF provides that the finance bill of the year may not be discussed before an assembly before the passing in first reading of the settlement bill of the previous year.

Since 2006 the Parliament has been in a position to definitively pass the settlement bill during the extraordinary session in July.

In principle, the examination of a settlement bill only concerns the Finance Committee as it is rare that any other committee should be required to provide its opinion.

The Committee interviews the Government representative after the Council of Ministers which has approved the corrected act. It also interviews the First President of the Court of Accounts on the certification of the State accounts and on the report concerning the accounting year in question, as well as, in his position as President of the High Council of Public Finances, on the opinion provided by this body on the structural balance of the public administrations presented in the settlement bill. The settlement bill is then examined by the committee on the report of the General Rapporteur, in the same conditions as those pertaining to the first part of the finance act for the year. Since the settlement act for 2007, the report filed by the General Rapporteur includes two volumes, the second of which presents the comments on the annual performance reports by the special rapporteurs.

In addition, the committee holds several hearings with the administrative managers of the programmes along with a representative of the budgetary management of the ministry in charge of the budget, in accordance with a programme set down by its bureau.

III. – THE FOLLOW-UP TO BUDGETARY IMPLEMENTATION

Budgetary and accountancy law provide a framework for the implementation of the budget so as to guarantee, on the one hand, the respect of parliamentary authorization, and, on the other hand, the regularity of the administration’s financial transactions.
In the case of the implementation of the budget, the Government and its administration must abide by three principles: the limited nature of credits, the principle of annuality and the principle of speciality.

The limited nature of credits means that expenditure cannot be authorized and cleared unless it is within the credit limit provided for by the finance law passed by Parliament (LOLF, article 9). The LOLF makes provision for exception to this principle;

- Certain credits are amendable (public debt financing burden, the state guarantee); when certain ceilings have been reached, the Government informs the finance committees of the reason and of the possibilities to reach the end of the year; the necessary funds are, in principle, made available as of the following corrected bill.

- In the case of an emergency, the Government may implement a prior decree which has no impact on the budgetary balance (the passing of credits from the relevant programmes must be exactly recompensed by the cancellation of other programmes); this decision is taken after consultation with the two finance committees and with the Conseil d’État; the consultation proposal is submitted to the committee by the General Rapporteur; the overall amount of such credits must not exceed 1% of the total credits allocated by the finance bill; it must be ratified in the following finance bill referring to the current exercise;

- In the case of an overriding necessity for national interest, the Government may implement another type of prior decree which is taken by the Council of Ministers after consultation with the Conseil d’État and having informed the finance committees: it can affect the budgetary balance and is subject to no limitation in its amount; nonetheless, a corrected finance bill must be immediately tabled or, at least, at the beginning of the following session.

In application of the principle of speciality, after the passing of the finance bill, a distribution decree determines the amount of credits which will be credit payments and commitment authorizations for each mission and for each programme in accordance with the distribution which has been passed by Parliament.

However, credits may be transferred from the programme of a ministry to another ministry “for a designated reason”. In the same way, credits may be moved from one programme to another programme managed by the same minister (within a limit of 2% of the credits of the two relevant programmes).

Movements and transfers are carried out by decree taken on the report of the Budget Minister, once the finance committees and the other relevant committees have been informed.
The Parliamentary Examination of Laws on the Financing of Social Security

Key Points

Although the financial sums at stake are higher than those of the state budget, the monitoring of Government policy regarding social security seemed to broadly be out of Parliament’s reach, on account of the original equally shared functioning and financing of the social security system. Once taxation, and no longer only social contributions, became a major source of the funding of the expenditure of the social security system, Parliament, for more than twenty years, has had its say on this issue.

The specific position of the laws on the financing of social security (LFSS) was introduced by the constitutional reform of February 22, 1996.

The procedures for the annual examination of the financing of social security bills (PLFSS) by the National Assembly are different from those concerning ordinary bills. They are laid down in constitutional provisions which are supplemented by an institutional act.

See also files 30, 37, 38, 48 and 50

I. – THE LAWS ON THE FINANCING OF SOCIAL SECURITY: PARTICULARITY, CONTENT PRESENTATION AND ANNEXES

1. – A SPECIFIC CATEGORY OF ORDINARY LAW, IN A WELL-DEFINED FRAMEWORK

Article 34 of the Constitution provides that laws on the financing of social security “shall lay down the general conditions for the financial balance thereof, and taking into account forecasted revenue, shall determine expenditure targets in the conditions and with the reservations provided for by an Institutional Act”.


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1 Constitutional Law n°96-138 of February 22, 1996 establishing the laws on the financing of social security.
As the Finance Law is, the laws on the financing of social security has a specific status in ordinary law whose conditions of examination are framed by its own rules (see below) and the scope defined by the Constitution and the institutional law.

Social security, in the sense of the laws on the financing of social security, is based on the compulsory basic schemes and the funding contributing to their financing:

– the compulsory basic schemes include, essentially, the general scheme, the Agricultural Mutual Assistance Association (MSA) and the Social Scheme for Independents (RSI);
– the Old Age Solidarity Fund (FSV) is now the only fund to contribute to the financing of compulsory schemes;
– the complementary schemes and unemployment insurance are outside of the scope of social security in the sense of the laws on the financing of social security.

Also within the scope of the laws on the financing of social security, are the Reserve Fund for Retirement (FRR), the Social Welfare Debt Redemption Fund (CADES) as well as the National Solidarity Fund for Autonomy (CNSA).

As for finance laws, there are four areas of the laws on the financing of social security:

– The obligatory area concerns the measures which must, obligatorily be in the finance law. In the very wording of article 34 of the Constitution, the laws on the financing of social security must determine the general conditions of the financial balance of the social security, provide for its resources and fix its spending objectives. The laws on the financing of social security include, since 2005, balance tables, which present for each budgetary exercise considered, the financial situation, by branch of the general scheme, of all of the basic compulsory schemes as well as of the bodies contributing to their funding. Article L.O. 111-3 of the Social Security Code provides that the accounts of the social security schemes and bodies must be true and fair, and present a genuine view of their assets and financial situation1; 
– The exclusive area concerns measures which, although they do not, obligatorily, have to appear in financing law, may not appear in another law (allotment, complete or partial, to any legal entity of exclusive resources of the basic schemes and the bodies contributing to their funding; non-compensation by the state of measures concerning exoneration from social contributions);

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1 The same article of the Code, in addition, makes provision for the certification of the social accounts by the Court of Accounts.
– The \textit{shared area} concerns the measures which may appear in financing law, but which could appear in another law, typically provisions which modify the tax base or rate which is assigned to social security bodies, or measures leading to the improvement of the information given to Parliament on the income and the expenditure of the social security;

– The \textit{forbidden area} deals with \textquote{cavaliers sociaux} (\textquote{social intruders}), i.e. to measures outside the field of the laws on the financing of social security (see below).

\section*{2. – The structure of the laws on the financing of social security}

The law on the financing of social security for the year Y+1 has four parts.

The first part concerns the last full financial year (Y-2) and is the equivalent of a \textquote{settlement} act regarding the state finances, i.e. a kind of final statement for year Y-1.

The second part deals with provisions concerning the current year (Y-1). This enables the Government to propose to Parliament to pass corrections concerning the data set down in the financing law for year Y. This part is divided into two sub-sections. The first relates to revenue and the general balance and the second to expenditure. This part corresponds, in a way, to a corrected finance law for the state budget. It should be noted that even if the institutional law provides for real corrected financing laws, only two have been promulgated, in 2011 and in 2014.

The third part sets down the forecast revenue and the general balance for the basic, obligatory, social security schemes and for the bodies which contribute to their financing for the year Y+1. In addition to the balance sheets concerning the year Y+1 (revenue, expenditure and balance), it also sets the ceiling on the cash advances which the schemes may request\(^1\).

The fourth part sets the expenditure targets for the different branches of the social security system (health, work accidents and work-related illnesses, old age and family) The most important, and the most commented aim, is, without doubt, the National Expenditure Target for Health Insurance (ONDAM) and its six sub-targets in the laws on the financing of social security for 2017\(^2\); the ONDAM provides the trends for the evolution of the most substantial financial sums and sets down the priorities of the Government in its health policy.

\(^1\) It must be clarified that, unlike the state, the social security bodies are not, in principle, authorized to get into long-term debt: recourse to loans is simply supposed to cover infra-annual supply flows.

\(^2\) Given that the number of sub-targets cannot be less than five (article L.O. 111-3 of the Social Security Code). The sub-targets of 2017 were the following: expenditure for non-hospital health costs; expenditure on health establishments; contribution to health insurance for establishments and services for older people; contribution to health insurance for establishments and services for handicapped people; expenditure concerning the Regional Intervention Fund (FIR); other categories.
3. — DOCUMENTS ANNEXED TO THE BILLS ON THE FINANCING OF SOCIAL SECURITY

The bill on the financing of social security has around ten documents annexed. Amongst them three are particularly interesting: one points out the financial impact of new measures proposed; another analyzes the situation concerning the reductions in resources for schemes decided by the State and the amount of the corresponding compensation which the State pays into the social security system; finally, and especially, a third brings together the impact studies on each of the articles contained in the original bill.

The law on the financing of social security includes, in addition, the approval of two annexed reports. The first deals with the assets of the social security and describes the measures anticipated for the allocation of surpluses or for the covering of deficits which may be noticed at the time of the passing of the part concerning the last full financial year. The second sets out the forecast development of the social finances of the social security system over the following four years.

II. — A SPECIFIC PARLIAMENTARY PROCEDURE

Since the Institutional Act of August 2, 2005, Parliament has taken part in the preparation of the bill on the financing of social security through a debate in the spring on the direction to be taken by public finances which concerns the State budget but also the social and local finances. This debate is held on the basis of a Government report.

As with the finance acts, the Government has a monopoly on the presentation of the laws on the financing of social security which can thus only be the result of the passing of a Government bill. This is in accordance with article 47-1 of the Constitution which sets down the main references for the procedure to be applied in the examination by Parliament of the bills on the financing of social security.

1. — A DISCUSSION WITHIN CONSTITUTIONAL TIME LIMITS

Article 39 of the Constitution states that bills on the financing of social security, just like finance bills, must be firstly submitted to the National Assembly. The bill on the financing of social security for the year Y+1 must be tabled, at the latest by October 15 of the year Y.

Just like article 47 in the case of finance bills, article 47-1 of the Constitution sets strict time limits for the examination of bills on the financing of social security: if the National Assembly has not reached a decision on first reading within twenty days following the tabling of the bill, the Government refers the bill to the Senate. The latter must rule within fifteen days.

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1 On the contrary of the annexes to the PLFSS, which are of an informative nature, the reports discussed here are adopted by Parliament, during the vote of two articles of the bill.
fails to reach a decision within fifty days in all, the provisions of the bill may be implemented by ordinance. This has not yet happened.

The institutional Law of August 2, 2005 makes the accelerated procedure automatically applicable to the examination of bills on the financing of social security. The last paragraph of article 42 of the Constitution, in addition, provides that the six-week time period which should pass between the tabling of a bill and its discussion in plenary sitting, is not applicable to social security financing bills.

Just as for finance acts, the compensation for these restrictive time limits is a specific protection for the field of the law on the financing of social security. Thus provisions having no connection with the financing of social security are considered as “social outsiders” and are thus removed;

- either by the Chair of the Finance Committee in the case of amendments coming from Parliament (see File n°38);
- or by the Constitutional Council whose authority in such matters extends to Government amendments and even to articles of the original bill.

2. – EXAMINATION IN COMMITTEE

Contrary to the finance bills which, in accordance with an institutional provision, are referred to the committees dealing with financial matters, there is no automatic referral for a bill on the financing of social security to the parliamentary committees dealing with social matters. However, at the National Assembly, as at the Senate, the Committee for Social Affairs traditionally takes the role of the lead committee for the bills on the financing of social security. The Finance Committee refers the bill to itself for consultation.

Each year, the Committee for Social Affairs appoints its rapporteurs. They were six at the end of the XIVth term of Parliament and are in charge, respectively, of revenue and general balance, health insurance, work accidents and work-related illnesses, the medico-social branch, the old age branch and the family branch. These rapporteurs each write a part of the report concerning the bill. They follow and monitor the implementation of the laws on the financing of social security and carry out an evaluation of all questions relating to the financing of the social security system. To do this, they may carry out checks which grant them complete access to all evidence. Before July 10, every year, they send questionnaires to the Government so as to prepare the examination of the bills on the financing of social security.

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1 In application of articles 39 and 47 of the ROP, in their wording resulting from the motion of November 28, 2014, the Social Affairs Committee, appoints, as of the XVth term of Parliament, a General Rapporteur.
The Committee for Social Affairs may follow all year long the implementation of the laws on the financing of social security thanks to the work of the Assessment and Monitoring Mission for the Laws on the Financing of Social Security (MECSS), which is made up of some of its members.

The work relating to the bill on the financing of social security begins around mid-September, with the hearing, by the Committee for Social Affairs, of the First President of the Court of Accounts and with his presentation of the Court’s annual report on the application of the law on the financing of social security.

After hearings with ministers which follow the adoption of the bill by the Council of Ministers, the Committee for Social Affairs examines the bill on the financing of social security.

Generally three or four meetings are required, taking into account the number of articles and amendments to examine (respectively 60 and 443 for the 2017 law on the financing of social security).

3. – THE DISCUSSION IN PLENARY SITTING

In accordance with article 42, paragraph 2 of the Constitution, examination in plenary sitting of the bill on the financing of social security, like that of the finance bill, occurs on the basis of the text presented by the Government.

The procedures for the discussion of the bill on the financing of social security are decided by the Conference of Presidents. On the agenda of the National Assembly, and taking into account the very short time limits imposed by the constitutional and institutional laws, the discussion of the bill on the financing of social security takes place in the last week of October, following the passing of the first part of the finance law. The so-called “Set Time Limit Debate Procedure” cannot be applied to the social security financing bill.

The discussion in plenary sitting usually takes up between four and five days. Although it follows the usual rules as regards the discussion of bills, the bill is dealt with in a specific way when it comes to the order of the votes on its different parts. In fact, article L.O. 111-7-1 of the Social Security Code sets out that, in particular, the fourth part of the bill which includes the provisions concerning the expenditure for the coming year, cannot be discussed before the passing of the third part which includes the provisions relating to revenue and the general balance for the same year.

It should also be stated that the possibility for the Government to have recourse to article 49, paragraph 3 of the Constitution (the making of the passing of a bill an issue of confidence) is maintained without limitation in the case of the vote on the social security financing bill.

As the accelerated procedure is applied automatically to the bill on the financing of social security, it becomes the subject, after its reading in the Senate within the time limit of twenty days, of a meeting of a joint National Assembly/Senate committee which is responsible for examining the provisions which remain under discussion. The procedure followed in the case of a successful joint National Assembly/Senate committee (i.e. the drawing-up of an agreed bill) or its failure, is the normal one applied to all bills.

Before its promulgation, the law on the financing of social security is usually submitted to the Constitutional Council for its opinion, if a referral, as has always been the case until now, has been made. The Constitutional Council has developed substantial jurisprudence.

It has, in particular, removed, on several occasions, provisions which are considered as “social Trojan horses” (intruders) either because they clearly do not fall in the ambit of the social security (e.g. the obligation for an employer to provide a mobility plan to his workers) or because they have no direct or significant impact on the general conditions of the financial balance of the social security (e.g. authorization for vaccinations for the health examination centres or the scheduling of the shared leave of absence between parents at the time of an adoption).
The Ratification of Treaties

**Key Points**

Article 53 of the Constitution makes provision for parliamentary intervention, in certain conditions, to authorize the ratification of international conventions. The Foreign Affairs Committee plays an essential role in this procedure. It is, in particular, the lead committee concerning agreements put before Parliament. The parliamentary assemblies may not however amend the actual text of international conventions nor may they express reservations concerning them.

In plenary sitting, a procedure referred to as “simplified examination” is often used.

See also files 32, 43, 57 and 58

The ratification of treaties follows very specific rules, whether they be constitutional provisions or parliamentary procedure.

I. – CONSTITUTIONAL PROVISIONS

In accordance with article 52 of the Constitution, the President of the Republic negotiates and ratifies treaties. In addition, he is kept informed by the Government of all negotiations leading to the conclusion of an international agreement, even if such an agreement is not subject to ratification.

Article 53 of the Constitution provides that several categories of treaties and agreements may only be ratified or approved by virtue of a law. This provision deals with:

- Peace treaties;
- Commercial treaties;
- Treaties or agreements relating to international organizations;
- Treaties that commit the finances of the State;
- Treaties that modify provisions which are matters for statute;
- Treaties relating to the status of persons;
- Treaties that involve the ceding, exchange or addition of territory.
In addition, agreements concluded with the European Union are submitted to Parliament when they deal with a field of competence shared between the European Union and its member states.

Contrary to the American Senate, which only authorizes the ratification of treaties and not of executive agreements, no difference is made in France between treaties and agreements as the abiding practice, supported by jurisprudence, considers that the only criterion according to which an international commitment should or should not be submitted to Parliament is practical and not formal.

The concrete criterion concerning the competence of Parliament could force it to decide upon the content of the reservations of a treaty insofar as they could have an important influence on the international commitment of France.

Nonetheless, a different practice has been established. The reservations which a Government might envisage presenting to a text are not included in the bill authorizing its ratification, but are transmitted to the committee, which, most of the time, publishes them in its report so that Parliament may be informed of them. This flexible solution, which allows M.P.s to deliberate and, if the case applies, to debate the relevance of the reservations, has the advantage of not imposing a return to Parliament of the bill, if there is a change in the content of the reservations or if they are withdrawn after.

In application of the Institutional Law of April 15, 2009, the documents which are attached to the law, so as to clarify the aims sought by the agreements and treaties and so as to assess the economic and financial or legal consequences, make reference, if the case may be, to the reservations or to the interpretative declarations of France.

The provisions laid down in article 53 of the 1958 Constitution, which substantially repeat those stated in the 1946 Constitution, mean that a third of treaties and agreements concluded by France are submitted to Parliament before they come into effect. The Conseil d’État makes sure, in particular, that every agreement dealing with matters of a legislative nature or bearing a financial burden is the subject of a bill authorizing its ratification.

The interpretation of this last criterium has changed recently: after having considered, in 2009, that every international agreement had to be approved by Parliament, when it created “a direct or immediate increase in expenditure” whatever the amount and the nature. This led to a huge increase in the number of referrals and the Conseil d’État softened its position, as of 2011, considering that an agreement does not have to be submitted to Parliament from the moment that it does not contain “any commitment which exceeds through its limited amount and its nature, expenditure linked to the normal, current functioning of administrations in the framework of their habitual competences”.

The Conseil d'État scrupulously applies the respect of the prerogatives of Parliament since it accepted that international treaties had a higher value to that of a law (Nicolo judgement from 1989). After a judgement handed down by the General Assembly on December 18, 1998 (concerning a company in the Industrial Zone of Blotzheim), it affirmed that the treaties whose ratification had taken place without it having been authorized by law, although they should have been in accordance with the terms of article 53 of the Constitution, could not be considered as having a higher authority than the law. This reasoning was, later, followed by the Court of Cassation. Since 2003, the Conseil d’État annuls the decree for the publication of an international agreement as soon as it considers it should have been submitted to Parliament.

Furthermore, in article 11, the Constitution provides that the President of the Republic may submit to referendum, thus without the intervention of Parliament, “any Government bill...which provides for authorization to ratify a treaty that, although not contrary to the Constitution, would affect the functioning of the institutions”.

A law authorizing the ratification of a treaty may, as for any other law, be referred to the Constitutional Council before its promulgation, notably upon the request of 60 M.P.s. However, a referral may also be made to the Constitutional Council before the passing of the law authorizing the ratification. Since the Constitutional Law of June 25, 1992, article 54 of the Constitution states that, like the President of the Republic, the Prime Minister and the presidents of each of the assemblies, parliamentarians (at least 60 M.P.s or 60 Senators) may make an application to the Constitutional Council for an adjudication on the compliance of an international convention with the Constitution. If the convention is declared to be non-compliant with the Constitution, the authorization to ratify or approve it may only be given after a constitutional revision. This procedure has been used several times by the President of the Republic for treaties concerning the European Union and more recently by parliamentarians for a trade agreement between the European Union and Canada.

However, the priority ruling on constitutionality procedure may not be applied to an international agreement. The Conseil d’État and the Court of Cassation, both consider that the question of the compliance of an international agreement to the Constitution cannot be submitted to the Constitutional Council after such an agreement has entered into force. They cite the principle, recognized by the Vienna Convention of 1969, that the states bound by a treaty cannot use barriers placed by their internal judiciary to avoid honouring their international obligations.

As the conduct of diplomatic negotiations is a prerogative of the Executive, the legislative acts for the ratification or the approval of an international convention are initiated by Government. Thus, it is not possible to table a member’s bill authorizing the ratification of a treaty.
There are, however, certain cases of authorization which can result from the adoption of a governmental or parliamentary amendment during the examination of an ordinary law bill. In a recent decision\(^1\), the Constitutional Council censured a provision introduced by an amendment which sought to authorize a fiscal convention for the reason that such a provision did not have its place in a finance law, but it did not make a decision, at that moment, on the question of knowing if a ratification authorization could be introduced by means of an amendment.

After Parliament has authorized ratification or approval, the ratification or approval does not necessarily occur immediately. This could be the case when all the states of the European Union decide to ratify an agreement the same day. However, it is also possible that France decides to wait until it has made its internal law compliant with the stipulations of the convention: this was the case, for example, for the enforcement of the OECD convention against corruption. In addition, as regards diplomatic matters, the vote of the parliamentary assemblies does not bind the Executive: the decision to ratify or approve a convention may also be postponed on a discretionary basis, even after the promulgation of the authorization law.

II. – PARLEMENTARY PROCEDURE

1. – EXAMINATION IN COMMITTEE

When a bill authorizing the ratification of a treaty or the approval of an agreement is tabled at the National Assembly, it is systematically sent to the Foreign Affairs Committee whatever its subject (the rule is different in the Senate where, for example, fiscal conventions are sent to the Finance Committee).

The Foreign Affairs Committee examines around forty such conventions, dealing with very different subjects, per annum. This makes it the standing committee which holds the record, every term of Parliament, for the number of bills examined.

The high number of agreements which France signs and which are submitted to Parliament means that there is often a prolonged time-frame between the date of the signature of an agreement and its ratification. This time-frame is, on average, three years and two months, which is explained by the length of the administrative phase (between the signature and examination in the Council of Ministers, on average 23 months are needed), but also by the parliamentary phase (12 months on average), whilst between the promulgation of the law and the tabling of the ratification instrument, the average time-frame is three months.

\(^1\) Decision n° 2016-743 DC of December 29, 2016.
To attempt to reduce these periods, the chairs of the foreign affairs committees of the National Assembly and of the Senate decided, jointly, to set up a specific examination procedure for the texts which had already been examined by one of the two assemblies. At the National Assembly, when the committee examines an agreement which has already been the subject of a report of the Senate, the rapporteur may only present a summary report to the committee.

This procedure, which is not systematic, does not stop the rapporteur from carrying out an in-depth analysis of the bill based on the Senate report and the replies of the Government departments to the questions the rapporteur of the Senate has asked.

2. – SIMPLIFIED EXAMINATION PROCEDURE IN PLENARY SITTING

In accordance with article 103 of the Rules of Procedure, the Conference of Presidents may decide that a bill be put directly to a vote without any speaker having spoken. This procedure enables the legislative load of the plenary sitting to be lightened and leads to better management of the time for legislation to be passed. It is quite regularly used for the examination of international conventions.

In accordance with article 103, the request is presented, before examination in committee by the Government, by the President of the National Assembly or by a group chair. It is presented after examination in committee by the chair of the lead committee after consultation with the committee.

In practice, the Conference of Presidents determines which international agreements can be subject to this simplified procedure the Chair of the Foreign Affairs Committee and the Government have consulted with each other.

These provisions do not at all limit the competence of the National Assembly as, on the one hand, the examination has taken place in committee and, on the other hand, the Government, the Chair of the Foreign Affairs Committee or the chair of a political group may oppose the simplified examination procedure, after the decision of the Conference of Presidents and up until 1pm the day before the discussion.

During the XIVth term of Parliament, 156 agreements were the subject of the simplified examination procedure in plenary sitting upon the request of the committee and 23 were the subject of debate in plenary sitting. These debates were held either because the committee considered that the importance of the agreements justified them or because the chair of a group opposed the procedure.

3. – THE RIGHT TO AMENDMENT

The provisions of a treaty submitted to Parliament cannot be amended as the Constitution reserves to the Executive the power to negotiate and ratify treaties. Until 2003, article 128 of the Rules of Procedure of the National Assembly formally prohibited the tabling of amendments on bills authorizing the ratification of an international agreement.
A revision of the Rules of Procedure of the National Assembly in 2003 lifted this explicit prohibition, making the tabling of amendments possible. However, the Constitutional Council added that this change could not be interpreted “as providing the members of Parliament with the competence to attach reservations, conditions or interpretive declarations to the authorization to ratify a treaty or to approve an international agreement not subject to ratification”\(^1\)

The right to amendment is thus strictly limited to the mechanism of the bill and cannot be applied to the convention itself. It simply allows the scope of parliamentary authorization to be broadened to several international conventions or to delete the mention of a convention when the bill authorizes simultaneously the ratification of several bills.

However, during the XIV\(^{th}\) term of Parliament, the Foreign Affairs Committee accepted to approve the ratification of the agreement concluded with the United States on the compensation of certain victims of the Holocaust deported from France, only after having obtained a correction in the formulation of the first article of this agreement. As it is not possible to amend an international agreement, this correction was obtained by way of an exchange of diplomatic notes, on the basis of article 79 of the Vienna Convention which allows corrections of material mistakes\(^2\).

4. – ADJOURNMENT

It can happen that Parliament delays the passing of a ratification bill.

A procedure, laid down in article 128 of the Rules of Procedure, allows this to be done formally through the adoption of an “adjournment motion”. In fact, this article provides that the National Assembly may decide to pass, to reject or to adjourn the ratification bill and that it is possible to table, on the ratification bill, a motion of prior rejection or an adjournment motion. The adoption of an adjournment motion has the same effect as the adoption of a return referral to committee motion on an ordinary bill, i.e. the Government has the possibility of setting the date and the time at which the Foreign Affairs Committee must present a new report.

An adjournment motion may also be adopted by the Foreign Affairs Committee without having the legal effect of postponing the examination in plenary sitting.

This procedure was implemented in June 1994 concerning Greece’s membership of the Western European Union: the committee adopted an adjournment motion, but the motion tabled in plenary sitting was rejected and the bill was passed.

\(^2\) See the legislative file of Law n° 2015-892 of July 23, 2015.
It was also used in January 1994 concerning a bill on representatives of the European Parliament. An adjournment motion was adopted by the committee and then in plenary sitting; the bill was included again on the agenda of the National Assembly two weeks later, after M.P.s had obtained more precise details concerning the sessions of the European Parliament in Strasbourg.

More recently, during the examination of a bill authorizing the ratification of six conventions of the International Labour Organization on seafarers in 2003, the Foreign Affairs Committee adopted an adjournment motion, which led the Government to postpone the discussion for several months.

In 2004, an adjournment motion was also adopted by the Foreign Affairs Committee during the examination of a bill authorizing the ratification of a decision concerning the statutes of the European System of Central Banks and of the European Central Bank (ECB). After the adoption of this motion and after hearing evidence from the Minister of Foreign Affairs, the committee passed the law and an adjournment motion tabled in plenary sitting was rejected.

However, it is not essential to use this procedure to arrive at the same result. The committee can also, even though it may have decided to pass a bill submitted to it for examination, inform the Government of its reservations concerning the timing of its inclusion on the agenda for the plenary sitting.

Thus, during the XIIth term of Parliament, after having passed the bill authorizing the Government to ratify a fiscal convention between France and Libya, the committee did not wish the Government to include the bill on the agenda as long as the freeing of Bulgarian nurses and a Palestinian doctor had not been obtained. This agreement was only passed during the XIIIth term of Parliament.

During the XIIIth term of Parliament, this was also the case for the partnership and cooperation agreement setting up a partnership between the European Communities and Turkmenistan. The committee examined the bill on April 7, 2010 and adopted it but requested the Government not to include it on the agenda as long as two Turkmen journalists arbitrarily imprisoned were not freed. In the end, the text was only put to a vote during the XIVth term of Parliament.

During the XIVth term of Parliament, there was the case of an agreement concluded with Mauritius on economic, scientific and environmental co-management concerning the island of Tromelin (n°547), passed by the committee, but which was withdrawn from the agenda by the Government given the strong reservations of certain parliamentarians.
The Revision of the Constitution

**Key Points**

A revision of the Constitution may be initiated either by the President of the Republic or by the Parliament.

In this particular field, the two parliamentary assemblies have the same powers. This means that constitutional bill must be passed in identical terms by both the National Assembly and the Senate.

The law is definitively passed either by referendum (a procedure used only once: the 2000 constitutional revision which reduced the term of office of the President of the Republic to five years) or by a three-fifths majority of the votes cast by the two assemblies meeting together in Congress at Versailles.

See also files 2, 5 and 30

Article 89 of the Constitution of October 4, 1958 sets down the rules for the revision of the Constitution. Since coming into force, this procedure has been successfully used twenty-two times.

During the first years of the Fifth Republic, article 11 of the Constitution, which provides for the possibility of having recourse to a referendum in certain limited cases which are listed, was also used to revise the Constitution (28 October, 1962) so as to introduce the election by direct universal suffrage of the President of the Republic. Nonetheless, this contested practice has not been used since the failure of the referendum of April 27, 1969 concerning regionalization and the abolition of the Senate.

The procedure laid down by article 89 has the specific nature of requiring consensus within the executive and the agreement of the two assemblies. The opposition of the President of the Republic, of the Prime Minister or of one or other of the two assemblies would be enough to prevent the entire revision process from succeeding.
I. – THE REVISION PROCEDURE

1. – THE INITIATIVE FOR REVISION

a) The power to initiate

The power to initiate a constitutional revision is held by the President of the Republic, upon a proposal of the Prime Minister, or by parliamentarians. In the first case, the bill is referred to as an executive constitutional bill and in the second as a parliamentary constitutional bill. In fact, all twenty-two constitutional revisions carried out in accordance with the procedure of article 89 since 1958 have been based on executive constitutional bills.

b) Limitation of the power to initiate

Article 89 states clearly that the republican form of government shall not be the subject of a revision.

It also states that no revision shall be commenced or continued where the integrity of the territory is jeopardized.

In addition, article 7 rules out the possibility of using the revision procedure provided for by article 89 in the case of the vacancy of the Presidency of the Republic. The right to initiate constitutional revision is thus one of the powers that an interim President of the Republic may not carry out.

2. – EXAMINATION OF THE EXECUTIVE OR PARLIAMENTARY CONSTITUTIONAL BILLS

Examination of the executive or parliamentary constitutional bills takes place before each assembly according to the ordinary law legislative procedure. However, one of the new rules introduced by the constitutional revision of July 23, 2008, does not apply. The discussion of an executive constitutional bill is carried out on the basis of the original bill, or in the case of the “shuttle”, on the bill transmitted by the other assembly and not on the bill adopted by the committee.

However, the time constraints introduced by the same revision do apply. This means that there must be a six-week period between the tabling of the executive or parliamentary bill and its discussion in plenary sitting and the Government may not reduce this period by the implementation of the accelerated procedure. Similarly, the four-week period stipulated between the transmission of the bill by the first assembly to which it is referred and the discussion in the second assembly, is also applied.

In addition, two other specificities concerning the discussion of executive or parliamentary constitutional bills should be noted:

– Executive constitutional bills are not accompanied by an impact study. This is an exemption from the rule set down by the Institutional Act of April 15, 2009;
The St Time Limit Debate Procedure introduced on the basis of article 44 of the Constitution by the reform of the Rules of Procedure of May 2009, cannot be used in such a case.

If an ad-hoc committee is not set up (such a committee has never indeed been set up either at the National Assembly or at the Senate) the executive or parliamentary constitutional bills are referred to the Constitutional Law, Legislation and General Administration Committee, although other committees may give their opinion on the matter. Indeed, at the National Assembly, the Foreign Affairs Committee and the Finance Committee gave their opinion on a bill which led to the revision of June 25, 1992 and added a title to the Constitution called “On the European Communities and the European Union”. It is also thus that the Committee for Cultural, Family and Social Affairs as well as the Finance Committee gave their opinion on a bill which became the Constitutional Act of February 22, 1996 and introduced the law on the financing of social security.

The “shuttle” continues until the bill is passed in identical terms by the two assemblies which, in constitutional matters, have the same powers. Contrary to the normal legislative procedure, the Government cannot ask the National Assembly to take a definitive decision.

3. THE DEFINITIVE PASSING OF THE LAW

The definitive passing of the executive or parliamentary constitutional bill is subordinate to its approval by referendum. Nonetheless, in the case of executive constitutional bills, the President of the Republic may rule out a referendum and submit such bills to the approval of the two assemblies gathered together in Congress.

Congress, whose Bureau is that of the National Assembly, is convened by a countersigned decree of the President of the Republic to meet in Versailles. As its sole aim is to approve the bill passed by the two assemblies, on behalf of the sovereign people, it may not of course amend it. Debates are thus limited to an explanation of vote put forward by each political group at the National Assembly and the Senate. After that the vote is taken. It is taken either by each voter being called to the rostrum or, since the modification in the Rules of Procedure of June 28, 1999, according to other procedures set down by the Bureau of the Congress. Thus, since that date (when Congress was called to vote twice on two constitutional bills on the same day for the first time), votes have been organized in eight polling stations set up in the immediate vicinity of the Chamber. For the constitutional bill to be approved, it must receive a three-fifths majority of the votes cast.
II. – CONSTITUTIONAL REVISIONS SINCE 1958

Since 1958 there have been a total of 24 constitutional revisions of varying degrees of importance. With the exception of the first two, the revisions have been carried out in accordance with article 89 of the Constitution. 21 have been approved by Congress and only one, in 2000, by referendum. This concerned the reduction of the presidential term of office to five years.

– June 1960, according to a dispensatory revision procedure dealing with provisions concerning the “Community”, i.e. the geo-political unit linking France to its former African colonies (this procedure was repealed by the Constitutional Act of August 4, 1995):
  • Constitutional Act n° 60–525 of June 4, 1960 aiming at completing the provisions of Title XII of the Constitution (independence of African and Malagasy member states of the Community).

– October 1962, by referendum in accordance with article 11 of the Constitution:
  • Law n° 62–1292 of November 6, 1962, concerning the election of the President of the Republic by universal suffrage.

– December 1963, by the Congress:
  • Constitutional Act n° 63–1327 of December 30, 1963, modifying the provisions of article 28 of the Constitution (modification of the dates or parliamentary sessions).

– October 1974, by the Congress:
  • Constitutional Act n° 74–904 of October 29, 1974, revising article 61 of the Constitution (extension of the right of referral to the Constitutional Council for 60 M.P.s and 60 Senators).

– June 1976, by the Congress:
  • Constitutional Act n° 76–527 of June 18, 1976, modifying article 7 of the Constitution (modification of the electoral campaign rules for presidential elections – in the case of the death or incapacity of a candidate).

– June 1992, by the Congress:

– July 1993, by the Congress:
  • Constitutional Act n° 93–952 of July 27, 1993, revising the Constitution of October 4, 1958 and modifying Titles VIII, IX, X and XVI (setting up
the Court of Justice of the Republic in charge of judging the criminal liability of members of the Government).

- November 1993, by the Congress:
  - Constitutional Act n° 93–1256 of November 25, 1993, dealing with international agreements concerning the right to asylum.

- August 1995, by the Congress:
  - Constitutional Act n° 95–880 of August 4, 1995, extending the field of application of referenda, introducing a single ordinary parliamentary session, modifying the parliamentary system of immunity and repealing provisions concerning the Community and transitory provisions.

- February 1996, by the Congress:

- July 1998, by the Congress:

- January 1999, by the Congress:

- July 1999, by the Congress:
  - Constitutional Act n° 99–568 of July 8, 1999, inserting at Title VI of the Constitution, article 53–2 concerning the International Criminal Court.

- September - October 2000, by referendum:
  - Constitutional Act n° 2000–964 of October 2, 2000, concerning the length of the term of office of the President of the Republic.

- March 2003, by the Congress:
– March 2005, by the Congress:
  • Constitutional Act no 2005–204 of March 1, 2005, modifying Title XV of the Constitution (modifying provisions concerning the European Union).
– February 2007, by the Congress:
  • Constitutional Act no 2007–238 of February 23, 2007, modifying Title IX of the Constitution (modifying the legal status of the President of the Republic and creating an impeachment procedure by Parliament sitting as the High Court).
– February 2008, by the Congress:
– July 2008, by the Congress:
  • Constitutional Act no 2008–724 of July 23, 2008, on the modernization of the institutions of the Fifth Republic.
Votes at the National Assembly

Key Points
As a consequence of the prohibition of voting by binding instructions, votes are personal and the possibilities of voting by proxy are limited. With the exception of votes on personal appointments (the election of the President at the beginning of a term of Parliament, for example), votes are public and may be by show of hands, by ordinary public ballot or by public ballot at the rostrum or in the rooms adjoining the Chamber.

The most important votes can be postponed by the Conference of Presidents generally until Tuesday afternoons, after Government question time.

See also file 36

I. – THE PERSONAL NATURE OF THE VOTE

Article 27 of the Constitution lays down the principle of the personal nature of the vote of parliamentarians and prohibits all voting by binding instructions; it limits the delegation of voting by disallowing each parliamentarian from receiving more than one proxy vote. The Ordinance of November 7, 1958 completes this provision by listing the cases in which parliamentarians are permitted to delegate their right to vote:

- Illness, accident, serious family event; temporary mission on behalf of the Government; participation in the work of international assemblies; in the case of an extraordinary session, absence from mainland France; cases of force majeure decided upon by the Bureau of the assemblies.

For a long time, these provisions were skirted around by the technique of the electronic vote: each M.P. had a personal key which he would leave on his desk. Since 1993, the limitation to a single proxy vote per M.P. has been strictly applied. As of April 2014, the conditions for the holding of public votes were modified so as to abolish, for ordinary public ballots, any possibility of proxy votes other than cases laid down by the Institutional Ordinance of November 7, 1958.

The Rules of Procedure of the National Assembly allow the Conference of Presidents to decide on a public ballot, generally on the overall votes on major bills, and to set its timing so that the greatest number of M.P.s possible may be present. Such ballots, referred to as formal votes are usually held on Tuesday afternoons after Government question time.
II. – THE PUBLIC NATURE OF THE VOTE

With the exception of votes on personal appointments (the election of the President at the beginning of a term of Parliament, for example), all votes are public. They may be by show of hands, by ordinary public ballot, by public ballot at the tribune or in the rooms adjoining the Chamber. M.P.s have the choice between three voting positions: “for”, “against”, “abstention”.

1. – VOTE BY SHOW OF HANDS

This is the normal voting procedure. The President verifies the result of the vote and announces it. In case of doubt on the result, the Assembly shall vote by standing and sitting. If there is still doubt, the President may decide to proceed to an ordinary public ballot.

When voting by show of hands, the M.P.s present publicly show their position. However this position is not recorded nor is it published in the Journal officiel.

2. – VOTE BY ORDINARY PUBLIC BALLOT

Such a vote is taken by right:

– Upon a decision of the chair of the sitting or upon a request by the Government or by the lead committee;

– Upon a request by the chair of a group or of his delegate, provided the chair of the group has notified the President of the National Assembly, in advance, of the delegate's name;

– Upon a decision of the Conference of Presidents. The latter usually only uses this prerogative in the case of a vote on the whole body of the most important texts. (see above).

Voting by ordinary public ballot takes place electronically or by paper if the system does not work. Each M.P. votes using his console and his vote is directly recorded by computer. An M.P. may hold one, and only one, proxy vote on behalf of one of his absent colleagues. Proxy votes are processed by the electronic voting machine. The vote of the “delegate” (i.e. the M.P. who is present) on his voting console leads automatically to the counting of the vote of his delegator (i.e. the M.P. who is absent) as a vote in the same way. At the end of the ballot, the chair of the sitting announces the result and calls for it to be displayed on three electronic screens within the chamber.

Minutes later, a political analysis, giving the results of the vote, is posted at the entrance to the Chamber. This analysis is published in the Journal officiel in annex to the report of the sitting, and also appears on the internet site of the National Assembly. Until 2014, for public ballots requested by the Chair of the sitting, the Government, the lead committee or a political group chairman, the only named voters were those M.P.s who cast votes contrary to the majority
within their political group. From now on, for all public ballots (ordinary public ballots or formal public ballots) the break-down consists of a complete nominative list of all voters, for each political group as well as for non-aligned M.P.s, giving their position on the vote.

3. – **VOTE BY PUBLIC BALLOT AT THE ROSTRUM OR IN THE ROOMS ADJOINING THE CHAMBER**

   The President of the National Assembly is elected at the beginning of the term of Parliament, by secret ballot at the rostrum.

   Public ballots at the rostrum or in the rooms adjoining the Chamber are held automatically:

   – When the Constitution requires a qualified majority (the adoption upon final reading of institutional laws, motion authorizing the passing of a bill to ratify a treaty on the membership of a state of the European Union); the majorities required are different in these cases, (the absolute majority of M.P.s making up the National Assembly in the first case and a three-fifths majority in the second). These majorities are calculated according to the numbers of seats actually filled (vacant seats are not counted);

   – When an issue of confidence in the Government has been raised: in application of article 49, paragraph 1, of the Constitution i.e. if the Government makes its programme or a statement of general policy an issue of confidence, the majority of votes cast is required; in application of article 49, paragraph 2 of the Constitution, for a vote on a motion of no confidence, it is, on the contrary, the absolute majority of M.P.s making up the National Assembly which is required and only votes for the motion are counted; the same rule applies when a motion of censure is voted upon in application of article 49 paragraph 3 of the Constitution;

   – When the Government decides to put to the vote of the National Assembly, a statement it has made on a given subject in accordance with article 50–1 of the Constitution.

   The slowness of such voting operations at the rostrum led the National Assembly to modify its Rules of Procedure. Since 2003, the Conference of Presidents may decide that the ballot will take place “in the rooms adjoining the Chamber” where several such ballot boxes are set up. The ballot is generally open for 30 minutes. Each ballot paper has a bar code which enables the machine to identify the M.P. and the way he has voted.

   At the end of the ballot, the results are immediately declared and a political analysis of the position of each M.P. is made available in the minutes following. This analysis is published in the *Journal officiel*, as well as on the internet site of the National Assembly.
During the 2016-2017 session (October 1, 2016 – June 20, 2017), 41 ordinary ballots took place, along with 10 “formal” votes. The vote on the overall text of the institutional bill on the competence of the Defender of Rights in the orientation and protection of whistle-blowers, on its final reading, took place in the rooms adjoining the Chamber.

During the XIVth term of Parliament, 1,380 ordinary ballots took place, of which 145 were “formal” and 1,235 took the ordinary format.

III. – THE VALIDITY OF THE VOTE

1. – General rules

Allowing for the aforementioned exceptions, ballots are held based on the majority of votes cast. The result is declared by the President (with the words “The Assembly has adopted” or “The Assembly has not adopted”).

After the end of the ballot, votes may not be changed; however, the nominative details of votes may require some adjustment when an M.P. makes a mistake regarding his vote or when he has not managed to vote because of a mishap.

2. – The checking of votes

This is the task of the secretaries of the Bureau for certain ballots: ordinary public ballots using voting papers (in the case of the electronic voting system breaking down), public ballots at the rostrum or in the rooms adjoining the Chamber and secret ballots for individual appointments.

3. – The quorum

In accordance with a Republican principle which is repeated in its Rules of Procedure, “the National Assembly may deliberate and determine its agenda whatever the number of M.P.s present”. Votes are thus valid whatever the number of M.P.s present unless the chair of a group asks for the checking of the quorum before the opening of the ballot. The quorum refers to the presence in the precincts of the National Assembly of an absolute majority of M.P.s (calculated on the number of seats actually filled).

The request for a checking of the quorum was, for a long time, used as a means of obstruction. Since the reform of the Rules of Procedure of May 27, 2009, this practice has fallen into abeyance since this request is only now taken into account if the majority of the members of the group making the request are, themselves, present in the Chamber.

When a vote does not take place because of the lack of quorum, the sitting is adjourned and deferred by at least fifteen minutes and the vote is then valid no matter how many M.P.s are present.
Making Government Accountability an Issue of Confidence

Key Points

Although article 20 of the 1958 Constitution states that the Government “shall be accountable to Parliament”, article 50 clearly indicates that only a vote by the National Assembly can lead to the resignation of the Government.

Article 49 of the Constitution lays down three procedures for making Government accountability an issue of confidence before the National Assembly:

- Making the Government’s programme or a statement of general policy an issue of confidence in the Government (article 49, paragraph 1). This is commonly known as “a question of confidence”;
- The tabling of a motion of censure by M.P.s (article 49, paragraph 2);
- Making the passing of a bill an issue of confidence in the Government (article 49, paragraph 3).

In practice M.P.s’ use of these different procedures is extensively conditioned by the fact that a majority in the Assembly usually supports the Government.

See also files 3 and 23

The Fifth Republic set up a hybrid political regime with certain characteristics of a presidential regime, and the essential elements of a parliamentary regime, notably the possibility for the National Assembly to hold the Government to account.

Article 20 of the 1958 French Constitution provides that the Government “shall be accountable to Parliament in accordance with the terms and procedures set out in articles 49 and 50”. These terms and procedures reflect the desire of the framers to bring together two ideas often seen as opposed: governmental accountability and governmental stability.

Article 50 limits the power of censure solely to the National Assembly: “When the National Assembly passes a resolution of no-confidence, or when it fails to endorse the Government programme or general policy statement, the Prime Minister shall tender the resignation of the Government to the President of
the Republic” such cases are the only ones requiring the Prime Minister to tender the resignation of his Government.

Article 49 of the French Constitution lays down three procedures for making Government accountability an issue of confidence before the National Assembly. The article also provides in its last paragraph for a procedure of approval of a statement of general policy by the Senate. A negative vote in this case would not lead to the resignation of the Government.

In addition, the constitutional revision of July 23, 2008, introduced two new monitoring procedures which on no account may call confidence in the Government into question: the passing of a resolution by one of the two assemblies (article 34–1) and declarations giving rise to a vote (article 50–1). In these two cases a negative vote would not force the Government to resign.

I. – ARTICLE 49, PARAGRAPH 1: MAKING THE GOVERNMENT’S PROGRAMME OR A STATEMENT OF GENERAL POLICY AN ISSUE OF CONFIDENCE IN THE GOVERNMENT

1. – PROCEDURE

This procedure is initiated by the Government and must be discussed in the Council of Ministers.

The Prime Minister alone may make the Government’s programme or a statement of general policy an issue of confidence in the Government before the National Assembly.

According to article 152 of the Rules of Procedure of the National Assembly, it is the task of the Conference of Presidents to organize the debate. Article 132 stipulates that it must decide upon the overall time allotted to political groups (with half of the time being given to the opposition) and to non-aligned M.P.s. However in practice debates have been organized according to the circumstances presented by each individual case, (account being taken or not of the numerical size of political groups, explanations of votes etc.).

An absolute majority of votes cast is required. The vote is by public ballot at the rostrum or in the rooms adjoining the Chamber.

2. – PRACTICE

The seeking of the confidence of the National Assembly is not obligatory upon a Government’s entering office. Certain Governments have never done so, either because they wished to show that they held their legitimacy solely from the fact of having been appointed by the President of the Republic and thus that Government was no longer appointed by the Assembly, or because, as was the case during the IXth term of Parliament of the Fifth Republic from 1988 to 1993, they did not command an absolute majority in the Assembly.
However, since 1993, every government has sought the confidence of the National Assembly within a few days of its appointment.

In addition, several Governments have, during their term, notably at the time of a specific event, sought the confidence of the National Assembly. In all, article 49, paragraph 1, has been used 38 times since 1958.

II. – ARTICLE 49, PARAGRAPH 2: THE TABLING OF A MOTION OF CENSURE INITIATED BY MEMBERS OF PARLIAMENT

1. – PROCEDURE

Members of Parliament may table a motion of censure through the President of the National Assembly. To be admissible, such a motion must be signed by at least one tenth of the members of the Assembly (i.e. 58 members when all constituencies are represented). Nonetheless, in order to avoid the over-use of such motions, each member may only sign such a motion three times during a single ordinary session and once during a single extraordinary session (the motions of censure following the making of a bill an issue of confidence in the Government, in accordance with article 49, paragraph 3 of the Constitution, are not included in this count). After the tabling of the motion, no signature may be added or removed. The names of signatories are listed in the verbatim minutes of the debates published in the Journal Officiel.

The discussion preceding the motion of censure is organized in exactly the same way as the debate preceding the vote on the motion of confidence with the stipulation that the first speaker must be one of the signatories of the motion of censure. In practice, the organization of the discussion is set down by the Conference of Presidents.

Rationalized parliamentarianism, with its desire to provide governmental stability, has inspired two mechanisms:

- The tabling of a motion of censure leads to a 48 hour period during which no vote on the motion may be taken so as to avoid the possibility of votes being cast too impetuously. The Rules of Procedure of the National Assembly also stipulate the maximal time limit. They provide the Conference of Presidents with the task of fixing the timetable of the debate which must take place before the third day of sitting following the end of the limit set down by the Constitution;

- Only the members in favour of the motion of censure take part in the vote (which is held in the adjoining rooms to the Chamber and which is open for 30 minutes). The motion is only carried if it is supported by the absolute majority of the members of the National Assembly.
2. – PRACTICE

Only one motion of censure has ever been passed and that was in 1962. This motion was aimed at showing the National Assembly’s hostility less towards the Government and more towards the plan of General de Gaulle, the then President, to modify the Constitution by referendum to have the head of state elected by direct universal suffrage. The General replied to the censure of the Government by announcing the dissolution of the National Assembly. The subsequent general election returned a majority to the Assembly in favour of the General’s policy.

The ‘majority phenomenon’ has substantially reduced the impact of the motion of censure. Nowadays it is mainly used as a procedural weapon allowing the opposition to prompt a formal debate.

III. – ARTICLE 49, PARAGRAPH 3: MAKING THE ADOPTION OF A BILL AN ISSUE OF CONFIDENCE IN THE GOVERNMENT

1. – PROCEDURE

Making Government accountability an issue of confidence can be the result of the combination of two initiatives: that of the Prime Minister to seek this confidence before the Assembly over the passing of a Government or Member’s bill in discussion in the Assembly, followed by that of the Members who reply by tabling a motion of censure.

The Prime Minister may make the passing of a finance bill or of a social security financing bill an issue of confidence in the Government. He may also use this procedure for one other Government or Member’s bill per ordinary or extraordinary session. This limitation was introduced by the constitutional revision of July 23, 2008. Previously the Government could use the procedure as often as it considered it necessary and for any type of bill (during the IXth term of Parliament for example, the Government used article 49, paragraph 3 of the Constitution 39 times).

Prior debate in the Council of Ministers is required, as for the procedure making a Government programme or statement of general policy an issue of confidence.

The Prime Minister’s decision brings about the immediate suspension, for twenty-four hours, of the discussion on the Government or Member’s bill concerning which confidence has been sought. A motion of censure which fulfils the previously mentioned conditions of admissibility may be tabled during this period. Two directions may then be taken:

– If no censure motion is tabled then the Government or Member’s bill is considered passed;
If a censure motion is tabled, it is debated and voted upon in the same conditions as those applying to motions submitted ‘spontaneously’ by members. If the motion is rejected, then the Government or Member’s bill is considered passed. If the motion is carried then the bill is rejected and the Government is overthrown.

2. – Practice

The use of article 49, paragraph 3 of the Constitution has varied since 1958. It was rarely used at the beginning of the Fifth Republic. However certain Governments had wide-scale recourse to it because they commanded a very small majority in the National Assembly (the Barre, Rocard, Cresson and Bérégovoy Governments in particular). However, contrary to its original rationale, the procedure has been particularly used to enable the pushing through of legislation on which a large number of amendments have been tabled. Nonetheless this use of the ultimate weapon against obstruction is not as easy as it used to be since the constitutional revision of July 23, 2008 attempted to limit the number of such uses per session.
The Resolutions of Article 34-1 of the Constitution

Key Points
The Constitutional Law n° 2008-724 of July 23, 2008 introduced article 34-1 into the Constitution authorizing the assemblies to pass resolutions.

A resolution is an instrument by means of which the Assembly provides an opinion on a specific question.

A draft resolution is tabled, on behalf of his group by a group chair or by any M.P. and is subject to a double monitoring. According to article 34-1, paragraph 2 of the Constitution, the Government has the possibility of declaring it inadmissible before its inclusion on the agenda if it considers that its adoption or rejection could be considered an issue of confidence or if it contains an injunction to the Government. In addition, if it deals with the same subject as a previous draft examined over the same ordinary session, it may not be included on the agenda.

The draft resolution is meant to be examined during the sittings where the agenda is set by the Assembly. Inclusion on the agenda is decided during the Conference of Presidents, at the request of a committee or a group chair, as soon as a minimum time period of six full days after its tabling, is respected.

See also files 22, 23, 26, 34 and 45

The passing of resolutions is one of the ways for Parliament to affirm itself and to exercise a distinctive aspect of its legislative voice. A resolution is an instrument by means of which the Assembly provides an opinion on a specific question.

Before 1958, resolutions were a traditional technique for Parliament to express itself and their adoption could lead to a calling into question of confidence in the Government.

This practice was outlawed by the Constitution of the Fifth Republic in the name of rationalized parliamentarianism. A decision dating from June 24, 1959 included a limitation by the Constitutional Council of the field of resolutions as Government accountability could only become an issue of confidence in the conditions set down by articles 49 and 50 of the Constitution. Thus Parliament was only allowed to pass resolutions which deal with measures of an internal nature.
A first breach was made in the wall by means of the constitutional revisions of June 25, 1992 and January 25, 1999. Article 88-4 of the Constitution thus allowed the assemblies to adopt resolutions dealing with drafts of or proposals for European acts.

The constitutional revision of July 23, 2008 followed upon this opening by introducing a new procedure in the conditions set by article 34-1 of the Constitution and by articles 1–6 of the Institutional Law n° 2009-403 of April 15, 2009. A certain number of criteria have been defined in order to avoid any misuse of the procedure, which could be regarded as a vote of confidence in the Government.

I. – THE TABLING OF DRAFT RESOLUTIONS

According to article 1 of the Institutional Act n° 2009-403 of April 15, 2009, draft resolutions may be tabled either by one or several members of the Assembly or by a group chairman.

1. – PRESENTATION OF THE DRAFT RESOLUTIONS

No legislative or regulatory provision imposes any standard presentation for draft resolutions. There is no particular formal requirement (stamp, presentation by article or by paragraph, use of formulae, existence of a presentation of the case or even a limit to the length of the text).

2. – MONITORING OF ADMISSIBILITY BY GOVERNMENT

After tabling, the draft resolution is immediately transmitted by the President of the National Assembly to the Prime Minister who has the possibility of declaring the draft inadmissible in the conditions set by the second paragraph of article 34-1 of the Constitution and by article 3 of the institutional act.

In fact, these drafts cannot be included on the agenda if the Government considers that their adoption or rejection could be construed as an issue of confidence or if they contain an injunction to the Government. In the case of inadmissibility, the Government informs the President of the National Assembly of its decision which is the subject of an announcement in the Journal officiel (Laws and Decrees section). The author of the text is also informed by the President of the National Assembly.

II. – INCLUSION ON THE AGENDA

1. – SUCH DRAFT RESOLUTIONS ARE MEANT TO BE EXAMINED DURING THE Sittings WHERE THE AGENDA IS SET BY THE NATIONAL ASSEMBLY

The draft resolution is meant to be included on the agenda during the ordinary session, in principle, during the weeks given over to the examination of texts that the Assembly wishes to have debated or the weeks reserved to the
monitoring of Government action and the assessment of public policies. The decision taken in the Conference of Presidents is then approved by the Assembly at the moment of the setting of the agenda as is required by article 48, paragraph one of the Constitution.

However, inclusion on the Government priority agenda is possible in the conditions laid down by article 48 of the Constitution and article 48 of the Rules of Procedure. In this case, the Government may request inclusion on the governmental agenda, so informing the President of the National Assembly at the latest, the day before the meeting.

In addition, a draft resolution could even be considered during an extraordinary session: in this case the decision to examine it lies with the President of the Republic.

2. – INCLUSION ON THE AGENDA IS DECIDED AT THE CONFERENCE OF PRESIDENTS

Inclusion on the agenda is decided at the Conference of Presidents in the conditions set down by articles 48 and 136 of the Rules of Procedure.

Two cases can be singled out:

– In principle, the group and committee chairmen address their drafts for inclusion on the agenda to the President of the National Assembly at the latest four days before the meeting of the Conference of Presidents;

– Nonetheless, article 136 of the Rules of Procedure allows group chairmen to inform the President of the National Assembly at the latest forty-eight hours before the holding of the Conference of Presidents.

The following cannot be included on the agenda:

– Draft resolutions dealing with the same subject as a previous draft discussed during the same ordinary session;

– Draft resolutions tabled for less than six full days;

– Draft resolutions against which the Government has informed the President of the National Assembly that it will claim inadmissibility in accordance with the second paragraph of article 34-1 of the Constitution.

III. – THE EXAMINATION OF DRAFT RESOLUTIONS

Draft resolutions tabled before the Assembly are not sent to a committee. They are examined and voted on in plenary sitting but may not be subject to amendments.

It is possible to organize a joint general discussion of several draft resolutions, which although they have been differently written, deal with the same subject. This possibility is, nonetheless, subject to the condition that the two texts are not contradictory.
Furthermore, a draft resolution cannot be rectified by its author once it has been included on the agenda. In fact, such a possibility would not allow the Government to decide on its admissibility as its decision has to be transmitted to the President of the National Assembly before the inclusion on the agenda of the draft concerned.
Declaration of War and Armed Interventions Abroad

Key points
The powers of Parliament concerning defence policy were, for a long time characterized, both on account of the letter of the Constitution but also because of institutional practice, by relative weakness.

The constitutional reform of July 23, 2008 by increasing both the information which must be provided to Parliament and its monitoring of external operations, represents a major innovation in the world of the armed forces.

In contrast with the situation of other large democracies, the French Parliament has played, until very recently, a rather modest role in the implementation of defence policy.

The articles of the Constitution which underline the predominance of the Executive are in fact quite numerous. Indeed, the Head of State is also the Commander-in-Chief of the armed forces and he presides over the higher national defence councils and committees (article 15). He is the guarantor of national independence, territorial integrity and due respect for Treaties (article 5). In the case where serious and immediate threats endanger these vital interests, article 16 grants him the possibility of taking the “measures required by these circumstances”.

Article 21 provides, in addition, that the Prime Minister shall be responsible for national defence.

Thus, de facto, Parliament was restricted in these matters, according to article 35, to merely authorizing a declaration of war. This provision has never been used since the beginning of the Fifth Republic.

Many reports and proposals have been put forward with a view to increasing the power of Parliament in such issues. This has been all the more the case given that the number and the cost of external operations (OPEX) have grown substantially and that their nature has developed, in that they have moved...
from peace-keeping operations to actions which involve, at times, real combat operations.

This question was thus looked at quite deeply by the Reflection and Proposal Commission on the Modernization and Re-balancing of the Institutions of the Fifth Republic, chaired by Mr. Edouard Balladur, former Prime Minister. The constitutional reform of July 23, 2008 added to article 35 by introducing an information and monitoring procedure of Parliament on the OPEX.

Thus, the Government must give prior information to Parliament concerning its decision to have the armed forces intervene abroad at least three days after the beginning of the intervention, and must detail the objectives of the intervention; the mechanisms for providing this information are at the discretion of the Government. The information which is so transmitted may give rise to a debate which is not followed by a vote.

After the intervention, in the case of the extension of external operations, the principle which is implemented is that of parliamentary authorization. This applies when the length of the intervention exceeds four months. Since the entry into force of the constitutional reform, the Assembly has had to make seven such decisions in accordance with article 35, paragraph 3 of the Constitution: three times during the XIIIth term of Parliament and four times during the XIVth term:

– On September 22, 2008, it thus authorized the extension of the intervention of the armed forces in Afghanistan;
– On January 28, 2009, the extension of five interventions were authorized in Chad, in the Central African Republic, in Côte d’Ivoire, in Lebanon and in Kosovo;
– On July 12, 2011, for the extension of the intervention of the armed forces in Libya;
– On April 22, 2013, for the authorization of the extension of the “Serval” operation in Mali;
– On February 25, 2014, for the extension of the intervention in Central Africa (operation Sangaris);
– On January 13, 2015, for the extension of the intervention in Iraq (operation Chammal);
– On November 25, 2015, for the authorization of the extension of the commitment of the air force over Syrian territory.

The Constitution however says nothing about the case of an extension of the OPEX over several years.

As external interventions are often linked to defence agreements, this also led to the broadening of thinking on the improvement of the information provided to Parliament on this issue.
In fact, since such agreements are not part of the international agreements listed in article 53 of the Constitution, there is no obligation for them to be ratified by virtue of a law. Thus, in accordance with a commitment made by the President of the Republic, the list of such defence agreements in force on January 1, 2008, was published in a white paper on defence and national security.

The military programming law for 2009–2014 completed these provisions by allowing for the fact, in the annexed report, that Parliament would henceforth be informed of the conclusion and guidelines of defence agreements. Thus, from 2012–2017, Parliament had to approve and to ratify agreements or treaties in the defence field, i.e. with Algeria, Serbia, Senegal, Côte d’Ivoire, Djibouti, Croatia, New Zealand, Mali and the Republic of Guinea.
The Role of Standing Committees in the Monitoring of Government

Key Points

According to the Rules of Procedure of the National Assembly, the standing committees provide the National Assembly with the information necessary to enable it to carry out a monitoring role over Government policy. In practice, they have gradually begun to carry out the monitoring of Government action directly themselves.

This information is mainly gathered thanks to two instruments which the standing committees have been using more and more: hearings and fact-finding missions.

The Finance Committee has a specific role in the monitoring of the State budget both on account of the investigative powers which its special rapporteurs possess, and because of the setting-up of a body specialized in the assessment of the efficiency of public policy: the Assessment and Monitoring Mission (MEC). A similar body (the Assessment and Monitoring Mission for the Laws Governing Social Security or MECSS) has been set up within the Social Affairs Committee.

The standing committees also play an increasing role in the monitoring of the implementation of laws, particularly by following up the publication of the necessary regulatory texts.

The constitutional revision of July 23, 2008 further strengthened the role of standing committees in the field of monitoring by granting them the power to be consulted on certain appointments by the President of the Republic.

See also files 24, 49 and 50

According to Article 145 of the Rules of Procedure of the National Assembly, “standing committees shall keep the House informed so that it can exercise its function of monitoring the policy of the Government”. Institutional practice, and various reforms of the Rules of Procedure, have gradually provided the standing committees with a direct monitoring power over Government action.

I. – THE DUTY TO INFORM

1. – HEARINGS

The standing committees may meet with a non-legislative agenda in order to hold hearings with key figures.
Article 5 bis of the Ordinance of November 17, 1958, concerning the functioning of the parliamentary assemblies, provides that an “ad-hoc or standing committee may summon any person whose interviewing it may deem necessary, whilst taking into account, on the one hand, subjects of a secret nature which concern national defence, foreign affairs, the internal or external security of the State and, on the other hand, the respect of the principle of the separation of the judicial authority from that of the other powers”.

These provisions, which were introduced in 1996, grant the standing committees the right to summon any person of their choice (the fact of not replying to a summons is punishable by a €7,500 fine).

The standing committees thus frequently interview members of the Government, including the Prime Minister, European commissioners, experts or representatives of socio-professional circles or any other personality. During the XIVth term of Parliament, 2,837 hearings were organized by standing committees and ad hoc committees.

Generally speaking, these hearings take place in the framework of the preparation of a bill, but they may purely and simply be for information reasons, particularly in the case of committees where legislative activity is less frequent (foreign affairs, defence, sustainable development).

In accordance with article 46 of the Rules of Procedure, these interviews are open to the press and are retransmitted live on the internet site of the National Assembly. However, the bureau of the committee has control over the public nature of its proceedings and may waive this rule by means of a reasoned decision which is made public.

2. – FACT-FINDING MISSIONS

Article 145 of the Rules of Procedure provides the standing committees with the possibility of setting-up temporary fact-finding missions.

These missions may be restricted to a single committee or be common to several committees, they may be of a short or longer length of time and they may or may not involve travel within France or abroad. Such missions are sometimes set up in order to prepare the examination of a bill or to monitor the implementation or assessment of a recently passed law.

The fact-finding missions are usually concluded with the presentation of a report, whose publication is authorized by the committee. Such a report may give rise to a debate without vote in plenary sitting or to a questions sitting.

The missions may be individual or collective and their make-up is decided upon by the committees. The reform of the Rules of Procedure of May 27, 2009, however strengthened the role of the opposition within them. In fact, according to article 145 of the Rules of Procedure, a mission which is made up of two members must include an M.P. belonging to an opposition group. A mission
made up of more than two members must ensure that the political configuration of the Assembly is reproduced.

3. — THE GRANTING OF THE POWERS OF COMMISSIONS OF INQUIRY TO THE STANDING COMMITTEES

The Law of June 14, 1996, introduced into the Ordinance of November 17, 1958 on the functioning of the parliamentary assemblies, the article 5 \textit{ter} which grants the standing committees the possibility of asking their assembly to take advantage of the prerogatives of commissions of inquiry (the power of examination of all documents, summons to hearing with criminal penalty attached, the right of communication) for a specific mission which must not last more than six months.

In 2011, this possibility was broadened to “the bodies set up within one of the parliamentary assemblies to monitor Government action or to assess public policies whose fields go beyond the scope of a single standing committee”, (Law of February 3, 2011, aimed at strengthening the means of Parliament in matters pertaining to the monitoring of Government action and the assessment of public policies).

Thus, the Commission for the Assessment and Monitoring of Public Policies (CEC) of the National Assembly, as well as the delegations for women’s rights of the two assemblies and the senatorial delegations for territorial communities and economic forecasting may all have this prerogative. However, the fact-finding missions and the parliamentary delegation for intelligence of the do not possess this possibility but have other means of investigation. The OPECST (Parliamentary Office for Scientific and Technological Assessment may benefit from this prerogative expressly in application of article 6 \textit{ter} of Ordinance n° 58–1100 of November 17, 1958 (see below).

This provision was implemented for the first time by the Law Committee so as to ensure the parliamentary monitoring of the state of emergency decided upon after the attacks of November 13, 2015. The prerogatives of a commission of inquiry were granted to this committee according to a procedure provided for in articles 145–1 to 145–3 of the Rules of Procedure for a period of three months as of December 4, 2015, and then, as the state of emergency was extended, for a second period of three months which began on March 4, 2016.

II. — THE MONITORING ROLE

1. — MONITORING THE BUDGET AND THE FINANCING OF SOCIAL SECURITY

The Institutional Act of August 1, 2001 concerning finance acts establishes the role of the Finance Committee as regards budgetary monitoring (previously, this role was based on article 164–IV of Ordinance n° 58–1734 of December 30, 1958 pertaining to the Finance Act of 1959).
Article 57 of this law states that the finance committees of the National Assembly and of the Senate “must follow and monitor the carrying-out of the finance laws and must assess all questions concerning public finances”. This mission is entrusted to their special *rapporteurs* (members of the committees who are responsible for the examination of all or part of the funding of a mission) or to several of their members appointed to do so. During each session of the XIV\textsuperscript{th} term of Parliament, 48 special reports were filed.

In addition, the other committees must also examine the expenditure of the ministerial departments which fall within their field of competence. Thus, they appoint from within their committee, consultative *rapporteurs* who, nonetheless, do not have the same powers of investigation as their colleagues from a Finance Committee. During each session of the XIV\textsuperscript{th} term of Parliament, 74 opinions were filed.

The budgetary *rapporteurs*, both special and consultative, obtain much of the information they need in the replies to the questionnaires sent out at the end of June to the ministries concerned.

The special *rapporteur* has a twofold mission. On the one hand, during the examination of the budget, he examines the funds allocated within a mission and presents a report on this allocation, firstly to the committee and then in plenary sitting. On the other hand, he permanently follows and monitors their usage.

All year long, the special *rapporteurs* of the Finance Committee have the right to examine all documents concerning the implementation of the finance act as well as the management of the public companies which come within their field of competence. Since 1991 (article 146 of the Rules of Procedure), this monitoring can be carried out in the form of the publication of budgetary information reports.

Article 47–2 of the Constitution, introduced by the Constitutional Law of July 23, 2008, provides that the Court of Accounts must assist the Parliament in the monitoring of the implementation of the finance act and of the law governing the financing of the social security.

To add to this traditional action of the special *rapporteurs*, the Finance Committee of the National Assembly granted itself, in 1999, a new structure which reinforces parliamentary monitoring of the use of public funds and the efficiency of public expenditure: the Assessment and Monitoring Mission (MEC). Its main role is to carry out, each year, an assessment of the results of different public policies. Five reports were made by the MEC since the beginning of the XIV\textsuperscript{th} term of Parliament.

Similarly, since August 2004 (December 2005 in the Senate), the Social Affairs Committee has been provided with the Assessment and Monitoring Mission for the Laws Governing Social Security (MECSS). The mission of the MECSS is to permanently follow the application of laws on the financing of social security and to assess all questions concerning the finances of social security.
2. – MONITORING CERTAIN APPOINTMENTS

The constitutional revision of July 23, 2008 provided standing committees with an additional power: the right to be consulted on certain appointments and, if need be, to oppose them. The last paragraph of article 13 of the Constitution provides that an institutional law shall determine the posts or positions, concerning which, on account of their importance in the guaranteeing of the rights and freedoms or the economic and social life of the Nation, the power of appointment vested in the President of the Republic shall be exercised after public consultation with the relevant standing committee in each assembly.

In this case the President of the Republic shall not make an appointment if the sum of the negative votes in each committee represents at least three fifths of the votes cast by the two committees.

In addition, the Constitution makes provision for the application of such provisions for appointments to the Constitutional Council, (article 56), of qualified people to the High Council of the Judiciary (article 65) and of the Defender of Rights (article 71-1).

The posts and positions concerned are determined by the Institutional Law of July 23, 2010 concerning the application of the fifth paragraph of article 13 of the Constitution. Fifty positions are currently concerned, in very different sectors (independent administrative authorities, national agencies, public establishments etc.).

The Law of July 23, 2010 indicates which standing committee may provide these opinions.

In addition, specific legislative texts have also submitted the appointment of certain persons to the vote of the relevant parliamentary standing committees. The calculation of the majority is then defined in the text and may differ from the rules laid down in article 13 of the Constitution. Thus, article 19 of the Law of October 11, 2013, concerning transparency in public life, provides that the members of the High Authority for Transparency in Public Life who are suggested by the presidents of the two assemblies are appointed if they gain three fifths of the votes cast.

Article 29-1 of the Rules of Procedure lays down the conditions in which the standing committees in charge of monitoring these appointments may exercise this prerogative. The committees, which have a limit of eight days after this person’s identity has been made public, may, if they so wish, appoint a rapporteur who, since the reform of the Rules of Procedure of November 2014, must belong to an opposition or minority group. The hearing is public and is followed by a secret ballot. When the appointment of the person requires a vote in the committees of both the National Assembly and the Senate, the count is carried out simultaneously.
During the XIV\textsuperscript{th} term of Parliament, 65 people were interviewed by the standing committees in application of the last paragraph of article 13 of the Constitution. 21 others were interviewed in application of specific legislative provisions.

3. – **MONITORING THE IMPLEMENTATION OF LAWS**

Since 2004, at the end of a period of six months following the coming into force of a law whose implementation requires the publication of regulatory texts, a report on the implementation of the said law must be presented to the relevant committee. This report, which is provided for in the first paragraph of article 145-7 of the Rules of Procedure, describes the regulations which have been published and the decrees which have been issued in order to implement the said law, as well as the provisions which have not been subject to the necessary implementation instruments.

Since the reform of 2009, such a report is carried out by two M.P.s, one of whom must belong to an opposition group and one of whom must automatically be the *rapporteur* of the Government or Member’s bill which is the subject of the implementation report. During the XIV\textsuperscript{th} term of Parliament, the Conference of Presidents, also set up, on October 6, 2015, a joint mission on the Law of August 6, 2015, on growth, activity and equal economic chances.

The 2014 reform of the Rules of Procedure also made provision for two M.P.s, one belonging to an opposition group, to present to the relevant committee a report assessing the impact of a law three years after it entered into force. This report deals with the legal, economic, financial, social and environmental consequences of the law and points out the possible difficulties met upon the implementation of the said law.

4. – **THE FOLLOW-UP TO THE COMMITTEES’ MONITORING WORK**

Any of these information reports can lead in plenary sitting to a debate, without vote, or to question sitting.

In addition, in application of article 145-8 of the Rules of Procedure, the committees have also the possibility of looking at the conditions in which, six months after the publication of the report of a fact-finding mission, the conclusions it presented, have been implemented.
Commissions of Inquiry and Fact-finding Missions Set Up by the Conference of Presidents

Key Points
Commissions of inquiry came into existence in France along with the parliamentary system.

This was because the right of inquiry of the assemblies was considered as a corollary to the right to monitor. Nonetheless the procedure was not laid down in the Constitution.

On account of having been linked to various crises during the Third and the Fourth Republics, commissions of inquiry during the Fifth Republic were provided with a status which limited their action and which aimed at preventing any parliamentary intervention regarding the executive power and the judiciary.

However, thanks to the broadening of the scope of their investigation and to the publicity given to their hearings since 1991, commissions of inquiry are now an efficient means to gather information and to monitor, and their conclusions can have an impact on Government action. Since the constitutional revision of July 23, 2008, their status has been set down in article 51-2 of the Constitution which provides that “committees of inquiry may be set up within each House to gather information, according to the conditions provided for by statute”.

Since 2003, the Conference of Presidents, upon the proposal of the President of the National Assembly, may set up temporary fact-finding missions.

See also files 23 and 26

I. – COMMISSIONS OF INQUIRY

1. – THE SETTING-UP OF A COMMISSION OF INQUIRY

From 1991 on, the term “commission of inquiry” has been applied to bodies which formerly were known either as “commissions of inquiry” per se (those which dealt with a specific situation) or “monitoring commissions” (those which dealt with the administrative, financial or technical management of public services or State-run companies).
The setting-up of a commission of inquiry is entirely a parliamentary initiative. It takes the form of a motion tabled by one or several M.P.s requesting the setting-up of the said commission. This motion must set out the reasons for the request and must establish the object of the inquiry.

It is then transmitted to the relevant standing committee. The National Assembly then votes in plenary sitting.

From 1988 onwards, a convention was established allowing each political group the annual right to have one such motion requesting the setting-up of a commission of inquiry included on the order paper. This convention, which had fallen into abeyance, was strengthened and re-established by the reform of the Constitution in 2008. In the wording of the Rules of Procedure pursuant to the motion of May 27, 2009, each chair of an opposition or minority group may request once per ordinary session, with the exception of that preceding the renewal of the Assembly, a debate in plenary sitting on the setting-up of a commission of inquiry. For the creation of such a commission of inquiry to be rejected, the negative vote should garner the support of three-fifths of the members of the Assembly. Only M.P.s who are against such a creation take part in the ballot.

To allow this convention to become even more effective, the Rules of Procedure were modified in November 2014 so as to guarantee the automatic setting up of a commission of inquiry requested by an opposition or minority group. As of then, it is enough for the chair of such a group to make the request and the Conference of Presidents will take note of and implement the setting-up of a commission of inquiry, as long as, nonetheless, the conditions required for its setting-up have been met. In addition to those concerning admissibility, a group may not request the setting-up of a new commission of inquiry as long as a previous commission of inquiry or a fact-finding mission, which is also governed by the convention, has not concluded its work.

a) The admissibility of the motion

In its report the standing committee gives its verdict on the admissibility of the motion as regards the law and also upon its timing.

According to the Rules of Procedure of the National Assembly, the motion has to “precisely set out the facts warranting the inquiry or...specify the public services or entities whose management is to be investigated by the committee”. This requirement is not particularly demanding in practice.

In addition, the ordinance of November 17, 1958, concerning the functioning of the parliamentary assemblies, specifically prohibits the setting-up of a commission of inquiry concerning events which have led to legal proceedings and for as long as such proceedings continue. This is why the Rules of Procedure of the National Assembly make provision for the President to notify the Minister of Justice as soon as such a motion has been tabled.
The problem of the precise limits of the respective areas for parliamentary inquiry and judicial investigation has led to a complex jurisprudence; the interpretation which takes precedence is, that the existence of proceedings does not prohibit the setting-up of a commission of inquiry when it is so desired, but nonetheless limits its field of investigation to events not covered by the proceedings. Thus the flexibility of the interpretation of this rule has enabled, for example, the setting-up of commissions of inquiry into the Civic Action Service, sects, the Crédit Lyonnais bank, or the student social security system.

Whatever the case, the work of a commission of inquiry is automatically suspended upon the beginning of a judicial inquiry concerning the events which led to the establishment of the original commission of inquiry.

b) The make-up of Commissions of inquiry

Although the Ordinance of 1958 provided originally for the commissioners to be appointed by majority vote, a compromise has always meant that political groups are represented proportionately.

The revision of the Rules of Procedure of May 27, 2009, strengthened the cross-party nature of the commissions of inquiry. Henceforth their members are appointed proportionally according to the strength of political groups whilst their bureau must attempt to reproduce the political configuration of the Assembly and to ensure the representation of all its elements. In addition the positions of chairman or rapporteur must automatically be filled by a member of an opposition or minority group.

The commissions of inquiry have a maximum of thirty members, who elect their bureau and rapporteur by secret ballot. This bureau must be comprised of a chairman, four deputy chairmen, four secretaries and a rapporteur.

2. – The work of the commissions

a) Time limits

The commissions of inquiry are of a temporary nature. Their mission comes to an end upon the filing of their report or at the latest six months from the date of the passing of the motion which set them up.

In addition, a commission of inquiry may not be reconstituted with the same mission within twelve months of the end of its original mission or of the end of the work of a mission set up by the Conference of Presidents on the same subject.

b) Important powers

According to the Ordinance of 1958, “Commissions of inquiry are created in order to gather information...with a view to submitting the conclusions to the assembly which established them”.
They organize their work according to the rules applicable to the standing committees. The law has drawn up their prerogatives in line with those of the Finance Committee:

- **The right of direct summoning:** every person whose evidence before the commission of inquiry is deemed useful by the chairman of the commission of inquiry is bound to appear before the said commission of inquiry. This summons may be made through a bailiff or a police officer. The witness’s testimony is given under oath except for minors of under sixteen years old. The witness is, in addition, required to testify under the provisions of articles 226-13 and 226-14 of the Criminal Code, pertaining to professional secrecy. These obligations carry legal penalties if not carried out. In addition, the penalties applicable in the case of perjury or of bribery of a witness are equally applicable for parliamentary inquiries. Legal proceedings may be instituted upon the request of the chairman of the commission of inquiry or upon that of the Bureau of the Assembly, when the report has been published. However, since the adoption of the law no° 2008-1187 of November 14, 2008, witnesses who give evidence are protected against defamation, libel and slander concerning testimony given before a commission of inquiry unless they are outsiders to the subject of the inquiry;

- **The rapporteurs have very specific powers:** They carry out their mission with access to all evidence. All information which can make their task easier must be provided to them. They are empowered to see all department documents with the exception of those which are classified and concern national defence, foreign affairs, and the internal or external security of the State. This must all be carried out within the notion of the respect of the principle of the separation of the legal authority from all the other branches of power;

- **The contribution of the Court of Accounts:** since the Law of December 13, 2011 concerning the distribution of litigation and the streamlining of certain legal procedures, the communications of the Court of Accounts to the ministers and the answers which are provided, may be transmitted, upon their request, to the commissions of inquiry and the Court may carry out inquiries which are requested of it by the parliamentary commissions of inquiry on the management of departments or bodies which are subject to its monitoring or to that of the regional or territorial chambers of accounts;

- **The public nature of the hearings:** each commission of inquiry is free to organize the public nature of its hearings as it wishes, including television broadcasting. It may also, on the contrary, decide to meet “in camera”. It must be stated that the notion of secrecy continues to be applied to the other work of the commission, for example to its internal deliberations concerning the drawing up of its report. The publication of the report means such deliberations can be made public.
Each commission of inquiry has a secretariat made up of civil servants of the National Assembly. The numerous hearings which it carries out are presented in minutes, which are often contained in annexes to its report. It may carry out missions in France (or, if necessary, abroad) and has a special budgetary allocation in the budget of the National Assembly for that purpose. It may also have recourse to the technical help of specialists.

c) The conclusion of its work

The report is adopted by the commission of inquiry and filed with the President of the National Assembly; this filing is recorded in the *Journal officiel*. The report is then published, unless the National Assembly meets “in camera”, following a request which must be made within five days of the filing, decides otherwise. The report of a commission of inquiry may also be debated in plenary sitting without a vote (this was the case for the commission of inquiry on sects in 1996).

Anyone who divulges or publishes any information relative to the non-public work of such a committee of inquiry within twenty-five years, unless the report published at the end of the committee work has made reference to such information, will be subject to legal penalties. M.P.s who have been subject to a legal or disciplinary penalty on account of infringing the obligation of secrecy during non-public meetings of a commission of inquiry may not be reappointed to another commission of inquiry during the term of Parliament.

3. – The ability to influence without the power to order

a) Orienting governmental action

The conclusions reached and the proposals made have a great position in the reports of the commissions of inquiry. These reports clearly reflect the opinion of the majority of the commission, but it is customary to include in a separate section the opinion of minority commissioners.

The conclusions of the reports may lead to a debate without vote. M.P.s may also refer to them by using the procedures of classic parliamentary law, in particular by asking questions to the Government.

The reform of the Rules of Procedure of the National Assembly, adopted on May 27, 2009, makes provision, in the six months following the publication of the conclusions of the inquiry, for a member of the relevant standing committee, appointed by the said committee, to present a report to it on the implementation of the recommendations put forward by the said commission of inquiry.

b) Leading to judicial action

In carrying out their investigations, the commissions of inquiry may uncover criminal actions.
Although they may not make a legal judgement on such actions or give a verdict on the penalties to be applied, the commissions of inquiry may transmit such information, upon his request, to the Minister of Justice with a view to opening a judicial inquiry or they may refer them directly to the State Counsel’s Office in accordance with article 40 of the Code of Criminal Procedure (this was the case for the commission of inquiry on the influence of sectarian movements on minors, in 2006).

c) **Encouraging parliamentary action**

Standing committees, in their turn, may take up an issue examined by a commission of inquiry and go further in its investigation; it can happen that former members of a commission of inquiry may be involved in the tabling of a bill aimed at counteracting the shortcomings in legislation revealed by the inquiry.
Commissions of inquiry set up in the National Assembly during the XIVth term of Parliament

- Commission of inquiry on the possible dysfunctions in Government action and in state services, particularly those of the ministries of the economy and finance, the interior and justice, between December 4, 2012 and April 2, 2013, regarding the management of an issue which led to the resignation of a member of the Government
- Commission of inquiry on the state of the French and European steel and metal industries during the economic and financial crisis and on the conditions of their preservation and development
- Commission of inquiry on the functioning of French intelligence services in the follow-up and the surveillance of radical armed groups
- Commission of inquiry on the causes of the plan to close the Goodyear factory in Amiens-Nord and on the economic, social and environmental consequences as well as on the lessons linked to the representative nature of the case which can be drawn
- Commission of inquiry on the conditions of the privatization of the “Société nationale Corse Méditerranée” (SNCM)
- Commission of inquiry on the past, present and future costs of the nuclear sector, on the life of reactors and the various economic and financial factors concerning the production and the commercialization of nuclear-based electricity
- Commission of inquiry on the exodus of labour from France
- Commission of inquiry to study the difficulties for associations in the current crisis
- Commission of inquiry on the societal, social, economic and financial impact of the progressive reduction in working time
- Commission of inquiry concerning electricity tariffs
- Commission of inquiry on the surveillance of individual Jihadists and Jihadist branches
- Commission of inquiry on the missions and means to maintain law and order in the framework of the respect of public freedoms and the right to demonstrate, as well as of the protection of people and property
- Commission of inquiry aimed at assessing the consequences on public investment and local public services of the decrease in state funding for municipalities and inter-municipality authorities
- Commission of inquiry on the means implemented by the state to fight against terrorism since January 7, 2015
- Commission of inquiry on the conditions for the slaughtering of animals for meat consumption in French abattoirs
- Commission of inquiry on fibromyalgia
- Commission of inquiry on the conditions for the granting of a broadcasting authorization to channel Numéro 23 (channel Number 23) and its sale
II. – THE FACT-FINDING MISSIONS SET UP BY THE CONFERENCE OF PRESIDENTS

A provision of the Rules of Procedure of the National Assembly passed in March 2003, in the framework of the modernization of the work methods of the National Assembly which was modified in May 2009, grants the Conference of Presidents the possibility of setting-up fact-finding missions upon the proposal of the President of the National Assembly. The Constitutional Council has made it clear that such missions should be temporary and limit their role to fact-finding.

The setting-up of such missions within the Conference of Presidents, upon the initiative of the President of the National Assembly, confers a certain formality to work on sensitive subjects or current issues which interest all the political groups and all the committees. This is even more the case as the President of the National Assembly may chair such missions (fact-finding missions on religious symbols at school, on health insurance and on questions relating to history and remembrance).

Since 2009, the position of chairman or of rapporteur is automatically given to an M.P. belonging to an opposition group, if these two positions are not carried out by the same person.

The reform of the Rules of Procedure of November 2014, provided each chair of an opposition or minority group with a convention ("right to a turn") allowing them to obtain the setting-up of a fact-finding mission, if they have not already used this right during the same sitting to obtain the setting-up of a commission of inquiry.

This work involves hearings and sometimes even travels in France and abroad. The reports may lead to a debate without vote, in plenary session. Depending on the theme of the mission, it can lead to the tabling of a Members’ bill, co-sponsored by all the members of the mission (the fact-finding mission on caring for people at the end of their lives), a Government bill (the fact-finding mission on religious symbols in school and on the family and the rights of children) or the presentation of a decree (the fact-finding mission on the prohibition of tobacco in public places).
Fact-finding missions set up by the Conference of Presidents during the XIVth term of Parliament

- Fact-finding mission on the cost of production in France
- Fact-finding mission on elderly immigrants
- Fact-finding mission on the “ecotax” on heavy goods vehicles
- Fact-finding mission on legislative simplification
- Fact-finding mission on the candidacy of France for the Universal Exhibition of 2025
- Fact-finding mission on tax credits for competitiveness and employment
- Fact-finding mission on the institutional future of New Caledonia
- Fact-finding mission on the role of trade unions
- Fact-finding mission on the French automobile industry from an industrial, energy and taxation point of view
- Fact-finding mission on the funds of ISIS
- Fact-finding mission on the repercussions of the British referendum and the follow-up to the negotiations
- Fact-finding mission on the political and economic relations between France and Azerbaijan regarding French objectives for the development of peace and democracy in the southern Caucasus
The Assessment of Public Policies

Key Points
The National Assembly has, over recent years, set up, in the framework of its prerogatives concerning financial monitoring, two permanent missions whose aim is to oversee the efficiency of public expenditure.

One, the Assessment and Monitoring Mission (MEC) is responsible for monitoring the use of public funds; the other, the Assessment and Monitoring Mission for the Laws Governing Social Security Financing Laws (MECSS), is in charge of checking the application of the laws concerning the financing of social security and of assessing all questions concerning the finances of social security.

In addition, the reform of the Rules of Procedure of May 27, 2009, set up the Commission for the Assessment and Monitoring of Public Policies (CEC). This commission enables the National Assembly to implement the mission of assessment which is henceforth recognized by article 24 of the Constitution.

See also files 24, 48 and 52

I. – THE ASSESSMENT AND MONITORING MISSION (MEC)

The Assessment and Monitoring Mission (MEC) is based on the National Audit Office of the British Parliament. It was set up within the Finance Committee in February 1999 following the conclusions of a working group on parliamentary monitoring and the efficiency of public spending which was at the origin of the Institutional Act on Finance Laws (LOLF). This group, at the end of its work, recommended the setting-up of a structure which would be responsible for the interviewing of political and administrative leaders on the management of their funds and which would carry out in-depth investigations into predetermined sectors of public policy.

This mission has the specificity of being co-chaired by an M.P. of the governing majority and an M.P. of the opposition. Its 16 members all belong to the Finance Committee and are appointed, in equal numbers representing the governing majority and the opposition, by the political groups. The Chair of the Committee and the General Rapporteur are ex-officio members. The other standing committees may request some of their members to attend.
The choice of themes dealt with by the Assessment and Monitoring Mission is decided by the Bureau of the Finance Committee which means that they can be co-ordinated with the overall work of the Committee.

The Assessment and Monitoring Mission works in collaboration with the Court of Accounts which is consulted in advance on the choice of themes decided upon. Members of the Court of Auditors attend its meetings or are interviewed by it. A report requested from the Court of Auditors in accordance with article 47-2 of the Constitution or with paragraph 2 of article 58 of the LOLF, may be at the origin of this work.

Its reports are systematically entrusted to two, even three, M.P.s and this means that the ruling majority and the opposition work together as well as other standing committees, so that consensual conclusions may be reached.

The working methods (essentially interviews but also in-situ visits and questionnaires to the relevant actors) are those of all the fact-finding missions. The interviews are open to the public and to the press with certain exceptions, particularly when national defence issues are at stake.

The LOLF also provides the MEC with the widespread powers given to special rapporteurs to summons witnesses and to have access to all documents, with the exception of those concerning questions of a confidential nature (national defence, state security, judicial confidentiality, medical secret etc.).

The conclusions of the Assessment and Monitoring Mission (which deliberates in camera) are submitted to the Finance Committee so that it decides whether or not to publish a report, and, in accordance with article 60 of the LOLF, when the work of the MEC leads to observations which are transmitted to Government, the latter is required to provide a written reply within two months.
<table>
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<td>Cooperative armament programmes (n° 1234, July 10, 2013)</td>
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<td>M. Jean-Jacques BRIDEY (SRC) (Defence)</td>
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<td>The optimization of support for the building of social housing, according to needs</td>
<td>M. Christophe CARESCE (SRC)</td>
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<td>(n° 1285, July 18, 2013)</td>
<td>M. Michel PIRON (UDI) (Cultural Affairs)</td>
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<td>Prevention and support by public authorities for programmes to safeguard employment</td>
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<td>Taxation of tourist accommodation (n° 2108, July 9, 2014)</td>
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<td>The management of future investment concerning the Research and Higher Education</td>
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<td>mission (n° 2662, March 18, 2015)</td>
<td>M. Patrick HETZEL (LR) (Cultural Affairs)</td>
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<td>Consular chambers, their missions and their financing (n° 3064, September 16, 2015)</td>
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<td>Mme Catherine VAUTRIN (LR) (Economic Affairs)</td>
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<td>Issue</td>
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| The financing and the oversight of the expenditure of external French language bodies (n° 3357, December 16, 2015) | M. Pascal TERRASSE (SRC)  
M. Jean-François MANCEL (LR)  
M. Jean-René MARSAC (SRC) (Foreign Affairs) |
| Training and career management in the upper ranks of the civil service (n° 3809, June 8, 2016) | M. Jean LAUNAY (SER)  
M. Michel ZUMKELLER (LR) (Law) |
| Future investment programmes (PIA) to finance ecological transition (n° 3867, June 22, 2016) | Mme Eva SAS (NI)  
Mme Sophie ROHFRITSCH (LR) (Cultural Affairs) |
| Transparency and the financing of the public debt (n° 3936, July 6, 2016) | M. Nicolas SANSU (GDR)  
M. Jean-Claude BUISINE (SER)  
M. Jean-Pierre GORGES (LR) |

II. – ASSESSMENT AND MONITORING MISSION FOR SOCIAL SECURITY FINANCING LAWS (MECSS)


The MECSS permanently follows the implementation of social security financing laws and assesses any question concerning the financing of social security. It is jointly chaired by an M.P. of the governing majority and of the opposition and its fourteen members belong to the Social Affairs Committee and are appointed by the political groups. Its composition attempts to reproduce the political configuration of the Assembly. Members of the other standing committees may attend its meetings.
The choice of themes dealt with by the MECSS is decided by the Bureau of the Social Affairs Committee after consultation with the Court of Accounts.

The working methods (essentially interviews but also *in situ* visits) are those of all the fact-finding missions. The interviews are open to the public and to the press with some exceptions. In addition, the MECSS has widespread powers to summons witnesses and to have access to all documents, as well as to carry out inspections *in situ* of State administrations, social security bodies and the relevant public establishments. Exceptions are made for questions of a confidential nature (national defence, State security, judicial confidentiality, medical secret etc.).

Since the Constitutional Act n° 96-138 of February 22, 1996, the Court of Accounts assists Parliament in the monitoring of the implementation of social security financing laws. Article 47-2 of the Constitution which itself was introduced by article 22 of the Constitutional Act n° 2008-724 of July 23, 2008, broadened the scope of this assistance regarding the assessment of public policies and thus of questions concerning the financing of social security. Therefore, members of this institution may also take part in the preparatory meetings and in the hearings of the MECSS. The Court of Accounts also carries out inquiries on bodies under its inspection remit and the MECSS can benefit from such inspections.

In addition, the MECSS has obtained the support of the General Inspection of Social Affairs.

The conclusions of the MECSS (which deliberates *in camera*) are presented to the Social Affairs Committee and the report is then published in the conditions determined by the *bureau* of the committee.

In accordance with article L.O. 111-9-3 of the Social Security Code, when the work of the MECSS leads to observations which are transmitted to Government or to a social security body, both of the latter are required to provide a reply within two months.
**Information Reports of the MECSS since 2008**

<table>
<thead>
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<th>Year</th>
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<td>2017</td>
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III. – THE COMMISSION FOR ASSESSMENT AND MONITORING (CEC)

The Commission for Assessment and Monitoring (CEC) was set up by the reform of the Rules of Procedure of May 27, 2009. It enables the National Assembly to implement the mission of assessment which is explicitly recognized by article 24 of the Constitution.

Article 146-2 of the Rules of Procedure of the National Assembly provides that the CEC, which is chaired automatically by the President of the National Assembly, also includes 36 other members appointed so as to ensure a proportional representation of the political groups and a balanced representation of the standing committees.

In order to carry out its missions, which scope is strictly defined by the Constitutional Council (decision n° 2009-581 DC of June 25, 2009), the CEC has the following functions:

- It ensures the assessment of a broad range of public policies: the CEC, upon its own initiative or upon the request of a standing committee, assesses public policies in a broader remit than that of a standing committee. Each group may automatically obtain the right to one assessment per ordinary session (article 146-3 of the Rules of Procedure);

- It must be informed of the conclusions of fact-finding missions: the CEC is informed of the conclusions of fact-finding missions whether they be set up by a single standing committee, jointly organized by several standing committees or established by the Conference of Presidents (article 146-4 of the Rules of Procedure);

- It may put forward proposals for the agenda of the week given over to monitoring and assessment: in accordance with article 48 of the Constitution, the CEC may “in particular, propose the organization in plenary sitting, of debates without votes or sittings with questions on the conclusions of its reports or on those of the reports of fact-finding missions” of standing committees or of the Conference of Presidents (article 146-7 of the Rules of Procedure).
Work of the CEC since 2009

XIII\textsuperscript{th} term of Parliament

2009-2010

– Implementation of article 5 of the Charter for the Environment concerning the application of the precautionary principle.
– Aid policy for disadvantaged areas.
– The efficiency of independent administrative authorities.

2011

– Assessment of the performance of social policies in Europe.
– General overhaul of public policies.
– Medical care at school.

2012

– Rural areas.
– Public housing and access to public housing for the disadvantaged.
– State medical aid.
– The evaluation of the mechanisms for the promotion of overtime.

XIV\textsuperscript{th} term of Parliament

2012

– Follow-up assessment of the performance of social policies in Europe.
– Follow-up assessment of medical care at school.
– Follow-up assessment of the general overhaul of public policies.

2013

– Assessment of the support policy for companies.
– Assessment of the anti-smoking policy.
– Assessment of public support for exports.
– Assessment of France’s cultural network abroad.
– Assessment of public policy concerning the social mobility of young people.
– Assessment of the adequacy between the supply and demand in the sector of professional training.

2014

– Assessment of the implementation of the 2008 “energy-climate” package in France.
– Assessment of the policy concerning the hosting of asylum seekers.
– Follow-up assessment of public aid to exports.
– Assessment of the policy of the fight against smoking
– Assessment of the policy concerning the fight against the use of illegal substances.
– Assessment of the customs policy in the struggle against fraud and trafficking.
– Assessment of the development of service to individuals.

2015
– Follow-up assessment on public policies concerning public policies for young people
– Assessment of public policies promoting social diversity in the national education system
– Assessment of the policy to welcome tourists
– Follow-up assessment of state medical support and of overall health coverage
– Assessment of public policies concerning the fight against air pollution
– Assessment of the digital modernization of the state
– Follow-up assessment of the policy concerning the fight against the use of illegal substances

2016
– Assessment of public aid to the spa industry
– Assessment of public policies in the fight against social exclusion: access to social rights
– Follow-up assessment of the policy concerning asylum seekers
– Assessment of the development of renewable energies and energy efficiency: follow-up assessment of the implementation of the “energy-climate” package
– Citizen consultation on the public policy in favour of equality between women and men

2017
– Assessment of the regulation of gambling and games of chance
– Assessment of aid to the ownership of property
Questions

Key Points

Questions, in their different oral and written forms, are the oldest parliamentary means of monitoring Government activity. These procedures, which do not entail a vote and are of an individual nature, enable the M.P.s to be kept informed on specific subjects and current affairs without bringing a censure motion against the Government.

Questions represent the most direct (and for oral questions, the most immediate) form of monitoring of Government action by the Parliament.

I. – ORAL QUESTIONS

The right to question the Government during plenary sittings was established by the 1958 Constitution and was strengthened by the constitutional revisions of 1995 and 2008. Henceforth “during at least one sitting per week, including during the extraordinary sittings, (...) priority shall be given to questions from Members of Parliament and to answers from the Government” (final paragraph of article 48 of the Constitution).

In this framework, the National Assembly, in agreement with the Government freely manages its oral question sittings. The conditions for tabling a question are laid down by the Bureau and the organization of the sittings is carried out by the Conference of Presidents.

The practice of asking oral questions, followed by a debate, has fallen into abeyance but another practice, that of asking oral questions without debate, was established in 1974.

1. – ORAL QUESTIONS WITHOUT DEBATE

Oral questions are asked by an M.P. to a minister. This prohibits all collective questions (in particular those which could be asked by the chairman of a political group or of a standing committee).
They must be drafted briefly and be limited to those elements absolutely essential for the understanding of the question. The draft of the question, which is very often of a local nature for the M.P. who is the author, is then presented to the President of the National Assembly who in turn notifies the Government.

Since the constitutional reform of July 23, 2008, the Conference of Presidents has set down the principle that the sittings of oral questions without debate would be organized mostly during the monitoring weeks. They take place during the Tuesday and Thursday morning sittings. The number of questions asked per sitting is 32 and the distribution of questions between the governing majority and opposition is based on the principle of parity which is used during Government question time. The available time for each question including the minister’s answer and a right to reply is 6 minutes.

2. – GOVERNMENT QUESTION TIME

Drawn up by the Conference of Presidents, the procedure of Government question time was implemented in 1974, in addition to the Rules of Procedure. It was designed to last for one hour per week. Since the introduction of the single parliamentary session in 1995, two sittings of one hour each have been given over to this procedure on Tuesday and Wednesday afternoons, during the ordinary session. In addition, since the constitutional revision of July 23, 2008, one sitting of one hour per week has been given over to questions during extraordinary sessions.

The organization of Government question time was changed in February 2009: the time given over to each question, including the minister’s answer was reduced from 5 to 4 minutes, with 2 minutes for the question and 2 minutes for the reply and public time devices were set up in the Chamber so that everyone can now check that this rule is respected.

This decrease has meant that 15 questions can be asked per sitting instead of 12. Parity between the governing majority and the opposition is maintained over the two sittings with 15 questions for the former and 15 for the latter. Non-aligned M.P.s may ask one question every fourth sitting.

During the sitting, the President calls out the order of the questions, in such a way as is possible, so as to have questions alternate between those coming from the governing majority and those asked by an opposition group. The first question is automatically asked by a member of the opposition or of a minority group.

Unlike the oral questions, questions to the Government are not tabled, notified or published in advance. In principle, their content is not communicated to the Government and only the names of the authors are transmitted one hour before the opening of the sitting.
The spontaneous nature of these questions and the presence of the entire Government ensure a substantial audience at these sittings which, in addition, on account of their being televised, represent one of the high points of the parliamentary week.

The content of the questions is entirely open (only insults and threats are prohibited). In practice, the dual procedure of oral questions and questions to the Government has enabled the first to be given over to questions of local interest and the second to political questions of a more general nature.

3.– **QUESTIONS TO A MINISTER**

This novel procedure, based on questions and answers limited to 2 minutes, was used, more and more frequently, during the XIVth term of Parliament: 17 question sittings on ministerial themes were held during the 2015-2016 ordinary session, as opposed to 6 during the 2012-2013 session. Up to June 30, 2016, 40 such question sittings were held from the beginning of the XIVth term of Parliament.

II.– **WRITTEN QUESTIONS**

This procedure, for which provision is made in the Rules of Procedure of the National Assembly, also represents an individual prerogative of the M.P.s. It is the only parliamentary procedure of this kind which takes place outside the framework of the plenary sitting and whose results come at a later date.

Written questions are asked by an M.P. to a minister. Only those dealing with the general policy of the Government are asked to the Prime Minister.

Written questions must be drafted briefly and be limited to those elements absolutely essential for the understanding of the question. They must include no accusation of a personal nature regarding any person mentioned. In addition, the principles of separation of powers and immunity of the Head of State prohibit the author from calling into question the actions of the President of the Republic.

The draft of the written question is then presented to the President of the National Assembly who in turn notifies the Government. Since 2008, M.P.s table their questions electronically using the specialized internet portal. The written questions are published each week, both during and outside sessions, in a special supplement of the *Journal officiel* which includes the answers of ministers to previously asked questions. Since January 1, 2016, this supplement is dematerialized, and the original version may be consulted on the site of the National Assembly.

The replies to questions, in principle, have no legal validity and do not bind the administration, except in fiscal matters where they are considered as an expression of an administrative interpretation of the law.
On account of its easy use and because of the fact that it has no limit, made especially simple by new computer technology, the written questions procedure is very popular. It allows the M.P.s to question ministers on issues often directly concerning their constituents, when they so desire (even during recess) and as often as they so wish. The consequence of this has been an unbridled increase in the number of written questions: the total has risen from 3,700 written questions tabled in 1959, to 12,000 in 1994 to 20,066 in 2015.

On September 30, 2015 the average reply period was 180 days. The overall reply rate remained constant at around 70%.

Several procedural reforms have aimed at improving the rate of reply and the time limit for replies:

- The publications of the list of questions to which no reply has been given within a two-month limit;
- The possibility for M.P.s to resend questions which have been unanswered for three months;
- The implementation of the “marked questions” procedure, which allows the chairs of the groups to choose, according to a distribution curve per group, 25 “marked” questions mentioned in the Journal officiel and to which ministers commit to reply within a ten-day period. This procedure, which was eminently efficient during the XIIth term of Parliament, totally seized up during the XIIIth term of Parliament. Since the beginning of the XIVth term of Parliament on September 30, 2015, out of the 3,285 “marked” written questions, only 866, i.e. 26%, have been replied to within the ten-day period.

To incite the Government to improve the decrease in the rate and the respect of the time limits to questions, in the framework of a continual increase in the number of written questions, the Reform of the Rules of Procedure of the National Assembly, adopted on November 28, 2014, modified article 135 of the Rules of Procedure which, as of now, makes provision for the fact that: “the Conference of Presidents sets down, before the beginning of each ordinary session, the maximum number of written questions which can be asked by each M.P. until the beginning of the following ordinary session”. The Conference of Presidents of June 9, 2015, decided that 52 was the maximum number of questions which could be tabled by each M.P. for the period from October 1, 2015 to September 30, 2016: this figure is slightly above the average total number of written questions tabled by each M.P.

As the first assessment of the application of this reform appears positive, especially in terms of the time limits for replies to written questions, the Conference of Presidents of July 12, 2016, set out a ceiling of 39 written questions per M.P. for the nine-month period of October 1, 2016 to the end of the XIVth term of Parliament.
The Monitoring of the Implementation of Laws and the Assessment of Legislation and Public Policies

Key Points

Follow-up on the implementation of laws has become one of the main missions of Parliament. It has a double aim: to check the implementation of the laws passed and to ensure the concrete conditions of their application.

For a decade now, parliamentary monitoring of the implementation of laws has extended to the assessment of the legislation in accordance with the new approach to public action. This takes into account the effects of the decisions taken, in terms of the objectives set and the means invested. This decision was, in addition, taken into account by the constitutional reform of July 23, 2008 which modified article 24 of the Constitution so as to make it clear that Parliament, on top of passing laws and monitoring Government action, “assesses public policies”.

Several mechanisms have been set up in order to meet these new demands:

– The presentation before standing committees of implementation reports concerning laws which require the publication of rules of a regulatory nature;
– The setting-up of temporary bodies (assessment and monitoring missions and commissions of inquiry) aimed at assessing the implementation of certain laws and public policies;
– The development of more permanent structures: the MEC (an assessment and monitoring mission in charge of evaluating each year the results of certain public policies) set up within the Finance Committee of the National Assembly and the MECSS (the Assessment and Monitoring Mission for Social Security Financing Laws) set up within the Social Affairs Committee of the National Assembly and the Senate; the Commission for the Assessment and Monitoring of Public Policies (CEC), as well the specific parliamentary delegations.

See also files 24, 48, 49, 53 and 54

I.– THE MONITORING OF THE IMPLEMENTATION OF LAWS IN PRINCIPLE FALLS WITHIN THE REMIT OF THE STANDING COMMITTEES

The growing complexity of laws means that more and more often they depend on regulatory implementation rules. M.P.s follow up the application of the laws which they pass, with great attention. They do so especially in order to
avoid the failure of such laws on account of the lack of publication of implementation rules.

Since 1990, the General Rapporteur of the Finance Committee has been carrying out an examination of the state of implementation of the fiscal provisions of the laws dealt with by the committee (i.e. not only the finance acts but also all those laws concerning provisions of an economic and financial nature). Similarly, in the spring, he presents an information report on the first available data concerning the application of the preceding year’s budget.

This practice has become widespread and was extended to all the standing committees in 2004. In fact, since this date, at the end of a period of six months following the coming into force of a law whose implementation requires the publication of regulatory texts, a report on the implementation of the said law is presented to the relevant committee. This report describes the regulations which have been published and the decrees which have been issued in order to implement the said law, as well as the provisions which have not been subject to the necessary implementation instruments. It can lead, in plenary sitting, to a debate without vote or to a question sitting.

Article 145-7 of the Rules of Procedure has given the writing of this report to two M.P.s. This duo must include the rapporteur of the text which is under consideration, as well as an M.P. of an opposition group who has been appointed by the committee as soon as the text has been referred to it.

So as to monitor the application of laws, the standing committees may apply the implementation deadlines which are made available by the Government on the Légifrance site. They may also use impact studies which are attached to the bill and which, notably, present the state of the law in the national jurisdiction in the target field(s) of the bill, the means of application of the foreseen provisions over time, the legislative and regulatory texts which must be repealed, and the provisional measures proposed. In addition, the rapporteurs may also request any useful information of the ministers in charge of the application of the bill and interview any person they consider useful for their mission.

II.– THE GRADUAL DEVELOPMENT OF ASSESSMENT OF THE EFFECTS OF THE LEGISLATION

The new approach to public action which takes into account the effects and the impact of the decisions taken, in terms of the objectives set and the means invested, has been integrated into the parliamentary monitoring of the implementation of laws. The development of such monitoring and assessment activities is in accordance with the functions which the Constitution provides to the Parliament, which, in compliance with article 24 of the Constitution, resulting from the reform of July 23, 2008, “passes laws”, “monitors Government action” and “assesses public policies”. 
A growing number of texts include a monitoring mechanism which can take various forms, more or less binding: the simple requirement of an implementation report, the organization of tests based on article 37-1 of the Constitution, the setting-up of assessment mechanisms. This can go as far as the obligation that Parliament can be continually informed so that it may ensure an immediate monitoring of the measures taken by the Government (i.e. for example, article 4-1 of the law of April 3, 1955, concerning the state of emergency).

The National Assembly has used existing mechanisms or has created new tools so as to assess the legislation, certain of which are temporary and others permanent.

1. — TEMPORARY MONITORING AND ASSESSMENT BODIES

In June 1990, a modification of the Rules of Procedure allowed the setting-up of temporary fact-finding missions which deal, in particular, with the conditions of the application of a law. These fact-finding missions may be set within a single standing committee, may bring together several committees or may be set up by the Conference of Presidents.

Since the reform of November 28, 2014, the Rules of Procedure make provision for the impact assessment of a law three years after its enforcement. According to article 145-7 of the Rules of Procedure, this implies reporting upon “the legal, economic, financial, social and environmental consequences of the law, which can be, if necessary, based on the assessment criteria defined in the prior impact study, as well as on the possible difficulties met upon the implementation of the law”.

The make-up of such fact-finding missions can vary enormously. In practice, such missions are almost always made up of two M.P.s or more. In accordance with article 145 of the Rules of Procedure, they must thus have one member of the opposition and must reflect the political distribution of the National Assembly. In cases where the fact-finding mission is set up by the Conference of Presidents, it includes a bureau of nine members (a chair, four vice chairs and four secretaries) to which must be added the position of rapporteur, and the position of chair or of rapporteur must automatically belong to an M.P. belonging to an opposition group.

The work of such fact-finding missions can last over a varied period, often several months, during which the members carry out interviews and visits and is concluded by the filing of an information report.

In addition, the mission given to commissions of inquiry (specific temporary parliamentary bodies with extended investigation prerogatives such as the communication of documents and hearings under oath) is moving toward an evaluation procedure concerning policies in certain sectors or various pieces of legislation.
2. – The Commission for the Assessment and Monitoring of Public Policies (CEC)

The Commission for Assessment and Monitoring of Public Policies (CEC) was set up by the reform of the Rules of Procedure of May 27, 2009. It enables the National Assembly to implement the mission of assessment which is explicitly recognized by article 24 of the Constitution.

The original make-up of the CEC which was very institutional as it was composed of a certain number of *ex-officio* members (chairs of political groups or of standing committees), was modified in 2014, in order to strengthen its efficacy and to ensure an increased participation of the groups by bringing it closer to the make-up of other delegations and offices. Article 146-2 of the Rules of Procedure of the National Assembly states that the CEC, which is chaired by the President of the National Assembly, includes thirty-six members appointed, for the term of Parliament, in such a way as to reflect a proportional representation of the political groups and a balanced representation of the standing committees.

In order to carry out its missions, the scope of which is strictly defined by the Constitutional Council (decision n° 2009-581 DC of June 25, 2009), the CEC has the following functions:

- It ensures the assessment of a broad range of public policies: the CEC, upon its own initiative or upon the request of a standing committee, assesses public policies in a broader remit than that of a standing committee. Each group may automatically obtain the right to one assessment per ordinary session (article 146-3 of the Rules of Procedure); the programme of the work of the CEC is planned a year in advance;

- It must be informed of the conclusions of fact-finding missions: the CEC is informed of the conclusions of fact-finding missions, whether they be set up by a single standing committee, jointly organized by several standing committees or established by the Conference of Presidents (article 146-4 of the Rules of Procedure);

- It may put forward proposals for the agenda of the week given over to monitoring and assessment: in accordance with article 48 of the Constitution, the CEC may “in particular, propose the organization in plenary sitting, of debates without votes or sittings with questions on the conclusions of its reports or on those of the reports of fact-finding missions” of standing committees or of the Conference of Presidents (article 146-7 of the Rules of Procedure);

- It may carry out a preliminary assessment of an M.P.’s or the lead committee’s amendment upon the request of its author or in the case of a committee amendment upon the request of the chairman of that committee (article 146-6 of the Rules of Procedure).
3.– **Assessment and Monitoring Missions**

The Assessment and Monitoring Mission (MEC) was set up in 1999 within the Finance Committee of the National Assembly. Its mandate is to assess, each year, the results of certain public policies. This body has two specificities by comparison with the other missions set up by committees:

- It is, in reality, a permanent structure (set up for one year, it is renewed every year);
- The governing majority and the opposition have equal representation on it and a position of deputy chairman is given to the opposition.

In the same way an Assessment and Monitoring Mission for the Social Security Financing Laws (MECSS) was set up within the Social Affairs Committee in 2004. It also has equal representation and is a structure which monitors the financing of social issues and thus enables M.P.s to better follow the implementation of the laws governing the financing of social security and to ensure that the new legislative and statutory instruments correspond well to the financial objectives set.

4.– **Delegations**

The Parliamentary Delegation for the Rights of Women and Equal Opportunities between Men and Women was set up in 1999 and given the mandate, by law, of informing the Assembly on the issues included within its remit as well as following up the implementation of the laws within this field.

Set up by Law n° 2007-1443 of October 9, 2007, the Parliamentary Delegation on Intelligence, which is a joint body between the National Assembly and the Senate, was originally in charge of “following the general action and means of the specialized services placed under the authority of the ministers in charge of internal security, defence, the economy and the budget”. In order to ensure closer parliamentary monitoring over intelligence gathering, the Law of December 18, 2013, concerning military programming for 2014-2019, which included several provisions dealing with national defence and security, modified article 6 *nonies* of Ordinance n° 58-1100 of November 17, 1958 concerning the functioning of the parliamentary assemblies. Thus, the Parliamentary Delegation on Intelligence now explicitly monitors Government action in the intelligence field and assesses public policy in this area.

Most recently, the Conference of Presidents set up, on July 17, 2012, a Delegation for France Overseas, which is in charge of, like its counterpart in the Senate, informing the National Assembly on all questions which concern French overseas departments and territories. It is made up of 63 M.P.s including the 27 overseas M.P.s who are members by right.
The Parliamentary Office for Scientific and Technological Assessment

Key Points

The Parliamentary Office for Scientific and Technological Assessment (OPECST), was set up by law and is an information body jointly run by the National Assembly and the Senate.

It is made up of eighteen M.P.s and eighteen Senators. The mandate of this parliamentary delegation, in the wording of the law, is “to inform Parliament of the consequences of the choice of scientific and technological options, in particular, so as to enable it to make enlightened decisions”. It allows Parliament to avail of expertise to make informed long term political choices.

I. – THE CREATION OF THE OPECST

At the beginning of the 1980s, at the time of a certain number of debates such as that on the direction of nuclear or space programmes or on the territorial cabling plan, the Parliament realized that it was not in a position to independently judge all Government decisions on the broad orientations of scientific and technological policy.

Therefore, it decided to set up its own expertise and assessment body specialized in issues linked to the development of scientific knowledge and of new technologies: the Parliamentary Office for Scientific and Technological Assessment (OPECST).

Set up by Law n° 83-609 of July 8, 1983, with the unanimous agreement of Parliament, this body has, as its mandate, according to the wording of the law, “to inform Parliament of the consequences of the choice of scientific and technological options, in particular, so as to enable it to make enlightened decisions”. To do this it “collects information, sets up study programmes and carries out assessments”.
II. – MAKE-UP AND MISSIONS

1. – THE STRUCTURE OF THE OFFICE

The OPECST is an unusual structure within the Parliament: this delegation whose members are appointed in order to ensure the proportional representation of political groups, is run jointly by the National Assembly and the Senate. It is composed of 18 M.P.s and 18 Senators. Its chairmanship is carried out by a member of one of the two assemblies in alternation, for a three-year term. The law stipulates that the first deputy chairman must belong to the other assembly.

The OPECST plays a role of intermediary between the world of politics and the world of research. It is aided by a Scientific Council, the composition of which reflects the wide range of scientific and technological disciplines. This Scientific Council, which is made up of 24 leading figures appointed by the Delegation on account of their expertise, may be convened by the Chairman of the OPECST as often as he feels it necessary.

2. – REFERRAL OF STUDIES

Matters may be referred to the OPECST either by the Bureau of one or the other of the assemblies (upon its own initiative or upon the request of the chairman of a political group or that of sixty M.P.s or forty Senators) or by an ad-hoc committee or a standing committee. Up to the moment, there has been about the same number of referrals from one of the bureaus as studies requested by standing committees.

Every referral must lead to the appointment by the OPECST of rapporteurs, selected exclusively within the Office. They are usually a duo and represent a triple mixture: an M.P., a Senator, a woman, a man, a member of the ruling majority and a member from the opposition.

3. – ASSESSMENTS PROVIDED FOR BY LAW

In addition to having studies referred to it, the OPECST carries out assessments in the framework of procedures laid down by various laws such as those of 1994, 2004 and 2011 on “bio-ethics”, that of 1998 concerning health security monitoring, that of 2005 setting down guidelines for energy policy, that of 2006 on the sustainable management of radioactive matter and waste, those of 2006 and 2013 on research or that of 2015 on energy transition.

Certain of these assessments are recurrent; there is an assessment of national research policy every two years, an assessment on the national plan for the management of radioactive matter and waste every three years, as well as a prior consultation before every reform in the bioethics field.

The assessments are carried out in the same way as the studies and according to the same methods, by rapporteurs appointed with the OPECST.
4. – PUBLIC HEARINGS ON CURRENT ISSUES

When a current news item dealing with a scientific or technological subject leads to a debate or to a request for clarification from certain parliamentarians, the OPECST may organize a collective and adversarial hearing of all the stakeholders, including the associations and representatives of the scientific and technological community concerned. Public hearings on current issues are open to the press and are broadcast live.

This procedure was begun in 1997 with the organization of a “study day” on the information society and has dealt with a huge spectrum of diverse subjects. These range from, the crisis linked to the outbreak of legionnaires disease in 2003 to the world governance of the internet, from scientific expertise to the London Protocol on European Patents, from radiotherapy to bio-fuels, from the recognition of research to personal medical files, from the benefits science and technology bring to the development of financial markets to mathematics in France and in the sciences, from the issues of strategic materials to the aerial flyover of nuclear power plants by drones, from biosimilar medicinal products to the synergy between humanities and technological sciences and vector-borne diseases.

Often the public hearings on current issues allow the OPECST to conduct a review of the developments which have taken place in a particular field since the publication of a previous report.

The proceedings of the public hearings on current issues are accompanied by a report of the deliberation of the OPECST which subsequently sums up the hearing through the examination of the conclusions which the members of the OPECST who have chaired the debates have put forward.

III. – THE NATURE OF THE WORK

1. – THE THEMES DEALT WITH

Since the setting-up of the OPECST, around 200 reports have been published dealing with a wide range of subjects, as can be seen from those examining the development of the micro/nanoelectronics sector, the risks and dangers for human health of everyday chemical products, the issues of synthetic biology, benefits science and technology can bring to the compensation of handicaps, the improvement in the safety of dams and of hydraulic structures, the benefits of research to the assessment of fishery resources and the management of fish stocks or the national strategy in the energy field.

Certain referrals have been renewed (monitoring of the safety and security of nuclear installations, development of the semi-conductor sector, digital high definition television, biotechnologies, the energy performance of buildings etc.) and this allows the OPECST to follow up the implementation of its recommendations.
2. – Feasibility Studies

Once a referral has been made, the appointed rapports first of all carry out a feasibility study. The aim of such a study is to establish the state of knowledge on the subject, to decide on possible fields of research, to judge the possibility of obtaining useful results in the required time limit and also to determine the means necessary for the carrying out of the study programme, notably to arrange the visits necessary to gather the first-hand information.

It also puts forward the names of the competent persons sitting in a working group or “steering committee, who could help the rapports in their work.

The raports submit this feasibility study to a deliberation with the OPECST which can decide to adapt the scope of the referral or, in exceptional cases, not to pursue the work.

3. – Drafting the Report

When the decision to open up the study is taken, the raports hold a series of private hearings which enable them to gather the opinions of leading scientists or representatives of industry, associations, administration or agencies. They may also hold one, or several, public hearings open to the press so as to gather, and even to oppose, the opinions of persons and bodies which wish to express their opinion on the issue. The minutes of these public hearings are subsequently annexed to the report.

They may, in addition, according to the sites mentioned in the feasibility report, carry out missions in France or abroad which allow them to gather, on the ground, first-hand information.

4. – The Powers of the Rapports

The law provides raports with the same powers as special raports of the parliamentary committees in charge of finances: they may thus have free access to all evidence in state bodies and can examine all administrative documents with the exception of those concerning national defence or state security. Thus, two raports carried out two unannounced visits to nuclear power plants in 2011. In addition, in case it encounters obstructions in carrying out its tasks, the OPECST may ask, for a period not exceeding six months, to obtain the powers attributed to parliamentary commissions of inquiry.

5. – The Publication of the Report

The reports of the OPECST are not limited to gathering and juxtaposing the various opinions of experts. The collected information is analysed by the raports and they develop their interpretations by attempting to keep in mind, as best they can, the various aspects of the question so as to reach as enlightened an opinion as possible. At the end of their study, they put their conclusions and recommendations to a deliberation of the OPESCT.
The latter decides, by vote, on the authorization of the publication of this work or not. The decisions of the OPESCT are taken, very often, unanimously.

The reports whose publication is approved by the OPECST are submitted to each assembly.

IV. – OPENING UP TO THE OUTSIDE

1. – RELATIONS WITH SCIENTIFIC BODIES

Although this was not part of its original mission set down by the Law of 1983, the OPECST has been led, in the framework of its parliamentary monitoring and assessment function, to develop institutional relations with the actors of the scientific and technological community. These relations have taken on a specific importance as of the XIIIth term of Parliament.

Certain of these regular exchanges are provided for by the law, such as the annual presentation of the activity reports of the Nuclear Safety Authority (Law of June 13, 2006) or of the Biomedicine Agency (Law of July 7, 2011) or of the Scientific and Technical Centre for Building (Law of August 17, 2015).

The partnership between the Parliament and the Academy of Sciences, which enables, every two years, the organization, since 2005, of twinnings between M.P.s and Senators, on the one hand, and Academy members and young researchers on the other is, despite its informal structure, extremely successful and involves more and more parliamentarians who are not members of the Office. The role of mediator which the OPECST plays was acclaimed in the hallowed walls of the “Institut” on November 22, 2015 during a formal ceremony marking the 350th anniversary of the Académie des sciences (French Academy of Sciences).

The Academy of Technologies has formalized a regular information exchange partnership with the OPECST on their respective work. Every year, in December, l’INSERM (the French Council for Medical Research) organizes the presentation of the OPECST-INSERM prize to a researcher who has been recognized in the field of research.

Other types of contact occur in the shape of visits to laboratories or more classically in the form of hearings. The Chair of the OPECST, in addition, makes a distinct effort to receive in individual discussions numerous personalities of the world of science and technology.

Several laws involve the OPECST in the appointment of M.P.s or qualified figures to scientific bodies and this includes the direct presence of the Chairman or several members of the Office on their boards of management.
During the XIII\textsuperscript{th} term of Parliament, the OPECST became specifically interested in the structure of French research. This was particularly true as it was requested by the Ministry of Research and Higher Education to provide a considered opinion on the national strategy for research and innovation and as it encouraged, by means of a public hearing, the setting-up of thematic research alliances. Following up on the launching of the programme for future investments, the OPECST has worked on the cooperation between the national research alliances and the General Commissariat for Investment and has been very keen to make a first appraisal of future investments.

The XIV\textsuperscript{th} term of Parliament witnessed the recognition of the role of the OPECST as an assessment body of the scientific research and higher education mechanism through, first of all, its close collaboration with the National Conference on Research in 2012, and then through, the inclusion, in the Law of July 22, 2013, of its recurrent assessment mission on the national research strategy which led to the publication in February 2017 of a first report.

2.– INTERNATIONAL ACTIVITIES

The OPECST contributes to the opening-up of Parliament to the knowledge and good practices of foreign countries by means of three other directions:

- First of all, by continuing to support its investigations through visits and meetings in the various places in the world which are relevant to the subjects of its studies (in this respect, special mention should be made of trips to Germany and to Japan for the report on the future of nuclear power, or the trip to Switzerland for the study on the energy efficiency of buildings);

- Secondly, by taking part in exchange meetings within the European Parliamentary Technology Association (EPTA), an informal club of the European bodies tasked with dealing with scientific and technological assessment for national Parliaments and for the European Parliament. The National Assembly hosted a colloquium of the EPTA in September 2008 as part of the French Presidency of the European Union, then in September 2015, at the time of the French presidency of the EPTA. The European partners of the EPTA are often requested to provide their national contribution to the work of the OPECST.

- Lastly, by receiving numerous foreign delegations which come to reap the French experience in fields which have been previously harvested by the OPECST. This task is essentially carried out by the Chairman on behalf of the OPECST.
Parliamentary Delegations

**Key Points**

Parliamentary delegations, which were set up by laws, are think tanks which, unlike parliamentary offices, exist distinctively in each assembly.

Between 1979 and 2007, six such delegations were set up by legislators:

- The Parliamentary Delegation for Demographic Problems (1979);
- The Parliamentary Delegation for the European Communities (1979), which became the Parliamentary Delegation for the European Union in 1994;
- The Parliamentary Delegation for Planning (1982);
- The Parliamentary Delegation for the Rights of Women and Equal Opportunities between Men and Women (1999);
- The Parliamentary Delegation for Regional Planning and Sustainable Development, (1999);
- The Parliamentary Delegation on Intelligence (2007).

The constitutional revision of July 23, 2008 and the modification of the Rules of Procedure of the assemblies led to the setting-up in both the National Assembly and the Senate of a Committee in Charge of European Affairs which replaced the Parliamentary Delegation for the European Union.

Law n° 2009-689 of June 15, 2009 led to a reduction in the number of parliamentary delegations, some of which had no longer any reason to exist or had very little regular activity.

Finally, a new Parliamentary Delegation on Overseas France was set up by the Conference of Presidents on July 17, 2012 which was enshrined by Law n° 2017-256 of February 28, 2017, and then on November 28, 2017, the Delegation for Territorial Communities and for Decentralization.

See also file 52

For several years now, the National Assembly, like the Senate, has been seeking to develop an independent assessment capacity.

It was in this framework that various delegations were set up by law:

- The Parliamentary Delegation for Demographic Problems (set up by Law n° 79-1204 of December 31, 1979). This delegation was drawn from both the National Assembly and the Senate. Its mandate was to inform the assemblies
of the results of the policy implemented to increase the birth rate and the application of laws concerning birth control, contraception and voluntary interruption of pregnancy;

– The Parliamentary Delegation for Regional Planning and Sustainable Development, (Law n° 99-533 of June 25, 1999) in charge of assessing spatial and regional planning policies and of informing parliamentary bodies of the drawing-up and the implementation of collective service plans as well as the application of planning contracts;

– The Parliamentary Delegation for the European Communities, which became the Parliamentary Delegation for the European Union (Law n° 94-476 of June 10, 1994) in charge of following the work carried out by the institutions of the European Union;

– The Parliamentary Delegation for the Rights of Women and Equal Opportunities between Men and Women (set up by Law n° 99-585 of July 12, 1999) in charge of informing the assemblies of the policy followed by the Government as regards consequences in the field of women’s rights and the equal opportunities between men and women as well as of following the evolution of the law in this area;

– The Parliamentary Delegation on Intelligence (set up by Law n° 2007-1443 of October 9, 2007) which is a joint delegation between the National Assembly and the Senate.

Law n° 2009-689 of June 15, 2009 which modified Ordinance n° 58-1100 of November 17, 1958 concerning the functioning of the parliamentary assemblies abolished the parliamentary delegations on planning and that on demographic problems. It also abolished the Parliamentary Delegation for Regional Planning and Sustainable Development in order to take into account the setting-up at the National Assembly of a standing committee in charge of these issues.

The aforementioned law also formally recognized the transformation of the Delegation for the European Union into the standing committee in charge of European Affairs in each of the two parliamentary assemblies.

At the beginning of the XIVth term of Parliament there were only two active parliamentary delegations – the Parliamentary Delegation for the Rights of Women and Equal Opportunities between Men and Women and the Parliamentary Delegation on Intelligence. A new delegation, the Delegation in Charge of Overseas France, was set up in July 2012, at the beginning of the new term of Parliament and was enshrined in law in February 2017.
I. – THE DELEGATION FOR THE RIGHTS OF WOMEN AND EQUAL OPPORTUNITIES BETWEEN MEN AND WOMEN

Law n° 99-585 of July 12, 1999 set up, within each of the assemblies of Parliament, a Parliamentary Delegation for the Rights of Women and Equal Opportunities between Men and Women.

1. – THE MAKE-UP AND THE MISSIONS OF THE DELEGATION

At the National Assembly the delegation has thirty-six members appointed “in such a way as to ensure the proportional representation of political groups, balanced between men and women as well as between the standing committees”.

The delegation at the National Assembly is appointed at the beginning of the term of Parliament for its entire length. The delegations decide upon their own internal rules which, in particular set down the make-up of their Bureau. The latter is elected at the beginning of each term of Parliament.

In accordance with article 6 septies of the Ordinance n°58-1100 of November 17, 1958 concerning the functioning of parliamentary assemblies, the delegation’s “mandate is to inform the National Assembly of the Government’s policy and the impact it has on the rights of women and on equal opportunities between men and women” and to ensure “the follow-up of the implementation of the laws” in this area. The delegation’s mandate covers a wide area, but it must be carried out “without entering either the remit of the standing or ad-hoc committees or that of the committee in charge of European Affairs”.

In addition, the following matters may also be referred to the delegation:

– Government and Members’ bills by the Bureau of the National Assembly, either on its own initiative or upon the request of a chair of a political group, or by an ad-hoc or standing committee, either on its own initiative or upon the request of the delegation itself;
– Texts submitted in accordance with article 88-4 of the Constitution, by the committee in charge of European Affairs.

Such work leads to the tabling of a report with recommendations. This report is made public and is also transmitted to the relevant standing committees.

The law also makes provision for the filing, by the parliamentary delegations for women’s rights, every year, of a “public report which takes stock of their activities and which includes, if necessary, proposals to improve legislation and regulation in their areas of competence”.

In order to thoroughly carry out its work on a specific issue or on a Government or Member’s bill, the delegation may request to interview any person it considers useful for its proceedings. It may, in particular, request to interview ministers; thus, it held interviews with around twenty ministers and secretaries of state between July 2012 and the beginning of 2017.
The Government must transmit to it all useful information as well as the documents necessary for the carrying out of its brief, in accordance with the aforementioned law of July 12, 1999 which also lays down that it may hold joint meetings with the Delegation for Women’s Rights of the Senate.

2. – THE WORK CARRIED OUT BY THE DELEGATION

The policy in favour of equality between women and men applies, by definition, across the board: beyond the specific measures carried out in favour of women, it is necessary to take account of the aim to reach gender equality in the conception and implementation of all public policies.

Since its creation, the delegation has thus published numerous works on various subjects such as gender equality in politics, professional equality between women and men, equal wages, equal retirement for women, equality for part-time labour, equality in parental authority, equal treatment in the case of divorce, violence towards women and prostitution, contraception, voluntary interruption of pregnancy, but also on the struggle against climate change, the mechanisms for income tax, the budget, the right to asylum, the digital era, or public development aid. All these have been studied from the perspective of female-male equality.

During the XIVth term of Parliament (2012-2017), the Delegation for the Rights of Women published thirty reports:

— About half of them were based on Government or member’s bills, especially concerning sexual harassment, the election of departmental councillors, municipal councillors and community delegates, the security of employment, higher education and research, the retirement system, real equality between men and women, health, social dialogue and employment, the digital Republic, the reform of labour laws etc. In the framework of the consideration of these bills, the rapporteurs of the delegation tabled several amendments aimed at implementing the adopted recommendations;

— The other information reports dealt with specific themes such as the decentralized network of women’s rights, the implementation for companies of their obligations towards professional female-male equality, the struggle against the prostitution system, taxation, female-male equality in Mayotte etc. in addition to the proceedings of the colloquia organized by the delegation and to the aforementioned annual activity reports. The delegation also adopted, in February 2017, an information report reviewing the measures taken regarding female-male equality.

Equality during the term of Parliament and their implementation.

The delegation organized several conferences open to the public, on various themes such as equality in the civil service, the fight against climate change, the place of women in politics, public development aid, sexist images and violence in the audiovisual media, video or internet games or the new feminists.
It has also, over the years, developed international activity which has led it, on the one hand, to participate in meetings at a European level (at the European Parliament, for instance) or at a world level (notably, at the United Nations) and, on the other hand, to host foreign personalities or delegations.

II. – THE PARLIAMENTARY DELEGATION ON INTELLIGENCE

The Parliamentary Delegation on Intelligence which was set up by Law n° 2007-1443 of October 9, 2007 and is shared between the National Assembly and the Senate, was initially tasked “to follow the general action and means of the specialized services placed under the authority of the ministers in charge of internal security, defence, the economy and the budget”. Its prerogatives have been strengthened by Law n° 2013-1168 of December 18, 2013, concerning military planning for 2014-2019: it now explicitly monitors Government action in the field of intelligence and assesses public policy in this area.

It is chaired alternately by an M.P. or a senator and is made up of four M.P.s and four Senators, including the chairmen of the standing committees of the National Assembly and the Senate respectively in charge of internal security affairs and defence, who are ex-officio members. The other M.P.s and Senators are appointed by the President of each assembly to ensure cross-party representation.

In order to thoroughly carry out its brief, it gathers information concerning, in particular, the national strategy on intelligence, the national programme for intelligence aims, the intelligence budget and on the annual activity report of the intelligence services.

It may also request from the Prime Minister and relevant ministers, the transmission of inspection reports concerning the intelligence services.

It meets almost weekly and may interview the Prime Minister, other ministers concerned, as well as those in charge of intelligence who may appear with the assistants of their choice.

It may make recommendations and observations to the President of the Republic and to the Prime Minister. The delegation also draws up an annual public report.

Nonetheless, given the extremely sensitive nature of some information, certain restrictions are imposed on the delegation both on the gathering and the publicizing of the data to which it is party.

According to the new article 6 nonies of Ordinance n° 58-1100 of November 17, 1958, the documents, information and evidence collected by the delegation may not deal with current operations of the intelligence services “nor with the instructions given by the public authorities in these matters, nor with the operational procedures and methods, nor with exchanges with foreign services or with international bodies working in the field of intelligence”.
The work of the delegation is covered by the notion of national defence secrecy. The respect of this confidentiality is an obligation for the members of the delegation and thus excludes the publication of any information or any evidence which is thus protected.

III. – THE PARLIAMENTARY DELEGATION ON OVERSEAS FRANCE

Set up by the Conference of Presidents in July 2012, the delegation for overseas France was institutionalized in each assembly by article 6 decies of Ordinance 58-1100 concerning the functioning of the parliamentary assemblies, which sets down its powers and its make-up.

This delegation is tasked with informing the National Assembly on any issue concerning France’s overseas communities/territories whatever their status.

It is composed automatically of all M.P.s coming from French overseas communities/territories. In addition, its membership is completed in such a way as it ensures the proportional representation of all the political groups of the National Assembly. During the XIVth term of Parliament, it had 67 members.

During that term of Parliament, the Delegation on Overseas France fulfilled its role by intervening, through proposals annexed to its information reports, on the drawing-up of various bills which might interest overseas France. It also adopted thematic reports of which the most emblematic concerned the consequences for overseas France of climate change and which was presented by three co-rapporteurs, each of whom represented a different geographical zone of overseas France. The motion for resolution which concluded this report was taken up and co-signed by the M.P.s belonging to the ruling majority and the opposition and was adopted by the National Assembly during the debate which prepared the Conference of Presidents 21.

Finally, the delegation has organized many hearings with personalities coming from various backgrounds and various fields of activity which have strengthened, over the years, its role as an institutional interlocutor concerning problems dealing with overseas France. It is for this reason that it was the first recipient of the conclusions of the Court of Accounts on the “departmentalization” of Mayotte, in January 2016.
Study Groups

**Key points**
Amongst the many means which are available to M.P.s to obtain the information necessary for the exercise of their office, one must consider the study groups made up of M.P.s in order to follow a specific question, and the holding of symposiums on the premises of the National Assembly.

These groups are subject to an approval procedure which is carried out by the Bureau of the National Assembly, and which, in particular, provides that standing committees be consulted on the advisability of their setting-up.

In addition, in order to clarify the relations between M.P.s and the representatives of public or private interests, the Bureau has adopted transparency and ethical rules which are applied to the activities of such representatives at the National Assembly. The aim is both to establish the role that they play in providing information to M.P.s and to ensure that their activity conforms to a few simple rules of good conduct.

- See also files 48 to 54

Study groups are informal bodies open to all M.P.s and are set up to examine specific questions more deeply and to follow them. These questions may be of a political, economic, social or international nature. The Rules of Procedure do not impose any rules on the setting-up of such groups and M.P.s are free to be members of the groups of their choice and the size of the groups is variable.

Such groups do not intervene directly in the legislative procedure. Their task is to ensure that a legal and technical watch be kept on issues which are too specialized to be subject to detailed examination by standing committees (problematic, sector of activity etc.). The study groups are also unique fora for discussions and exchanges between M.P.s of all sides.

As they have great flexibility in the way they operate, study groups develop very diversified activities: hearings of members of the Government, or of those in charge of administrations, personalities from the relevant sector (CEOs, representatives of professional federations or of trade unions, heads of associations), on the ground visits of sites and companies, participation in events outside the National Assembly (colloquia, professional exhibitions etc.).
In order to ensure the respect of the prohibitions laid down by article 23 of the Rules of Procedure which forbids the setting-up within the National Assembly of any “group representing private, local or occupational interests which binds its members” or of any “meeting in the precincts of the House... of any permanent association, whose purpose is to represent such interests”, the setting-up of a study group is subject to an approval procedure by the Bureau.

Every request made by an M.P. for such a group to be set up is examined by a specialized delegation of the Bureau of the National Assembly, chaired by a vice-president, (this is called the Delegation in Charge of the Representatives of Interest Groups and of Study Groups). Before presenting its conclusions, the delegation consults the relevant standing committee to discover if the subject of the group appears compatible with the exercise of its statutory powers and the conduct of its work. Then, based on the report of its delegation, the Bureau grants or rejects its approval for the setting-up of the study group.

It is also the task of the Bureau to divide the chairs of the study groups between the political groups and to decide upon which political group will chair which study group. It is then up to the political group to appoint the chair of the study group, who is usually de facto the M.P. at the origin of the request.

Approval provides the right to a certain number of operational advantages (the possibility of reserving meeting rooms, of printing and sending invitations, the assistance of a volunteer civil servant in charge of the secretariat and the online publication of the make-up of the group on the site of the National Assembly). However, study groups receive no operational financing.

The Bureau of the National Assembly, since December 20, 2017, has authorized 113 study groups.
The Representatives of Interest Groups

Key points
In order to clarify the relations between M.P.s and the representatives of public or private interests, the Bureau has adopted transparency and ethical rules which are applied to the activities of such representatives at the National Assembly. The aim is both to establish the role that they play in providing information to M.P.s and to ensure that their activity conforms to a few simple rules of good conduct.

See also files 48 to 55

The representatives of interest groups are a way for the lawmaker to keep himself informed on how the law is applied and on how it can be improved. This information is, by its very nature, biased as it is based on defending a specific objective. However, it is up to the parliamentarian to analyze all the data which he receives and to compare it with other sources in order to ascertain its truthfulness and coherence. The activity of the representatives of interest groups is also useful in that it allows the public decision-maker to have a greater awareness of the expectations of civil society.

So as to have the activities of the representatives of interest groups at the National Assembly better understood, the Bureau, in 2009, created a public register on which they could enrol. This register was significantly changed following the decisions of the Bureau in February and June 2013. Subsequently, the Law n° 2016-1691 of December 9, 2016, concerning transparency, the fight against corruption and for the modernization of economic life, provided the High Authority for Transparency in Public Life (HATVP) with the task of setting up a national digital directory of the representatives of interest groups. The register of the National Assembly has thus been replaced by this register.

The Bureau of the National Assembly has set down the conditions regulating this representation of interest groups within the National Assembly and has highlighted three requirements:

– The obligation of transparency (which requires the representatives of interest groups to make known the people for whom they work and in whose interest they act);
– The obligation of making information public (to allow all citizens to know the conditions in which the contacts between their representatives and the representatives of interest groups take place);

– The obligation of ethical conduct, i.e. the requirement to submit the activities of the representatives of interest groups to a series of rights and duties.

Those principles have been formally set down in a code of conduct attached to the end of this factfile.

The conditions for the access of the representatives of interest groups to the premises of the National Assembly were strictly limited during the XIVth term of Parliament. In the past, they could take advantage of cards which allowed them to freely move around in the National Assembly, now they have to have a specific card, if they are enrolled on the register of the HATVP, which allows them to avoid identity checks but limits their possibility of moving around freely to the very places concerned by the reason of their visit.

In addition, enrolment on the list is mentioned when the representatives of interest groups are interviewed in the framework of parliamentary proceedings. Such a mention allows parliamentarians and citizens to be informed of the fact that the people being interviewed have signed up to the obligations regarding transparency and ethical standards in their contacts with the representatives of the Nation. The reports, opinions and other documents which are tabled at the National Assembly by a committee, a delegation, an office, or by any other body of the National Assembly must include, in an annex, the entire list of the hearings held by the rapporteur in the framework of his parliamentary work. If no hearing has been carried out, then the report must explicitly mention this. The annex must make a difference between the hearings carried out with the representatives of interest groups enrolled on the register and other hearings.

This recognition also includes the possibility for the representatives of interest groups enrolled on the register to be updated on current issues at the National Assembly by the means of observation tools, as well as the possibility of placing on-line, on the internet site of the National Assembly, contributions which have a link with parliamentary work. The National Assembly may make certain of its premises available for colloquia or seminars.

The organization of the latter is governed by a certain number of rules. The availability of the premises, especially for external bodies, implies filling out a form and an option for reservation, which must be agreed upon and accepted by the M.P. who wishes to reserve the room. This must also be signed by his group chair and the decision is dependent upon the college of Questeurs. It is, in addition, required of the organizers to provide an availability package and the reimbursement of the technical expenses which might be included and thus paid for.
Since June 26, 2013, following the report presented by Mr. Christophe Sirugue, Deputy President and Chair of the Delegation in Charge of Representatives of Interest Groups and of Study Groups, the rules of good conduct take into account the organization of such colloquia at the National Assembly. Thus, taking the floor in such colloquia can, in no way, whatsoever, be based on a financial participation.
Code of Conduct Applicable to Representatives of Interest Groups
adopted by the Bureau on June 26, 2013 and modified July 13, 2016

1. The representatives of interest groups shall agree to the obligations concerning declarations provided for by the Bureau and accept to make public all information included in said declarations. They must also subsequently transmit to the Bureau, all data which would be liable to modify or complement this information.

2. In their contacts with M.P.s, the representatives of interest groups must provide their identity, the body for which they work and the interests they represent. During a meeting with an M.P., consulting companies must clearly inform the M.P. of the name of the client for whom they work. They must be in a position to produce all the necessary documentation which will allow the M.P. to understand the nature of the brief provided by their client.

3. The representatives of interest groups must follow the rules of access to, and movement in, the premises of the National Assembly. They must clearly wear their identity pass. They have access to such premises only in the framework of the specific mission which brings them to the National Assembly. They may not, in any circumstance, have access to other premises outside of those concerned by their specific reasons for obtaining an identity pass in the first place.

4. It is strictly prohibited for them to sell or to exchange against any form of compensation, parliamentary documents as well as any other document of the National Assembly.

5. It is strictly prohibited for them to use headed notepaper or the logo of the National Assembly or to use the adjective “parliamentary” to describe any of the events they organize or the structures which they set up.

6. The representatives of interest groups must refrain from any behaviour which would appear to be seeking information or decisions by fraudulent means.

7. Information provided to M.P.s by the representatives of interest groups must be open without discrimination to all M.P.s whatever their political tendencies.

8. This information must not include elements which are purposefully incorrect so as to mislead M.P.s.

9. All trading or advertising is strictly prohibited for the representatives of interest groups on the premises of the National Assembly. It is also forbidden for them to use the premises of the National Assembly for any events linked to the promotion of interests.
10. The representatives of interest groups must clearly mention the names of the entities which finance the events and structures to which the parliamentarians participate; they must systematically inform parliamentarians of the cost of the invitations which are addressed to them so as to allow them to comply with the reporting requirements laid down in the Code of Ethics for M.P.s.

11. The representatives of interest groups cannot take advantage, with a third party, for trade or advertising purposes, of their presence on the list set by the Bureau. They must not, in their relations with the National Assembly or with a third party, present their enrolment on the list of representatives of interest groups as an official recognition or of any form of link with the National Assembly, so as not to mislead their interlocutors.

12. Speeches made during symposiums organized at the National Assembly by the representatives of interest groups enrolled on the list, or by any other body external to the National Assembly, may not be financially remunerated in any way.

13. Non-compliance with this code of conduct by those who sign it or by their representatives, may lead the Bureau, after examination, to suspend or to revoke enrolment on the list. This decision may be published on the internet site.
Key Points

The role of the National Assembly in the formulation of Community instruments is mainly carried out through the application of article 88-4 of the Constitution.

This article in the wording resulting from the Constitutional Act of July 23, 2009, provides that the Government submits to Parliament every draft of or proposal for a European Union instrument.

It also provides that the assemblies may pass European resolutions on these instruments, as well as on any document issuing from a European Union institution. These resolutions, even if they are not legally binding, nonetheless can have quite a political impact.

The European Affairs Committee of the National Assembly plays a central role in the implementation of this procedure.

In addition, the Treaty of Lisbon provides Parliaments with the mission of overseeing the respect of the principle of subsidiarity. To this end, article 88-6 of the Constitution provides that the National Assembly may issue reasoned opinions as to the conformity of draft proposals for European Acts with the principle of subsidiarity. This procedure had already been put into practice in an informal way as of the second half of 2006.

After the European decision-making process, the National Assembly may institute proceedings before the Court of Justice of the European Union against a European Act concerning the violation of the principle of subsidiarity. This procedure is automatic upon the request of 60 M.P.s or 60 Senators.

The French Parliament also implements the transposition of European directives which require the adoption of national legislative measures.

All these provisions have allowed French M.P.s to better take on ownership of European issues.

I. – PARLIAMENTARY INTERVENTION AT THE STAGE OF THE FORMULATION OF EUROPEAN INSTRUMENTS

1. – THE PROCEDURE OF ARTICLE 88-4 OF THE CONSTITUTION

The field of European instruments monitored by the French Parliament has been progressively and continuously broadened.
Introduced into the Constitution in 1992, on the occasion of the constitutional revision prior to ratification of the Maastricht Treaty, article 88-4 first of all required the Government to lay before the National Assembly and the Senate any drafts of or proposals for instruments of the European Communities or the European Union containing provisions which are matters for statute, as soon as they had been transmitted to the Council of the European Union. On top of this obligation, as part of the ratification process of the Amsterdam Treaty in 1999, the Government was provided with the possibility of laying before the assemblies, European texts which, though not statutory in character, can be considered as likely to give rise to Parliament taking a position.

To complete this process, the constitutional revision of 2008 extended the spectrum of instruments which must be submitted to the assemblies by the Government, to all drafts of or proposals for acts of the Communities or of the European Union transmitted to the Council of the European Union.

a) The pivotal role of the European Affairs Committee

- The composition of the European Affairs Committee and its functioning

Up until 1979, no internal body of the National Assembly nor the Senate, was specifically tasked with following European issues. Each of the Assemblies in fact appointed representatives to sit in the European Parliament and to present, each year, an information report on the activities of that institution to the Foreign Affairs Committee. However, from 1979 on, the election of M.E.P.s by universal suffrage, has broken this institutional link and led to the setting-up in both the National Assembly and the Senate of a Delegation for the European Communities, renamed “Delegation for the European Union” in 1994.

The constitutional revision of July 23, 2008 provided these bodies with a constitutional status by setting up in each assembly a Committee in Charge of European Affairs (article 88-4 of the Constitution). Taking this change into account, article 151-1 of the Rules of Procedure of the National Assembly in its wording resulting from the motion of May 27, 2009 set up a European Affairs Committee whose operation is close to that of a standing committee but whose missions, set down by law, are quite unusual.

- Its composition

There are four particularities which one finds in the vast majority of European affairs committees of the member states of the European Union which must be highlighted:

- The number of its members is quite limited. Whilst the standing committees each have 73 members, the Rules of Procedure set the number of members of the European Affairs Committee at 48;

- Its members also belong to a standing committee. This is referred to as the principle of double-membership and its aim is to spread awareness of European issues throughout parliamentary work. In this way, the Rules of
Procedure provide that the members be appointed in such a way as to ensure not only, as for every standing committee, a proportional representation of all political groups but also a balanced representation of all standing committees;

- Its members are appointed for the entire term of the Parliament. This specificity is linked to the very rhythm of the passing of European acts which is slower than that of national laws;

- The Committee may invite the French members of the European Parliament to take part in its work, with a consultative voice.

For everything else – the make-up of the bureau (a chair, four deputy chairs and four secretaries), invitations to speak, votes and hearings of members of the Government – the organization is the same as for standing committees. Thus, the chair of the Committee takes part in the Conference of Presidents.

- Its functioning

When the House is sitting, the European Affairs Committee usually meets once or twice a week, usually on Tuesday and Wednesday afternoons (Wednesday morning is given over to meetings of the standing committees).

The subjects of these meetings can vary: during the XIVth term of Parliament they concerned the interviewing of a minister (80 hearings out of 350 of which 16 were pre-Council hearings before a meeting of the Council of the European Union dealing with their field), of a European commissioner (28 as opposed to 15 in the XIIIth term of Parliament) or of a well-known figure. Alternatively, they can deal with the examination of information reports, of European acts, draft European resolutions, draft opinions on subsidiarity, etc.

These meetings may be open to French M.E.P.s or to other M.E.P.s. They are very often open to the press and the general public. Sometimes the Committee meets jointly with one or several standing committees (78 such meetings took place during the XIVth term of Parliament) and 11 since the beginning of the XIVth term), with the European Affairs Committee of the Senate (9 meetings).

In addition, the European Affairs Committees of the National Assembly and the Senate have set up, since 2010, regular meetings with French Members of the European Parliament so as to discuss the major texts on the European Union agenda (9 meetings during the XIVth term of Parliament). The committee also organized 23 round tables which allowed it to establish an open dialogue with civil society.

- Its role of inquiry and of monitoring

The European Affairs Committee examines all drafts of or proposals for European instruments which the Government submits to Parliament in application of article 88-4 of the Constitution (see article 151-2 of the Rules of
Procedure of the National Assembly). Approximately 1000 European texts are thus submitted annually to the Committee.

Texts deemed of minor importance or that do not involve any specific difficulty may be tacitly approved.

The other texts are either presented in report form or orally (a “communication”) by the Chairman of the Committee or a specially appointed rapporteur.

As regards each of the texts which it formally examines, the European Affairs Committee can decide:
- To approve the draft of or the proposal for a Community instrument;
- To defer taking a decision when it feels it lacks information to assess the scope of the text and it may possibly appoint an information rapporteur tasked with addressing in greater depth the examination of the document;
- To oppose the adoption of the draft of or the proposal for a Community instrument.

Its decision may be accompanied by:
- The adoption of conclusions (text of a political character expressing the Committee’s point of view);
- The adoption of a motion for resolution which, as it expresses a position of the National Assembly, in application of article 88-4 of the Constitution, will be communicated to one of the eight standing committees.

b) The “parliamentary scrutiny reserve” mechanism

The idea of parliamentary scrutiny reserve was introduced in 1994 and was defined by the Prime Minister's circular of June 21, 2010 concerning the participation of Parliament in the European decision-making process. It means that the National Assembly and the Senate are entitled to vote – for or against – a proposal for an instrument before its adoption by the Council of Ministers of the European Union.

It lays down that the Government, before making any pronouncement within the Council of the Union, must check that Parliament has not announced its intention of taking a position on a proposal for a European instrument by granting it, for this purpose, a minimum period of eight weeks beginning upon their transmission in the case of draft legislative instruments and four weeks in the case of other draft instruments.

These time periods are part of the eight-week interval, laid down by the protocol on the role of national parliaments, appended to the Lisbon Treaty, during which the Council of the Union cannot adopt a common position or a decision with respect to a legislative proposal received from the Commission.
There is however an emergency examination procedure which allows the Government to ask the Chair of the European Affairs Committee to reach a decision on a draft European instrument, without convening the Committee, when the European schedule requires the urgent adoption of a text.

c) The adoption of motions concerning drafts of or proposals for European instruments

Whilst the adoption of conclusions only expresses the position of the European Affairs Committee, motions for resolution express that of the National Assembly as a whole.

Any M.P. may table a draft European resolution which may deal, since 2008, not only with documents transmitted by the Government but also with any document issuing from an institution of the European Union.

These drafts are sent for prior examination to the European Affairs Committee, which must, upon the request of the Government, a group chair or a chair of a standing committee, file its report within a month of the request. The European Affairs Committee may also, as has been seen, itself take the initiative of tabling a draft resolution.

One of the eight standing committees of the National Assembly then examines the text adopted by the European Affairs Committee or, when it has been rejected, the original motion for resolution. If it does not reach a decision within one month of the report being tabled by the European Affairs Committee, the text is considered as having been tacitly approved.

Within fifteen days of the publication by electronic means by the standing committee of the adopted or taken-as-adopted text, the motion for resolution can be included on the agenda of the National Assembly, upon the request of a group chairman, a committee chair, the chair of a committee or the Government. If no request for inclusion on the agenda is made or if the Conference of Presidents rejects this request or makes no decision on it, the text adopted or taken-as-adopted by the lead committee is considered final. It is transmitted to the Government and published in the Journal officiel (‘Laws and Decrees’ edition).

The use of article 88-4 of the Constitution represents the contribution of Parliament to the drawing-up of the French position during negotiations within the Council. It can also be the way for the National Assembly to enter into direct dialogue with the institutions of the European Union.

In any case, the parliamentary resolutions of article 88-4 are not legally binding and their impact is exclusively political. France does not recognize the notion of “negotiation mandate” used in Scandinavian countries where the Government is tied to the position of the Parliament.
**d) Dynamic Implementation**

During the XIV\textsuperscript{th} term of Parliament, the National Assembly adopted 77 European resolutions, of which 61 were initiated by the European Affairs Committee and 16 by M.P.s: (64 during the XIII\textsuperscript{th} term). It rejected 2 (one concerning the sovereign debt of the Eurozone and the other on France’s opposition to the application of CETA).

The number of conclusions adopted by the European Affairs Committee on documents submitted by Government in application of article 88-4, was 81 during the XIV\textsuperscript{th} term of Parliament (60 during the XIII\textsuperscript{th} term).

10 motions for resolutions were examined in plenary sitting during the XIV\textsuperscript{th} term.

It should however be noted that 11 debates on European issues were held on the basis of the new version of article 48 of the Rules of Procedure of the National Assembly which provides that for one sitting during the one week out of four which is given over to monitoring Government action and the assessment of public policies, priority is given to European questions.

### 2. THE MONITORING OF SUBSIDIARITY

Article 88-6 of the Constitution lays down the mechanisms for the implementation in France of the monitoring of subsidiarity which has been provided to national Parliaments by the Lisbon Treaty.

The adoption mechanism for resolutions concerning the conformity of a European Act with the principle of subsidiarity (see articles 151-9 and 151-10 of the Rules of Procedure of the National Assembly) is identical to that for European resolutions laid down in article 88-4 of the Constitution. The time limits for examination set for the European Affairs Committee and for the standing committees are however reduced from one month to fifteen full days so as to allow the National Assembly to express an opinion within the eight weeks provided by the Treaty of Lisbon to national Parliaments in order to give their view. It must be noted that this procedure has a real legal impact: draft acts which are rejected by half of national Parliaments could themselves be rejected, as of first reading and by simple majority, by the Council of the European Union or by the European Parliament.

During the XIV\textsuperscript{th} term of Parliament, the National Assembly adopted five resolutions with a reasoned opinion contesting the compliance of a legislative instrument to the principle of subsidiarity. For reference, the National Assembly gave an opinion on subsidiarity on a draft act setting up a European system of certification for inspection/filtering equipment used in air safety.

The same procedure applies to the adoption of resolutions concerning the institution of proceedings, within the two months following the publication of the relevant acts, before the Court of Justice of the European Union for the violation of the principle of subsidiarity. Nonetheless, in accordance with the last
paragraph of article 88-6 of the Constitution, the institution of such proceedings is automatic when it is supported by, at least, sixty M.P.s. As yet the National Assembly has not used this procedure.

II. – THE OPENING-UP OF THE NATIONAL ASSEMBLY TO EUROPE

1. – EUROPE AT THE PALAIS BOURBON

During recent years several initiatives have been taken to open up the National Assembly more to Europe. This linking of French M.P.s to major European issues was accelerated by the request of a greater democratization of European processes.

A debate has been held systematically in plenary sitting before every meeting of the European Council (in the forms of Government questions on European issues since 2013).

Article 48 of the Rules of Procedure of the National Assembly provides that during one sitting of the week of sittings out of four given over to the monitoring of Government action and the assessment of public policies, priority should be given to European questions.

Article 151-1-1 of the Rules of Procedure of the National Assembly, in the wording resulting from the text passed on May 27, 2009, provides that the European Affairs Committee may give a European perspective during the examination of national Government or Members’ bills dealing with an area covered by the activity of the European Union. It can do this by presenting observations, on the one hand, to the lead committee for the Government or Member’s bill and on the other hand, in plenary sitting when the Conference of Presidents invites it to do so. In this framework, the European Affairs Committee formulated observations on 10 Government bills during the XIVth term of Parliament.

Joint working groups have been set up between the European Affairs Committee and other standing committees to have the latter more involved in the negotiation of instruments (on the future of the Common Agricultural Policy, on fishing policy or on European energy policy etc.).

Since 2003, the National Assembly has had an office and a permanent representation to the European Union in Brussels. The main aim of this representation is to strengthen the information provided to parliamentarians on the activities of the Union’s institutions, to keep them informed of the realities of Europe, in particular by organizing working visits to Brussels and to Strasbourg to encourage inter–parliamentary cooperation. This office is at the disposal of the various bodies of the National Assembly and of all M.P.s.
2. – DYNAMIC LINKS WITH THE EUROPEAN INSTITUTIONS AND NATIONAL PARLIAMENTS OF OTHER MEMBER STATES

As national parliaments are becoming more and more involved in European affairs, so cooperation is strengthening between national and European parliamentary institutions. Parliamentarians have thus increased their visits to Brussels and to the capitals of the European Union to debate various subjects with their European counterparts.

The European Affairs Committee is thus very attached to creating close links with the European Parliament. It has regular relations with the committees of the Parliament and their rapporteurs. In a similar vein, a joint meeting is systematically organized during the so-called “constituency” week with French members of the European Parliament jointly with the European Affairs Committee of the Senate.

The National Assembly also works with the other national Parliaments, in particular with the Bundestag and the assemblies of the Weimar Triangle (France, Germany and Poland).

The European Affairs Committee has taken the initiative to organize thematic inter-parliamentary meetings which were an innovation, not only for the XIVth term of Parliament, but also at the level of the European Union: on the financing of cinema, on European public prosecution and on the posting of workers and the social responsibility of companies.

The European Affairs Committee has also strengthened its joint work with the European Commission through the so-called “political dialogue” procedure (transmission of its positions to the Commission, along with the replies of the Commission; by participating as often as possible in the public consultations held by the Commission prior to the legislative process of the European Parliament; by taking a position on the annual work programme of the Commission and on the strategic approaches (EU strategy 2020); by increasing the hearings of commissioners.

In addition, in accordance with the spirit of its work (more a force for proposals than for blocking), it committed itself concretely to the “green card” process, first of all supporting the initiative of the House of Lords, then introducing the proposal concerning the social responsibility of companies (RSE) which received the support of 11 other Parliaments.

The setting-up of a European electronic platform of information exchange between national Parliaments (IPEX) led to the strengthening of parliamentary monitoring, in particular in the field of the respect of the principle of subsidiarity.
This cooperation is also exercised in the framework of the COSAC (Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union) which brings together every semester, in the country holding the presidency of the European Union, six representatives of the European affairs committees of each Parliament of the European Union and six representatives of the European Parliament and which allows questions to be asked to the current presidency of the Union and allows the adoption of political contributions on European subjects.

The inter-parliamentary meetings of the “Budgetary Conference” provided for by article 13 of the Treaty on Stability, Co-ordination and Governance within the Economic and Monetary Union leads to a collective involvement of national Parliaments in the main stages of the European semester. The Finance Committee is regularly called to participate in these meetings, as is the European Affairs Committee and the other committees concerned.

Finally, the Conference of Presidents of Parliaments of the European Union, which meets once a year, debates and adopts conclusions on the major issues of European current affairs.
The International Activities of the National Assembly

Key Points

At the outset, international relations were an area in which the leeway for action of the National Assembly had certain limits. The Assembly has nonetheless gradually become more and more involved in this field to the extent that some people do not hesitate today to use the debatable concept of "parliamentary diplomacy". However one may certainly talk nowadays of the international activities of Parliaments.

In this field, the President of the National Assembly plays a central part and the Bureau, standing committees and friendship groups play the roles of the other actors in the international activity of the Assembly.

Alongside the classical activities of Parliament in the international field (passing of laws authorizing the ratification of treaties, monitoring of the Government's foreign policy, approval of the State budget for international action), the National Assembly has developed a variety of other activities: establishment of relations with other Parliaments, implementation of inter-parliamentary cooperation programmes, involvement in the work of international parliamentary assemblies and involvement in election observation missions.

See also files 42, 47, 59, 60, 61 and 79

I. – PARLIAMENT AND INTERNATIONAL RELATIONS: A DELICATE COUPLING

The question has always been asked, right from the beginning of French parliamentary history, as to whether Parliament could be an actor in foreign policy. By setting up a committee "tasked with being aware of the treaties and external relations of France in order to inform the Assembly", the assemblies of the Revolution gave a first answer to this question without dismissing two basic objections: the risk of treading on the powers of the Executive and that of bringing to light matters which often bore the stamp of confidentiality.

This conundrum was summed up by Eugène Pierre, the Secretary General of the Chamber of Deputies, at the very beginning of the 20th Century, in his treatise on electoral and parliamentary political law, written in 1902: "negotiating cannot be in the hands of the many and matters which deal with the relations of a people and its neighbours cannot be handled in the uproar of a deliberative assembly... true principles require a Government to have its hands unshackled
for all diplomatic negotiations but it must never commit its signature, which is that of the Nation, definitively, without the prior assent of the representatives of the Nation”.

It is certainly true that diplomacy is, in essence, a kingly function, but it is also the case that Parliament has gradually entered this field to the extent that the concept of “parliamentary diplomacy” was born.

This is indeed an ambiguous and deceptive notion as it appears to imply that an autonomous or parallel diplomacy may develop within Parliament. However its success is witness in reality to the growing role played by international action in the activities of the Assembly. In fact, the international action of Parliament is bound up in the continuity of state diplomacy. It is a complement to such diplomacy and M.P.s are often the promoters or the authorities tasked with presenting it.

A combination of several factors can explain this development:

– European construction has gradually blurred the separation between internal and external affairs;
– The phenomenon of globalization has shown that problems encountered in many areas (the environment, health, transport, telecommunications, migratory movements etc.) go far beyond the national scale;
– Decolonization and the democratization of the countries of central and eastern Europe has had the consequence of strongly increasing the requests for inter-parliamentary cooperation;
– The greater participation of “civil society” in public affairs, including those dealing with the international stage, has obliged Parliaments to become more involved in the field of international relations so as not to leave the way totally free to NGOs, whose legitimacy can never equal that of elected assemblies.

II. – THE ACTORS OF THE INTERNATIONAL ACTIVITY OF THE NATIONAL ASSEMBLY

1. – THE PRESIDENT OF THE NATIONAL ASSEMBLY

The President of the National Assembly is one of the most important political figures of the Republic and is indeed the fourth figure in terms of protocol. He meets with a very large number of foreign guests in his residence at the Hôtel de Lassay: Heads of State or of Government officially invited by the Republic, presidents of parliamentary assemblies of foreign countries, leaders of international organizations, ambassadors posted to Paris, emblematic opponents of certain regimes, etc. For example, the President of the National Assembly met with 183 foreign personalities during the XIVth term of Parliament.
The President may even invite certain guests to take the floor in the Chamber (this privilege is reserved to Heads of State or of Government, the Secretary General of the United Nations and to the President of the European Commission). However up until 1993 (with the notable exception of U.S. President Woodrow Wilson in 1919) it was not a parliamentary custom for a foreign Head of State to speak at the rostrum in the National Assembly.

However Mr. Philippe Séguin, then President of the National Assembly, with the agreement of the Bureau, brought a real sea-change that year by inviting the King of Spain to deliver a speech in the Chamber. He was followed, among others, by the U.S. President Bill Clinton, King Hassan II of Morocco, the British Prime Minister Tony Blair, the Secretary General of the United Nations Kofi Annan, the German Chancellor Gerhard Schröder, the Algerian President Abdelaziz Bouteflika, the President of the Spanish Council Jose Luis Zapatero, the President of the European Commission Jose Manuel Barroso and more recently, the President of the Tunisian Republic, Mr. Moncef Marzouki and the President of the Italian Republic, Mr. Giorgio Napolitano.

To this day, 18 eminent foreign personalities have thus spoken at the rostrum of the National Assembly.

The President of the National Assembly may also be tasked with representing the President of the Republic at foreign ceremonies or with leading diplomatic missions in his name. In 1992, for instance, the President of the National Assembly thus brought a message to Japan to clear up the misunderstanding created by the words of the then Prime Minister. Similarly, in 1995, the President of the National Assembly, upon the request of the President of the Republic, visited Algeria so as to help to put an end to the blocking of relations between the two countries. In 2009, the President of the National Assembly went to China with a message from the President of the Republic to clear up the misunderstandings after the passage of the Olympic flame through Paris and the meeting with the Dalai Lama in Warsaw in 2008.

He may also, of his own accord, launch important initiatives in the area of international relations such as the leading of missions abroad. In 2009, for instance, the President of the National Assembly held a meeting with the President of the People’s Republic of China while on a visit to China. He signed an inter-parliamentary cooperation agreement with the People’s National Assembly. In March 2013, the President of the National Assembly announced, during a visit to Mali, the support of his institution for the strengthening of the National Assembly of Mali in the framework of France’s efforts to encourage and aid political transition there. The chairmen of political groups of the Assembly take part in certain of these missions (in Turkey in 2005, in the Near East in 2009).
Other examples of initiatives could be mentioned: the joint meeting of the Bundestag and the French National Assembly in the Chamber of the Congress at the Château of Versailles in January 2003, the speech by the President of the National Assembly before the Brazilian Chamber of Deputies in October 2009 or the joint organization by the National Assembly and the Senate of the VIIIth plenary session of the Parliamentary Assembly of the Mediterranean in January 2014 in Marseille or the joint organization by the National Assembly, the Senate and the Inter-parliamentary Union of a world parliamentary meeting on climate in parallel with the 21st Conference of the Parties at the United Nations Convention on Climate Change.

It should, in addition, be noted that, in the field of inter-parliamentary relations, the President of the National Assembly automatically chairs several parliamentary delegations to international parliamentary assemblies or associations (the Inter-parliamentary Union, the Parliamentary Assembly of Francophonie) and in this capacity takes part in the more important sessions of these bodies. He thus opened the XXXVth annual session of the APF which was held in Paris, at his invitation, in July 2009, as well the meeting of the Bureau of the APF which was held in January 2013 in Clermont-Ferrand. Furthermore, bodies bringing together presidents of assemblies meet now quite regularly (meeting of the Presidents of the Parliamentary Assemblies of the member states of the European Union, meeting of the Presidents of the Parliamentary Assemblies of the countries of the G8, meeting of the Presidents of the Assemblies of the member countries of the Euro–Mediterranean dialogue).

2. – THE BUREAU OF THE NATIONAL ASSEMBLY

Placed under the authority of a vice-president of the Assembly, a delegation in charge of international relations was set up several years ago within the Bureau of the National Assembly.

Its main role is to examine the decisions of the Bureau concerning the annual programme of visits and receptions by friendship groups and to approve the cooperation programmes planned with foreign Parliaments.

3. – THE CONFERENCE OF PRESIDENTS

The Conference of Presidents may decide to set up a fact-finding mission on an international issue. Thus, in 2016, upon the initiative of the President of the Republic a fact-finding mission was created on the consequences of the British referendum and the follow-up to the negotiations. It was chaired by the President of the National Assembly who was also the rapporteur.
4. – COMMITTEES

The Foreign Affairs Committee is clearly the central element in the international activities of the Assembly. Its main activities consist of:

– Examining bills authorizing the ratification of treaties and international agreements;

– Interviewing leading French and foreign figures. During the XIVth term of Parliament, the committee thus carried out 44 hearings with the Minister for Foreign Affairs, 2 hearings with foreign heads of state, 3 hearings with foreign Prime Ministers, 11 hearings with foreign ministers of foreign affairs and 10 hearings with representatives of European institutions;

– Setting up fact-finding missions on issues dealing with international relations and France’s foreign policy. During the XIVth term of Parliament 28 information reports were thus published by the Foreign Affairs Committee covering a very wide thematic and geographical range;

– Providing an opinion on the friendship groups and study groups with an international dimension which it is planned to set up.

However the Foreign Affairs Committee does not have a monopoly on international questions. The Finance Committee thus examines the funds provided to the “External State Action” mission, “Public Aid for Development” mission and “Loans to Foreign States” mission, the Defense Committee has strategic questions in its remit, the Economic Affairs Committee deals with problems linked to foreign trade and the Law Committee examined in 2006, a law on French immigration/emigration policy.

Furthermore, the European Affairs Committee, in addition to its remit concerning the examination of community instruments, also studies issues dealing with the foreign policy of the Union and those concerning enlargement.

5. – FRIENDSHIP GROUPS AND STUDY GROUPS WITH AN INTERNATIONAL DIMENSION

The friendship groups represent the cornerstone of bilateral interparliamentary relations. Their first aim is, in fact, to create links between French and foreign parliamentarians.

These friendship groups interview various figures in Paris: ambassadors representing the country of the “friend” Parliament, diplomats, university professors, journalists and specialists of the geopolitics, economics or culture of the country. They organize missions to their counterpart Parliament and receive foreign parliamentary delegations. They can also serve as a basis for interparliamentary or decentralized cooperation programmes.

There are three criteria for the recognition of friendship groups: the existence of a Parliament, the existence of diplomatic relations with France and the membership to the United Nations of the candidate country. Study groups with an international dimension (GEVI) which were introduced in 1981, provide
a framework which is adapted to the situation of countries which do not fulfil all the required criteria for the setting-up of a friendship group.

III. – CATEGORIES OF INTERNATIONAL ACTIVITIES AT THE NATIONAL ASSEMBLY

1. – THE CLASSIC ACTIVITIES OF THE NATIONAL ASSEMBLY APPLIED TO FOREIGN POLICY

The National Assembly has gradually entered the field of international questions to the extent that they are no longer considered as a specific area. The Assembly therefore carries out, in this sector, all of its traditional tasks:

– It passes laws authorizing the ratification of treaties;
– It approves the budget concerning the foreign policy of the State;
– It monitors the action of the Executive in this area. It can do this when the Government makes statements on foreign policy issues (the latter may even make the outcome of such a debate a question of confidence, as was the case in 1991 at the time of the first Gulf war), through questions asked by M.P.s, by setting up commissions of inquiry on international subjects (such as that in 2007 dealing with the conditions of the freeing of the Bulgarian nurses and doctor and the recent Franco-Libyan agreement) or through fact-finding missions;
– In addition, since the constitutional revision of 2008, Parliament must provide its authorization for any extension beyond four months of an intervention by French armed forces abroad. In the case of a disagreement with the Senate, the National Assembly has the final say. It may appear paradoxical to present this new provision among the classic tasks of the National Assembly in the field of foreign policy but it must be underlined that although this is a new prerogative granted to Parliament in France, it is not the case for numerous foreign Parliaments which have already possessed such a power for many years.

2. – THE SPECIFIC INTERNATIONAL ACTIVITIES OF THE NATIONAL ASSEMBLY

There are several of these:

– The carrying-out of inter-parliamentary relations which occur in a bilateral framework through the friendship groups, in grand bilateral commissions or in the multilateral framework of international parliamentary assemblies;
– The implementation of inter-parliamentary cooperation which enables the National Assembly to provide technical aid to Parliaments which request its support;
– The participation of the National Assembly in the work of international parliamentary assemblies of which it is a member: the Inter-parliamentary Union (IPU), created in 1889 and today bringing together the Parliaments of 170 countries and 11 associated members; the Parliamentary Assembly of the
Council of Europe (PACE), the Parliamentary Assembly of NATO (PA-NATO), the Parliamentary Assembly of the Organization for Security and Cooperation in Europe (PA-OSCE), the Parliamentary Assembly of Francophonie (APF), the Euro-Mediterranean Parliamentary Assembly (EMPA), the Parliamentary Assembly of the Mediterranean (PAM), or an observer: the Parliamentary Assembly of the Black Sea Economic Cooperation (PABSEC);

The participation of the National Assembly in election observation mechanisms. Nowadays, many elections are, at the request of the authorities of the countries concerned, observed by the international community. As an emblematic institution of democracy, the National Assembly has a natural role to play in the observation process and this is even more the case given that the M.P.s who are members of it, know better than anyone else the wheels of the electoral process. The electoral observation operations carried out by the National Assembly are now mainly in the framework of the PA–OSCE.
Inter-parliamentary Cooperation

Key Points

The National Assembly, which is very active in the field of the strengthening of parliamentary democracy, carries out cooperation action with foreign Parliaments which request it, both on a multilateral and bilateral basis.

The assemblies with whom the National Assembly has the closest cooperation ties are generally French-speaking and are mostly situated in the Mediterranean region, west Africa and central Africa. Actions in the parliamentary assemblies of central and eastern Europe are also quite regular.

The cooperation work carried out by the National Assembly usually takes the shape of study visits, residential seminars and workshops organized both in Paris and abroad.

See also file 58

Inter–parliamentary cooperation has been, since 1989, one of the main pillars of the international activities of the National Assembly.

I. – GROWING DEMAND

For the National Assembly, inter-parliamentary cooperation consists in providing technical assistance to those Parliaments which request aid.

This action is reserved essentially for the benefit of parliamentarians and parliamentary staff.

The emergence of new democracies in various regions of the world along with the permanent and widespread needs of the Parliaments of the southern hemisphere, has led the assemblies of these countries to turn towards more experienced Parliaments possessing more substantial operating means.

In this framework, the requests made to the French National Assembly have been more and more frequent.

The strategy consists in favouring long-term cooperation programmes (mutliannual programmes supported either by international donors, such as the European Union or the United Nations Development Programme (UNDP) or by the Ministry of Foreign Affairs and its diplomatic missions or annual regional seminars).
The actions of the National Assembly are essentially of a technical nature: it provides expertise to partner parliamentary administrations in very diverse fields dealing with the functioning of parliamentary assemblies. This expertise is provided by M.P.s or by civil servants of the National Assembly. The parliamentary friendship groups are regularly called upon to help in this way.

The possibility of providing material support is very strictly limited by the status of the National Assembly and take the form of the sending of computers which have been replaced and stocks of books to parliamentary assemblies.

II. – A VARIETY OF ACTIVITIES

1. – MULTILATERAL PROGRAMMES

The main partners of the National Assembly are the European Union and the United Nations Development Programme (UNDP), even if certain activities can be carried out with other organizations such as the OECD or the World Bank.

The National Assembly has thus participated in cooperation projects, funded by the European Union, with the Parliaments of Kosovo (2005-2008), Moldova (2008-10), Albania (2012-13) and of Bosnia-Herzegovina (2014-16). The activities carried out jointly with the UNDP have concerned various Parliaments notably (Afghanistan, the Comoros, Lebanon, Iraq, Burkina Faso, Mali, Niger, Algeria, Morocco, Mauritania, Tunisia, Turkmenistan and Moldova).

The XIVth term of Parliament was marked by a huge increase in the activities carried out in partnership with the European Union, which is the first partner of the National Assembly from a multilateral point of view. At the beginning of the XVth term of Parliament, the National Assembly has been, in particular, involved in two cooperation projects funded by the European Union and referred to as “institutional twinning programmes”, respectively with the Chamber of Representatives of the Kingdom of Morocco and with the Assembly of Representatives of the People of Tunisia.

These two projects led to tenders being called for by the European Commission. They were both won by the National Assembly, with the support of other European parliamentary assemblies.

The twinning with the Moroccan Chamber, which lasts two years, partners the National Assembly with the British House of Commons, the French Senate, the German Bundestag, the Belgian Chamber of Representatives and the Greek Parliament.

The twinning with the Tunisian Assembly Chamber, which lasts three years, partners the National Assembly with the Italian Chamber of Deputies and Senate, the French Senate, the German Bundestag, the Hungarian National Assembly, the Greek Parliament and the Czech Chamber of Deputies.
2. – **BILATERAL PROGRAMMES**

From a bilateral point of view, the National Assembly is linked to certain partner assemblies by cooperation agreements or protocols, signed by the presidents of these institutions. During the XIVth term of Parliament, the National Assembly signed agreements with the assemblies of Burkina Faso (signed in March 2017), Côte d’Ivoire (2014), Mali (March 2015); a technical cooperation protocol was concluded between secretaries general with the Chamber of Representatives of the Kingdom of Morocco (April 2015) and a letter of technical agreement was signed with the Parliamentary Institute of Cambodia (September 2014).

It should be noted that, very often, with the involvement of the Ministry of Foreign Affairs, the relations with certain countries are very deep without this activity being carried out in the framework of formal agreements. This was particularly the case with the Parliament of Burkina Faso, the National Assembly of Cameroon, the National Assembly of Guinea, the Council of Representatives of Iraq, the Afghan Parliament, the Jordanian Parliament and the National Assembly of Niger.

**III. – NATURE AND ORGANIZATION OF COOPERATION ACTIVITIES**

The technical expertise of the National Assembly is developed in the framework of the reception of study visits by foreign delegations (more than 450 received during the XIVth term of Parliament) and the organization of support missions with partner assemblies (around 250 missions over the same period). The support of the National Assembly can, in exceptional circumstances, be material through the sending of computers that have been replaced or legal books.

In addition, the National Assembly organizes various annual events for foreign M.P.s and civil servants: four-week training programme organized jointly with the Senate and the National School of Administration, or a French-speaking seminar for the civil servants of the Parliaments of the Mediterranean, for example.

The cooperation activities of the National Assembly are organized, under the authority of the *Bureau*, by a unit within the International Affairs and Defence Department. Its budget is essentially given over to the hosting of study visits by foreign delegations and the organization of training seminars in Paris. The funding of “expert missions” abroad, is as much as possible, ensured in a multilateral framework or is shared with partners (notably with the Ministry of Foreign Affairs).
Friendship Groups

Key Points
The friendship groups of the National Assembly bring together M.P.s who have a specific interest in a particular foreign country. Their first aim is to establish links between French and foreign parliamentarians, but they also play a role in France’s foreign policy and in the international influence of the National Assembly.

They must be officially recognized by the Bureau of the National Assembly and must also meet certain conditions. When it is not possible to set up a friendship group with a State which is internationally recognized, the Bureau may consent to the creation of an international study group which has exactly the same administrative and financial means.

The main activity of the friendship groups is the setting-up of visits to the partner Parliament and the hosting of foreign parliamentary delegations. Such activities must be authorized in advance by the Bureau of the National Assembly, which establishes their annual programme. The friendship groups may also receive ambassadors or other personalities from the partner country as well as French figures engaged in cooperation activities with this country. The friendship groups may also act as a base for decentralized or inter-parliamentary cooperation activities.

See also file 58

I. – ROLE AND MEANS OF THE OFFICIALLY RECOGNIZED GROUPS

1. – ROLE

The first role of a friendship group is, as its name suggests, to create a network of personal links between French parliamentarians, their foreign counterparts and the main actors in the political, economic, social and cultural life of the country in question.

In carrying out these activities, the friendship groups provide a parliamentary dimension to traditional diplomatic relations. The trips they make and the visits they host, as well as the hearings, may also contribute to relaunching or to enriching the relations with the country in question. The practice which has consisted for successive Presidents of the Republic and Prime Ministers, of inviting the chair or chairs of the friendship groups of the country or
countries concerned on their official trips, clearly illustrates the importance given
to this form of inter-parliamentary exchange in bilateral relations.

In addition, friendship groups play a role of increasing importance in the
international relations policy of the National Assembly. Thus they may take part
in the hosting of high-ranking foreign VIPs or in the organization of international
symposiums. Friendship groups are also, more and more frequently, asked to act
as a base for inter-parliamentary cooperation programmes carried out by the
National Assembly for the benefit of foreign Parliaments.

In practice the only thing which distinguishes an international study group
from a friendship group is the name, as they are both subject to the same rules
and benefit from the same funds as the friendship groups. The friendship groups
and the international study groups together make up the category referred to as
‘officially recognized groups’, as their setting-up is subject to the consent of the
Bureau of the National Assembly.

2. – MEANS

Each officially recognized group has an administrative secretary who is
appointed from among the civil servants of the National Assembly, and who has
expressed his voluntary agreement to take on such a task in addition to his/her
normal administrative work. The role of the administrative secretary is to assist
the chair in all aspects of the running of the group. He/she is in charge, in
particular, of the concrete organization of the group’s activities (including
hosting visits and travelling). He/she writes up the minutes.

Each officially recognized group is also provided with financial means.
Each year this funding enables the financing, within the limits of the rules set out
below, of trips and hosting costs agreed to in advance by the Bureau upon the
proposal of its International Activities Delegation, as well as of receptions in
honour of ambassadors or foreign personalities.

Officially recognized groups may take advantage of certain logistical means
made available to the bodies of the National Assembly (photocopying, meeting
rooms, reception rooms etc.).

II. – RULES FOR OFFICIAL RECOGNITION

It is necessary to distinguish between the criteria in use and the procedure
being followed.

1. – CRITERIA FOR OFFICIAL RECOGNITION

Since 1981, three criteria have been laid down for the official recognition of
friendship groups:

– Existence of a Parliament;
– Existence of diplomatic relations with France;
Membership of the country to the U.N. It must, however, be taken into account that absence of the final criterion has not prohibited the setting-up of friendship groups with certain countries (such as Switzerland, which only became a member of the U.N. in 2002) and that it is traditional for a France-Quebec friendship group to be recognized.

The concept of international study groups (GEVI) was set up in 1981 to provide a framework to fit the status of countries which did not fulfil at least one of the three conditions of principle to permit the establishment of a friendship group. The title of GEVI is only given to groups linked to sovereign states which are internationally recognized. There are only two exceptions to this rule: the GEVI on Taiwan and that on Palestine.

2. – PROCEDURE FOR OFFICIAL RECOGNITION

The rules set down by the Bureau concerning official recognition are the following:

– No friendship group can be set up without the prior consent of the Bureau;
– At its first meeting (see below) the delegation examines the list of friendship groups which were officially recognized during the previous Parliament and proposes its renewal, with or without modifications and the Bureau rules on this proposal.

The delegation then examines the requests for official recognition which have been made during the current Parliament by the M.P.s and refers the matter for advice, if it judges it necessary, to the Foreign Affairs Committee. When dealing with a new international study group, the referral to the Foreign Affairs Committee is obligatory and its advice is always followed.

III. – PROCEDURE FOR THE SETTING-UP OF FRIENDSHIP GROUPS AT THE BEGINNING OF A NEW TERM OF PARLIAMENT

The successive stages of this procedure are the following:

– At its first meeting of the new term of office, the International Activities Delegation of the Bureau confirms the rules applicable to officially recognized groups, draws up the list of such groups (beginning with those recognized during the previous term of office) and carries out, according to the rule of the greatest remainder formula of proportional representation, the numerical distribution of the chairmanships between the political groups. There are four large geographical areas (Europe, Africa, the Americas and Asia-Oceania). The representatives of the political groups are then convened by the Chairman of the delegation and they carry out the distribution of the chairmanships, country by country;
In reply to a request made by the Chairman of the delegation, the political groups transmit the names of their members holding the chairmanships which have been attributed to their group. It should be made clear that an M.P. may only hold the chairmanship of one friendship group;

– The M.P.s are then requested to make known the officially recognized groups to which they wish to belong;
– The number of friendship groups of which an M.P. may be a member is unlimited;
– The chairmen of the officially recognized groups then receive a list of the members of their group. It is then their responsibility, with the help of the administrative secretary who has been appointed to their group, to convene the opening meeting.

### IV. – APPOINTMENT OF THE BUREAU MEMBERS OF THE OFFICIALLY RECOGNIZED GROUPS

The bureau of a friendship group includes, in addition to the chairman, several deputy chairmen and several parliamentary secretaries. The number of deputy chairmen is decided by both the total number of members of the friendship group and by the numbers in the political groups in the National Assembly. If the number of members of such political groups goes beyond a certain threshold, then the group is entitled to additional deputy chairmen. However the number of parliamentary secretaries, usually between 6 and 10, depends entirely on the number of members in the friendship group.

An M.P. may only hold one chairmanship.

### V. – PRESENTATION OF THE ACTIVITIES OF THE OFFICIALLY RECOGNIZED GROUPS AND THE RULES WHICH GOVERN THEM

The following is an overall presentation of the main types of activity carried out by the officially recognized groups and the rules which govern them.

#### 1. – VISITS PAID AND RECEIVED

The core activities carried out by the officially recognized groups are made up of visits to the countries in question and the hosting of delegations from the partner Parliament. Such activities are expensive and as such, they are regulated by rules drawn up by the Bureau and confirmed at the beginning of each Parliament:

– The number of visits paid and received is limited to a single exchange (one visit paid and one received) per group during the same term of Parliament, except for countries bordering France. In practice, the real number of visits paid and received takes into account the funding available;
The number of M.P.s who can travel is also limited (7 in Europe and 6 outside of Europe with this number being reduced further to 4 for visits to far-off countries). The same limits apply to the numbers in delegations hosted in France. For these trips, a pre-established distribution of places between the political groups, is decided upon by the Bureau;

The expenses incurred during the visits and the hosting are divided up between the National Assembly and the partner parliament according to the following rule: the visiting delegation pays for the travel costs necessary to get to the host country which, in turn, looks after all expenses during the stay. It is, nonetheless, possible, when the rules applied by the partner Parliament make it necessary, to follow another system of financing. In this case the Parliament of the visiting delegation covers all the expenses relating to the trip;

All requests either to make or receive a visit must be approved by the International Activities Delegation and then, by the Bureau. In practice, the chairmen of the friendship groups and of the GEVI are asked, at the end of the year, to make their wishes known. Before requesting permission for a trip, the group must be sure that the partner Parliament is prepared to receive it and, where necessary, to cover the corresponding expenses. The requests must also follow a rule of alternation between visits paid and received. The delegation draws up an annual draft programme of visits to be paid and received and particularly takes into account, the last exchanges carried out, the level of activity within the group and the context of the diplomatic and parliamentary relations with the country in question;

The visits hosted in France are usually divided into two parts over a period of three to six days. The first part takes place in Paris where parliamentary and ministerial political meetings are organized, and is usually followed by a second part, outside of Paris, very often in the constituency of the chairman or the deputy chairman, who use it as a way to have the main achievements of their region highlighted. These programmes always attempt to take into account the wishes of the visiting delegations, as well as the context of the economic and cultural relations with the country in question;

The programmes for the visits by French M.P.s abroad are also based on the same broad principles. Nonetheless, there is a major exception: exchanges with Germany. These exchanges, which take place every year and are usually limited to two or three days, are mainly given over to working meetings on one or more themes of common interest which have been decided upon in advance;

Reports are published concerning trips abroad by French friendship groups, in the collection called “Information Documents of the National Assembly”;
The friendship groups with countries and regions with which a Grand Interparliamentary Commission has been set up by the President of the National Assembly and his counterpart (Canada, Québec, Russia, China, Morocco, Algeria) participate in this annual or bi-annual meetings and thus do not avail, in principle, of an authorization for a supplementary visit paid or received.

In addition, the chairman of officially recognized groups can request expenses to cover receptions (notably lunches or dinners) organized in honour of personalities playing an eminent role in the relations between France and the country concerned (notably ambassadors, parliamentarians, members of the executive from the country who are visiting France).

2. — Meetings and various contacts with foreign or French personalities

Meetings with ambassadors, diplomats from the French Foreign Ministry, French or foreign specialists on the country in question, as well as the leaders of associations and companies active in the country, can all help to improve the knowledge of the members of the group and contribute to binding the links between France and the country in question more closely.

3. — Participation in the policy of inter-parliamentary cooperation

The chairmen of the friendship groups, who are in a good position, by their very office, to understand the needs of the partner Parliaments, can initiate cooperation activities to be carried out by the National Assembly. Whatever happens, they are systematically invited to participate in such activities, whether they be multilateral or bilateral. These could include receptions for foreign M.P.s or parliamentary civil servants who are visiting Paris or participation in training or information missions carried out in a foreign Parliament.

4. — Decentralized cooperation

Friendship groups may wish to give a territorial dimension to the links created with the partner country and this can lead them to encourage the setting-up of relations between local communities and authorities. This type of decentralized cooperation can in particular take the form of twinning between towns of similar sizes.

* *

This list of the activities of the officially recognized groups is certainly not exhaustive. The chairs may take whatever initiative they feel appropriate to carry out the objectives of the group. In the countries in question, the area of the promotion of the French language may also be one which is particularly supported by the friendship groups.
The Participation of the National Assembly in International Institutions

Key Points
The National Assembly participates in the work of several international parliamentary assemblies.

To do so, it sets up delegations, mostly made up of M.P.s and Senators, which are provided with an administrative secretariat which is serviced by parliamentary civil servants and funded by financing allotted by the Questeurs. This funding enables the delegations to finance the involvement of their members in the work of the international parliamentary assembly and the payment of the French contribution to that assembly.

See also file 58

I. – INTERNATIONAL PARLIAMENTARY ASSEMBLIES OR GATHERINGS ON A WORLD SCALE OR WITH A SPECIFIC THEME

1. – THE INTER-PARLIAMENTARY UNION (IPU)

The Inter-parliamentary Union was set up in 1889 by a French M.P. and a member of the British House of Commons.

It was the first international institution founded with the aim of encouraging international initiatives in favour of the preservation of peace and the pacific resolution of conflict. It strongly influenced the movement of ideas which led to the creation of the League of Nations and then the United Nations Organization. Today it is the world organization representing the Parliaments of sovereign states. It has 170 member Parliaments, and 11 international assemblies are associate members. In addition, the IPU has a permanent observer status at the General Assembly of the United Nations.

The French group of the IPU is made up of 50 M.P.s and 50 Senators. The President of the Senate and the President of the National Assembly are both, jointly, ex-officio chairmen of the group. Nonetheless in practice, the group is headed by an Executive President who is appointed by the General Assembly of the group. The Executive President who is elected for the length of the term of Parliament must belong alternately to the National Assembly and then to the Senate and represents the political majority in the National Assembly.
The expenses of the French group (participation of its members in the meetings of the IPU and the financial contribution to the IPU) are funded in equal shares by the National Assembly and the Senate.

The French group represents the French Parliament at the IPU (notably at its two annual plenary assemblies). It also is tasked with contributing to the aims of the IPU, i.e. peace, representative democracy and cooperation between peoples as well as the strengthening of representative institutions and the defence of human rights.

2. – THE PARLIAMENTARY ASSEMBLY OF FRANCOPHONE COUNTRIES (APF)

The Parliamentary Assembly of Francophone Countries was set up in Luxembourg in 1967 under the name of the International Association of Francophone Parliamentarians. It brings together parliamentarians from 65 member or associated Parliaments or from associated or member inter-parliamentary organizations, and from 14 observer Parliaments.

The French branch of the APF has 150 members, 90 M.P.s and 60 Senators, who are distributed proportionally according to the size of their political groups in each assembly. The chairmen of the friendship groups with French-speaking countries, both in the National Assembly and the Senate, are members by right. The President of the National Assembly is Chairman, by right, of the French branch, which is, in practice, chaired by a Deputy Chairman, whom he appoints from among the M.P.s. The operational costs of the branch are covered by the two assemblies, with the National Assembly taking care alone of the expenses linked to the everyday running of the APF (mail, telephone etc.).

The French branch is represented on the different bodies of the APF (bureau, committees, AIDS network, female parliamentarian network) and participates annually in the two meetings of the Bureau, as well as in the plenary Assembly, in electoral observation missions and in the parliamentary seminars organized by the APF. As the APF is divided up into four geographical regions, the French branch is a member of the European region.

II. – INTERNATIONAL PARLIAMENTARY ASSEMBLIES ON A REGIONAL SCALE

1. – THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE (PACE)

The Parliamentary Assembly of the Council of Europe was the first European assembly in the history of the continent, and is made up of 318 Representatives (and as many substitutes) from 47 countries.

It elects the judges of the European Court of Human Rights (ECHR), the Commissioner for Human Rights and the Secretary General of the organization. It proposes candidates for the European Committee for the Prevention of Torture (CPT). It ensures a regular check on the respect by member states of their
commitments. It has often initiated and continues to initiate blueprints for conventions, even if formally, the initiative is in the remit of the Committee of Ministers.

The French Delegation to the Parliamentary Assembly of the Council of Europe has 36 members (i.e. 18 Representatives and 18 substitutes). Out of these, 24 are appointed by the National Assembly and 12 by the Senate. The Chairman is elected by the delegation at the beginning of each Parliament. The budget of the delegation is made up of contributions from the two assemblies (two thirds being covered by the National Assembly and one third by the Senate).

The members of the delegation participate in the four annual plenary sessions of PACE which take place in Strasbourg, as well as the meetings of the eight committees. The delegation is also represented at the meetings of the Standing Committee (four per year) and of the Bureau.

2. – THE PARLIAMENTARY ASSEMBLY OF THE NORTH ATLANTIC TREATY ORGANIZATION (NATO–PA)

The NATO Parliamentary Assembly brings together delegations of parliamentarians from the 28 member countries of the Atlantic Alliance and from 14 associated parliaments. It has five standing committees and meets twice a year in plenary session. It ensures the link between the legislative assemblies and the international organization so as to facilitate democratic debate on the orientations and the policies being implemented in the framework of the Alliance.

The French delegation has 18 full members (11 M.P.s and 7 Senators) and as many substitutes. Each assembly covers the expenses relating to the travel arrangements of its representatives.

3. – THE PARLIAMENTARY ASSEMBLY OF THE ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE (OSCE–PA)

The Parliamentary Assembly of the Organization for Security and Cooperation in Europe was set up by the Madrid Conference of April 2 and 3, 1991. According to the provisions of its Rules of Procedure, it must fulfil several remits: the assessment of the implementation of the objectives of the organization, the debating of subjects dealt with by the Ministerial Council and the meetings of Heads of State and of Government, the development and promotion of mechanisms for the prevention and resolution of conflict and the strengthening and consolidation of democratic institutions in the member States. It has 320 parliamentarians who represent the 56 member states.

The French delegation has 13 members (8 M.P.s and 5 Senators). Each assembly covers the expenses relating to the travel arrangements of its representatives. It participates in the three annual meetings (the five-day July meeting in a town in a member State, the four-day autumn meeting, given over, amongst other things, to the Mediterranean Forum and the two-day winter session in February, in Vienna) as well as in electoral observation missions.
4. – THE PARLIAMENTARY ASSEMBLY OF THE MEDITERRANEAN UNION

The Parliamentary Assembly of the Mediterranean Union brings together delegations from the parliaments of the thirty-seven members of the Euro-Mediterranean partnership which was founded by the Conference of Euro-Mediterranean foreign ministers in Barcelona on November 27-28, 1995. The Assembly which was born after the transformation of the Euro-Mediterranean Parliamentary Forum, created in 1998, held its inaugural session in Athens in March 2004.

It is made up of 240 members equally representing the parliaments of the European Union and those of its partner states in the Mediterranean. The ten partner states (Morocco, Algeria, Tunisia, Egypt, Israel, the Palestinian Authority, Jordan, Lebanon, Syria and Turkey) are represented by 120 members. The national parliaments of the twenty-seven countries of the European Union are represented by 75 members and the European Parliament by 45 members.

The French delegation, which has three members (two M.P.s and one Senator), participates in the two annual plenary sessions and in the meetings of the three committees and working groups which deal with three dimensions of the Euro-Mediterranean partnership: politics, economics and culture.

5. – THE PARLIAMENTARY ASSEMBLY OF THE MEDITERRANEAN (PAM)

The Parliamentary Assembly of the Mediterranean was born from the Conference on Security and Cooperation in the Mediterranean (CSCM) which was a subsidiary body of the Inter-parliamentary Union and which operated from 1992 to 2005. PAM was formally set up in February 2005 at Nafplion (Greece) by the 4th and final plenary CSCM and it held its inaugural session at Amman in September 2006.

It includes 28 member countries and 2 associate states or organizations. Its seat is in Malta.

The aim of PAM is to develop cooperation between its members by dealing with questions of common interest so as to foster confidence between the states of the Mediterranean, to contribute to regional stability and security as well as to encourage harmonious development of the Mediterranean countries in a spirit of partnership. PAM holds one plenary session per year and proposes several thematic committee meetings every year.

Each national delegation to PAM is made up of 5 parliamentarians. By agreement between the Presidents of the two assemblies, the French delegation to PAM is made up of 3 M.P.s and 2 Senators. Therefore the contribution to the PAM is paid 3/5 by the National Assembly and 2/5 by the Senate.
6. — THE PARLIAMENTARY ASSEMBLY OF THE BLACK SEA ECONOMIC COOPERATION (PABSEC)

The National Assembly also participates as an observer in the work of the Parliamentary Assembly of the Black Sea Economic Cooperation. The French delegation is made up of 3 M.P.s and 1 Senator.
Communication at the National Assembly

Key Points

The National Assembly is, in fact, looked upon by the citizens simultaneously as a historical monument, as an institution of the Republic and as one of the most significant places in French political life and this implies a necessity to use different communication strategies and initiatives.

The communication policy of the National Assembly is laid down by the Communication and the Delegation of the Bureau. It consists of a variety of activities such as the organization of tours of the Palais Bourbon, providing access to parliamentary proceedings and documents as well as to the internet site, presence on social networks, organizing events and developing teaching tools especially for schoolchildren of both primary and secondary level.

See also files 63 to 66 and 73

On account of its history and role, the National Assembly is looked upon all at the same time as:

- A monument, with its facade, “the colonnade”, its Chamber and the Hôtel de Lassay, the residence of the Presidency, all of which are part of the nation’s heritage;
- A deliberating assembly at the very heart of institutional life and of public powers;
- A political assembly, where, with its political groups based on the political parties, debates take place between the governing majority and the opposition.

This manifold nature leads to a series of different communications initiatives.

It is the Bureau and its sub-group, the Communication and Press Delegation which lays down the communication policy of the National Assembly. This policy is implemented by a specific Department, which is called the Communication and Multimedia Information Department.
I. – COMMUNICATION OF THE NATIONAL ASSEMBLY AS A HISTORICAL MONUMENT

This first image of the National Assembly entails a whole first set of communications initiatives:

– The National Assembly may be visited. It is the duty of the Communication Department, in particular, to organize such visits and the communication aids which are linked to them. These include educational films, the “Welcome to the Assembly” brochures, specific fact sheets, signs which can be seen all along the routes of the visits and which explain the various places and the working of the National Assembly, as well as the audio-guides which are available in French, English, German and Spanish. The National Assembly may also be visited virtually by means of the Assembly’s website. On top of these “traditional” visits must be added the participation of the National Assembly in the European Heritage Days on the third Saturday and Sunday of September when many public buildings are opened simultaneously to the general public;

– The National Assembly also has a shop called the “Boutique de l’Assemblée”, where everyone may, in particular, procure documents of the Assembly or a souvenir of the visit;

– The prestige attached to the premises also means that many events also take place there too (colloquia, political book day, historical commemorations).

II. – COMMUNICATION OF THE NATIONAL ASSEMBLY AS AN INSTITUTION OF THE REPUBLIC

Every person who is interested in the working and the activities of the National Assembly must be able to access the information he is seeking. Who is who? Who does what? What is the role of the National Assembly within the institutions?

This information brief relies on different tools, from the most traditional to the most modern, as the digitization of documents enables their transmission and to make information quickly accessible.

The departments of the National Assembly inform without taking sides. The taking of sides and the making of commentaries fall within the brief of the press or television and radio. The Communication Department however does assist the press, television and radio through its Press Unit. Amongst the television channels, LCP-Assemblée nationale, the parliamentary channel, has a very specific role.
This second image of the National Assembly entails another set of communications initiatives:

– Replies to questions asked by mail, telephone or electronic mail;
– Making available by means of the Internet site, all the information concerning the organization and the operation of the institution and all the parliamentary proceedings and documents;
– The running of a Facebook page and a Google + page as well as having a Twitter account;
– Live or pre-recorded access to the debates upon request via the video portal of the internet site;
– The recording of all the debates for television and radio. Making them available to public or private television channels;
– Learning tools for schoolchildren in different formats: a cartoon/brochure called, “Visiting the National Assembly”, a “teaching kit” provided to M.P.s to illustrate their talks when they visit schools in their constituency, and the organization of the Children’s Parliament which has its own interactive internet site: www.parlementdesenfants.fr.

III. – THE COMMUNICATION OF THE NATIONAL ASSEMBLY AS ONE OF THE MOST IMPORTANT FORUMS IN POLITICAL LIFE

In this particular field, communication, apart from the transcript of the minutes and the broadcasting of debates, is the responsibility of the political groups and the M.P.s themselves.

Each political group has its own organization and carries out its own communication.

Each M.P. may use the National Assembly site to give access to his own site (for which he has the entire editorial responsibility). He can meet the press (in particular in the “Salle des Quatre Colonnes” which is situated next to the Chamber and which has always been the traditional meeting place for M.P.s and journalists).
Relations with the Press

Key Points
The Press Unit is in charge of “relations with the press” at the National Assembly.

It thus manages the reception of journalists, mans the secretariat of the committee in charge of granting permanent press accreditation, grants temporary press accreditations and is in charge of authorizing all requests for filming or reporting.

Its second mission is to inform journalists of the work of the National Assembly. To perform this task, it publishes a weekly “Assembly Calendar”, technical files on the bills being debated (called “Focus”), and factual press communiqués which provide information concerning the committee, missions or commission meetings open to the press, or concerning the holding of press conferences or various events taking place at the Palais Bourbon.

Within the Press and Audio-visual Unit, certain civil servants follow the proceedings of particular bodies and provide the journalists with information concerning their work in progress.

In addition, in order to facilitate the work of the media, the National Assembly provides them with special office space and with pictures of the parliamentary proceedings.

See also files 62 and 73

The institutional “press relations” of the National Assembly are handled by the Press and Audio-visual Unit. This unit, which is part of the Communication and Multimedia Information Department, has a staff of around 20 civil servants. It deals both with the reception and accreditation of journalists and the provision of information to the press concerning parliamentary work. It thus acts as a complement to other ‘press relations’ services of a more political nature, which could be provided by other sources within the National Assembly, in particular the President and the political groups.

I. – RECEPTION AND ACCREDITATION OF JOURNALISTS

The press office carries out the reception of journalists and grants the authorization of access to the premises of the National Assembly. The Press Unit also manages permanent press accreditations and requests for reporting and filming.
1. – Reception

Journalists are received by the Press Office which is situated near the entrance reserved for the press (33, Quai d’Orsay). By going there or by contacting the Office by telephone or electronic mail, journalists are provided with all the information they require:

- Information concerning the agenda of the National Assembly as well as meetings of committees, missions and delegations;
- Information on press conferences and other meetings open to the press;
- Parliamentary documents;
- Detailed information concerning parliamentary procedure, the content of bills which have been debated, the status of M.P.s, all obtained, when necessary, from the relevant departments, through the parliamentary civil servants of the Press Unit.

2. – Accreditations

In order to gain access within the Palais Bourbon to the places where they can meet and interview M.P.s and current ministers, as well as to the spaces which are reserved to them (press rooms, press galleries in the Chamber, press conference room), journalists must hold an accreditation which is provided to them by the National Assembly.

They may also have access to the meeting rooms in which proceedings which are open to the press take place (meetings of bodies of the National Assembly, most of the time) and where press conferences occur. If they have a prior appointment with an M.P. they may also be allowed to go to his office.

a) Permanent accreditations

Media which regularly cover parliamentary proceedings can be permanently accredited. This accreditation is granted by a committee whose secretariat is manned by the Press Unit and which is composed, in accordance with article 29 of the General Rules of the Bureau of the National Assembly, of M.P.s (the Chair of the Bureau Delegation in Charge of Communication and the Press, Questeurs) and representatives of the press: representatives of the Association of Parliamentary Journalists, of the French Press, of the press agencies, of the Foreign Press Association and of the Anglo-American Press Association.

This commission examines new requests for accreditation made by the media. Its decisions are based on the following criteria, which have been fixed over time:

- The commission grants permanent accreditation to media organizations and not to individual journalists;
Accreditation is granted, taking into account the requirements of pluralist coverage, to those media whose publication is regular and whose circulation and broadcasting is wide and whose journalists (who must all possess a press card) regularly follow the proceedings of the National Assembly;

For foreign press, media accreditation usually depends on their prior recognition by the Foreign Press Association or the Anglo-American Press Association (and the journalists themselves must be accredited by the Ministry of Foreign Affairs).

The commission grants an accreditation for an unlimited period. Every year, the Press Unit asks each accredited medium to provide a list of journalists which its editorial board wishes to see accredited and subsequently provides them with an access pass to the National Assembly for one calendar year.

The commission may also withdraw its accreditation from a newspaper or other medium but this procedure is rarely used (and generally only when a newspaper or other medium no longer fulfils the criteria of accreditation).

b) Temporary accreditations

The Press Office may grant, upon request, accreditations to journalists who do not hold permanent accreditations but who wish to access the premises of the National Assembly for a temporary period. In this case, accreditation requires having a professional press card, granted by the Commission of Identity Cards of Professional Journalists, or a foreign press card granted by the Ministry of Foreign Affairs or an official certificate from the editorial board for non-permanent contributors to a particular medium (free-lances, trainees etc.).

3. – AUTHORIZATIONS FOR FILMING AND REPORTING

Photographers and television crews must be accredited. They can access the National Assembly without undergoing other specific procedures, except in two cases where particular rules governing access are applied:

– When the filming and reporting is due to take place in locations which are not usually open to the press;

– When the photographers or television crews do not belong to the staff of a particular newspaper or other medium and cannot therefore avail of the advantages of journalists – a certain number of programmes broadcast by television channels are made by production companies.

Reports or films which fall into these two categories must undergo a special prior authorization procedure carried out by the Press Office and validated, depending on the case, by the President, the Questeurs or the administrative authorities of the National Assembly.
II. – INFORMING JOURNALISTS

The Press Unit has a procedure for informing journalists precisely and quickly on the work of the National Assembly. This procedure is twofold: on the one hand, through publications, on the other hand, through specialized information provided by civil servants specifically in charge of press relations.

1. – PUBLICATIONS

a) The future calendar

Each week the Press Unit publishes, in electronic form, the “Assembly Calendar” which brings together in a single document, the internet links to the agenda of the Assembly’s sittings, the meetings of committees, missions and delegations and information concerning meetings open to the press, as well as events organized by the National Assembly.

This calendar is transmitted, first of all, to the press agencies which use it to build up their own weekly and daily timetables. It is also transmitted to any journalist who makes such a request to the Press Unit. It is also published on the National Assembly’s internet site in the press section.

b) Following committee work: Focus Files

A “Focus File” is a technical file on a (Government or Member’s) bill which is published on-line immediately following its examination by the relevant committee and before it goes before the public sitting. It contains, in addition to a reminder of the main provisions of the bill, links to internet sites which might have a connection, as well as the main amendments to it by the committee.

The “Focus File” is addressed by electronic mail to journalists registered on a specific list. It is simultaneously included in legislative files on the internet site of the National Assembly.

c) Factual press communiqués

On the contrary of press communiqués which are published by M.P.s or parliamentary groups, whose objective is to publicize positions or commentaries on current political affairs, the press communiqués of the Press Unit are purely factual and informative. They are essentially given over to parliamentary work and, for the large majority, either announce the opening to the press of meetings of committees, missions and delegations or the holding of press conferences by M.P.s with positions within the National Assembly (chair of a body of the National Assembly, rapporteur, spokesperson of a group on a bill etc.). The Press Unit publishes communiqués of a similar nature concerning events organized by the National Assembly (National Heritage Days for example), as well as certain other activities which take place there (symposiums, exhibitions).
The communiqués are distributed by the Press Unit both within the National Assembly and outside. They are sent first of all to the press agencies working in the Palais Bourbon as well as to the parliamentary television channel (LCP-Assemblée Nationale). They are also posted in the press rooms. Other journalists, however, receive them by electronic mail.

The Press Unit keeps and updates distribution lists in a variety of different specializations: politics, economics, the social field, international questions etc. These lists can be permanent and concern a very broad field or they can be temporary and have a very precise goal thus targeting those interested in a very specific piece of parliamentary work. Other lists may concern very different areas such as the list of ‘photo agencies’ which is used to contact them when events may be covered from a visual point of view or the list of local press contacts, used when the provincial media might be interested in a particular issue. In addition, the communiqués published by the Press Unit are simultaneously placed on-line on the internet site of the National Assembly, in the Press section. They are also available as RSS feeds to be taken up by other internet sites.

2. – SPECIALIZED PARTNERS

One of the main briefs of the Press Unit is to report on meetings of committees, missions and delegations whether they are or not open to the press. In order to do this the civil servants working in the unit are divided up into fields of competence which cover the various remits of the different standing committees. They have been present during the work of these bodies and are thus able to provide journalists with assistance in searching for very specialized information, especially when one takes into account the extreme complexity of some bills.

The remits of the standing committees and of the other parliamentary bodies (European Affairs Committee, Women’s Rights Delegation, Delegation for Overseas France, Assessment and Monitoring Commission, commissions of inquiry, fact-finding missions set up by the Conference of Presidents) are covered by five civil servants (one adviser and four deputy advisers).

Thanks to such a mechanism, journalists can obtain a quick and reliable report of meetings to which they do not have access or which they have not been able to follow. In fact, the civil servants of the Press Unit are immediately available at the end of meetings to provide the media with information concerning the debates which have taken place and the amendments which have been examined as well as to answer any questions and to transmit documents meant for distribution (reports, amendments etc.). Afterwards and throughout the period of the parliamentary procedure and the subsequent implementation of a bill, these same civil servants are available to provide journalists, be they general reporters or more specialized, with the necessary information.
III. – MATERIAL FACILITIES

In keeping with the constitutional duty of maintaining the public nature of parliamentary debates, the press is very much at home in the National Assembly. Thus it is provided with its own offices on the premises. In addition, and in particular on account of recent developments in the television media, the press is granted specific technical facilities concerning the recording and broadcasting of parliamentary proceedings either in plenary sitting or in committee meetings in or interviews and television link-ups.

1. – SPECIAL OFFICES RESERVED FOR THE PRESS

Journalists work in different rooms and offices spread over several floors within the *Palais Bourbon* all of which are close to the Chamber. On the first floor, the Empire Room provides a splendid backdrop for the parliamentary journalists but is also used for interviews. On the second and third floors there are two editorial rooms with the telephone and computer connections necessary for the retransmission of data. Journalists who work regularly at the National Assembly have individual offices there.

In addition, there are radio booths equipped to receive sound from the plenary sitting and linked to the radio stations in order to broadcast live or after editing. Finally, a press conference room is available for M.P.s to present their parliamentary work.

2. – PROVIDING TELEVISED BROADCASTS OF PARLIAMENTARY PROCEEDINGS

All plenary sittings and most meetings of committees, missions and delegations open to the press, are recorded for television by the services of the National Assembly. These pictures are then broadcast on the internal television channel which is available in each M.P.’s office. They are also made available to *LCP–Assemblée nationale*, the Parliamentary Channel (which only broadcasts some of them) and to other television channels for their news or current affairs programmes. To do this, a fibre-optic link carries the pictures from the National Assembly directly to the control rooms of the main French television channels. These pictures, which have no copyright, may also be rebroadcast by other channels, either live or at a later time, as the Press and Audio-visual Unit keeps the recordings available for the channels.
The Internet Site of the National Assembly

Key Points

The internet site of the National Assembly www.assemblee-nationale.fr offers on-line the entire range of parliamentary proceedings (Government and Member’s bills, reports, minutes of the debates in plenary sitting and in standing committees, parliamentary questions, European and international activities, etc.) as well as live or pre-recorded videos of the plenary sitting or of committee proceedings or of information missions. It also presents an individual biographical file on each M.P. which also includes his/her parliamentary activities.

The home page which is updated in real time presents a selection of the highlights of the week and informs the internet user of the most recent decisions taken by the National Assembly.

The site also includes general information pages on parliamentary law and on the organization and operation of the institution, as well as on the history and the heritage of the Palais Bourbon and the Hôtel de Lassay.

It also offers the possibility of subscribing free of charge to alert feeds, to a personalized follow-up by e-mail and to an up-to-date electronic weekly newsletter.

Institutional films and a virtual visit complete the menu which also includes a section aimed at younger people.

Every month on average, almost 900,000 internet users consult the site of the National Assembly.

The site and its videos may be consulted, in an adapted version, using smartphones (www.assemblee.mobi).

See also file 62, 63, 65, 66 and 73

I. – PUBLICATION OF PARLIAMENTARY PROCEEDINGS

1. – PUBLIC DEBATES

From the home page of the site, the internet user may access the agendas, calendars and minutes of the debates of the National Assembly and of its committees, delegations and fact-finding missions as well as the results and the analysis of the public and formal ballots.
The provisional minutes of a plenary sitting are placed on-line during the sitting and the official minutes are online on the same or the following day.

The live videos of the plenary sitting and of the committee meetings open to the press are accessible from the home page and can be viewed on mobile telephones (www.assemblee.mobi).

Videos of the plenary sitting can be consulted and downloaded for free either live or pre-recorded through the video portal; after 3 months, these videos are available upon request.

2. – LEGISLATION

All parliamentary documents (Government bills, Members’ bills, legislative reports, minutes, results of votes, tabled and adopted amendments and bills passed etc.) are accessible in full on the internet site.

The integral legislative files, for each bill tabled, retrace, in an exhaustive manner, all the steps of the procedure and make available all the associated parliamentary documents. After the definitive passing of the law, the file presents, if the case applies, the state of publication of the implementation decrees and the assessment reports on the law which have been carried out by the parliamentary missions.

3. – MONITORING THE GOVERNMENT

The site publishes on-line the information reports of the standing committees, of the delegations, of the fact-finding missions and of the commissions of inquiry, as well as those of the Parliamentary Office for Scientific and Technological Assessment and of the Commission for Assessment and Monitoring of Public Policies.

In addition, all questions asked by M.P.s along with their ministerial replies are available on the site.

II. – NOTES ON AND PHOTOGRAPHS OF M.P.S

The notes on and photographs of M.P.s are placed on line and archived under each term of Parliament.

Each file on the site relates the biography, terms and contact details of the M.P. and presents his parliamentary work: Member’s bills, motions, reports, speeches during the plenary sitting and committee meetings, videos, positions on public ballots, and questions asked to the Government with the answers which were provided.
III. – EUROPEAN AND INTERNATIONAL ACTIVITIES OF THE NATIONAL ASSEMBLY

The Constitution has provided the Parliament with a mission to monitor European legislative procedure. Thus the site of the National Assembly publishes the work, minutes and information reports of the European Affairs Committee which follows current European issues, the procedures for the drawing-up of European law, as well as the draft resolutions on bills emanating from European Union bodies.

The international activities of the National Assembly which are announced in a weekly diary, lead to the publication of numerous documents on the site. These include reports, proceedings of symposiums or speeches.

IV. – ARCHIVES OF PARLIAMENTARY PROCEEDINGS

In 2008, all the minutes of plenary sittings, all written questions and the corresponding analytical and nominative tables from the archives of the Fifth Republic, as well as the legislative files of the last three terms of Parliament, i.e. around 350,000 paper pages, were placed on-line on the internet site.

In addition, since October 2013, the Archives page of the internet site provides access to a consultative database of the Journaux Officiels (Official Journals) under the heading “Débats” as well as to the contents and nominative tables of the Fourth Republic and of the two Constituant Assemblies of 1945-46. The minutes of the debates since 1871 are gradually being placed on-line through the portal “Gallica”. This work will steadily be extended to all the minutes of sittings since 1789.

V. – EVENTS AT THE PALAIS BOURBON

Events or exhibitions which take place at the National Assembly are announced and illustrated on the site which provides them with a special page: “Événements” (events).

VI. – OTHER INFORMATION

1. – PORTAL TO OTHER SITES

The home page of the internet site of the National Assembly grants access to the site of the parliamentary channel (LCP–National Assembly), to the site dedicated to the President of the National Assembly as well as to the interactive Children’s Parliament site. The latter allows those classes who participate to be part of this operation all year long.
2. – GENERAL INFORMATION

The role, the working and the powers of the National Assembly are described in the section, “Rôle et pouvoirs de l’Assemblée” (“Role and Powers of the National Assembly”) where 80 thematic files are presented.

Other sections deal with practical information allowing citizens to be informed on the details of how to visit the National Assembly, the conditions for the recruitment of parliamentary civil servants or to discover and to buy on-line the products on sale at the Boutique de l’Assemblée.

VII. – TECHNICAL PRESENTATION

The conception, editorial control and maintenance of the site are carried out by the multimedia team in the Communication and Multimedia Information Department and by the Information Systems Department of the National Assembly.

A general update of the pages published is systematically carried out every day around 7am, preceded by an update of the information provided by the different databases of the information system.

Specific updates are also carried out regularly during the day, depending on the agenda, the availability of the most frequently requested documents and the progress of the proceedings in plenary sitting and in committee. Thus it is possible to consult an updated version of the minutes of debates all along the sitting.

The on-line information on the site of the National Assembly is public. The reproduction of the contents of the site pages may be authorized, particularly for publishers and those transmitting public data, by prior written request, and on the condition of mentioning the source, not infringing intellectual property rights and respecting the integrity of the documents reproduced. In no case may this information be used for commercial or advertising reasons.
The Parliamentary Television Channel
(\textit{LCP-Assemblée nationale} and \textit{Public Sénat})

\textbf{Key Points}

The Parliamentary Television Channel (\textit{La Chaîne Parlementaire}) was set up by the Law of December 30, 1999 and broadcasts programmes made by two companies: \textit{LCP-Assemblée nationale} and \textit{Public Sénat}.

In accordance with the principle of the separation of powers, these two companies do not come under the authority of the regulatory body for broadcasting (The High Council for Audio-visual Matters). Their respective chairmen are appointed by the \textit{Bureau} of each Assembly.

They enjoy total editorial independence and broadcast programmes 24/24 hours. These programmes are mainly made up of parliamentary proceedings, studio panel shows and report-type magazine broadcasts as well as news bulletins.

\textit{See also files 62 and 63}

I. – ESTABLISHED BY LAW

The Parliamentary Channel was set up by the Law of December 30, 1999 and was born out of a long-standing and deep desire on the part of the National Assembly and the Senate to contribute to the development of the presentation of parliamentary proceedings on television. The Parliamentary Channel began broadcasting in spring 2000, taking the place of a programme which had been retransmitting ‘raw’ parliamentary debates since 1993. According to the terms of the law, the Parliamentary Channel “\textit{fulfils a public service mission aiming at informing and increasing the knowledge of citizens in the sphere of public life, by means of parliamentary, educational and civic programmes}”.

II. – ONE FREQUENCY FOR TWO CHANNELS

The law provides that the frequency given over to the broadcasting of the Parliamentary Channel must include, in equal airtime, the programmes made by two companies: \textit{LCP-Assemblée nationale} and \textit{Public Sénat}. Thus, in fact, there are really two parliamentary channels.
These two programme companies are linked to the National Assembly for one and to the Senate for the other, by a covenant which provides, in particular, for the grants by which they are funded and by a contract for aims and means. They are companies in private law whose capital is entirely in the hands of the assembly to which they are linked.

The law grants these two companies a status which gives them an editorial independence guaranteed by their chairmen (appointed for three years by the Bureaux of the assemblies upon a proposal of their President) and their boards of directors (which are made up, in particular, of representatives of each political group in Parliament).

In accordance with the constitutional principle of the separation of powers, these two companies do not come under the authority of the regulatory body for broadcasting (The High Council for Audio-visual Matters). Similarly, although they receive public funding, they do not come under the jurisdiction of the Court of Accounts, on account of the principle of autonomy (and in particular financial autonomy) of the assemblies. Thus the companies are under the authority of the Bureau of each of the assemblies and these are the bodies which monitor that the regulations which apply to thematic television channels and to the respect of the impartiality of programming are maintained. During election campaigns the Bureau of the National Assembly applies the same rules concerning broadcasting time to LCP-Assemblée nationale as the High Council for Audio-visual Matters sets for channels which fall within its remit.

III. – A VARIETY OF PROGRAMMES

The Parliamentary Channel has been available since March 31, 2005 by Hertzian reception on the free digital terrestrial television multi-channel package (channel 13) and is broadcast since April 5, 2016 in high definition with better picture and sound quality.

It is also broadcast on the entire cable and satellite network and is available on broadband connections as providers are legally bound to offer these channels free of charge to all subscribers. Its programming which is divided between LCP-Assemblée nationale and Public Sénat is broadcast 24/24 hours, seven days a week.

Each of the two channels also broadcasts its own programming via its internet site www.lcpan.fr for LCP-Assemblée nationale and www.publicsenat.fr for Public Sénat. These two sets of programmes are available on separate channels by means of the main multi-channel television packages on broadband.

In addition to their technical and administrative structure which is similar to any television company, LCP-Assemblée nationale and Public Sénat both have editorial teams of around 30 journalists and have had technical facilities (studio, control room etc.) in the National Assembly and the Senate for several years now.
The programmes of the two channels are broadcast in alternation within the daily programme scheduling of the Parliamentary Channel. Each company makes its programming choices entirely independently of both the other company and the assembly with which it is linked. The channels do broadcast parliamentary committee or plenary sitting debates either live or at a later time, but the majority of their broadcasts are studio panel shows or report–type magazine programmes, as well as general news bulletins.

In addition, the law prohibits the broadcasting of advertising or tele-shopping programmes.
### The Children’s Parliament

#### Key Points

The Children's Parliament aims at proposing to 577 CM2 classes (final year of primary school), i.e. one for every constituency, the possibility of participating in a “full-scale” lesson in civic education by drawing up a draft bill in the same conditions as those of M.P.s in their function of lawmakers.

Among the bills presented by the participating classes, four are selected at a national level and are put to a debate and a vote of all the classes. The class which has come up with the winning draft bill of the Children’s Parliament is invited to spend a day at the National Assembly.

The process takes place first at a local education authority level and then nationally and begins after the beginning of the school year, reaching its climax at the end of the month of May.

The Children's Parliament is organized by the departments of the National Assembly and of the Ministry of National Education. It does not take place in years of presidential and general elections.

The website of the Children’s Parliament: [www.parlementdesenfants.fr](http://www.parlementdesenfants.fr), presents the entire operation in an interactive manner.

*See also file 62*

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Civic education is an integral part of the objectives of the school system and covers awareness of the values of democracy and of the Republic.

The National Assembly contributes to this fundamental objective by organizing the Children’s Parliament which is an operation aimed at raising the consciousness of future citizens, at an early age, concerning the drawing-up of collective rules.

Children of between ten and eleven years old in the CM2 class, i.e. the final year of primary school, are given a full-scale lesson in civic education as they discover, in an active way, the role of the lawmaker. Each participating class is thus asked to collectively prepare a draft bill in similar conditions to those of M.P.s. Under the supervision of the teachers who follow them in their discussions, the objective is to allow them to understand the meaning of democratic debate. It is based on a concrete presentation of the French parliamentary system.
At the end of the year these classes, meeting in the “Children's Parliament” are asked to vote for one of the four draft bills that have been selected at a national level.

The Children's Parliament, which was set up in 1994, takes place throughout the entire school year. It does not take place the years of presidential or general elections. It is organized jointly by the departments of the National Assembly and of the National Education Ministry as well as the Agency for the Teaching of French Abroad (AEFE) and the French Secular Mission (MLF).

The internet website www.parlementdesenfants.fr presents the entire operation in an interactive manner and the contributions of the classes are published on-line.

I. – SELECTION OF THE CLASSES

The number of classes which participate in the Children’s Parliament is the same as the real number of M.P.s, i.e. nowadays 577.

Thus, it is within each of the 577 electoral constituencies that the departmental services of the Ministry of National Education, or the services of the AEFE or the MLF, for the classes concerning French people living abroad, choose the class, which for each constituency, will participate in the event.

This choice is carried out, once the applications have been received by mid-November, after consultation, if necessary, with a selection committee. If in the rare cases where, within a department, no class is candidate, the departments of the Ministry of National Education, or the services of the AEFE or the MLF, will select one.

The list and the addresses of the classes chosen are transmitted to the Communication Department of the National Assembly. M.P.s are informed of the class from their constituency which will take part in the event. They may also pay it a visit and establish with it a direct contact and follow-up during the school year. The Departments of the National Assembly send a teaching pack to the classes in question and they are generally invited to come to visit the National Assembly by the M.P. of their constituency.

II. – WORK OF THE PARTICIPATING CLASSES

The work of the participating classes is to draw up a draft bill. This draft bill must fulfil certain formal criteria. In order to help the teachers, working themes are suggested without there being any binding nature to them. It is, however, obligatory to follow the structure of a draft bill which is made up of a one-page explanatory statement and of four articles maximum which are also drawn up on one page.

This work has to be sent in by mid-March.
The participating classes have an access code for the interactive platform of the internet site www.parlementdesenfants.fr, on which they can post images, contributions or even write a blog.

III. – HOW THE WINNING DRAFT BILLS ARE CHOSEN AT A REGIONAL AND NATIONAL LEVEL

1. – SELECTION AT A REGIONAL LEVEL

As the work of each class is handed in before mid-March, the juries convene before the end of the same month in each region, in the case of classes from mainland France and the overseas departments.

These juries select the best draft bill for the region and name a winning regional class. Their criteria are the following:

– The draft bill must fulfil the formal criteria;
– It must be a true piece of work of the pupils and correspond to their reasoning and their way of expression;
– It must be a reflection of future citizens on societal problems;
– It must correspond to real action to be taken or a possible law to be enacted.

Each winning class at a regional level, is awarded a prize attributed by the National Assembly.

2. – SELECTION AT A NATIONAL LEVEL

A national jury, made up of M.P.s, members of the National Education Ministry and of the AEFE and the MLF, meets before mid-May. It chooses four bills in no particular order according to the aforementioned criteria from amongst all the bills selected at a regional level as well as from those sent in from the classes of the overseas departments and from the classes of French people living abroad.

Each class which has drawn up one of the four bills selected by the national jury is awarded a prize attributed by the National Assembly.

These four bills are placed on-line on the Children’s Parliament internet site so that the 577 participating classes may discuss them and choose the best one. Classes may post their contributions on the site.

Each class makes its choice by electronic vote by means of the internet site before the end of May. The result of this vote and the declaration of the winning bill for the Children’s Parliament are then placed on line.
IV. – TRIP AND TIMETABLE OF THE DAY AT THE NATIONAL ASSEMBLY FOR THE WINNING CLASS OF THE CHILDREN’S PARLIAMENT

The class whose draft bill has received the greatest number of votes at the end of the electronic vote process is invited to spend a day at the National Assembly with its teacher during the last week of the month of June. There the class receives its prize. The aim is to encourage educational projects.

The organization of this phase of the event is carried out by the departments of the National Assembly. They are in charge of informing the families of the practical aspects of the trip, the stay and the timetable of the day in Paris. All transport fees, and if necessary accommodation expenses are reimbursed by the National Assembly.
The Status and Career Development of Civil Servants of the National Assembly

Key Points

The civil servants of the National Assembly are State civil servants; however, the statutory provisions which concern the rest of the civil service do not apply to them. They are provided with a separate status which is decided upon by the Bureau of the National Assembly in application of the constitutionally-binding principle of the separation of powers, which has its corollary in the administrative and financial autonomy of the Assembly.

The Rules of Procedure on the Organization of Departments which define the status of the staff of the National Assembly, set a cap of 1,349 on the number of civil servants. These are divided between 4 general branches (advisers, deputy advisers, management assistants and porters) and 21 specialized branches.

The civil servants of the National Assembly are recruited exclusively by competitive entrance examination. Most of them will work in a variety of jobs in the various departments of the Assembly throughout their career. They may be seconded to external bodies in certain circumstances and can take advantage of in-house training.

As in the rest of the civil service, each of the branches of the civil service within the National Assembly is divided into ranks and each of these is sub-divided into classes and subsequently into grades. Promotion from one grade to the next depends upon length of service whilst promotion from one class or rank to the next is obtained on the basis of merit according to a joint procedure.

See also file 76

I. – THE STATUS OF CIVIL SERVANTS OF THE ASSEMBLY

According to article 8 of Ordinance n° 58-1100 of November 17, 1958 concerning the functioning of the parliamentary assemblies, “tenured staff of parliamentary assembly departments are State civil servants whose status and retirement scheme are decided upon by the Bureau of the relevant assembly after consultation with the trade union staff representatives. They shall be recruited by competitive examination according to rules determined by the relevant bodies in each assembly. Administrative courts shall be called upon to deal with any individual disputes concerning such staff and their decisions shall be based upon the general principles of law and the fundamental guarantees recognized for all
State civilian and military civil servants, as laid down in article 34 of the Constitution”.

These legislative provisions are based on the constitutionally-binding principle of the separation of powers, which has its corollary in the administrative and financial autonomy of the Assembly.

The civil servants of the departments of the National Assembly are thus State civil servants however the statutory provisions which concern the rest of the civil service do not apply to them. They are provided with a separate status which is decided upon by the Bureau. This status may not, however, be in contradiction with the general principles of law and fundamental guarantees recognized for other civil servants.

This status which is decided upon by the Bureau takes the form of Rules of Procedure on the Organization of Departments which define the status of the staff of the National Assembly. This document is usually referred to as the “Internal Rules of Procedure”. It is supplemented by statutory application decrees which are decided upon either jointly by the President of the National Assembly and the Questeurs or by the Questeurs alone.

Despite some particularities which are due to the institution and to its history, the status of the civil servants of the National Assembly is quite close to that of other civil servants. It must however be noted that the staff of the National Assembly have a very strict duty of professional discretion and political neutrality.

The staff also have an obligation of absolute availability as their rhythm of work must, at all times, be adaptable to that of parliamentary activity, be it according to the legislative calendar (extraordinary sessions) or the timetable of sittings (night sittings and committee meetings).

II. – STAFF STRUCTURE

The permanent positions within departments, with the exception of very technical jobs held by contract workers, are carried out by civil servants recruited by competitive examinations specific to the National Assembly.

Article 5 of the Rules of Procedure sets a cap of 1,349 on the number of civil servants. These are divided between 4 general branches representing 77% of the staff and 21 specialized branches representing 23%.

On February 1, 2017, 1,132 civil servants worked at the National Assembly: about 49% in legislative departments, 44% in administrative departments and 7% in joint departments. The average age of civil servants of the National Assembly was on December 31, 2016, 50.1 years old. Nearly 56% were older than 50 and 30% were between 40 and 50. Those under 40 represented only 14% of the civil servants. There are 36% women. Nonetheless, there are great differences between the various branches.
The general branches are the following (people holding positions at the National Assembly on March 1, 2017):

- **Advisers and senior advisers (180):** they are recruited among candidates possessing a master’s level. Once they have reached the rank of senior adviser they take on managerial positions: 48 senior advisers are heads of unit and there are 16 directors, 2 general directors and 2 secretaries general;

Advisers work mainly in legislative departments (96% of the positions outside managerial posts) where they provide legal and technical assistance to M.P.s in the drawing-up of the law and in the monitoring of Government action. In the administrative or joint departments they mainly hold managerial positions;

- **Deputy advisers (115):** candidates for the competitive examinations must have a Bachelor level. They carry out a variety of duties depending upon their department. In administrative departments they hold all the positions which were previously held by advisers. The computer experts have the status of deputy advisers;

- **Management assistants (172):** members of this branch, which was set up on February 1, 2016 as a result of the merging of the positions of departmental secretaries and administrative secretaries, carry out the duties of an executive secretary or administrative management tasks. Many of them are recruited by internal competitive examination from among the porters;

- **Porters (409):** there are no conditions concerning diplomas or professional experience to be a candidate for these positions. They mainly carry out duties connected to reception, internal services or guided tours. The chauffeurs from the Transport Department are also part of this branch.

The specialized branches correspond to the following positions or jobs:

- **The writing-up of minutes:** 64 précis-writers, including two directors, recruited at master’s level;

- **Security:** 56 security officers. This competitive examination is limited to members of the military with at least fifteen years of service;

- **Computing:** 2 engineers, 2 deputies to the head of software programmes and 23 technicians, with the same status as management assistants. In addition, the deputy adviser branch includes 23 computer experts;

- **Buildings:** 9 engineers and architects, 2 draftsmen and 34 professional workers divided between two categories;

- **Catering:** 53 restaurant staff divided into three categories;

- **Various positions:** 3 medical assistants, 1 head of car-pool, 2 mechanics, 2 photographers and a superintendent.
The hierarchy within the branches is as follows:

- Level 1: advisers, précis-writers, chief engineers and chief architects and computer engineers;
- Level 2: deputy advisers and assimilated civil servants, the technical director of the restaurants and catering staff belonging to the 4th category;
- Level 3: management assistants and assimilated civil servants, catering staff belonging to the 3rd category and professional workers belonging to the 3rd category;
- Level 4: porters, security officers, catering staff belonging to the 2nd category and professional workers belonging to the 2nd category;

The two deputies to the head of software programmes are situated on a hierarchical level between level 1 and level 2.

Civil servants belonging to a specific branch have the possibility of being promoted to the next highest branch. Such promotion is carried out exclusively by competitive examination.

With the exception of specific provisions concerning staff appointments, the individual decisions concerning civil servants are the responsibility of:

- The President and the *Questeurs* as regards civil servants in categories 1 to 3, except for catering staff belonging to the 3rd and 4th categories and professional workers of the 3rd category;
- The *Questeurs* for all other civil servants.

Nonetheless:

- The appointment of departmental directors and decisions concerning the secretaries general are the responsibility of the *Bureau*;
- The determination of the salary index for all civil servants is the responsibility of the *Questeurs*.

### III. – CAREER AND ADVANCEMENT

#### 1. – RECRUITMENT BY COMPETITIVE EXAMINATIONS

Civil servants of the National Assembly are exclusively recruited by competitive examination according to rules set down by the *Bureau*.

The Internal Rules limit access to such examinations to French citizens and to citizens of the other member states of the European Union. The *Questeurs* are informed of the holding of all examinations and of any change in the rules of such examinations.
At the end of the tests, the Questeurs receive a report on the results of the examinations, take official notice of the list of successful candidates and extend the date, where necessary, for the validity of the waiting list, should there be one. The successful candidates must then carry out a year’s trial period as a probationer before being granted full tenure in their specific branch.

2. – Mobility within the departments of the National Assembly

Throughout their careers, the civil servants belonging to the four general branches will experience a variety of positions in both the legislative and the administrative departments.

Many measures have been taken in recent years in order to develop and encourage the mobility of “general” civil servants within the various departments of the National Assembly:

– Certain conditions for mobility have been gradually introduced into all the branches so that civil servants may have access to a promotion in their rank. Thus advisers may only be appointed senior adviser once they have held a position in two different departments for a minimum of two years each. Senior advisers may not be appointed directors unless they fulfil the same criteria;

– Since April 2007, the maximum length of stay in a particular position for a “general” civil servant is eight years notwithstanding the examination by the secretaries general of the specific facts concerning individual situations (nearing retirement, special needs, particular requirements of the department etc.);

– A “bridge” was introduced allowing mobility between advisers and précis-writers.

3. – External Mobility

The mobility of staff towards other administrations may take two forms:

– Advisers, précis-writers and deputy advisers may be placed “at the disposal” of a number of defined external bodies: foreign parliaments, European institutions, international organizations, the Economic, Social and Environmental Council, jurisdictional bodies or independent public or administrative authorities. In this case, the civil servant keeps his rights concerning promotion and retirement and continues to be paid by the National Assembly. A certain number of bodies regularly receive civil servants of the National Assembly who are placed at their disposal (Constitutional Council, Conseil d’État, Court of Accounts etc.).

– Secondment is the second type of mobility and is open to all categories. In this case, the civil servant keeps his rights concerning promotion and retirement but is paid by the receiving body. The list of bodies to which a civil servant may be seconded is much broader; in particular, it is possible to be seconded to a local authority which is not the case for the aforementioned type of mobility.
4. — **IN-HOUSE TRAINING**

The types of in-house training on offer are mainly centred on the positions to be filled and these in turn vary as the activities and interests of the National Assembly evolve (increase in international programmes, progress in computer techniques, strengthening of security, development of communication etc.). An annual training project which is based on the plans of the various heads of department of the National Assembly combined with individual requests, is implemented by the Human Resources Department.

There are six main areas of training: foreign languages (group classes for the most part), security (techniques linked to access security, first-aid), computing (office automation, professional training for computer specialists in professional software), technical training periods (linked to specific positions such as writing of minutes, classes on public tenders, electricity, cooking), outside internships (foreign parliaments, major national institutions) and communication and management techniques (reception, management etc.).

Training programmes are also offered to civil servants who wish to sit the internal competitive examinations.

**IV. — CAREER STRUCTURE**

As in the rest of the civil service, each of the branches of the civil service within the National Assembly is divided into ranks and each of these is sub-divided into classes. Each class and each rank have their own salary scale which is divided into grades. Each grade of this scale corresponds to an index which determines the salary.

Every civil servant has the right, in principle, every two years, to an advancement in grade based on length of service. Once he has reached the last grade on the index scale, his grade may no longer increase until he is appointed to the next highest rank or class.

Promotion from one class or rank to the next is obtained on the basis of merit. Candidates are included on a promotion table drawn up by the President and the Questeurs upon a proposal of the Promotion Committee made up equally of representatives of the administration and of elected delegates of the staff.

The career development for the four “general” branches is the following:

- **Advisers:** they may be liable for promotion to the rank of senior adviser after twelve years. After four more years senior advisers reach the level of ‘special category’ in their rank. At this stage they may be appointed director and then general director. Appointments to these last two ranks, which are made by the Bureau and which only take place when a post is left vacant, do not require the drawing-up of a promotion table. Special category senior advisers may, in addition, be given, upon a proposal by the secretaries general, the title of deputy director, which does not constitute a rank.
Members of the branch of précis-writers may have a similar career, although they may not go as far as the rank of director general.

– *Deputy advisers*: they enter the first class category upon being given tenure and can reach special category after eleven years service. At the end of a further five years, special category deputy advisers may be liable for promotion to the rank of principal. Principal deputy advisers may reach the level of exceptional class after three years at that rank.

– *Management assistants*: they enter the second class category upon being given tenure and can reach the first class category after eleven years of service. After five years in the first class category they can reach special category. They may be appointed head of section after having spent two years in the special category.

– *Porters*: they enter the first class category upon being given tenure and can reach special category after eleven years’ service. At the end of a further three years, special category porters may be liable for promotion to the rank of first porter. First porters may be appointed head of group after three years at that rank. They may then become deputy head porter and subsequently head porter. At the top of this branch is the rank of Head of Porters of which there is only one.
The Structure of the Departments of the National Assembly

**Key Points**
The departments of the National Assembly are divided into legislative departments, administrative departments and joint departments.

*See also files 69 to 79*

The departments of the National Assembly are divided into legislative departments, administrative departments and joint departments.

The Secretary General of the Assembly and the Presidency, aided by a Director General of Legislative Departments, is accountable before the President of the National Assembly for the correct operation of the twelve legislative departments which are:

- General Secretariat of the Presidency;
- Table Office;
- Legal Affairs;
- Cultural and Social Questions;
- Economy and Scientific Assessment;
- Public Finance;
- European Affairs;
- International and Defence Affairs;
- Communication and Multimedia Information;
- Library and Archives;
- Verbatim Report for the Sittings;
- Verbatim Report for the Standing Committees.
The Secretary General of the *Questure*, aided by a Director General of Administrative Departments, is responsible to the *Questeurs* for the correct running of the five administrative departments which are:

– General Administration and Security;
– Parliamentary Logistics;
– Budget, Financial Monitoring and Procurement;
– Financial and Social Management;
– Buildings and Heritage.

The joint departments are placed under the joint authority of the secretaries general. They cover the Information Systems Department and the Human Resources Department.
The Secretaries General

Key Points
One of the defining elements of the administrative structure of the National Assembly is its two-headed aspect: the running of its two distinct poles (legislative departments and administrative departments) is carried out by two high-ranking civil servants appointed by the *Bureau* of the Assembly.

The Secretary General of the Assembly and of the Presidency assists the President in plenary sitting and helps him in all matters concerning the institutional running of the Assembly, particularly in his relations with public powers. He is responsible to the President for the correct running of the legislative departments.

The Secretary General of the *Questure* assists the three *Questeurs*, whose responsibility it is, under the authority of the *Bureau*, to deal with all administrative and financial questions. He is responsible to them for the correct running of the administrative departments.

The two secretaries general are together responsible for the correct running of the joint departments to the President and to the *Questeurs*.

See also files 19, 20, 21, and 68

As the fourth figure of the State, the President of the National Assembly is directly or through the chairmanship of the *Bureau*, the principal person in charge of the correct running of the Assembly and, in this capacity, has authority over all of its Departments.

However, since the origin of Parliament, M.P.s considered that for their work to be carried out in the best conditions, it should not be burdened by material problems. Therefore, they appointed, amongst their own members, M.P.s specifically in charge of the administrative and financial management of their assembly. In 1803, these appointees received the name of *Questeurs*.

Thus, the activities of the staff responsible for assisting the representatives of the Nation were divided into two poles. The first, under the direct authority of the President, was centred on legislative activity and the second, under the main authority of the *Questeurs*, was organized around administrative tasks.

Two high-ranking civil servants head these two poles: the Secretary General of the Assembly and of the Presidency and the Secretary General of the *Questure*. 
I. – APPOINTMENT, SUBSTITUTION, RETIREMENT

The Secretary General of the Assembly and of the Presidency and the Secretary General of the Questure are appointed by the Bureau of the National Assembly. In theory, they are selected from amongst civil servants of all categories but in practice, they come from the ranks of civil servants holding the position of Director General or Director, so as to ensure that they have the ability, experience and authority necessary for the carrying-out of their positions.

The two secretaries general are assisted, for the former, by a Director General of Legislative Departments and, for the latter, by a Director General of Administrative Departments. The directors general replace them if need be and have, in such a situation, authority over all the legislative and administrative departments.

The secretaries general, who are appointed until the age limit of their rank, may, by right, retire between sixty-five and sixty-seven years old, according to their year of birth.

II. – MAIN REMIT

1. – THE SECRETARY GENERAL OF THE ASSEMBLY AND OF THE PRESIDENCY

The Secretary General of the Assembly and of the Presidency plays the role of adviser to the President in all matters concerning procedure. He/she assists the President in plenary sitting.

Outside of questions linked to the running of debates, he/she provides the President with assistance in all matters concerning the institutional operation of the Assembly and in particular with his relations with public powers. He/she is in charge of the preparation, the holding and the follow-up of the meetings of the Bureau. The Bureau is the supreme collegial body of the Assembly and has full power in the making of rules concerning the deliberations of the Assembly and in the organization and management of all its departments.

The Secretary General of the Assembly and of the Presidency is responsible to the President for the correct running of the twelve legislative departments: the General Secretariat of the Presidency, the Table Office, Legal Affairs, Culture and Social Questions, Economy and Scientific Assessment, Public Finance, European Affairs, International and Defence Affairs, Communication and Multimedia Information, the Library and Archives, the Verbatim Report Departments for the Sittings and for the Standing Committees.

2. – THE SECRETARY GENERAL OF THE QUESTURE

The Secretary General of the Questure assists the three Questeurs who, under the authority of the Bureau, of which they are members, have extensive powers in financial, accountancy and administrative matters within the framework of the autonomous management of the National Assembly.
To do so, he arranges the meetings of the *Questure*. He also, along with his departments, prepares the files which will be submitted to the *Questeurs*, draws up the minutes, records the decisions and ensures their implementation.

The Secretary General of the *Questure* is responsible to the *Questeurs* for the correct running of the five administrative departments: the General Administration and Security Department, the Parliamentary Logistics Department, the Budget, Financial Monitoring and Procurement Department, the Financial and Social Management Department and the Buildings and Heritage Department.

The two secretaries general together head two joint departments: the Human Resources Department and the Information Systems Department.
The Budget of the National Assembly

Key Points

The rules which apply to the budget of the National Assembly are based on the principle of the financial autonomy of each of the parliamentary assemblies which itself is founded on the more general principle of the separation of powers.

The National Assembly and the Senate prepare their annual draft budget separately, each under the authority of their Questeurs. After that, a joint committee meets, consisting of the Questeurs from the two assemblies (six in all) and chaired by a member of the Court of Accounts, himself assisted by two judges of the Court of Accounts with a consultative voice. This joint committee decides on the amount of funds necessary for the operation of each assembly and this amount appears in the finance bill. An explanatory report drawn up by the joint committee is annexed to the finance bill.

The two assemblies then manage their budgets as they so desire. The normal rules of public accountancy are not applicable although the rules set down by the Bureau of the National Assembly are very widely based on them.

The monitoring of the implementation of the budget is carried out, in each assembly, by an internal committee. In the National Assembly this committee is made up of fifteen M.P.s appointed in proportion to the representation of the political groups. It draws up an annual report which is made public.

See also file 21

The principle of the financial autonomy of the parliamentary assemblies, which is based on the more general principle of the separation of powers, was long recognized by law professors before being enshrined in the law and accepted by the Constitutional Council.

– Article 7, paragraph 1 of ordinance n° 58-1100 of November 17, 1958 concerning the functioning of the parliamentary assemblies provides that “each parliamentary assembly possesses financial autonomy”.

– More recently, the Constitutional Council based one of its decisions on “the rule, according to which the constitutional public powers decide themselves on the funds necessary for their operation” and stated that “this rule is, in fact, inherent in the principle of their financial autonomy which guarantees the separation of powers” (decision n° 2001-456 of December 27, 2001 on article 115 of the Finance Act for 2002).
This autonomy is represented both in the method used to draw up the budget and in the conditions of its implementation and monitoring.


1. – THE BASIC DRAFT

Article 7 of ordinance nô 58-1100 of November 17, 1958 sets down, in its two last paragraphs, the procedure to be followed:

“The funds necessary for the operation of the parliamentary assemblies are laid out in proposals made by the Questeurs of the two assemblies and decided upon by a joint committee made up of the Questeurs of the two assemblies. This joint committee is chaired by a president of a division of the Court of Accounts who is appointed by the First President of this Court. The latter also appoints two judges from his court to assist the committee. They have a consultative voice in the deliberations.

“The proposals which are thus decided upon are included in the budgetary bill and an annex is added consisting of an explanatory report drawn up by the joint committee mentioned in the previous paragraph”.

2. – THE PREPARATION OF THE BUDGET

a) Preparation at the National Assembly

Near the end of the first quarter of the year (y), the Questeurs of the National Assembly decide upon the main trends for the budget of the following year (y+1). In particular, they set the principal values which effect the progression of expenditure (the index point for the civil service, the expected inflation rate etc.).

Using these trends and the accounts of the previous year (y–1) as a basis, the various departments of the National Assembly draw up their expenditure forecasts.

The Budget Department analyses these draft budgets and summarizes them. In the case of a divergence of opinion, it attempts to reach an accommodation with the department in question. If there is still disagreement the matter is put to the Secretary General of the Questure for arbitration.

The draft budget which is thus drawn up, includes an analysis of the expenditure forecast and of the revenue, the amount of the allocation which will be requested in the finance bill as well as a debit to be transferred from the Assembly’s own available financial resources. This is then settled by the College of Questeurs and submitted to the Bureau of the Assembly, a body made up of
the President of the National Assembly, the six vice-presidents, the three Questeurs and the twelve secretaries of the National Assembly.

**b) The role of the Joint Committee**

In mid-June, the College of Questeurs sends a report on the draft budget to the chairman of the Chamber at the Court of Accounts who is also chairman of the joint committee. Each of the two judges who assist the chairman of the joint committee, delivers a report before the joint committee on the budget of one of the two assemblies. He may, in this capacity, request further information.

In accordance with the new presentation of the budget since Institutional Law n° 2001-692 of August 1, 2001, pertaining to finance laws, the funds allocated to the two parliamentary assemblies and to the parliamentary television channel are included in a specific mission entitled “public powers”, which also covers the Presidency of the Republic, the Constitutional Council and the Court of Justice of the Republic.

The allocation for the National Assembly is not divided into sections, whereas that for the Senate is subdivided into three actions (the Senate itself, the Luxembourg Gardens and the Luxembourg Museum). The allocation for the parliamentary television channels is divided into two actions: one for the channel called *La Chaîne Parlementaire-Assemblée nationale* and one for that called *Public-Sénat*. The explanatory report which is provided for by the 1958 ordinance to support requests for allocations is published in its entirety in the booklet listing the funds of the mission.

For each of these allocations, the joint committee sets down an overall amount which corresponds to the funds it considers necessary for the operation of each of the two assemblies and of the Parliamentary Channel.

This procedure is unusual for two reasons:

- It gathers the financial authorities of the two assemblies in the same body. It allows for the sharing of official information between the National Assembly and the Senate without calling into question the autonomy of either of the assemblies. In fact, in practice, the Questeurs only comment upon questions dealing with the budget of their own assembly, except when the problems are shared.

- It provides the judges of the Court of Accounts with a specific role in the process of the drawing-up of the budgetary allocations of the two assemblies. The presence of such judges, dating from 1958, guarantees the intervention of an external eye. However it has always been considered that they do not represent the Court of Account as an institution and are therefore not answerable, in the carrying out of their tasks, to the First President of the Court of Accounts. The proposals of the Questeurs are, in fact, adopted only with the modifications which they themselves have accepted.
3. – THE INCLUSION OF THE BUDGET ALLOCATION FOR THE ASSEMBLIES IN THE FINANCE ACT

a) The procedure for the passing of funds

The chairman of the joint committee sends, on its behalf, the explanatory report containing the proposals for the budget allocations for each of the assemblies to the Budget Minister.

The minister is not in capacity to voice his opinion and includes the corresponding funds in the finance bill without any modification. During the discussion of the bill in committee and in plenary sitting, the rules of common law are applied to the discussion of the funds for the Public Powers mission and thus within this mission to the allocations for the parliamentary assemblies: these funds are, in particular, the subject of a special report of the Finance Committee and may be amended.

The allocation granted by the State represents almost the entire resources of the Assembly.

Once the finance bill has been passed by Parliament, the Questeurs in each assembly decide upon the distribution of the funds between the various expenditure accounts.

If additional State funds are requested during the year, they are included in a “corrected” finance act following the same procedure as that applied to the initial funds.

b) Information Given to M.P.s and to the general public

The explanatory report drawn up by the joint committee during its annual meeting is reproduced in its entirety in the budgetary booklet for ‘Public Powers’ which is a public document. It details the amount and nature of the expenditure forecast, the actual use of the corresponding funds during the previous year, as well as the variation from one year to another. It indicates, in addition to the allocation requested from the state budget, the forecast amount of revenue generated by various sources (through the sales of parliamentary documents, the renting out of meeting rooms etc.). It also states, where necessary, the transfers that the Assembly has decided to make from its own assets to cover the difference between the amount of the expenditure forecast and the combined total of the allocation and various revenues.

II. – THE IMPLEMENTATION OF THE BUDGET: THE RULES SET DOWN BY EACH ASSEMBLY

On account of the budgetary and financial autonomy which applies to the two assemblies, the managing of their budget and the monitoring of the regularity of this management is not subject to prior scrutiny by the Budget Minister. Similarly no legal *a posteriori* oversight is carried out by the Court of Accounts.
1. – **THE RULES SET DOWN BY THE NATIONAL ASSEMBLY**

The provisions which apply to the budget of the National Assembly are set down in the Budgetary, Accountancy and Financial Rules which are included in a decree of the Bureau of the National Assembly.

In fact, this text repeats the main principles of budgetary management and public accountancy: its annual nature, no off-setting of expenditure and revenue, no assignment of the revenue which ensures the implementation of overall expenditure, budgetary specification based on the nature of the expenditure, distinction between investment budget and operational budget, restricted nature of funds other than those concerning salaries and the rule of payment upon services rendered.

During the year, credit transfers ensure the necessary financial flexibility; accounts which are in deficit are topped up from accounts with a surplus.

2. – **THE DIFFERENT PHASES IN A FINANCIAL OUTLAY AT THE NATIONAL ASSEMBLY**

These phases are, broadly speaking, the same as for other state administrations but they nonetheless have certain specificities which are linked to the principle of financial autonomy:

– Act of financial engagement (an act by which a requirement is created or recognized on the part of the National Assembly which will result in a financial outlay for it). This act is prepared by the director of the department incurring the expenditure, under the authority of the Secretary General of the Questure. It falls within the remit of the Questeurs;

– Whatever the nature of the expenditure concerned, its settlement and payment can only occur once an order for payment has been drawn up by the department concerned in the name of one or several creditors. Documents proving the existence of the service provided must be furnished with the order of payment;

– Act of settlement (the verification of the liability contracted by the act of financial engagement and the establishing of its amount). This is also drawn up by the department concerned and is carried out by the Secretary General of the Questure;

– Order of payment (the administrative act which gives the order to pay an outlay in accordance with the results of the act of settlement). This falls within the remit of the lead Questeur;

– The payment of the outlay is made by the treasurer, who is a civil servant of the National Assembly responsible before the Questeurs for the funds which are entrusted to him.
3. – Accounting Documents

Every year, the College of Questeurs draws up the results and the aggregated account of the National Assembly which includes the accounts of the National Assembly per se, those of the pension and retirement systems as well as those of the two social security schemes for M.P.s and staff.

This is accompanied by an information annex which in particular includes an assessment of the social spending of the National Assembly. An outside actuarial office is given the task of carrying out this assessment.

All these documents are drawn up using the principles of the general accountancy plan except where adaptations are necessary on account of the particularities of the National Assembly. Such exceptions are decided upon by a decree of the Questeurs.

III. – Monitoring of Budgetary Implementation: Internal and External Monitoring

The means of monitoring the implementation of the budget are freely set by each of the parliamentary assemblies.

In each of the two assemblies, the a posteriori monitoring of the implementation of the budget is carried out by an internal committee.

In addition to this, the true and fair nature of the accounts is also checked by a third body in the framework of the annual certification procedure for the general accounts of the state.

1. – Monitoring by the Special Committee in Charge of Auditing and Balancing the Accounts of the National Assembly

According to article 16 of the Rules of Procedure of the National Assembly, the Special Committee in Charge of Auditing and Balancing the Accounts of the National Assembly, must be made up of fifteen M.P.s appointed proportionally according to the representation of each political group. The members of the Bureau of the National Assembly and thus, the Questeurs, may not be members. The position of chairman of this committee may only be held by a member of the opposition.

Every year, the committee examines the accounts of the previous full financial year.

To do this, the Budget Department draws up a draft report. This report is adopted by the Questeurs and then passed on by them to the members of the special committee. The latter may freely consult the financial account1, and the documents having served in its drawing-up. This report is made public.

1. The financial account is drawn up by the Director of the Budget Department and is signed by the Secretary General of the Questure as well as by the lead Questeur. It includes an
Once it has consulted the report, the special committee may send a questionnaire to the Questeurs. The answers drawn up by the various departments involved in the expenditure are returned by the Questeurs to each of the members of the special committee. The committee may then carry out a hearing of the certifying officer(s) of the accounts.

Once the special committee has questioned the Questeurs, it settles the accounts and the annexed accounting for the previous year of the National Assembly by a decree signed by its chair and the members of its bureau. By the same decree, it entrusts the Questeurs with the task of appropriating the results for the financial year, gives them final discharge of their financial management or renders account to the Assembly. It also gives final discharge to the treasurer of the Assembly.

The aforementioned article 16 of the Rules of Procedure of the National Assembly, provides that at the end of each budget period, the special committee draws up a public report.

The drawing-up of this report is given over to the chair of the special committee who authorizes its publication. The reports set down the reasons for the decision to approve the accounts.

2. – THE CERTIFICATION OF THE ACCOUNTS

The Institutional Act Concerning Finance Acts of August 1, 2001, introduced a certification procedure for the general accounts of the State. The Court of Accounts was tasked with this and it led to the drawing-up by the latter of a report which is annexed to the draft settlement bill for the previous year’s budget.

The accounts of the National Assembly and of the Senate are part of the general budget of the State and are thus included in the range of the certification procedure.

It is for this reason that the Assemblies decided to hand over the audit of their own accounts for certification, to an outside body. After having been carried out by the High Council of the Order of Chartered Accountants this task has been given to the Court of Accounts since the 2013 budgetary year.

The certification deals with the aggregated accounts described above. The certification report is sent by the First President of the Court of Accounts to the President of the National Assembly so that it may be transmitted to the chair of the special committee. This report is published on the internet site of the National Assembly.

implementation report on the budget, the final accounts, the balance sheet and its annexes as well as the general balance of the accounts.
The Questure: Functioning and Organization

Key Points
Following the principle of management autonomy which the parliamentary assemblies possess and under the supreme authority of the Bureau, of which they are members, the Questeurs have broad powers in financial, accounting and administrative matters. In order to carry out their duties and to take the decisions which fall within their remit, the Questeurs can rely on, in particular, the administrative departments headed by the Secretary General of the Questure, who is in charge of all non-legislative aspects of the workings of the National Assembly. Together, the Questeurs, the Secretary General of the Questure and the administrative departments, make up what is commonly referred to as the Questure.

See also files 21, 69, 70, 77, 78 and 79

I. – A DECISION-MAKING BODY: THE QUESTEURS

1. – AN INSTITUTION WHICH CELEBRATED ITS BICENTENARY IN 2003

As Eugène Pierre reminds us in his “Traité de droit politique, électoral et parlementaire”, (“Treatise on Political, Electoral and Parliamentary Law”), “representatives of a country have always chosen, from amongst their number, members in charge of overseeing that no material worry might occur which would hinder or block the path of legislative work”.

Thus, as of 1789, the National Assembly set out the tasks of those who would be called Questeurs by the Senatus Consultum of 28 frimaire, year XII (December 20, 1803), in reference to the administrative and financial role of the Questeurs of the Roman Republic.

2. – THE QUESTEURS ARE APPOINTED BY THEIR PEERS

The three Questeurs are elected by M.P.s at the beginning of each term of Parliament and subsequently every year at the start of the ordinary session, except that which precedes the renewal of the Assembly.

There is in fact great stability in the holding of the office of Questeurs.
The appointment of the Questeurs follows a desire for pluralism which takes into account the size of the political groups in the National Assembly. Since 1973, two of the Questeurs are members of the ruling parliamentary majority and the third is a member of the opposition.

3. – THE QUESTEURS HAVE A FOURFOLD ROLE

The tasks of the Questeurs are based on the principle of the financial autonomy of the parliamentary assemblies which was reiterated by the ordinance of November 17, 1958. They are detailed by the Rules of Procedure of the National Assembly and the General Instruction of the Bureau.

a) They possess financial and budgetary powers

They draw up and carry out the budget of the Assembly. They control all expenditure and all payments. They take the decisions concerning procurement contracts made by the National Assembly.

b) They have an administrative management power over the staff and the departments of the National Assembly

The Bureau of the National Assembly, the President of the National Assembly, and the Questeurs are jointly in charge of the management of the staff. The Human Resources Department prepares and implements their decisions. Article 15, paragraph 1, of the Rules of Procedure provides that “the Questeurs, under the high management of the Bureau, are in charge of financial and administrative departments”.

c) They are in charge of the material conditions of the exercise of the office of M.P.

The Questeurs do everything to facilitate the exercise of the office of M.P. (premises, transport, telephones, computer and office equipment etc.).

d) They oversee procedures in cases of conflict

4. – THE QUESTEURS TAKE THEIR DECISIONS COLLEGIALLY

The decisions of the Questeurs are taken collegially during Questure meetings which are usually held every week during the parliamentary session and around twice a month outside that period. They can lead to a vote but, in practice, this rarely happens.

The collegiality is slightly offset by the existence of a lead Questeur. This position is held, in turns, by each of the three Questeurs for a month.

The Questeurs’ meetings, which are in addition attended by the two secretaries general, the Director General of Administrative Departments and the Director of General Administration and Security, are also an occasion for numerous exchanges on the administrative operation of the National Assembly.
The Questeurs are only responsible for their management in front of their peers and this through an ad-hoc committee in charge of checking and auditing the accounts.

II. – THE ORGANIZATION AND POWERS OF ADMINISTRATIVE DEPARTMENTS AND OF JOINT DEPARTMENTS

In order to carry out their duties and to take the decisions which fall within their remit, the Questeurs can rely on the administrative departments headed by the Secretary General of the Questure and the joint departments placed under the authority of the two secretaries general.

1. – ADMINISTRATIVE DEPARTMENTS

a) The Secretariat General of the Questure

The Secretary General of the Questure prepares the Questeurs’ meetings, oversees, along with the departments, the drawing-up of the files submitted to the Questeurs, drafts the minutes, records the decisions and ensures their implementation as well as the publication of the decisions taken.

The Director General of Administrative Departments is tasked with assisting the Secretary General of the Questure and deputizes for him, when necessary. He has, in this capacity, authority over all the administrative departments.

Measures concerning fire safety in the Palais Bourbon and in the other premises belonging to the National Assembly, are drawn up and implemented under his authority in cooperation with the departments involved.

b) The General Administration and Security Department

This department includes two units: the General Administration and Reception, Safety and Security.

The director of the department is responsible for the implementation and the coordination of all safety and security measures applicable to the Palais Bourbon and all other buildings which are the property of the National Assembly.

The General Administration Unit carries out all studies concerning general administration matters; plans all administrative aspects of parliamentary meetings; manages the allocation and maintenance of meeting rooms; services offices allocated to political groups, vice-presidents and M.P.s; provides medical consultations to M.P.s; all the insurance files of the National Assembly; deals with sponsorship requests submitted by external bodies.

The Reception, Safety and Security Unit designs and, along with the departments concerned, implements and coordinates all safety and security measures regarding individuals and property; it is informed, in good time, of all events to be held on these premises or in the surrounding areas if they are likely
to have an impact on the security situation; it is in charge, subject to the remit of the Communication and Multimedia information Department, of the reception of individuals wishing to enter the National Assembly premises and oversees the proper running of the meetings which take place there; provides security passes as well as vehicle access and parking permits; liaises with the military commanding officer of the Palais Bourbon and external security services in charge of security and public order. The parliamentary security officers are under the authority of the head of this unit.

Under the authority of the head of the unit, the Leading Head Porter takes part in the drawing-up of the instructions concerning the reception of the general public and security checks and oversees their implementation. He participates in the organization of special events. To fulfil this task he has authority over all the head porters and deputy head porters.

c) The Parliamentary Logistics Department

This department consists of three units: publishing and communication supplies, restaurants, accommodation and supplies, transport.

The Publishing and Communication Supplies Unit is in charge:

– Of publishing all parliamentary, institutional and administrative documents;
– Of managing publication policy and photocopying equipment;
– Of the management of telephones and of the switchboard of the National Assembly;
– Of the management of postal mail;
– Of the management of all material means of telecommunications, postal mail, computer and office equipment, made available to M.P.s in the carrying-out of their office as well as those of the political groups;

The Restaurants, Accommodation and Supplies Unit is in charge:

– Of the management of the restaurants;
– Of the management of the accommodation, notably the Residence of the Jacques Chaban-Delmas building;
– Subject to the responsibilities granted to other departments, of the purchasing and the delivery of materials, supplies and services necessary for the functioning of the National Assembly and for the carrying-out by M.P.s of their office.

The Transport Unit deals with all matters regarding M.P.s’ travel and in particular their travel cards; making reservations for M.P.s for train and plane tickets necessary in the carrying out of their office. It is also in charge of motor transport for M.P.s and civil servants. To this end, it manages an automobile service whose head is responsible for overseeing the drivers and vehicle maintenance.
d) The Budget, Financial Monitoring and Procurement Department

This department is made up of three units: treasury, procurement rules and monitoring, budget and management monitoring.

The director of the department, the Treasurer of the National Assembly, answers to the *Questeurs* regarding the funds placed under his authority. He is assisted in his position by the Head of the Treasury Unit who has the role of deputy treasurer. They are both bound by strict confidentiality requirements.

- **The Treasury Unit** manages general and additional accounting; checks the validity of payment orders; implements expenditure payments and income titles; manages tenders; regularly oversees salary payments; covers all questions regarding income and loans.

- **The Procurement Rules and Monitoring Unit** is tasked with studying the regulatory provisions concerning the public procurements of the National Assembly; with studying and preparing, in collaboration with the departments concerned, *Questeurs’* decisions regarding procurement and the correctness of the procedures; with monitoring the implementation of tenders, as well as managing any litigation that may arise. To this end, it is kept informed by the other departments of the National Assembly concerning any pre–litigation situation. It is also tasked with the management of other cases of litigation, upon the request of the concerned departments; with answering questions of a legal nature which are asked by other departments.

- **The Budget and Management Monitoring Unit** is in charge of preparing and implementing, along with the departments in charge of managing funds, the initial budget plan of the National Assembly and applying any modification that may be subsequently adopted; monitoring budgetary expenses and engagements; keeping the budgetary accounts; monitoring management.

e) The Financial and Social Management Department

This department is made up of 2 units: parliamentary financial management and social benefits.

- **The Parliamentary Financial Management Unit** is in charge of disbursing M.P.s’ allowances. It also manages funds allocated to parliamentary secretariats and staff that are privately recruited but paid out of public funds, as well as funds allocated to political groups.

- **The Social Benefits Unit** is in charge of social benefits, pensions and retirement.
f) **The Buildings and Heritage Department**

This department manages the moveable and immovable assets of the National Assembly and assists the authorities of the Assembly in the field of project management. To this end, it is in charge of:

- Proposing the planning for new building works, and works of renovation, maintenance, conservation, restoration and decoration; of ensuring the feasibility and the timing of each planned operation, of proposing its programme and assessing the provisional financial burden as well as of proposing the process with which it will be carried out;

- Managing all the contracts dealing with the studies for and the carrying out of such operations and, if need be, of studying and preparing the *Questeurs*’ decisions pertaining to the public procurement markets dealing with moveable and immovable heritage as well as ensuring their proper implementation; of preparing and implementing the department’s budget as well as the accountancy operations and of applying a management monitoring process;

- Ensuring the oversight of external contracting authorities and of the delivery of the work;

- Overseeing the architectural aspect of the work; keeping the databases on the patrimony and the property files and managing the management software for the operations concerning moveable and immovable assets; implementing the purchasing and maintenance policies concerning works of art;

- Providing services to the occupiers of the buildings and ensuring a number of routine maintenance works; of managing, along with the other departments concerned, the audio-visual equipment.

2. – **Joint Departments**

a) **The Information Systems Department**

It has two units; *legislative applications and applications for the management of audio–visual and computer information; management applications*.

The tasks of this department are:

- The drawing–up of the technical studies necessary for the development programme concerning the computer and technological means necessary for the automated processing and transmission of information and documentation; the design and the creation, in collaboration with the concerned departments, of management software and its maintenance; the conception and the creation, along with the Communication and Multimedia Information Department of legislative applications and documentaries and their maintenance;
– The drawing-up of an investment plan and proposals for the choice of material; the use and the maintenance of central and network information systems; the maintenance of the equipment of each department;

– The implementation of the processing of computerized applications and the drawing-up, once the computerized accountancy documents have been established, of payment documents;

– The technical coordination of the action of services in the field of new technologies; the study of organizational problems linked to their development; the carrying-out of technical studies in the field of technological assessment and decision-making; the necessary assistance to the departments and to the political groups in the defining and implementation of their own plans regarding computing and office automation; the technical support to access documentary databases.

b) The Human Resources Department

This department, which is tasked with managing the staff of the National Assembly, has three units: administration and labour relations; prospective management and training and recruitment and work conditions.

The director of the department is responsible for relations with the professional groups which are set up amongst civil servants. Each of the heads of unit is in charge of following the human resource management of one or several categories of civil servants.

– The Administration and Labour Relations Unit is tasked with studying the statutory provisions pertaining to salaries and to working conditions; the payment of wages and salaries; the drawing-up of individual decisions; making individual and regulatory instruments known; internal communication; the management of sick leave and the organization of occupational medicine; the holding of professional elections; the secretariat of the dialogue commission.

– The Prospective Management and Training Unit is in charge of the prospective management of staff, positions and skills; the compiling of individual professional projects; career management; defining and implementing an internal and external mobility policy; establishing and implementing a professional training plan; the preparation for internal competitive examinations.

– The Recruitment and Work Conditions Unit deals with the study of provisions pertaining to recruitment and work conditions; the organization of competitive examinations and the recruitment of contract staff; the management and reception of trainees in the departments; the secretariat of the Health and Safety Committee; the organization of the preventive medicine.
The Table Office

Key Points

The activities of the Table Office are centred on the plenary sitting: its preparation, its running and the follow-up. To this end the Table Office is, in a general way, in charge of the procedure and the implementation of the Rules of Procedure. However, it is also involved in the running of standing committees both as regards their make-up and their proceedings.

In advance of the plenary sitting, the Table Office contributes to its preparation by manning the secretariat of the Conference of Presidents, which is the body of the Assembly which draws up its agenda and organizes the debates. The Table Office receives, lays out and classifies amendments. It also prepares the President's file which is used as the guideline for discussions in plenary sitting. It organizes the sittings given over to questions.

During the plenary sitting, the Table Office monitors the time limits for speeches, manages the sittings given over to questions and records the decisions of the Assembly. It assists the President during the plenary sittings by providing him with information useful to the resolving of any problems concerning the Rules of Procedure which may arise.

After the plenary sitting, it draws up the texts decided upon by the debates in the Assembly and notes, in the form of ‘precedents’, all that could contribute to the creation, within the activity of the Assembly, of statutory or constitutional jurisprudence. It also keeps statistics linked to parliamentary activity.

See also files 26, 36, 37 and 44

The Table Office includes three units:

- The Plenary Sitting Unit which includes, under the authority of two unit heads, six advisers, three deputy advisers and six secretaries;
- The Law Unit which is made up of one head of unit, two advisers, three deputy advisers and four secretaries (joint secretariat with the Questions and Vote Unit);
- The Questions and Vote Unit which is led by a unit head and is also made up of four deputy advisers and four secretaries (joint secretariat with the Law Unit);
In addition, the Table Office includes eight porters and twenty-three ushers who carry out their duties in the Chamber or in the adjoining rooms.

I. – THE PLENARY SITTING UNIT

The activity of the Plenary Sitting Unit may be divided into six categories: the drawing-up of the agenda and the preparation of debates, legislative procedure, monitoring and assessment procedures, various procedures linked to the make-up of the Assembly and to appointments within different bodies, statutory and constitutional jurisprudence and the preparation of draft replies to certain communications addressed to the President as well as the drawing-up of memoranda and various documents.

1. – THE DRAWING-UP OF THE AGENDA AND THE PREPARATION OF DEBATES

a) The Secretariat of the Conference of Presidents

The Conference of Presidents meets each week during the session. It is chaired by the President of the National Assembly and is made up of the six vice-presidents, the chairs of political groups, the eight chairs of committees, the Chair of the European Affairs Committee, the General Rapporteur of the Finance Committee and since the XVth term of Parliament that of the Social Affairs Committee, as well as the Ministry in Charge of Relations with the Parliament. It draws up the agenda for the Assembly and organizes the debates.

The Plenary Sitting Unit services the secretariat of the Conference of Presidents. It calls the meetings of the Conference of Presidents, prepares them and draws up the minutes of such meetings.

Before each meeting, it makes contact with the Minister in Charge of Relations with Parliament to check on the agenda which will be put before the Conference of Presidents by the minister for the weeks reserved for Government business.

In collaboration with the political groups and the standing committees, it draws up a draft agenda for the weeks reserved for parliamentary initiative (the so-called “Assembly” week and that reserved for the assessment of public policies and the monitoring of Government action).

It makes a suggestion for the organization of the general discussion of bills or, if need be, an overall time schedule in the case of the implementation of the set time limit debate procedure. It also puts forward a proposal for the organization of debates included on the agenda.

It also prepares files for the President on all matters which are likely to be discussed.
b) **The organization of the discussions in plenary sitting**

The Plenary Sitting Unit oversees the correct organization of speeches during both the discussion of bills and during the debates which take place in the plenary sitting.

It calculates the allotment of speaking time between the political groups, which depends upon their size, taking into account the overall time for discussion decided upon by the Conference of Presidents. It informs the political groups of its decision.

It records M.P.s requests to speak and draws up, under the authority of the President, the order of speakers.

2. **LEGISLATIVE PROCEDURE**

The unit carries out its duties at every stage of procedure.

a) **The tabling of bills**

In order to be tabled, Government and Members’ bills and parliamentary reports are received by the Plenary Sitting Unit. It provides every one with a registration number which means that each document can be identified during the entire procedure. It draws up, at the end of the final sitting of the day, a list of all the documents which have been tabled that particular day.

It also means the secretariat of the Bureau’s delegation in charge of examining the financial admissibility of Members’ bills in accordance with article 40 of the Constitution which prohibits parliamentary initiatives which would have the effect of creating or increasing an item of public expenditure or which would diminish public resources.

Except in cases when an ad-hoc committee is set up, the Plenary Sitting Unit, under the authority of the President to whom disputed cases are referred, decides to which standing committee the tabled bills must be sent.

b) **The preparation of the plenary sitting**

The Plenary Sitting Unit records, lays out, arranges the printing of and distributes the procedural motions – preliminary rejection motion or motion of referral to committee – which may be tabled on each bill.

It draws up the list of speakers who will participate in the general discussion of bills according to the lists transmitted by the groups.

After having requested the advice of the Chairman of the Finance Committee on the financial admissibility of amendments initiated by Parliament, the Plenary Sitting Unit records and lays out the amendments so that the discussion in plenary sitting may be correctly organized. The recorded amendments are then placed on-line on the site of the National Assembly.
The Plenary Sitting Unit then prepares the “President’s File”, including a number of formal expressions (formulae) which structure the running of the debate and which are read out by the chairman of the sitting. The amendments are listed, article by article, according to the statutory instructions which decide the order in which they will be called and voted upon.

In addition, the Plenary Sitting Unit puts together the ‘Yellow Booklet’ which retraces the running of the examination of bills and debates included on the agenda of the plenary sitting and which is placed on-line on the site.

c) The running of the plenary sitting

During the plenary sitting, the Plenary Sitting Unit is seated behind the President on the “Plateau”. Its first task is to constantly keep the President’s file up-to-date. The list or the order of speakers may be modified. New amendments or sub-amendments may be tabled and they must be laid out, recorded and included in the pre-organized file.

In addition, the Plenary Sitting Unit puts together and arranges the reproduction of bundles of amendments listed by the order in which they are called. It distributes them to M.P.s during the discussion.

The Plenary Sitting Unit also has the task, at all times, of providing the means to resolve problems concerning the Rules of Procedure which may be raised during the course of a plenary sitting. It does this in collaboration with the “head of the plateau” – the Secretary General of the Assembly and the Presidency, the Director General of Legislative Departments or the Director of the Table Office – who is in charge of directly assisting the President.

3. Monitoring and assessment procedures

The Plenary Sitting Unit manages certain of the procedures of parliamentary monitoring in plenary sitting: confidence votes in Government, debates preceded or not by a Government statement and the discussion of non-legislative initiatives (draft resolutions).

a) Confidence votes in Government

When a censure motion is tabled, the Plenary Sitting Unit oversees the application of the time limits set by the Constitution and checks that the list of signatories corresponds to the number required by article 49 of the Constitution.

b) Debates

In carrying out its monitoring activities, the National Assembly holds numerous debates. Certain of these follow a Government statement and may lead to a vote which is not considered a censure motion. Others, generally organized during the weeks given over to parliamentary initiative, may take place upon the request of a group, of a standing committee or an assessment and monitoring commission and may deal with a very precise topic or with the conclusions of a
fact-finding mission or the application of a law. They may, at times, take the form of questions to a minister.

The Plenary Sitting Unit organizes the debate according to the rules laid down by the Conference of Presidents whether the debates are held in the Chamber or in exceptional circumstances in the Salle Lamartine.

c) Draft resolutions

Three types of resolution may be tabled to the Plenary Sitting Unit:

– Draft resolutions aiming at the setting-up of a committee of inquiry, for which the Plenary Sitting Unit may propose the organization to the Conference of Presidents when they are included on the agenda. Nonetheless, when such a proposition is initiated by an opposition or minority group with the chair of the group using his right to one such request per ordinary session, as laid down by article 141 of the Rules of Procedure, the Conference of Presidents notes the setting-up of a committee of inquiry if all the required conditions are fulfilled. In all cases, the Plenary Sitting Unit manages the exchange of communications between the President of the National Assembly and the Minister of Justice which are aimed at ensuring the admissibility of the draft resolution. The Plenary Sitting Unit also carries out the coordination with the relevant standing committees.

– Draft European resolutions: the Plenary Sitting Unit informs the standing committees and, if need be, the Government, of the various statutory time limits concerning their examination, the mechanisms for their adoption and their eventual inclusion on the agenda. The Plenary Sitting Unit proposes, if necessary, the organization of debates in plenary sitting which can follow on from the draft European resolutions.

– Draft resolutions tabled in accordance with article 34-1 of the Constitution. These are transmitted by the Plenary Sitting Unit, as soon as they are recorded, to the Office of the Prime Minister but the Government has the possibility of declaring them inadmissible. The Plenary Sitting Unit ensures that the time limits and the conditions for admissibility provided for by the Rules of Procedure are adhered to.

4. – PROCEDURES CONCERNING THE APPOINTMENT OR THE RENEWAL OF M.P.s WITHIN THE VARIOUS PARLIAMENTARY AND EXTRA-PARLIAMENTARY BODIES

The Assembly appoints the members of the Bureau and renews them at the opening of each session with the exception of the session of the renewal of the Assembly. The President of the Assembly however is elected for the entire term of Parliament. In addition, at the beginning of the Parliament or during the session, certain M.P.s are called to sit on various bodies. These appointments follow a variety of procedures but all nonetheless are organized by the Plenary Sitting Unit.
At the beginning of the session, the Plenary Sitting Unit prepares the timetable for the operations of the opening of the session according to the constraints of the agenda, as well as the operations for the appointment and setting-up, in plenary sitting, of the Bureau.

As regards the appointment of M.P.s called to sit within various bodies, the Plenary Sitting Unit is mainly involved in two ways:

– The Assembly, through its President or through its standing committees, may be called to appoint an M.P. to an “extra-parliamentary” body, i.e. a non-parliamentary body to which one or several M.P.s are appointed in their institutional capacity. It may also be called upon to appoint an eminent person to sit on an ad hoc body. The Plenary Sitting Unit prepares the appointment file and when an appointment is made, it ensures that it is published and transmits it to the competent authorities and to those directly concerned;

– In addition, in accordance with ordinary law or with article 13, paragraph 5 of the Constitution, the relevant standing committees of the Assembly are sometimes requested to give their opinion on the appointments which the Government or the President of the Republic envisage. In this case, the Plenary Sitting Unit ensures the coordination of the procedure with the secretariats of the standing committees and informs the Prime Minister of the opinion given following the hearing organized by the standing committee.

In addition, the Plenary Sitting Unit receives the political statements of the political groups, if need be their declaration of membership of the opposition as well as the requests for membership and resignations of their members. It makes all such information public.

5. – THE DRAWING-UP OF “PRECEDENTS”

The Plenary Sitting Unit notes and comments upon all those matters which, during the plenary sitting, concern the application of the Constitution, institutional acts, the Rules of Procedure or the General Instructions of the Bureau.

This jurisprudence of parliamentary practice is kept article by article. It, of course, means that the Table Office has substantial catalogued archives which serve as a kind of “memory” of the Office but also that, through the repetition of the same scenario, a tradition is created whereby the President may use such documents to take or to justify decisions.

6. – REPLIES TO COMMUNICATIONS AND THE DRAWING-UP OF VARIOUS MEMORANDA

The Plenary Sitting Unit is requested in the preparation of draft replies to various letters and electronic mails which are addressed to the President of the National Assembly and which concern the preparation and the running of the plenary sitting, as well as, more generally, the organization of legislative work.
In addition, it drafts memoranda on the different areas of its remit and draws up information documents pertaining to the running of the plenary sitting and the legislative procedure.

II. – THE LAW UNIT

The tasks of the Law Unit may be divided into two categories: those which are linked to the plenary sitting and which follow its rhythm and those which are not directly dependent on the plenary sittings of the Assembly.

1. – THE PASSING OF LEGISLATIVE BILLS

The main aim of the Law Unit is, as its name suggests, to follow the passing of legislative bills and other texts adopted by the National Assembly (European resolutions, resolutions passed in application of article 34-1 of the Constitution etc). This task is carried out throughout the process of the passing of a bill.

a) Before their examination in plenary sitting and as of their inclusion on the agenda

The Law Unit is in charge of the prior layout of the Government and Members’ bills tabled and thus ensures the respect of the norms for presentation which are specific to the National Assembly. In particular it carries out the ‘numbering’ of the bills which consists of providing numbers to the paragraphs of each article of the text so that amendments can be more easily inserted. This ‘numbering’ is carried out at every stage of the procedure where a bill can be amended.

Legislative texts – Government bills, Member’s bills and amendments – are subjected to a prior analysis by the Law Unit both at the tabling stage and after their adoption by a committee in preparation for their discussion in plenary sitting. As regards content, the provisions and the references to prior bills are checked so as to ensure the coherence of the bill to be passed. The Law Unit is also in charge of examining whether the bill to be discussed, falls within the ambit of statute, so as to enable the President to rule on a potential inadmissibility based on such a reason. This possibility is very rarely used. As regards form, particular attention is paid to the correct typography, punctuation, spelling, grammar and numbering of the bill.

When such verifications (which require a knowledge of the art of drafting legislative texts) involve modifications other than purely formal ones, such changes are suggested to the M.P.s, the Government and to the committees so that they may rectify their amendments or table new ones.
b) **During plenary sitting**

The Law Unit follows the discussion of the bills in plenary sitting. Its first task is to monitor the speaking time and to provide the President and the speakers with the necessary indications to remain within the time limits. It also records the decisions of the Assembly on articles and amendments.

c) **At the end of the plenary sitting**

On the basis of the decisions taken by the Assembly which the Law Unit has recorded, it draws up the bill which is the result of such deliberations in a digital form and checks it.

The bill which has been passed is then transmitted, in provisional form, to the General Secretariat of the Government (SGG), to the minister concerned and to the Senate. After a final verification, the Law Unit has the bill printed and distributed in the format of a “*petite loi*” (bill which has yet to be passed in the Senate).

Two copies on vellum paper of this text, which is deemed authentic, are signed by the President of the National Assembly and are given the seal of the National Assembly. One is transmitted to the General Secretariat of the Government and the other is placed in the archives of the National Assembly.

When the definitive text is passed by the National Assembly after the “shuttle” with the Senate, the Law Unit drafts this definitive text and specifically reintroduces the provisions which were previously in conformity or unmodified and it coordinates the numbering of the articles.

2. – **PERMANENT TASKS**

a) **Publications**

The Law Unit produces certain publications for the National Assembly. It is in charge of publishing the Rules of Procedure and its successive modifications as well as the General Instructions of the *Bureau*. It also publishes the Rules of Procedure of the Congress. It is also responsible, along with the Law and Legal Drafting Unit of the Senate, for the drawing-up of the *Recueil des pouvoirs publics*, which is a collection of texts concerning the constitutional bodies of the Republic (the executive power, Parliament, the Constitutional Council, the judicial authority, the Economic, Social and Environmental Council).

b) **The interpretation of constitutional and statutory texts**

The Law Unit contributes, from a parliamentary point of view, to the interpretation of constitutional, institutional and statutory texts. In parallel with the Plenary Sitting Unit, it participates in the drawing-up of “precedents” in the areas which fall especially within its remit. This is particularly the case for the application of articles 34 and 37 of the Constitution which deal with matters for statute and matters for regulation.
III. – THE QUESTIONS AND VOTES UNIT

The Questions and Votes Unit has four main tasks: managing the procedures concerning written and oral questions addressed by M.P.s to the Government; organizing the votes which take place at the National Assembly and at the Congress; managing the procedures pertaining to the make-up and the proceedings of standing committees; providing information and statistics on the plenary sitting and on parliamentary activity.

1. – WRITTEN AND ORAL QUESTIONS ADDRESSED TO GOVERNMENT

The Questions and Votes Unit centralizes the written questions which M.P.s may ask ministers. It records them, checks their admissibility and their format, summarizes their subject and transmits them every week for publication to the Journal officiel, placed on-line on the internet site of the National Assembly. At the same time, the unit receives from the Government the answers to such questions and ensures their publication in the Journal officiel. It also transmits to the Government the list of questions which have not been answered and which the M.P.s or groups wish to renew or highlight.

The unit is also in charge of the organization of the sittings of oral questions without debate which are held on Tuesday or Thursday mornings during the monitoring weeks, according to the decision of the Conference of Presidents. The unit receives the questions which the M.P.s wish to ask during the sitting, transmits them to the Government, prepares the sitting on the basis of the order of appearance of the ministers provided by the Government and oversees the correct running of the sitting.

In addition, the unit also sets the order of appearance of the groups for the Government question time sittings which take place on Tuesday and Wednesday afternoons at 3pm.

2. – VOTES

The Questions and Votes Unit is in charge of the running of public ballots which may be organized at the National Assembly.

Such votes are by an electronic system and take place in the Chamber or in the neighbouring rooms and their results are published. They may be held during the consideration of a bill, upon the request of the chairman of the sitting, of the Government, of the lead committee or of the chairman of a political group or his representative. They may also be decided upon by the Conference of Presidents on an entire text: they are then referred to as “formal votes” and are usually held after Government question time. In addition, public ballots may be held in accordance with certain constitutional procedures such as when the Constitution requires a specific majority (censure motion, passing on final reading of a Government or Member’s institutional bill) or when the Government makes a bill an issue of confidence or requests a vote on one of its statements.
For these ballots, the unit centralizes the proxy votes which M.P.s may receive from one of their colleagues and then, under the authority of the chairman of the sitting, moves to the vote requested. Afterwards it publishes its result.

If Parliament convenes in Congress for the approval of a constitutional revision, the unit is also in charge of the preparation and organization of the vote. In this case it works in direct collaboration with the Vote Unit at the Senate.

Lastly, the Questions and Votes Unit is in charge of the secret ballots required when votes deal with personal appointments: on the basis of the candidacies received by the Plenary Sitting Unit, the Questions and Votes Unit oversees the running and the counting of such ballots.

3. – FOLLOWING COMMITTEE PROCEEDINGS

The unit is in charge of the initial composition of committees and other monitoring bodies of the Assembly at the beginning of a term of Parliament and of their renewal at the opening of each session. It prepares the file for the election of the chairman and Bureau of each body. During the whole term of Parliament, it receives the appointments and resignations of members of these bodies and makes sure all such information is made public.

Its remit also includes the composition of non-permanent bodies such as ad-hoc committees, commissions of inquiry, fact-finding missions of the Conference of Presidents and fact-finding missions common to several committees. It is also in charge, along with the Senate, of the composition and organization of the joint committees.

It provides information and makes it public, on a daily basis, concerning the holding of all the meetings of the aforementioned bodies, records the presence of M.P.s at the meetings of standing committees in accordance with the regulatory provisions and follows the proceedings of the standing committees so as to draw up statistics on their work.

4. – INFORMATION CONCERNING THE PLENARY SITTING AND THE LEGISLATIVE AND MONITORING ACTIVITIES OF THE ASSEMBLY

The Questions and Votes Unit centralizes a large amount of information and provides details and draws up statistics on the plenary sitting and, more generally, on the legislative and monitoring activities of the Assembly.

The unit is in charge of the drawing-up of the “Feuilleton” which brings together, every day of plenary sitting, all useful information on the activity of the Assembly, such as the agenda, the make-up of committees and of other parliamentary bodies, as well their meetings.

Finally, in collaboration with the political groups, it allots seats to the M.P.s in the Chamber.
The Communication and Multimedia Information Department

Key Points
The tasks carried out by the Communication and Multimedia Department are aimed at better informing citizens on the role of the National Assembly, its proceedings and its way of operating.

On account of developments both in information techniques and in the expectations of the general public in the field of communication, this department has seen a huge increase in the use of its digital aids.

At the same time the National Assembly, like all public institutions, has been attempting to open up more to the general public and in particular to young people.

From an administrative point of view, this department belongs to the “legislative” departments. Placed under the authority of the Secretary General of the Assembly and of the Presidency, it has three units: press and audio-visual, multimedia information and institutional communication.

This department regularly delivers a report on its activities to the delegation of the Bureau of the National Assembly in charge of communication and the press. The latter, which is chaired by one of the six vice-presidents, is in charge of approving the main directions for institutional communication policy.

See also files 62 to 64 and 66

I. – THE PRESS AND AUDIOVISUAL UNIT

The Press and Audio-visual Unit includes around twenty parliamentary civil servants all under the authority of a head of unit.

In addition to its task of receiving and accrediting newspaper, web and television journalists, this unit informs journalists quickly and precisely of the proceedings of the National Assembly and its various bodies either through its publications (bulletin, technical files on the legislative work in progress, factual press communiqués etc.) or through its staff whose job it is to compile official reports on the proceedings of committees, fact-finding missions and delegations.

This unit, which must avoid all public positions or comments on current political issues, works, along with other bodies in the National Assembly, e.g. the Presidency and the political groups, in the field of press relations.
Two teams operate within this unit: a “camera” crew and a team of photographers.

The video crew edits films based on the pictures it takes during various events and exhibitions organized by the National Assembly. Such audio-visual documents are posted on-line on the internet site of the National Assembly, so as to make videos presenting or summarizing institutional events available to the general public.

The “photo” team’s job is to take the official photographs of the National Assembly. Thus, at the beginning of each term of Parliament, it produces a portrait photograph of each M.P. for the “Official Directory of Portraits and Notes on Members” and for the file listing individual M.P.s on the site of the National Assembly. During the parliamentary term the team carries out any photo shoots requested by the Presidency or the Protocol Department, particularly during visits of foreign dignitaries.

They are also in charge of photographing the meetings of various bodies of the National Assembly which are posted on the site. In addition, their tasks include the photographing the “heritage” of the *Palais Bourbon*. This photo bank has helped develop the photographic collection of the National Assembly which is managed by the Institutional Communication Unit. It is also used on the internet site and the Facebook account of the National Assembly which are managed by the Multimedia Information Unit.

II. – THE MULTIMEDIA INFORMATION UNIT

Around twenty parliamentary civil servants, including two computer specialists, work for this unit, which is mainly in charge of the internal and external internet sites of the National Assembly. It is responsible for the editorial management of these sites. The head of the unit is the site’s webmaster.

The unit also supervises all the information provided to it by the other departments of the Assembly and places it on the sites. It oversees, along with the Information Systems Department, the correct operation of the computer programmes which automatically run the internet site. This task may include checking the data provided concerning M.P.s, parliamentary proceedings, official reports on the work of the Assembly and its bodies, videos, agendas, legislative files, questions, amendments and public and formal ballots. Along with other departments, it also helps create the visuals which illustrate the site and is at the basis of its technical and graphic modernization.

The unit includes a team of civil servants which is in charge of managing the on-line images of the Assembly’s debates (Gilda). It indexes and edits images of the plenary sitting and of committee meetings and missions broadcast on internet thus providing easier access to debates and allowing the downloading of parts of debates which are chosen by internet users. It thus supplies the video
portal and is also responsible for the digitization of the back-catalogue of old video recordings.

This unit also manages the participation of the National Assembly on social networks (Facebook, Twitter, LinkedIn and Google +). It publishes on-line or by subscription, a weekly electronic newsletter dealing with future events. It provides the editorial comment on the home page of the site and of certain pages of the standing committees, runs the social networks as well as creating the educational sections which explain the procedures and the role of the bodies of the Assembly, etc.

In addition, it manages two other sites: one for M.P.s and their assistants and one for the staff of the Assembly.

Besides this main task, the unit also manages the internet user contribution sections and replies to information requests on the Assembly which it receives in a variety of ways: by post, telephone or by electronic mail.

III. – THE INSTITUTIONAL COMMUNICATION UNIT

This unit, which is made up of seventy parliamentary civil servants, has three main tasks.

It is, first of all, in charge of the communication publications of the Assembly. In this field, the unit works, when necessary, in collaboration with external communication agencies recruited by public tender.

Among these publications one may mention the communication aids provided to M.P.s (e.g. the educational kit composed of several boards describing the role and organization of the Assembly which are used by M.P.s visiting schools in their constituency to illustrate their talks), to foreign guests or to people visiting the Assembly (brochures on the National Assembly or the library). In addition, there are works on the history or the heritage of the Assembly (the Hôtel de Lassay or the Palais Bourbon) as well as books aimed at children such as the cartoon strip “À la découverte de l’Assemblée nationale” (“Discovering the National Assembly”), fact-files on the heritage of the Assembly, or on its functioning etc.

The Institutional Communication Unit is also in charge of the organization of certain events. All such events are publicized on the site of the National Assembly.

Some events occur regularly, such as the Political Book Day, or the National Heritage Days on the third weekend in September.

The unit is also in charge of welcoming the general public when it comes to see the sittings of the National Assembly (upon the invitation of an M.P.) or to visit the Palais Bourbon. A team of around fifty specially trained Assembly staff are in charge of checking the entry of the general public to the premises of the
National Assembly, of overseeing the access to the rooms situated close to the Chamber in the so-called “sacred perimeter” and also of monitoring the good behaviour of visitors who attend the sitting in the galleries and tribunes of the Chamber, as well as of carrying out the guided tours.

The group visits are carried out upon the invitation of the M.P.s who reserve them in advance; groups have fifty persons maximum. They take place from Monday to Saturday, with between 10 and 20 visits per day. They are guided during the periods when the National Assembly is in sitting.

Once the visitors have cleared security, they are welcomed and given a guided tour of between one and one and a half hours. A short film of around ten minutes is shown before the visit. The visit allows the discovery of the main places of work of M.P.s. The guides are given special training which deals with both the heritage aspect of the Assembly as well as its actual daily operation. The Institutional Communication Unit is also in charge of designing the information panels situated along the route of the tour. Audio guides in French, English, Spanish and German are also available for visitors, notably when the visits are not carried out by trained guides.

Once their tour to discover the National Assembly is over, visitors may go to the Assembly “Boutique” which is very close to the Palais Bourbon. In this shop, the general public may purchase souvenirs, as well as books written by M.P.s or about the Assembly. The Boutique has the legal status of a non-profit-making organization, according to the 1901 law, and is under the administrative responsibility of the Communication Department. It works in close collaboration with the Institutional Communication Unit. Its accountancy records and financial management which are drawn up with the help of an external accountancy agency are submitted, once a year, to the commission of the Bureau in charge of communication and press.

The unit is also in charge of running the news stand of the Assembly which is within the Palais Bourbon; it sells newspapers and magazines and certain souvenirs from the Boutique.
The Library and Archives Department

Key Points
The library of the National Assembly was set up in 1796 and has been in its present premises, decorated by Eugène Delacroix, since 1835. With its 600,000 volumes and its historical collection which was mainly built up during the French Revolution and the Empire, it is one of the finest libraries in France. For almost two centuries, it has been specialized in the legal, economic, political and social fields and today it represents a modern research and consultation tool accessible to parliamentarians, their assistants, civil servants of the National Assembly and to researchers. Since 2012, the library has also been in charge of the distribution of parliamentary documents.

In 2009, the Archives Department, the history of which goes back to the origins of Parliament, was merged with that of the library. Today the tasks of the Archives Unit include, in addition to the management of the archives of the National Assembly, the provision of information to the general public on parliamentary proceedings dating back to the Revolution. To this aim the Archives Unit manages a Centre for Parliamentary Documentation (CDP), publishes the biographies of former M.P.s and has also launched various initiatives aimed at encouraging and developing university research on parliamentary law and history.

The Library and Archives Department has been developing over recent years a variety of policies to highlight its historical heritage and has launched a digitization programme of parliamentary debates. Certain of these activities have been carried out in partnership, notably with the National Library of France (BNF) with which, since 2009, the library of the National Assembly has created an "associated pole", and with the National Archives.

I. – THE LIBRARY UNIT

The library of the National Assembly was set up in 1796 (Law of 14 ventôse, year IV or March 4, 1796) although it only moved to its present premises in 1835.

1. – THE DECORATION: A MASTERPIECE OF ROMANTIC ART

The building was constructed between 1833 and 1835 in the former courtyard of the outbuildings of the Palais Bourbon. The architect, Jules de Joly, designed the great nave (42 metres long, 10 metres wide and 15 metres high) to house 70,000 volumes, i.e. 20,000 more than the library then possessed.
The decoration of the ceiling was entrusted to Eugène Delacroix, who arranged the subjects of the five domes according to the library classification in use at the time. For each dome, a single theme brought together, in four pendentives, the most famous men in the disciplines reflected: in the centre, legislation; on each side, philosophy and theology; at each end, science and poetry. At the northern and southern ends, there are two half-domes which place war (“Attila trampling Italy and the Arts”) in opposition to peace (“Orpheus Bringing the Yet Barbarian Greeks the Gifts of Civilization”).

It took Delacroix and his pupils eight years (1839-47) to conceive of and execute this extraordinary project.

Thus, this place of study and research is also, thanks to the genius of the artist, one of the most beautiful examples of romantic art. “Nothing more magnificent was painted in the French school of mural painting” wrote Charles Blanc, the great art historian in 1881.

2. – THE COLLECTION: FROM THE SHOWCASE OF THE CONNOISSEUR TO THE LEGISLATIVE LIBRARY

When it was set up, the library inherited 12,000 books which had been brought together by the Committee of Public Instruction of the Convention. They came from “literary stores” created after the sequestering of goods belonging to the clergy and to émigrés. It was from these same stores that the first official librarian, Armand Gaston Camus, appointed in 1796 M.P. for Paris, President of the Constituent Assembly, then President of the Council of Five Hundred, would draw in order to build up the collection until the end of the Consulate (1804). Bringing together an encyclopaedic mind and a passion for books, he attempted to wed, in his own words, “the pleasure of the eyes to that of the mind”.

His successor, the former Benedictine monk, Pierre–Paul Druon, also conceived of the library as both a means of documentation and a showcase of rare and precious pieces. By buying at public auctions, he added two exceptional documents to the old collection: the manuscript of the trial of Joan Of Arc and the Codex Borbonicus or Aztec calendar dating from the end of the XVth century.

From 1830 on, times changed. As the parliamentary system became stronger, the library, which was now situated close to the Chamber, had to become a working tool adapted to the needs of the legislator. In accordance with the instructions given by public authorities, the library managers had to make available for the M.P.s almost everything that was published, at least by French printers, in the legal, economic, social and political fields.

This rule has operated since then as far as the acquisition of books and periodicals is concerned. The technical nature of the library has had the upper hand over the love of books. However, nothing can stop the old collection from being enhanced by rare documents when they are part of political and parliamentary history.
It is the reason why in recent years the collections have been enriched by
manuscripts by Robespierre, Lamartine, Jaurès or Léon Blum without forgetting
those which parliamentarians themselves leave to the library.

The Library is keen to emphasize the value of its ancient heritage,
particularly by means of digitization and through exhibitions. The tercentenary of
the birth of Rousseau in 2012 was, for example, the occasion to organize an
exhibition named “Rousseau and the Revolution” in order to highlight the
exceptional manuscripts of the philosopher and the artefacts pertaining to the
French Revolution which are held by the library in its strong-room. These
manuscripts have been digitized as have other works from the collection
belonging to the library. They can be accessed by the general public since they
have been placed on-line on the internet site of the National Assembly and on
*Gallica*, the site of the National Library of France (BNF), thanks to a partnership
established between the two institutions.

### 3. – THE LIBRARY IN FIGURES

- 14,500 linear metres of underground shelving;
- 600,000 works;
- 80 incunabula (published before the XVIth century);
- 2,000 manuscripts;
- 3,000 periodicals of which 430 are still published;
- 220 French daily newspapers;
- All the collections of parliamentary debates and documents since 1789;
- Almost 2,000 original posters from the great moments of the revolutions:
  1789, 1848, the Commune. In addition, the library houses a unique collection
  of revolutionary documents (the *Portiez de l’Oise* collection), a collection
  of engravings and prints made up in particular of preparatory studies by
  Delacroix for his works in the *Palais Bourbon*, of Epinal prints and of various
  engravings concerning the history of the National Assembly;
- More than 600 medals, busts, statuettes and other objects of artistic and
  historical value.

To all these, must be added, access to numerous legal (*Dalloz, Francis
Lefebvre, Jurisclasseur, les Éditions législatives* etc.) economic (*Eurostat,
*INSEE*, OECD etc.) and press databases, to dictionaries and general
documentation most of which can be accessed via the intranet portal of the
library.
4. – A MODERN TOOL FOR RESEARCH AND CONSULTATION

The library is intended for use by M.P.s but is also open to their assistants (up to three per M.P.), the secretaries of political groups as well as the staff of the National Assembly. Senators, French MEPs and former members of the parliamentary assemblies also have access.

Scholars carrying out research requiring the consultation of works not to be found in any other library can have an access authorization on days when the National Assembly is not sitting. This authorization is valid for one month and is renewable. It is granted by the Secretary General of the Assembly and the Presidency upon the proposal of the Director of the library.

All the works are listed in the computer catalogue, Flora, which can be consulted from computers linked to the Intranet network but also, thanks to the Extranet, from M.P.s constituencies. They also figure on the collective catalogue of France (CCFr) which is accessible by internet.

Since finishing the digitization of the catalogue at the end of 2015, the library has undertaken a huge operation to make an inventory of all its collections.

The works are made available exclusively for readers who request them either on site or on-line.

The only people who can borrow books are:

- M.P.s;
- Senators and French MEPs;
- Former members of the parliamentary assemblies, the Consultative Assembly or the Constituent Assemblies;
- Members of staff of the National Assembly;
- The assistants paid by political groups.

Current M.P.s may also grant power of attorney to one of their assistants to borrow books on their behalf and under their responsibility.

Visitors consulting works of the Centre for Parliamentary Documentation (CDP), which is run by the Archives Unit, may have access to works of the library pertaining to parliamentary history and law. These works may be consulted on the premises of the Centre and may not be borrowed.

Loans are limited to:

- 6 volumes per person;
- A time limit of 2 months. However, works concerning current affairs, literature and travel are lent for one month at the most;
The following cannot be borrowed but may be consulted on site:

- Newspapers and reviews;
- Books on direct access;
- Books published more than fifty years ago.

Moreover, since 2012, the Library Unit has been in charge of making available “parliamentary documents” (Government and Member’s bills, reports, etc.) whose printing and distribution are essential for the correct functioning of parliamentary proceedings.

II. – THE ARCHIVES UNIT

The management of parliamentary archives is an institutional mission which goes back to the origins of Parliament. From the beginning of the Constituent Assembly on July 9, 1789, Armand Gaston Camus, M.P. for Paris, was appointed to be its secretary and then its archivist. Until year VIII of the revolutionary calendar, the archives of the National Assembly were held with the National Archives.

The tasks of the Archives Unit include managing the archive collection of the National Assembly as well as welcoming and providing information to those wishing to obtain details of parliamentary history and of former parliamentary proceedings. In addition, the unit is involved in a digitization and outreach programme aiming to highlight old documents and has implemented several initiatives to encourage and develop research in parliamentary law and history.

1. – MANAGING THE ARCHIVES OF THE NATIONAL ASSEMBLY

The original and traditional task of the Archives Unit is the collecting, depositing, archiving and maintenance of the archives of the National Assembly. Its task is also to highlight and communicate these documents.

The Archives Unit plays an advisory and training role as regards the other departments of the Assembly. It provides them with the procedures and tools necessary to help the daily management of the documents they produce with an eye to their eventual archiving. To do this the department liaises with the “archives correspondents” appointed in the departments. When the producing department transmits the documents the Archives Unit then files them and draws up an inventory.

The archivists of the National Assembly also deal with the conservation of a little more than three linear kilometres of archives. They are responsible for communicating them to the departments and the researchers who request them. A real policy of highlighting this heritage has also been undertaken (publications, exhibitions, digitization of archived documents etc.).
For several decades now, the National Assembly has maintained a policy of providing documents to the National Archives. It is thus that all the legislative documents prior to 1997 have been transferred to the National Archives. These documents include the minutes of committees and the administrative archives, some of which go as far back as the XIXth century.

The archives sent to the National Archives remain available for the Archives Unit for consultation purposes.

2. – COMMUNICATING TO THE GENERAL PUBLIC INFORMATION ON PARLIAMENTARY PROCEEDINGS DATING FROM THE REVOLUTION

The Archives Unit provides assistance to parliamentarians, to the departments of the National Assembly and to people from the outside wishing to consult (private individuals, historians as well as people belonging to administration and the legal profession, researchers, students) who need to refer to parliamentary documents and the department’s collections for their professional activities or their research work.

It receives numerous requests every day which are more and more often made by electronic mail. The most frequent requests concern preparatory work on the law, debates at the Assembly in a particular area, or access to a specific speech by an M.P. during a particular period or on a specific subject, or biographical details on M.P.s. This list is far from exhaustive.

The unit also has, on its premises, a Parliamentary Documentation Centre, open to the public. In this room it is possible to consult printed parliamentary documents (Government or Members' bills, reports etc.), official reports of plenary sittings, as well as a series of other documents such as lists of M.P.s, compilations of election platforms etc. The unit also has certain parliamentary archives which are available to the public. From among the archives kept at the National Assembly, it is possible to freely consult, in accordance with the rules set down by the Bureau of the National Assembly, written documents over twenty-five years old (subject to longer release time periods, laid down in the Heritage Code, for certain types of document such as those dealing with national defence or containing personal details for example).

Numerous archive documents and historical files have been placed on-line on the internet site of the National Assembly – this is the case after events and commemorations, so as to allow access to as many people as possible. Thus, in order to highlight the specific role of the Parliament during the Great War, the Library and Archives Department of the National Assembly, in collaboration with that of the Senate, has undertaken for the national and international commemorations of 2014, the placing on-line of the minutes of the plenary sittings and of the parliamentary standing committees meetings, parliamentary agendas and reports and of certain other archived documents which have, up to now, only been seen by a few rare specialists.
3. – **Compiling and publishing information on the biography of former M.P.s**

The Archives Unit writes up biographical notes on former M.P.s which are to be published in the Dictionary of French Parliamentarians and published online on the internet site of the National Assembly. This work is carried out in collaboration with the Senate for parliamentarians who have been both M.P.s and Senators.

In order to facilitate research on former M.P.s, the unit has also set up a biographical database going back to the revolution of 1789. It covers nearly 17,000 M.P.s. Certain information from this database is available for consultation on the internet site of the National Assembly: civil status of the M.P., dates of his term(s) and a biographical note.

4. – **Producing for each M.P. a file compiling his participation in proceedings of the National Assembly in plenary sitting**

As part of its information brief on parliamentary proceedings, the Archives Unit has set up, with the assistance of the Information Systems Department and the Sittings Report Department, an automatic procedure for the use of the databases concerning parliamentary activity so as to present for each M.P., a file collecting all of his speeches during the plenary sitting.

This file also lists his positions on each of the various bodies of the Assembly and outside the Assembly, as well as the Member’s bills, draft motions or reports he has tabled and the oral questions he has asked.

The file is published on the internet site of the National Assembly within the individual file appearing for each M.P.

The Archives Unit also carries out an inventory of the archive collections of parliamentarians located in departmental archives. The information thus gathered is aimed at enriching the individual files of the M.P.s.

5. – **Encouraging and supporting research into parliamentary history and law**

The Archives Unit carries out two operations which aim at encouraging and developing research in the fields of parliamentary law and history:

- Research grant: every year the National Assembly awards a research grant to a student (less than 30 years old on January 1st of the year of candidacy). The grant is allocated for one year, renewable twice, in the framework of a contract signed by the National Assembly and the recipient. The latter commits himself to devote himself to the preparation of a thesis on parliamentary law or parliamentary history;

- The National Assembly Thesis Prize: this prize distinguishes every year theses dealing French parliamentary history or law since the Revolution.
The National Assembly thus wishes to encourage and promote research in history, in law or in political science, in the fields which interest the French Parliament.

This prize takes the form of a publication grant which aims to make the publication of the thesis easier.
The Report Departments

Key Points

Article 33, paragraph 1 of the Constitution sets down the principle of the public nature of debates at the National Assembly and requires the publication of a verbatim report of these debates in the *Journal officiel*. One specific department is in charge of the production of this document.

At the same time, a second department drafts the reports of committee meetings, fact-finding missions and delegations of the National Assembly.

I. – THE PLENARY SITTING REPORT DEPARTMENT

The publication of a verbatim report of debates provides each citizen with the possibility of being informed on the progress of parliamentary proceedings and gives real meaning to the notion of the public nature of the plenary sittings. It is provided for by article 33, paragraph one, of the Constitution. In addition, according to article 59 of the Rules of Procedure of the National Assembly, the verbatim report represents the official record of the sitting.

The writing of the verbatim report of the plenary sitting is carried out by a specialized department: the plenary sitting report department.

The report-writers replace each other in plenary sitting every quarter of an hour at the foot of the speakers’ rostrum. During this period, they take notes which will allow them to relate all aspects of the debate: the speech of the main speaker, interruptions made by M.P.s they must identify, movement or activity during the sitting. Once they return to their office, they will have the official recording of the sitting available on their computer. They then draft their report using a special piece of software.

The transposition of oral remarks which are often improvised into written language must respect the thoughts of the speaker but also requires a certain amount of editing to eliminate the inaccuracies and awkwardness of spoken language. It must render the meaning of the remarks, the aim being to produce a document which is, at the same time, reliable, exhaustive and easily read by everyone. The report is therefore not word for word.
As regards the legislative part of the debates, it must also follow the rules of the various procedures.

The work of the report-writers is reread by the heads of the department who in turn, have the responsibility of the report of the plenary sitting they attended.

Speakers may see their speeches before they are published and may propose purely formal corrections, as is laid down in article 19 of the General Instructions of the Bureau.

The verbatim report of a sitting is placed on the intranet site of the Assembly (the “577”), as each drafter completes his work, within four hours of being spoken in plenary sitting, as well as on the public site (www.assemblee-nationale.fr), after having been re-read. The whole sitting is available on the internet, on average, six hours after the end of morning and afternoon sittings and at the beginning of the following afternoon in the case of night sittings. The report of Government question time is published the day itself before 7pm on the public site.

The XML file is then transmitted to the Journal officiel which, in accordance with article 33 of the Constitution, publishes the verbatim report of debates which is also printed in an internal newsletter of the Assembly distributed, on average, 24 hours after the end of the sitting.

The articles of the Government and Members' bills, amendments and sub-amendments examined during a plenary sitting are included in a special supplement. This supplement can be viewed along with the electronic version of the report.

II. – THE COMMITTEES REPORT DEPARTMENT

The constitutional reform of 2008 significantly changed the conditions of legislative work and as the text adopted in committee now serves as the basis for deliberation in plenary sitting, it is essential that the minutes of debates in committee be as reliable as that in the plenary, as was underlined by the Constitutional Council in its decision of June 25, 2009: “The necessities of clarity and of faithfulness of the parliamentary debate which apply to the work in committee, require the precise reporting of the speeches made before such committees as well as of the reasons for the modifications proposed to the texts before them and of the votes which take place there”.

The Committees Report Department was created to meet this requirement.

Essentially, it draws up the reports of the proceedings of the legislative sittings (Government and member’s bills) of the eight standing committees (excluding discussion in application of article 88 of the Rules of Procedure and meetings of joint committees).
At the time of the discussion of the Finance Bill, it deals with the minutes of the enlarged committees.

It also draws up reports concerning the hearings of members of the Government as well as the proceedings of commissions of inquiry and fact-finding missions decided upon by the Conference of Presidents.

Part of the minutes are still taken by the secretariats of the standing committees.

The drafters are present at the meetings and then they write their “section” of the report with the help of their notes and with the aid of the recordings which are made during the meeting, as well as that, if necessary, of documents provided by the speakers and by the secretariats of the committees. They generally have to work under pressure, as their work is part of a chain which is quite tense.

The draft they write is reread by the director or one of the deputy directors of the department. It is then transmitted to the secretariat of the relevant committee which checks it and ensures its publication under its responsibility on the internet site of the National Assembly and in printed reports.

III. – RECRUITMENT

Précis-writers, whose salary scale is similar to that of advisers, are recruited by a competitive examination which aims at assessing their ability to take notes and to draft a reliable and readable report quickly with the help of a recording.

At the beginning of their career, they may be posted, according to the needs at the time, to either the Plenary Sitting Report Department or to the Committees Report Department. Afterwards, they will belong in alternation to these two departments.
The Human Resources Department

**Key Points**

The Human Resources Department which is a joint department answering to the two secretaries general, is made up of three units in charge respectively of administration and labour relations, prospective management and training, and recruitment and working conditions.

*See also file 67*

The Human Resources Department is in charge of the recruitment, management, and the training of the National Assembly staff – in 2017 this amounted to some 1,140 civil servants and approximately 100 contract workers.

This department, which is under the authority of a director, includes, as of February 1, 2017, three senior advisers-heads of unit, eight deputy advisers, eleven management assistants and 7 porters (who carry out tasks for other departments).

The doctor in charge of preventive medicine, as well as the social worker, are part of this Department.

I. – THE ADMINISTRATION AND LABOUR RELATIONS UNIT

This unit manages all statutory provisions regarding the career management, salaries and working conditions of the staff.

It assists the political authorities of the Assembly in the drawing-up of projects to modify the status of the personnel, organizes the consultation of the representative trade unions on projects changing the salary structure, the social protection or the retirement regime of civil servants as well as the organization of departments.

It organizes the annual consultation meeting chaired by the Questeurs, which is the principal body for dialogue with the representative trade unions of the staff. This meeting allows the Questeurs to understand the main issues which will be the subjects of discussion with the trade unions during the year in the technical committees. It is also in charge of internal communication.
It organizes the promotion committees for the advancement of the ranks and grades of civil servants, manages the follow-up and deals with the regulatory procedures in disciplinary matters. It draws up all the documents concerning appointments, promotions, postings, sanctions and modifications of administrative status. It also deals with the follow-up to appeals against such individual decisions.

It ensures the payment of the wages and salaries of permanent and contract staff. It manages the contracts of contract and interim workers as well as the unemployment insurance of former contract workers of the Assembly.

II. – THE PROSPECTIVE MANAGEMENT AND TRAINING UNIT

The Prospective Management and Training Department is especially in charge of the implementation of prospective management tools for staff, positions and skills as well as of the compiling of individual professional projects and the management of careers.

It is charge of drawing up and implementing the internal and external mobility policy.

It is also tasked with establishing a professional training programme and ensuring its implementation. In this framework, it is in charge of the implementation of training to prepare internal competitive examinations.

III. – THE RECRUITMENT AND WORKING CONDITIONS UNIT

In application of the decisions of the political authorities, this unit organizes all the competitive examinations for the recruitment of civil servants in order to fill positions in the 4 general branches (advisers, deputy advisers, management assistants and porters) and the 20 specialized branches (report drafters, security, computing, building, catering and medical staff). In addition to the administrative and technical support provided to juries, the organization of competitive examinations also includes the setting-up of the statutory provisions pertaining to recruitment, the drawing-up of the tests and the fixing of calendars.

The unit also manages the recruitment of contract staff and also deals with apprentices and trainees.

In addition, it manages the secretariat and the follow-up of the recommendations of the Health and Safety Committee, including the identification of occupational risks, as well as the secretariat of the Medical Committee in charge of proposing the adaptation of positions or timetables necessary for persons with special needs. More generally speaking it is also tasked with all questions relative to special needs within the departments of the National Assembly.
Information Technology at the National Assembly

**Key Points**

The task of the Information Systems Department is to ensure the upkeep of all the computer-based means necessary for the correct running of the National Assembly. To accomplish this task it implements the guidelines set down by the Bureau of the National Assembly and the College of Questeurs.

It provides M.P.s with the computer equipment they use in the Palais Bourbon as well as that used by the departments of the National Assembly. It oversees the upkeep of the existing material, provides advice, assistance and training and develops in-house software or uses external providers.

At the end of 2016, it managed and maintained around 100 applications dealing either with the National Assembly’s task of drawing up the law and monitoring Government or with its management activities, as well as around 200 departmental applications. It uses over 2,700 computers, 11,000 network inputs, 800 WiFi terminals, around 400 servers and supervises their security.

The Information Systems Department (SSI), placed under the responsibility of the two secretaries general, is in charge of managing the computer equipment of the institutional bodies of the National Assembly and its administration (excluding that of the political groups). It is, in particular, in charge of the study, the conception, the execution, the production implementation, the administration and the maintenance of computer applications, as well as the installation and the maintenance of materials. It is in charge of the use of the computer rooms and of the management of the computer network.

The SSI is organized into three entities:

- The Legislative, Information Management and Audio-visual Applications Unit;
- The Management Applications Unit;
- The Technical Information Systems Unit which is in charge of the servers, the internal and external networks, of the information technology equipment stock as well as assistance for users.
I. APPLICATIONS

A substantial number of the applications are specific to the National Assembly, given the very special nature of legislation and of the monitoring of Government action, as well as the specificity of its organization.

1. – LEGISLATIVE AND DOCUMENTARY APPLICATIONS

- The voting system

  The electronic voting system means that it is possible to know and to use, in real time, the results of public ballots in the Chamber.

- The processing and the transmission of the verbatim official report

  The processing and transmission application for the official report, has enabled, since 2004, for the official report of the debates (“white book”) and since 2005, for the supplement of articles, amendments and annexes (“blue book”) their composition, secure electronic transmission to the Journal officiel for publication and their consultation on-line on the internet site of the National Assembly, in a 6-hour period after the sitting.

- The drawing-up, processing and transmission of amendments (“Eloi”)

  Eloi provides M.P.s and their secretariats with the possibility of remotely tabling their amendments. A table presents to each M.P. his amendments listed by text and by stage (in the process of being drawn up, tabled, withdrawn, to be discussed, discussed etc.) and allows them to be accessed easily so that they may be modified or withdrawn. This application also allows the departments of the National Assembly to deal more quickly with the amendments tabled by simplifying and rendering paperless the current processing. Eloi provides a computerized support for a wide range of activities such as the preparation of bills for examination, the reediting and approval of amendments, the management of financial admissibility, the preparation of the “Yellow Booklet” for the plenary sitting, the creation of bundles of amendments in the order they will be called, the drawing-up of the text adopted, the production of the “blue book” annexed to the verbatim report of the sitting as well as the calculation of statistics.

  In addition, the application Eliasse, which is derived from Eloi, permits the consultation on numerical tablets of the amendments tabled in committee or in plenary sitting.

- Questions and Ministers’ replies

  Since 2008, M.P.s and political groups can table and manage all their written questions to members of the Government on-line. The application Questions/Answers also manages questions to the Government and oral questions without debate. It allows the departments of the National Assembly to deal with these questions and to transmit them in electronic form to the Journal officiel for publication.
Since 2012 ministerial answers have also been processed, collected and included in the database through a procedure and platforms which are totally paperless. The written questions asked by M.P.s and answers given by ministers (almost 10,000 during the 2015-16 session) are all published on the internet site of the National Assembly.

- The Legis application

This application is used to follow, by means of legislative files, the successive steps in the examination of Government and Member’s bills, from their being tabled in the National Assembly or the Senate to their publication in the Journal officiel. The data contained on this database feed into the National Assembly internet site.

- The Tribun application

This application is used to manage information concerning M.P.s’ elective offices and their membership of the various bodies in the National Assembly. The database also contains information concerning Senators transmitted by the Senate. Data from this database may be consulted on internet.

- The Library application

Since 1992, the library has had a computerized list of all the works acquired since that date (fifteen thousand files per year). The indexing is carried out by using the Bibliothèque Nationale’s (France’s National Library) “Rameau” thesaurus. The application allows access, via internet, to the catalogue and enables reservations of works to be made on-line.

- The “Eurodoc” application

This application is used in the European Affairs Department to manage the documentation of the various European institutions. It may be consulted on intranet or on internet. This application enables a totally paperless exchange of documents between the National Assembly and European institutions.

2. – MANAGEMENT APPLICATIONS

The accountancy, administrative management, salary, procurement and loan management systems, rely on a single piece of integrated, management software. The social security management system of the National Assembly has been outsourced to a service-provider.

The management of the plans of the buildings and the fixtures of the National Assembly is ensured by an integrated piece of software (GMAO or management assisted by computer). The checking of access to the various buildings of the National Assembly is carried out by a “hands-free” identity pass management system.
Other management applications have been implemented to cater for the specific needs of particular departments: stock management, restaurant management, applications for the Transport Unit when dealing with issuing transport tickets, or with coordinating motor transportation in Paris and in the suburbs etc.

3. – MOBILITY APPLICATIONS

The messaging system Outlook/Exchange allows M.P.s to synchronize their smart phone with their computer, so as to receive their electronic mail and to synchronize their datebooks and their contacts.

An access portal provides the possibility of having easy access by internet to the legislative applications, as well as to the messaging system and the agenda. The tabling of amendments or of questions is, in particular, possible using remote access. The “virtual office”, enables M.P.s to connect easily through internet to the legislative applications as well as to any useful application.

Moreover, the Information Systems Department has developed, for the Communication and Multimedia Department, an application allowing the consultation of the video of the plenary sitting and of standing committee meetings which is accessible speaker by speaker.

In addition, a series of WiFi antennae allows M.P.s to connect to internet and thus to consult their electronic mailboxes from the meeting rooms of the National Assembly. The office of each M.P. now has WiFi access.

4. – THE MANAGEMENT OF THE NATIONAL ASSEMBLY’S INTERNET LINKS AND THE USE OF THE ASSEMBLY’S WEB SITES

The National Assembly’s links to the internet network consist of two broadband connections, which use a load balancer and a series of protection software to safeguard against hacking and other malicious acts. Other internet connections are also available for the needs of departments. The National Assembly is also connected to safe inter-ministerial network, ADER/RIE.

The SSI also manages the use and the upkeep of preproduction infrastructures (the servers and software packages) for the websites of the National Assembly.

- The intranet WEBAN sites and “577”

The extranet site “an-577” allows M.P.s and their assistants to consult a broad range of legislative information or practical notions on the functioning of the National Assembly. The intranet site, “Weban” may be consulted by all members of staff of the National Assembly. It enables the transmission and consultation of a large amount of information concerning the management of the personnel, in-house training, and competitive examinations, as well as practical information of all kinds.
The Internet Site of the National Assembly

The internet site (http://www.assemblee-nationale.fr) is operated in collaboration with the Communication and Multimedia Information Department. It provides the general public with information concerning the organization and running of the National Assembly. It provides access to parliamentary documents and to legislative files as well as to the live broadcasting of the plenary sitting and its consultation on video on demand.

II. – HARDWARE AND TECHNICAL INFRASTRUCTURE

1. – M.P.s’ HARDWARE

Each M.P. is provided with hardware in his office at the National Assembly. This consists of two microcomputers and a multi-functional printer (printer, scanner). Each M.P. also receives an individual printer upon request. In addition, each M.P. is provided with private storage space on a secure file server with back-up. There is a so-called “hotspot” socket in each office which also provides the possibility of a wired connection to internet and a WiFi antenna.

All the computers made available to M.P.s have a secure access to the internet and to a private internal network which provides the possibility of using different information applications. Assistance and maintenance are all provided by the Information Systems Department.

In addition, each M.P. receives a long-term computer allowance for his personal constituency secretariat (hardware, software, internet site, maintenance, training etc.). This allowance is allocated for the length of the term of office and is managed by the Parliamentary Logistics Department. The M.P.s are entirely free to choose the computer equipment and supplier they wish.

2. – THE HARDWARE OF POLITICAL GROUPS AT THE NATIONAL ASSEMBLY

The secretariats of political groups at the National Assembly are allocated a specific allowance whose total amount is set for the entire term of Parliament according to the number of M.P.s the group actually has.

The political groups may decide upon their computer hardware policy with the advice, if they so wish, of the relevant departments of the National Assembly. Assistance, maintenance and training services concerning the hardware and software of the political groups are not carried out by the Information Systems Department. However requests for access to broadband services may be met via the National Assembly’s network.

3. – DEPARTMENT HARDWARE

This hardware is renewed every five years. The network includes almost 1,500 micro-computers.
4. – THE TECHNICAL INFRASTRUCTURES AND THEIR USE

The information system of the National Assembly included, in 2016, 400 servers, of which one third were physical with data storage bays and dedicated boxes and 213 virtual.

At the same date, the internal network included 11,000 sockets and 800 WiFi outlets.

There were some 3,500 electronic mailboxes. The number of electronic mails entering the network of the National Assembly was around 2 millions per month.

The running of the computer pool, the networks and the applications, leads on average to more than 20,000 requests for assistance per year which were carried out in one half of the cases by technicians of the service centre and one half by technicians working for the provider in charge of making on-the-spot interventions.
Security at the National Assembly

Key Points

With the exception of M.P.s, ministers in office and ambassadors accredited by France¹, every person within the precincts of the Palais Bourbon and its annexes is required to clearly display an identity pass.

Upon their arrival at the reception, visitors must undergo a security and identity check and are asked for the purpose of their visit. This procedure usually then leads to an identity pass being granted to anyone not possessing an access pass previously issued either temporarily or permanently by the National Assembly.

Vehicle access also requires undergoing such checks. This applies both to vehicles authorized to access the underground car parks of the Assembly, those in the motorcades of official delegations, or of eminent personalities and those of service-providers asked to work on the premises of the Assembly.

Specific security measures are applied in the vicinity of the Chamber.

Security at the National Assembly, in the broadest sense of the word (i.e. the security of the institution and the safety of property and people) falls under the authority of the President of the National Assembly. The latter is thus in charge of the security staff of the National Assembly (security guards and porters), reinforced by a detachment of fire-fighters, officers from the National Police Force and a military presence which are all under his command. The external or so-called “peripheral” security is under the responsibility of the Prefect of Police of the City of Paris (Interior Ministry). This includes the public streets running between the various buildings of the National Assembly.

I. – GENERAL ARRANGEMENTS

According to article 3 of ordinance n° 58-1100 of November 17, 1958 concerning the functioning of the parliamentary assemblies, “the presidents of the parliamentary assemblies are responsible for overseeing the internal and external security of the assemblies over which they preside.

¹. This is a diplomatic “courtesy” dispensation which only applies to the diplomat himself and not to the members of delegations or groups accompanying him.
“They may, in so doing, call upon all armed force or any authority they may deem necessary. This call may be addressed directly to any officer or public servant and the latter are obliged to answer it immediately or face the penalties set down by the law”.

“The presidents of the parliamentary assemblies may delegate such a power of summons to all or one of the Questeurs.”

This ordinance thus provides that the President of the National Assembly is responsible for both the internal and external security and safety of the Assembly. In so doing he has a general and permanent power of decision.

In order to carry out his responsibilities in the security field, the President of the National Assembly has, at his disposal, the security staff of the Assembly, military forces and a group of firemen seconded from the Fire Brigade of the City of Paris. These are all under the authority of either the Secretary General of the Questure or of the military commander. These two authorities continually work together in very tight collaboration.

The checking at reception of people coming from outside the Assembly is carried out by two departments: the General Administration and Security Department (Reception, Security and Safety Unit) and the Communication and Multimedia Information Department (for the press and people attending the plenary sitting or visiting the National Assembly).

1. – THE RECEPTION, SECURITY AND SAFETY UNIT

The Reception, Security and Safety Unit, which is under the authority of the Director of the General Administration and Security Department, includes, in particular, the “Reception/Meetings” Team and the Security Service.

The former, which is in charge of the reception of individual visitors, is made up of around fifty porters. It carries out security checks using metal detection gates and X-ray machines for bags, issues temporary identity passes, on the basis of electronic applications listing the people who have been declared and authorized to access the premises of the National Assembly, in exchange for passports and national identity cards and provides permanent identity passes for the various staff working at the National Assembly.

The Security Service is made up of former non-commissioned military officers who have spent, at least, 15 years in the armed forces and who are recruited by competitive examination. They are responsible for security checks at the gates and monitor the access of vehicles. The security guards maintain a 24-hour watch on all the buildings of the National Assembly from a central operations room.
2. – THE MILITARY DETACHMENT

A detachment of Gendarmes from the Republican Guard, under the command of a Colonel, who is the military commander of the Palais Bourbon, is at the disposal of the President of the National Assembly.

The military commander is appointed by order of the President of the National Assembly and is thus directly under his command in the exercise of this position. He is assisted by a second-in-command and a military staff. It should be noted that amongst other tasks, he is responsible for military surveillance and intervention. He has authority over the permanent detachment and the services provided by the Republican Guard to whom he gives orders. He is in charge of liaising with the civilian and military authorities in charge of law and order in matters concerning the external security of the Palais Bourbon. Along with the Secretary General of the Questure, he draws up the security plans. In addition, he fulfils the role of military advisor to the President of the National Assembly.

The military detachment carries out, when necessary, internal security operations including, in particular, bomb detection.

3. – THE POLICE OFFICERS

Three police officers, of the rank of chief inspector, are also at the disposal and under the authority of the President of the National Assembly who appoints them. Their main task is to liaise with the national police force, in particular, to carry out the prior background check on the people who have been declared for visits, meetings, colloquia or receptions and also to carry out the prior background check on the service providers asked to work within the premises of the National Assembly. They also ensure that those attending the plenary sittings do not disturb the proceedings.

4. – THE DETACHMENT OF FIRE-FIGHTERS

This detachment is made up of around twenty fire-fighters under the authority of an officer who also acts as a fire-prevention advisor to the Director General of Administrative Services. The detachment means two security command rooms which are independent of the operations room and which oversee all fire prevention measures.

II. – MEASURES CONCERNING THE SECURITY OF THE CHAMBER

A special security cordon has been set up around the Chamber and extends to the floors below and above. The galleries are under particular surveillance. Military sniffer-dog teams periodically check the basement as well as the Chamber itself. Explosive detection checks are carried out on all materials which enter this cordon and similar checks are systematically made during the daily cleaning of the Chamber. The stocking of material or equipment is severely restricted in this area and is particularly supervised.
The number of identity passes granting permanent access to the Chamber is limited to the strict minimum and anyone belonging to an outside company may only enter with the permission of the department responsible for the room’s maintenance and if accompanied by an authorized public servant.

III. – CHECKS

The risk of attacks or malicious acts against state institutions has led the authorities of the National Assembly to strengthen security checks at the entrance to the various buildings of the Assembly. Security precautions are based on the principle of separating those in possession of a permanent pass allowing them to access through specific entrances equipped with automated security systems from those without such passes. These visitors are thus systematically screened by the reception staff.

1. – PUBLIC ARRIVING ON FOOT

These precautions apply to the security, identity and visitor-processing checks carried out at entrances accessible by pedestrians as well as by drivers and passengers in vehicles which have been authorized to enter the Palais Bourbon. The arrangements apply to:

- People on tours of the Palais Bourbon;
- Visitors invited by M.P.s, political groups or a department of the National Assembly;
- People holding invitations to attend a plenary sitting;
- The “first ten people in the queue” without an invitation but wishing to attend a plenary sitting (with the exception of sittings given over to question time which are not accessible to this category);
- People invited to attend or participate in meetings held at the behest of one or several M.P.s in one of the rooms or offices of the Assembly;
- Guests at a reception held in the Questeurs’ apartments;
- People invited by one of the members of the President’s staff;
- Guests invited to a reception held in the Presidency;
- Non-accredited journalists;
- People working for sub-contractors (building workers and maintenance staff).

a) Security checks

There are two types of security check:

- Entrance through a security gate which may be followed by an examination using a manual metal detector;
- Checking of hand–baggage and personal effects by X-ray machine.
These checks are carried out on all visitors with the exception of Senators and Members of the European Parliament.

**b) Identity checks**

Identity checks are carried out systematically. They require the presentation of a photographic identity document (identity card, a valid passport or residence permit or a valid press card for journalists.

Any lack of correspondence between the information on the identity document produced at the entrance and the biodata (Last name, first name, place and date of birth) provided in the computer application listing the people declared to visit 72 hours in advance and authorized to access the premises of the National Assembly leads automatically to the refusal of the entry of the person in question.

**c) Checking the purpose of the visit: the implementation of the rules concerning participation in meetings organized by M.P.s (article 26, XIII of the General Instructions of the Bureau)**

In cases concerning meetings or receptions, the person is checked against a list of guest’s names and biodata provided, at the latest, 72 hours in advance, by the body which is inviting or organizing. The actual presence of the M.P. or his representative is required for the admission of the visitor(s).

People whose name does not appear on the list cannot be admitted to the premises of the National Assembly. In cases concerning individual visitors wishing to go to an M.P.’s office, to a department or to a political group’s office, admission is always dependent upon explicit confirmation by telephone that the person(s) is/are indeed expected.

**d) Issuing of identity passes**

In exchange for his identity document, each visitor is issued with an identity pass which must be clearly worn. The colour of the pass and its specific annotations detail the places or the areas which the visitor is entitled to visit. This particular measure does not concern people invited to a reception held at the Hôtel de Lassay, the Petit Hôtel, or the apartments of the Hôtel de la Questure nor does it concern those people attending the plenary sitting or on a guided tour of the Palais Bourbon (a photocopy of the identity document provided by these people is nonetheless made).

2. – VEHICLES

The following measures apply to security and identification checks carried out on vehicles not having access permits issued by the Assembly\(^1\). Checking vehicles is the task of the security staff.

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1. Those possessing access permits are the vehicles of the National Assembly’s car pool, vehicles driven by M.P.s and cars owned by parliamentary civil servants and political group
a) **Security checks**

These are checks carried out on the boot, trunk, inside and underneath of all vehicles entering the premises of the National Assembly.

b) **Checking the purpose of the visit**

The permit, signed by the relevant authority, including the vehicle registration, driver and passengers is checked.

c) **Identity checks and the issuing of identity passes**

The driver and, if necessary, the passengers must present an identity document which is checked.

Drivers not possessing a pass issued by the National Assembly must park outside and go to the reception office\(^1\) to receive their pass before they may bring their vehicle inside. This pass is issued in the same way as for pedestrians. There are several types of pass:

- Delivery pass. This is for delivery drivers who must also have their delivery slip signed by the person who receives the delivery;
- Building site or temporary pass. This is for service-providers and depends upon the nature and the length of the job.

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**IV. – THE AREA SURROUNDING THE NATIONAL ASSEMBLY**

As regards matters concerning external security, no President of the National Assembly has, as yet, used all the powers provided for by the ordinance of 1958.

The responsibility for the maintenance of law and order outside the limits of the National Assembly is in the hands of the Minister of the Interior and thus, by delegation, in those of the Prefect of Police of the City of Paris. This principle was not changed when the National Assembly bought several buildings as annexes to the *Palais Bourbon*, the historic seat of the National Assembly. Thus the authority of the Prefect still applies today in the streets which separate these buildings from the *Palais Bourbon* itself.

Nonetheless, the President of the National Assembly still has the power to directly call upon, at any time, the Prefect of Police and his departments in order to take the necessary measures to ensure the external security of the *Palais Bourbon* or to keep its entrances accessible.

\(^1\) The pass is issued by the security guard if the reception office is closed.
1. – DEMONSTRATIONS

In accordance with articles L. 211-1 to L. 211-4 of the Code of Internal Security, any demonstrations which take place in Paris must receive the authorization of the Prefect of Police. A prior statement must be completed detailing their assembly points and their route. Failure to abide by these provisions is punishable by article 431-9 of the Criminal Code.

Generally speaking, demonstrations are confined to certain broad Parisian avenues and are prohibited in the vicinity of the buildings of the National Assembly and in particular, in the streets leading to the entrances of the Palais Bourbon.

However certain smaller gatherings may be authorized on the Place Edouard Herriot. Several representatives of such demonstrators may even, upon request, be allowed to meet with M.P.s or political group secretaries (each such delegation is made up of five people at the most).

2. – VICINITY MEASURES

A network of CCTV cameras has been installed both by the Paris Police Department, in order to monitor the neighbouring streets and by the Security Department of the National Assembly in order to check the areas around the buildings. The National Assembly and the Police Department can share pictures. In addition, the paths, gardens and courtyard on the River Seine side of the Palais Bourbon, are protected by railings. Police and Republican guards patrol both day and night in order to maintain the security of these places which face onto the public highway.
The Protocol Unit

**Key points**

The Protocol and Management Unit has two functions: it organizes the ceremomal events connected with the Presidency of the National Assembly (ceremonies, international activities) and it manages the financial aspects of international activities. It is linked administratively to the General Secretariat of the Assembly and the Presidency and has relative operational autonomy. It is a horizontal structure which serves the other bodies of the National Assembly but which is fundamentally centred on the logistical aspects of events: ceremonies in which the institution is represented, visits by foreign delegations or parliamentary missions abroad. It is also one of the few structures of the National Assembly whose job it is to maintain permanent links with external partners (presidency of the Republic, ministries, foreign or French embassies, service providers, etc.).

See also files 58 and 71

The Protocol and Management Unit:

- Is involved in the organization of ceremonies at which the National Assembly or one of its bodies is represented as well as in the welcoming of foreign personalities or delegations;
- Prepares the financial decisions concerning the missions, receptions or actions of parliamentary cooperation;
- Makes all financial documents for the corresponding expenses and permanently oversees the use of the allocations for international actions;
- Is in charge of the material organization of all events connected with the international activities of the National Assembly.

Under the authority of the Director General of Legislative Departments, this unit remains in close contact with the office and the staff of the President, with the Protocol Department of Foreign Affairs Ministry and with the foreign embassies in Paris.

The current staff of the unit is composed of 9 civil servants. However, when it is necessary for the most important events, other civil servants from the international departments or from other departments of the National Assembly may be called to assist.
I. – ACTIVITIES LINKED TO PARLIAMENTARY PROTOCOL

1. – THE REMIT OF THE PROTOCOL UNIT

The ceremonial of the plenary sittings comes within the brief of the Secretary General of the National Assembly and of the Presidency and the Table Office. So the Protocol Unit is in charge of:

– National ceremonies in which the National Assembly is represented [New Year’s greetings of the President of the Republic, Commemorations (May 8, November 11), Bastille Day (July 14), funerals etc.];
– Other ceremonies taking place inside the Palais Bourbon (inaugurations, placing of wreaths, commemoration plaques etc.);
– The reception of official authorities participating in the meeting of the Congress, as provided for by article 18 of the Constitution (speech of the Head of State in the Chamber at Versailles);
– Welcoming of the foreign delegations received by the President or members of the Bureau of the National Assembly for talks, a meal, a working visit or a speech in the Chamber;
– Missions in France or abroad concerning the President or members of the Bureau (vice-presidents, Questeurs).

The Protocol Unit organizes the programme of the visits for the highest foreign dignitaries, including: meetings at the Hôtel de Lassay, receptions, (lunches, dinners or receptions), visits of the Palais Bourbon, speeches of Heads of State or of Government in the Chamber, welcoming to the Chamber of foreign delegations, working meetings with presidents or vice-presidents of parliamentary assemblies.

It takes part in the organization of the meetings regarding various bilateral parliamentary structures like the joint meeting of the Bureau of the National Assembly and the Präsidium of the German Bundestag, the Grand France-Russia Committee or the France-Québec Inter-parliamentary Committee. It is requested to organize the bilateral or multi-lateral parliamentary events (Centenary of the Entente Cordiale between France and the United Kingdom, the 40th anniversary of the Elysée Treaty between France and Germany, the parliamentary events of the G7 etc.) or for all visits of important foreign dignitaries.

2. – MISSIONS INVOLVING ASSISTANCE TO DEPARTMENTS AND EXTERNAL BODIES

The Protocol Unit is also in charge of the following duties:

– It establishes the order of protocol for the members of the National Assembly according to the principles determined by the Questeurs based on the Rules of Procedure of the National Assembly;
It gives advice to the departments of the National Assembly and to the M.P.s to help them in the organization of events or conferences, table plans or in the booking of hotels or restaurants in Paris;

When it is necessary, the unit helps the civil servants in charge of the reception of a foreign delegation or of a mission of French representatives abroad.

It is consulted on questions regarding the order of protocol for dignitaries, the flying of flags on the National Assembly, the clothes worn by M.P.s, especially official sashes or decorations, and civilian or military honours given to some dignitaries.

3. – THE ROLE OF PROTOCOL

In its concrete roles the Protocol Unit:

– Collects and provides information that is necessary to deliver to parliamentarians, to the departments of the National Assembly or to external partners;
– Coordinates partners at events;
– Gives orders and advice and delivers circulars for all partners;
– Is a main actor during events.

Thus the Protocol Unit establishes relations with numerous partners, both inside and outside the National Assembly and it is one of the Departments of the National Assembly which is at the very centre of public relations.

II. – MANAGEMENT ACTIVITIES

The basic principle is that each expense incurred during a mission, a reception or an action of cooperation linked with the international activities must be authorized in advance by the Questeurs.

The Protocol Unit deals with the requests of the international departments, the standing committee secretariats and the delegations which require funds. Upon the request of the department in question, it prepares a “questeurs’ decision” which will be included on the agenda of the College of Questeurs’ meeting. It establishes an estimate for the expenses linked to the mission or the reception, calculates the different expenses (for transportation, accommodation, catering, translation, gifts, miscellaneous etc.) and follows the entire procedure of examination.

The Protocol and Management Unit is also in charge of the following duties:

– It oversees the use of allocations for all international activities and informs the departments about the level of spending of their annual budget. The
corresponding data are used in the preparation of the annual report on the use of funds and the budgets for the following years;

- It answers the requests of the two Secretaries General and the Questeurs regarding the necessity of the expenses and the use of funds;

- It advises the civil servants in charge of the funds and checks the accounts prepared by them at the end of the mission or the reception (concerning the legality of the accounts and the necessity of the spending);

- It prepares the accountancy documents for the signature of the Director General of Legislative Departments.

This management role represents about 25% of the activities of the unit. It is infrequent in parliamentary structures where the financial aspects usually come under the responsibility of Financial Departments. However, its main advantage is to allow a better supervision of the international activities and the corresponding funds.
The Secretariats of the Political Groups

Key Points

In accordance with article 20 of the Rules of Procedure of the National Assembly, any political group formed following the correct rules, may be serviced by an administrative secretariat to be recruited and paid as determined by the group itself.

See also file 22

I. – ORGANIZATION AND FINANCING OF THE SECRETARIATS OF THE POLITICAL GROUPS

1. – THE ASSISTANTS OF THE POLITICAL GROUPS

Each political group is entirely responsible for its staff, whether it be their recruitment, the amount they are paid, their work conditions or their dismissal.

These assistants come from different backgrounds: they may be young university graduates or doctoral students, civil servants on leave of absence from central or regional administration or even people from a community service background.

The number of assistants working for political groups in the XIV th term of Parliament was around one hundred.

2. – THE FINANCING OF THE SECRETARIATS OF THE POLITICAL GROUPS

In order to manage its staff, each political group can avail of a financial contribution from the National Assembly and from its members towards the secretarial costs. The latter contribution is made up of transfers of a part of the staff allowance or of dues. The subsidy was introduced in 1954, i.e. twenty years before the creation of the staff allowance.

3. – THE CONSTITUTION OF THE GROUPS IN ASSOCIATIONS

Modified in 2014, article 20 of the Rules of Procedure of the National Assembly provides that the groups be constituted as associations, chaired by the chair of the group and made up of members of the group and related members.
The Bureau of the National Assembly decided that the parliamentary groups must draw up a report and an income statement and appoint an auditor. The accounts of the parliamentary groups as well as the auditors’ reports attached to them are published on the site of the National Assembly.

As the status of each group is thus defined, each one may now be registered with URSAFF (the social security contribution collection agency) as an employer. The Association of Chairs of Groups at the National Assembly is thus no longer registered in the name of the groups (it was set up in 1961 for this purpose as certain groups had no legal identity).

II. – MISSIONS OF THE SECRETARIATS OF THE POLITICAL GROUPS

Generally speaking, the assistants of the political groups work under a secretary general who, under the authority of the chairman of the political group, apportions the tasks between them and is responsible for their management.

Each political group decides freely on its internal organization, which depends largely on the number of available assistants. Most of them are in charge of one or several areas of legislative activity. As they are in regular contact with the civil servants of the secretariats of standing committees, they follow the activities of the relevant committee(s) and contribute, within their group, to the drawing-up of the position to be adopted regarding the bills which are being examined.
Parliamentary Assistants

**Key Points**

The National Assembly grants M.P.s the possibility of recruiting parliamentary assistants to help them in the carrying out of their office and their various responsibilities.

These assistants are bound by a private law contract to their M.P./employer. This contract falls within the scope of ordinary labour and social protection law.

The help they provide to an M.P. varies and can go from simple material tasks to much more elaborate contributions (speech-writing, amendments).

See also files 17 and 80

The creation of the position of parliamentary assistant (or M.P.’s secretary) dates from 1975. It represents, in a certain way, the end of a long process which fulfils the wishes of M.P.s to avail, along with their parliamentary allowance seen as a salary, of human and material means enabling them to meet the various expenses engendered by their office and which reinforce the means collectively allocated to the political groups.

This process has been marked by several steps.

In 1953 an allowance compensating the secretarial expenses of M.P.s, was created. This was abolished in 1958.

The allowance for a typing assistant, which was created in 1970, replaced the mechanism introduced in 1968 which provided M.P.s with the possibility of setting up a personal secretariat or of using the services of a collective secretariat organized within each political group. The object and the conditions of the management of this allowance were modified on several occasions right up until 1997. In that year, the secretariat allowance was replaced by the office expenses allowance (IRFM) which was to cover the expenses linked to the carrying out of the M.P.’s position, which are not reimbursed by the National Assembly. Since January 1, 2018, an advance on office expenses has replaced the IRFM, in application of the Law of September 15, 2017 on trust in public life. It amounts to €5 373.
However, at a time when the demands placed on M.P.s in the carrying out of their functions were growing and required the help of assistants similar to those in certain foreign parliaments such as the US Congress, the request of the M.P.s for assistance was bound to go beyond that of mere secretarial support. This explains the implementation of a grant specifically aiming at the recruitment of private assistants. This grant was called the ‘assistant allowance’.

I. – THE STATUS OF PARLIAMENTARY ASSISTANTS


The M.P. has at his disposal an allowance which enables him to recruit up to five assistants. This monthly allowance amounts to €10 581.

The basic principle is that the M.P. is the employer. The assistant is the employee of the M.P. and not of the National Assembly. This principle, which was reinforced in 2002 by the possibility for the M.P. to directly manage his assistant allowance, is at the basis of all the rules and mechanisms which govern the relationship between the M.P. and his assistant(s):

– The M.P. has the position of employer. He can freely recruit his assistants, dismiss them and set their work and pay conditions, as long as he respects the provisions of the labour code;

– The assistants are recruited on the basis of a private law contract. Generally speaking, these are open-ended contracts but the M.P. may recruit his assistants on the basis of a fixed-term contract (within the conditions laid down by the labour code) or offer specific contracts when a civil servant is seconded to him in application of the laws pertaining to the status of civil servants. The open-ended contract continues if the M.P./employer is re-elected. However it is terminated upon the end of the M.P.’s term of office or in the case of a dissolution;

– Stock contracts, the clauses of which are approved by the Questeurs, are made available to the M.P.s by the Department of Financial and Social Management. They contain two stipulations which are directly linked to the method of management of the assistant allowance. The first, concerning the object of the contract, states that “the M.P./employer, acting on his own account, employs the employee who is legally and directly subordinate to him and enjoys all his confidence to assist him in the carrying-out of his parliamentary function”. The second states that “the termination, for whatever reason, of the term of the M.P./employer constitutes a reasonable cause for the ending of the contract”.

In the case of disagreement between the M.P./employer and his assistant, the Industrial Tribunal is alone competent, as for any dispute between an employee and his employer in a private company.
These principles were introduced in 2014 in article 18 of the Rules of Procedure of the National Assembly which states: “M.P.s may employ, under a private contact law, parliamentary assistants, who help them in the carrying-out of their office and of whom they are the only employers. They are provided, to do this, with an allowance to be used to pay their assistants”. Since 2017, these principles also appear in the Ordinance of November 17, 1958 concerning the functioning of the parliamentary assemblies.

An assistants’ organization called into question the principle of the M.P./employer by attempting to have the magistrates’ court of the 7th district of Paris recognize the existence of an economic and social unity between the M.P./employers of assistants. The application was rejected by a judgement rendered on May 21, 2002, stating that the social advantages and, more generally, the work conditions of the assistants were similar to the notion of “the mutualisation of means, which was usual within the same profession” and concluded that “the absence of a real community of workers and of economic unity prevented the recognition of the existence of an economic and social unity between the M.P.s of the National Assembly”. This judgement was the subject of an appeal to the Court of Cassation. The Social Tribunal of the Court of Cassation rejected it with a ruling on February 18, 2004 which stated that “there is no unity of management over the parliamentary assistants” and that “the M.P.s who make up the National Assembly do not (therefore) constitute an economic and social unity”.

2. – THE MANAGEMENT OF THE ASSISTANT ALLOWANCE DELEGATED TO THE FINANCIAL AND SOCIAL MANAGEMENT DEPARTMENT

Since 2002, each M.P. must choose between granting a management power of attorney to the Assembly or managing this allowance directly.

In the case of the granting of a management power of attorney, the Financial and Social Management Department, upon the instructions of each M.P., attributes the remuneration of the assistants and carries out, on behalf of the M.P.s, the management measures such as the issuing of pay slips, the payment of salaries with the necessary contributions and the drawing-up of and the transmission to the relevant organizations of the social and tax declarations. In so doing, it merely carries out the function of a service-provider.

In the case of direct management, the M.P. receives the equivalent of one and a half times the basic allowance to cover the employer costs.

3. – SOCIAL PROTECTION AND PARLIAMENTARY ASSISTANTS

The salaried assistants come under the general social security system for salaried workers as regards sickness, maternity, invalidity, death, work accidents and old-age, under the supplementary retirement scheme for salaried workers under private law and under the unemployment insurance scheme. They benefit from the provisions of the labour code concerning vocational training.
Since 1975, a number of measures have improved the situation of assistants. Apart from the fact that their salaries have been re-indexed to be aligned with those of the public sector, many of the employer costs are financed outside of the assistant allowance. These include:

- From the beginning, the obligatory employer social and tax costs which represent about half of the gross salary contributed to the assistant allowance;
- From 1978, the severance pay at the end of a contract allocated to assistants in the case of the termination of the term of the M.P./employer;
- Since January 1, 2006, after two years of service, the seniority bonus which is equal to 5% of the basic salary and is increased by 5% every two years with a ceiling at sixteen years of seniority;
- Various expenses linked to specific training given to assistants (training provided by the National School of Administration since 1986 and by the National Centre for Territorial Administration since 1991, English courses since 1992, two-day cycle at the Institute of Higher Studies of National Defence since 2011 and at the National Institute for the Higher Study of Justice, since 2016), linked to occupational medicine and linked to the assistants’ transport costs for journeys between Paris and the constituency, requested by the M.P./employer.

In addition, other fringe benefits are given to the assistants:

- The 13th month allowance, which was introduced in 1982 and is the equivalent of an extra month’s basic salary;
- The child-minder’s benefit which has been granted for children under three years of age, since 1988;
- The contingency bonus, which since 1998 has replaced the limited reimbursement of the costs of a mutual insurance company;
- The meal allowance (food allowance or luncheon vouchers), introduced in May 2000.

At the outset, these advantages were directly taken care of by the budget of the National Assembly and the M.P./employer could oppose their payment. Since 2002 all, with the exception of the child-minder’s benefit (which is still taken care of by the National Assembly’s budget) are attributed to the assistant allowance which has thus been re-indexed.

Since January 1, 2006, assistants fulfilling certain diploma conditions and/or seniority conditions may be granted the status of ‘cadre’ (manager) if they make a written request to their M.P./employer.

In addition, since January 1, 2014, all of the assistants keep their complete salary during the entire period of stoppage for sickness leave or maternity leave. This expenditure is partially covered by the budget of the National Assembly.
In 2016, a compulsory, supplementary healthcare scheme was set up requiring a monthly contribution on the part of the employee (20% of the overall contribution) and for the employer (80% of the overall contribution). The latter constituting a contribution by the budget of the National Assembly, on top of the assistant allowance.

4. – COLLECTIVE AGREEMENT CONCERNING PARLIAMENTARY ASSISTANTS

A collective agreement concerning parliamentary assistants was reached on November 24, 2016 between the trade unions representing the assistants and an association of M.P.-employers created for this purpose. This contributed to the clarification and the renovation of the working relationships between the M.P. - employer and his assistants.

The M.P.s are free to join the association and the agreement only affects the M.P.s who are members and their assistants.

This collective agreement, which came into force on March 1, 2017, is made up of the following measures;

– A mechanism providing a flat-rate number of days allowing autonomous employees to benefit from additional rest days on top of the legal holidays, by agreement between each M.P.-employer and the assistant concerned;

– The reestablishment of an allowance aimed at compensating the lack of job security due to the breaking-off of the contract at the end of a term of Parliament. Previously this was only provided to assistants who were recruited before January 1, 2010;

– The enshrinement the existing social and allowance schemes favourable to the assistants.

II. – THE WORK OF PARLIAMENTARY ASSISTANTS

The assistant plays the role that each M.P. assigns to him within the team that he has recruited. Certain M.P.s concentrate their team in their constituency, others in Paris and some divide their team between the National Assembly and their constituency. In practice, roughly speaking about two thirds of assistants work in constituencies and about one third at the Palais Bourbon.

The tasks they are assigned depend upon the needs of the M.P. and the abilities of the person recruited:

– Most assistants are assigned secretarial and support tasks, such as the keeping of the appointments diary, the arrangement of meetings, answering the telephone and support for a variety of material tasks;

– The most qualified assistants, with university degrees for example, help the M.P. in the carrying out of his function: speech-writing, preparation of Members’ bills and amendments, representation within the political group etc.
In application of the institutional law of October 11, 2013 concerning transparency in public life, since the month of July 2014, the declarations of interests and activities of M.P.s, including the names of their parliamentary assistants, are published on the site of the High Authority for Transparency in Public Life.

The names of the assistants of M.P.s are also published on the site of the National Assembly since 2017.
## Glossary of parliamentary terms

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<td><em>Bureau (governing board) of the National Assembly</em> <em>²</em></td>
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<td>overseas territorial unit</td>
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<td>Commission chargée de vérifier et d’apurer</td>
<td><em>Ad hoc</em> committee in charge of checking and</td>
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**D**

débat                                           | debate                                            |
<p>| décision de questure                           | <em>questure</em> decision                                |</p>
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**E**

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<td>irresponsabilité</td>
<td>immunity from defamation</td>
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<td>isoloir</td>
<td>voting booth</td>
</tr>
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<td>« je mets aux voix... »</td>
<td>“I call for a vote upon ....”</td>
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<td>Journal officiel (de la République française)</td>
<td>Official publication (of the French republic)</td>
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<td>lawmaker, legislator, parliamentarian</td>
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**M**

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<td>governing/ruling majority</td>
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<td>Minister in Charge of Relations with Parliament</td>
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<td>assessment and monitoring mission</td>
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<td>assessment and monitoring mission on social security financing laws</td>
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<td>fact-finding mission</td>
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<td>mode de scrutin</td>
<td>voting system</td>
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<td>censure motion, motion of no confidence</td>
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<td>motion de renvoi en commission</td>
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**N**

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<tr>
<td>navette</td>
<td>parliamentary “shuttle”</td>
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<tr>
<td>« niche »</td>
<td>“time slot” on agenda when business is decided by the Assembly</td>
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<td>nomination</td>
<td>appointment</td>
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<td>non-enrolled (M.P.)</td>
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<td>new consideration (of a bill)</td>
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**O**

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<td>filibustering</td>
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<td>Parliamentary office</td>
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<td>Office parlementaire d’évaluation des choix</td>
<td>Parliamentary Office for Scientific and</td>
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<td>Français</td>
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<td>scientifiques et technologiques</td>
<td>Technological Assessment</td>
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<td>speaker</td>
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<td>speaker against, speaker with a contrary view</td>
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**P**

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<td>Parlement des enfants</td>
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<td>“Mr/Ms…has the floor”</td>
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<td>president’s chair, “perch”</td>
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<td>« plateau »</td>
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<td>accountability before the Parliament (of the government)</td>
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<td>uninominal majority ballot in two rounds</td>
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<td>General Secretariat of the Government</td>
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<td>sub-amendment</td>
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<td>English</td>
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<td>« sur pièces et sur place »</td>
<td>access to all evidence</td>
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<td>speaker’s rostrum</td>
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<td>official directory of notes on, and portraits of, M.P.s</td>
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<td>ballot box</td>
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<td>vacances de sièges, de postes</td>
<td>vacancy of a seat or a position</td>
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<td>vote by show of hands</td>
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<td>sitting or standing vote</td>
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<td>personal vote</td>
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<td>vote sans débat</td>
<td>vote without debate</td>
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<td>vote sur l’ensemble</td>
<td>vote on an entire bill</td>
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</table>
The notion of “Bureau” does not really exist in the main Anglophone parliaments. Its translation by the word “board”, sometimes used, is unsatisfactory, as the latter usually refers to management bodies in the private sector.

In most Anglophone parliaments and international organisations, the “commissions permanentes” are called “standing committees” (rather than “commissions”).

In almost all Anglophone parliaments, and in particular in the British Parliament and in the Canadian Parliament (the largest French-English bilingual parliament), the members of the lower House are the only ones to be referred to as M.P.s (Members of Parliament). Generally speaking, the French term “les parlementaires” is translated “parliamentarians” or “Members of the Houses of Parliament”.

In many Anglophone countries, “loi” is translated “law”. This is the translation generally used in this volume. “Act of Parliament” is a synonym and is used in particular in the United Kingdom. « Statute » is a generic term referring to “la Loi”.

In Anglophone parliaments, the three words “speaker”, “president” and “chairman” are used. They refer to different offices according to each specific parliament. We chose in this volume to translate the title “Président de l’Assemblée nationale” by “President of the National Assembly”, as the term “Speaker” is too closely associated with the British parliamentary model and the term “Chairman” tends to reduce this office to the mere presidency of the plenary sitting. Nonetheless, we decided to use the term « Chairman » to translate the French titles “président de commission” and “président de groupe politique”.
Constitution of October 4, 1958

NOTE

Article 88-5 is not applicable to memberships following an intergovernmental conference convened by the European Council before July 1, 2004, by virtue of article 47 of Constitutional Act n° 2008-724 of July 23, 2008.

PREAMBLE

The French people solemnly proclaim their attachment to the Rights of Man and the principles of national sovereignty as defined by the Declaration of 1789, confirmed and complemented by the Preamble to the Constitution of 1946, and to the rights and duties as defined in the Charter for the Environment of 2004.

By virtue of these principles and that of the self-determination of peoples, the Republic offers to the overseas territories which have expressed the will to adhere to them new institutions founded on the common ideal of liberty, equality and fraternity and conceived for the purpose of their democratic development.

Article 1

France shall be an indivisible, secular, democratic and social Republic. It shall ensure the equality of all citizens before the law, without distinction of origin, race or religion. It shall respect all beliefs. It shall be organised on a decentralised basis.

Statutes shall promote equal access by women and men to elective offices and posts as well as to position of professional and social responsibility.

TITLE I

ON SOVEREIGNTY

Article 2

The language of the Republic shall be French.
The national emblem shall be the blue, white and red tricolour flag.

The national anthem shall be *La Marseillaise*.

The maxim of the Republic shall be “Liberty, Equality, Fraternity”.

The principle of the Republic shall be: government of the people, by the people and for the people.

**Article 3**

National sovereignty shall vest in the people, who shall exercise it through their representatives and by means of referendum.

No section of the people nor any individual may arrogate to itself, or to himself, the exercise thereof.

Suffrage may be direct or indirect as provided for by the Constitution. It shall always be universal, equal and secret.

All French citizens of either sex who have reached their majority and are in possession of their civil and political rights may vote as provided for by statute.

**Article 4**

Political parties and groups shall contribute to the exercise of suffrage. They shall be formed and carry on their activities freely. They shall respect the principles of national sovereignty and democracy.

They shall contribute to the implementation of the principle set out in the second paragraph of article 1 as provided for by statute.

Statutes shall guarantee the expression of diverse opinions and the equitable participation of political parties and groups in the democratic life of the Nation.

**TITLE II**

**THE PRESIDENT OF THE REPUBLIC**

**Article 5**

The President of the Republic shall ensure due respect for the Constitution. He shall ensure, by his arbitration, the proper functioning of the public authorities and the continuity of the State.

He shall be the guarantor of national independence, territorial integrity and due respect for Treaties.


**Article 6**

The President of the Republic shall be elected for a term of five years by direct universal suffrage.

No one may hold office for more than two consecutive terms.

The manner of implementation of this article shall be determined by an Institutional Act.

**Article 7**

The President of the Republic shall be elected by an absolute majority of votes cast. If such a majority is not obtained on the first ballot, a second ballot shall take place on the fourteenth day thereafter. Only the two candidates polling the greatest number of votes in the first ballot, after any withdrawal of better placed candidates, may stand in the second ballot.

The process of electing a President shall commence by the calling of said election by the Government.

The election of the new President shall be held no fewer than twenty days and no more than thirty-five days before the expiry of the term of the President in office.

Should the Presidency of the Republic fall vacant for any reason whatsoever, or should the Constitutional Council on a referral from the Government rule by an absolute majority of its members that the President of the Republic is incapacitated, the duties of the President of the Republic, with the exception of those specified in articles 11 and 12, shall be temporarily exercised by the President of the Senate or, if the latter is in turn incapacitated, by the Government.

In the case of a vacancy, or where the incapacity of the President is declared to be permanent by the Constitutional Council, elections for the new President shall, except in the event of a finding by the Constitutional Council of force majeure, be held no fewer than twenty days and no more than thirty-five days after the beginning of the vacancy or the declaration of permanent incapacity.

In the event of the death or incapacitation in the seven days preceding the deadline for registering candidacies of any of the persons who, fewer than thirty days prior to such deadline, have publicly announced their decision to stand for election, the Constitutional Council may decide to postpone the election.

If, before the first round of voting, any of the candidates dies or becomes incapacitated, the Constitutional Council shall declare the election to be postponed.

In the event of the death or incapacitation of either of the two candidates in the lead after the first round of voting before any withdrawals, the Constitutional Council shall declare that the electoral process must be repeated in full; the same shall apply in the event of the death or incapacitation of either of the two candidates still standing on the second round of voting.
All cases shall be referred to the Constitutional Council in the manner laid down in the second paragraph of article 61 or in that laid down for the registration of candidates in the Institutional Act provided for in article 6.

The Constitutional Council may extend the time limits set in paragraphs three and five above, provided that polling takes place no later than thirty-five days after the decision of the Constitutional Council. If the implementation of the provisions of this paragraph results in the postponement of the election beyond the expiry of the term of the President in office, the latter shall remain in office until his successor is proclaimed.

Neither articles 49 and 50 nor article 89 of the Constitution shall be implemented during the vacancy of the Presidency of the Republic or during the period between the declaration of the permanent incapacity of the President of the Republic and the election of his successor.

Article 8

The President of the Republic shall appoint the Prime Minister. He shall terminate the appointment of the Prime Minister when the latter tenders the resignation of the Government.

On the recommendation of the Prime Minister, he shall appoint the other members of the Government and terminate their appointments.

Article 9

The President of the Republic shall preside over the Council of Ministers.

Article 10

The President of the Republic shall promulgate Acts of Parliament within fifteen days following the final passage of an Act and its transmission to the Government.

He may, before the expiry of this time limit, ask Parliament to reopen debate on the Act or any sections thereof. Such reopening of debate shall not be refused.

Article 11

The President of the Republic may, on a recommendation from the Government when Parliament is in session, or on a joint motion of the two Houses, published in the Journal officiel, submit to a referendum any Government Bill which deals with the organization of the public authorities, or with reforms relating to the economic, social or environmental policy of the Nation, and to the public services contributing thereto, or which provides for authorization to ratify a treaty which, although not contrary to the Constitution, would affect the functioning of the institutions.

Where the referendum is held on the recommendation of the Government, the latter shall make a statement before each House and the same shall be followed by a debate.
A referendum concerning a subject mentioned in the first paragraph may be held upon the initiative of one fifth of the Members of Parliament, supported by one tenth of the voters enrolled on the electoral register. This initiative shall take the form of a Private Member’s Bill and shall not be applied to the repeal of a statutory provision promulgated for less than one year.

The conditions by which it is introduced and those according to which the Constitutional Council monitors the respect of the provisions of the previous paragraph, are set down by an Institutional Act.

If the Private Member’s Bill has not been considered by the two Houses within a period set by the Institutional Act, the President of the Republic shall submit it to a referendum.

Where the decision of the French people in the referendum is not favourable to the Private Member’s Bill, no new referendum proposal on the same subject may be submitted before the end of a period of two years following the date of the vote.

Where the outcome of the referendum is favourable to the Government Bill or to the Private Member’s Bill, the President of the Republic shall promulgate the resulting statute within fifteen days following the proclamation of the results of the vote.

**Article 12**

The President of the Republic may, after consulting the Prime Minister and the Presidents of the Houses of Parliament, declare the National Assembly dissolved.

A general election shall take place no fewer than twenty days and no more than forty days after the dissolution.

The National Assembly shall sit as of right on the second Thursday following its election. Should this sitting fall outside the period prescribed for the ordinary session, a session shall be convened by right for a fifteen-day period.

No further dissolution shall take place within a year following said election.

**Article 13**

The President of the Republic shall sign the Ordinances and Decrees deliberated upon in the Council of Ministers.

He shall make appointments to the civil and military posts of the State.

*Conseillers d’État*, the *Grand Chancelier de la Légion d’Honneur*, Ambassadors and Envoys Extraordinary, *Conseillers Maîtres* of the *Cour des Comptes*, Prefects, State representatives in the overseas communities to which article 74 applies and in New Caledonia, highest-ranking Military Officers, *Recteurs des Académies* and Directors of Central Government Departments shall be appointed in the Council of Ministers.
An Institutional Act shall determine the other posts to be filled at meetings of the Council of Ministers and the manner in which the power of the President of the Republic to make appointments may be delegated by him to be exercised on his behalf.

An Institutional Act shall determine the posts or positions, other than those mentioned in the third paragraph, concerning which, on account of their importance in the guaranteeing of the rights and freedoms or the economic and social life of the Nation, the power of appointment vested in the President of the Republic shall be exercised after public consultation with the relevant standing committee in each House. The President of the Republic shall not make an appointment when the sum of the negative votes in each committee represents at least three fifths of the votes cast by the two committees. Statutes shall determine the relevant standing committees according to the posts or positions concerned.

**Article 14**

The President of the Republic shall accredit ambassadors and envoys extraordinary to foreign powers; foreign ambassadors and envoys extraordinary shall be accredited to him.

**Article 15**

The President of the Republic shall be Commander-in-Chief of the Armed Forces. He shall preside over the higher national defence councils and committees.

**Article 16**

Where the institutions of the Republic, the independence of the Nation, the integrity of its territory or the fulfilment of its international commitments are under serious and immediate threat, and where the proper functioning of the constitutional public authorities is interrupted, the President of the Republic shall take measures required by these circumstances, after formally consulting the Prime Minister, the Presidents of the Houses of Parliament and the Constitutional Council.

He shall address the Nation and inform it of such measures.

The measures shall be designed to provide the constitutional public authorities as swiftly as possible, with the means to carry out their duties. The Constitutional Council shall be consulted with regard to such measures.

Parliament shall sit as of right.

The National Assembly shall not be dissolved during the exercise of such emergency powers.

After thirty days of the exercise of such emergency powers, the matter may be referred to the Constitutional Council by the President of the National Assembly, the President of the Senate, sixty Members of the National Assembly or sixty Senators, so as to decide if the conditions laid down in paragraph one still apply. The Council shall make its decision publicly as soon as possible. It shall, as of right, carry out such an
examination and shall make its decision in the same manner after sixty days of the exercise of emergency powers or at any moment thereafter.

Article 17

The President of the Republic is vested with the power to grant individual pardons.

Article 18

The President of the Republic shall communicate with the two Houses of Parliament by messages which he shall cause to be read aloud and which shall not give rise to any debate.

He may take the floor before Parliament convened in Congress for this purpose. His statement may give rise, in his absence, to a debate without vote.

When not in session, the Houses of Parliament shall be convened especially for this purpose.

Article 19

Instruments of the President of the Republic, other than those provided for under articles 8 (paragraph one), 11, 12, 16, 18, 54, 56 and 61, shall be countersigned by the Prime Minister and, where required, by the ministers concerned.

TITLE III

THE GOVERNMENT

Article 20

The Government shall determine and conduct the policy of the Nation.

It shall have at its disposal the civil service and the armed forces.

It shall be accountable to Parliament in accordance with the terms and procedures set out in articles 49 and 50.

Article 21

The Prime Minister shall direct the actions of the Government. He shall be responsible for national defence. He shall ensure the implementation of legislation. Subject to article 13, he shall have power to make regulations and shall make appointments to civil and military posts.

He may delegate certain of his powers to Ministers.

He shall deputize, if the case arises, for the President of the Republic as chairman of the councils and committees referred to in article 15.
He may, in exceptional cases, deputize for him as chairman of a meeting of the Council of Ministers by virtue of an express delegation of powers for a specific agenda.

Article 22

Instruments of the Prime Minister shall be countersigned, where required, by the ministers responsible for their implementation.

Article 23

Membership of the Government shall be incompatible with the holding of any Parliamentary office, any position of professional representation at national level, any public employment or any professional activity.

An Institutional Act shall determine the manner in which the holders of such offices, positions or employment shall be replaced.

The replacement of Members of Parliament shall take place in accordance with the provisions of article 25.

TITLE IV
PARLIAMENT

Article 24

Parliament shall pass statutes. It shall monitor the action of the Government. It shall assess public policies.

It shall comprise the National Assembly and the Senate.

Members of the National Assembly, whose number shall not exceed five hundred and seventy-seven, shall be elected by direct suffrage.

The Senate, whose members shall not exceed three hundred and forty-eight, shall be elected by indirect suffrage. The Senate shall ensure the representation of the territorial communities of the Republic.

French nationals living abroad shall be represented in the National Assembly and in the Senate.

Article 25

An Institutional Act shall determine the term for which each House is elected, the number of its members, their allowances, the conditions of eligibility and the terms of disqualification and of incompatibility with membership.

It shall likewise determine the manner of election of those persons called upon to replace Members of the National Assembly or Senators whose seats have become vacant, until the general or partial renewal by election of the House in which they sat, or
have been temporarily replaced on account of having accepted a position in Government.

An independent commission, whose composition and rules of organization and operation shall be set down by statute, shall publicly express an opinion on the Government and Private Members’ Bills defining the constituencies for the election of Members of the National Assembly, or modifying the distribution of the seats of Members of the National Assembly or of Senators.

**Article 26**

No Member of Parliament shall be prosecuted, investigated, arrested, detained or tried in respect of opinions expressed or votes cast in the performance of his official duties.

No Member of Parliament shall be arrested for a serious crime or other major offence, nor shall he be subjected to any other custodial or semi-custodial measure, without the authorization of the Bureau of the House of which he is a member. Such authorization shall not be required in the case of a serious crime or other major offence committed *flagrante delicto* or when a conviction has become final.

The detention, subjecting to custodial or semi-custodial measures, or prosecution of a Member of Parliament shall be suspended for the duration of the session if the House of which he is a member so requires.

The House concerned shall meet as of right for additional sittings in order to permit the application of the foregoing paragraph should circumstances so require.

**Article 27**

No Member shall be elected with any binding mandate.

Members’ right to vote shall be exercised in person.

An Institutional Act may, in exceptional cases, authorize voting by proxy. In that event, no Member shall be given more than one proxy.

**Article 28**

Parliament shall sit as of right in one ordinary session which shall start on the first working day of October and shall end on the last working day of June.

The number of days for which each House may sit during the ordinary session shall not exceed one hundred and twenty. The number of sitting weeks shall be determined by each House.

The Prime Minister, after consulting the President of the House concerned or the majority of the members of each House may decide that said House shall meet for additional sitting days.
The days and hours of sittings shall be determined by the Rules of Procedure of each House.

**Article 29**

Parliament shall meet in extraordinary session, at the request of the Prime Minister or of the majority of the Members of the National Assembly, to debate a specific agenda.

Where an extraordinary session is held at the request of Members of the National Assembly, this session shall be closed by decree once all the items on the agenda for which Parliament was convened have been dealt with, or not later than twelve days after its first sitting, whichever shall be the earlier.

The Prime Minister alone may request a new session before the end of the month following the decree closing an extraordinary session.

**Article 30**

Except where Parliament sits as of right, extraordinary sessions shall be opened and closed by a Decree of the President of the Republic.

**Article 31**

Members of the Government shall have access to both Houses. They shall address either House whenever they so request.

They may be assisted by commissaires du Gouvernement.

**Article 32**

The President of the National Assembly shall be elected for the life of a Parliament. The President of the Senate shall be elected each time elections are held for partial renewal of the Senate.

**Article 33**

The sittings of the two Houses shall be public. A verbatim report of the debates shall be published in the *Journal officiel*.

Each House may sit in camera at the request of the Prime Minister or of one tenth of its members.

**TITLE V**

**ON RELATIONS BETWEEN PARLIAMENT AND THE GOVERNMENT**

**Article 34**

Statutes shall determine the rules concerning:
– civic rights and the fundamental guarantees granted to citizens for the exercise of their civil liberties; freedom, diversity and the independence of the media; the obligations imposed for the purposes of national defence upon the person and property of citizens;

– nationality, the status and capacity of persons, matrimonial property systems, inheritance and gifts;

– the determination of serious crimes and other major offences and the penalties they carry; criminal procedure; amnesty; the setting up of new categories of courts and the status of members of the Judiciary;

– the base, rates and methods of collection of all types of taxes; the issuing of currency.

Statutes shall also determine the rules governing:

– the system for electing members of the Houses of Parliament, local assemblies and the representative bodies for French nationals living abroad, as well as the conditions for holding elective offices and positions for the members of the deliberative assemblies of the territorial communities;

– the setting up of categories of public legal entities;

– the fundamental guarantees granted to civil servants and members of the Armed Forces;

– nationalisation of companies and the transfer of ownership of companies from the public to the private sector.

Statutes shall also lay down the basic principles of:

– the general organisation of national defence;

– the self-government of territorial communities, their powers and revenue;

– education;

– the preservation of the environment;

– systems of ownership, property rights and civil and commercial obligations;

– Employment law, Trade Union law and Social Security.

Finance Acts shall determine the revenue and expenditure of the State in the conditions and with the reservations provided for by an Institutional Act.

Social Security Financing Acts shall lay down the general conditions for the financial equilibrium thereof, and taking into account forecasted revenue, shall determine
expenditure targets in the conditions and with the reservations provided for by an Institutional Act.

Programming Acts shall determine the objectives of the action of the State.

The multiannual guidelines for public finances shall be established by Programming Acts. They shall contribute to achieving the objective of balanced accounts for public administrations.

The provisions of this article may be further specified and completed by an Institutional Act.

**Article 34-1**

The Houses of Parliament may adopt resolutions according to the conditions determined by the Institutional Act.

Any draft resolution, whose adoption or rejection would be considered by the Government as an issue of confidence, or which contained an injunction to the Government, shall be inadmissible and may not be included on the agenda.

**Article 35**

A declaration of war shall be authorized by Parliament.

The Government shall inform Parliament of its decision to have the armed forces intervene abroad, at the latest three days after the beginning of said intervention. It shall detail the objectives of the said intervention. This information may give rise to a debate, which shall not be followed by a vote.

Where the said intervention shall exceed four months, the Government shall submit the extension to Parliament for authorization. It may ask the National Assembly to make the final decision.

If Parliament is not sitting at the end of the four-month period, it shall express its decision at the opening of the following session.

**Article 36**

A state of siege shall be decreed in the Council of Ministers.

The extension thereof after a period of twelve days may be authorized solely by Parliament.

**Article 37**

Matters other than those coming under the scope of statute law shall be matters for regulation.
Provisions of statutory origin enacted in such matters may be amended by decree issued after consultation with the Conseil d’État. Any such provisions passed after the coming into force of the Constitution shall be amended by decree only if the Constitutional Council has found that they are matters for regulation as defined in the foregoing paragraph.

Article 37-1

Statutes and regulations may contain provisions enacted on an experimental basis for limited purposes and duration.

Article 38

In order to implement its programme, the Government may ask Parliament for authorization, for a limited period, to take measures by Ordinance that are normally the preserve of statute law.

Ordinances shall be issued in the Council of Ministers, after consultation with the Conseil d’État. They shall come into force upon publication, but shall lapse in the event of failure to table before Parliament the Bill to ratify them by the date set by the Enabling Act. They may only be ratified in explicit terms.

At the end of the period referred to in the first paragraph hereinabove Ordinances may be amended solely by an Act of Parliament in those areas governed by statute law.

Article 39

Both the Prime Minister and Members of Parliament shall have the right to initiate legislation.

Government Bills shall be discussed in the Council of Ministers after consultation with the Conseil d’État and shall be tabled in one or other of the two Houses. Finance Bills and Social Security Financing Bills shall be tabled first before the National Assembly. Without prejudice to the first paragraph of article 44, Bills primarily dealing with the organisation of territorial communities shall be tabled first in the Senate.

The tabling of Government Bills before the National Assembly or the Senate, shall comply with the conditions determined by an Institutional Act.

Government Bills may not be included on the agenda if the Conference of Presidents of the first House to which the Bill has been referred, declares that the rules determined by the Institutional Act have not been complied with. In the case of disagreement between the Conference of Presidents and the Government, the President of the relevant House or the Prime Minister may refer the matter to the Constitutional Council, which shall rule within a period of eight days.

Within the conditions provided for by statute, the President of either House may submit a Private Member’s Bill tabled by a Member of the said House, before it is considered in committee, to the Conseil d’État for its opinion, unless the Member who tabled it disagrees.
Article 40

Private Members’ Bills and amendments introduced by Members of Parliament shall not be admissible where their enactment would result in either a diminution of public revenue or the creation or increase of any public expenditure.

Article 41

If, during the legislative process, it appears that a Private Member’s Bill or amendment is not a matter for statute or is contrary to a delegation granted under article 38, the Government or the President of the House concerned, may argue that it is inadmissible.

In the event of disagreement between the Government and the President of the House concerned, the Constitutional Council, at the request of one or the other, shall give its ruling within eight days.

Article 42

The discussion of Government and Private Members’ Bills shall, in plenary sitting, concern the text passed by the committee to which the Bill has been referred, in accordance with article 43, or failing that, the text which has been referred to the House.

Notwithstanding the foregoing, the plenary discussion of Constitutional Revision Bills, Finance Bills and Social Security Financing Bills, shall concern, during the first reading before the House to which the Bill has been referred in the first instance, the text presented by the Government, and during the subsequent readings, the text transmitted by the other House.

The plenary discussion at first reading of a Government or Private Members’ Bill may only occur before the first House to which it is referred, at the end of a period of six weeks after it has been tabled. It may only occur, before the second House to which it is referred, at the end of a period of four weeks, from the date of transmission.

The previous paragraph shall not apply if the accelerated procedure has been implemented according to the conditions provided for in article 45. Neither shall it apply to Finance Bills, Social Security Financing Bills, or to Bills concerning a state of emergency.

Article 43

Government and Private Members’ Bills shall be referred to one of the standing committees, the number of which shall not exceed eight in each House.

At the request of the Government or of the House before which such a bill has been tabled, Government and Private Members’ Bills shall be referred for consideration to a committee specially set up for this purpose.
Article 44

Members of Parliament and the Government shall have the right of amendment. This right may be used in plenary sitting or in committee under the conditions set down by the Rules of Procedure of the Houses, according to the framework determined by an Institutional Act.

Once debate has begun, the Government may object to the consideration of any amendment which has not previously been referred to committee.

If the Government so requests, the House before which the Bill is tabled shall proceed to a single vote on all or part of the text under debate, on the sole basis of the amendments proposed or accepted by the Government.

Article 45

Every Government or Private Member’s Bill shall be considered successively in the two Houses of Parliament with a view to the passing of an identical text. Without prejudice to the application of articles 40 and 41, all amendments which have a link, even an indirect one, with the text that was tabled or transmitted, shall be admissible on first reading.

If, as a result of a failure to agree by the two Houses, it has proved impossible to pass a Government or Private Member’s Bill after two readings by each House or, if the Government has decided to apply the accelerated procedure without the two Conferences of Presidents being jointly opposed, after a single reading of such a Bill by each House, the Prime Minister, or in the case of a Private Members’ Bill, the Presidents of the two Houses acting jointly, may convene a joint committee, composed of an equal number of members from each House, to propose a text on the provisions still under debate.

The text drafted by the joint committee may be submitted by the Government to both Houses for approval. No amendment shall be admissible without the consent of the Government.

If the joint committee fails to agree on a common text, or if the text is not passed as provided in the foregoing paragraph, the Government may, after a further reading by the National Assembly and by the Senate, ask the National Assembly to reach a final decision. In such an event, the National Assembly may reconsider either the text drafted by the joint committee, or the last text passed by itself, as modified, as the case may be, by any amendment(s) passed by the Senate.

Article 46

Acts of Parliament which are defined by the Constitution as being Institutional Acts shall be enacted and amended as provided for hereinafter.

The Government or Private Member’s Bill may only be submitted, on first reading, to the consideration and vote of the Houses after the expiry of the periods set down in the third paragraph of article 42. Notwithstanding the foregoing, if the accelerated
procedure has been applied according to the conditions provided for in article 45, the
Government or Private Member’s Bill may not be submitted for consideration by the
first House to which it is referred before the expiry of a fifteen-day period after it has
been tabled.

The procedure set out in article 45 shall apply. Nevertheless, failing agreement
between the two Houses, the text may be passed by the National Assembly on a final
reading only by an absolute majority of the Members thereof.

Institutional Acts relating to the Senate must be passed in identical terms by the two
Houses.

Institutional Acts shall not be promulgated until the Constitutional Council has
declared their conformity with the Constitution.

**Article 47**

Parliament shall pass Finance Bills in the manner provided for by an Institutional
Act.

Should the National Assembly fail to reach a decision on first reading within forty
days following the tabling of a Bill, the Government shall refer the Bill to the Senate,
which shall make its decision known within fifteen days. The procedure set out in
article 45 shall then apply.

Should Parliament fail to reach a decision within seventy days, the provisions of the
Bill may be brought into force by Ordinance.

Should the Finance Bill setting out revenue and expenditure for a financial year not
be tabled in time for promulgation before the beginning of that year, the Government
shall as a matter of urgency ask Parliament for authorization to collect taxes and shall
make available by decree the funds needed to meet commitments already voted for.

The time limits set by this article shall be suspended when Parliament is not in
session.

**Article 47-1**

Parliament shall pass Social Security Financing Bills in the manner provided by an
Institutional Act.

Should the National Assembly fail to reach a decision on first reading within twenty
days of the tabling of a Bill, the Government shall refer the Bill to the Senate, which
shall make its decision known within fifteen days. The procedure set out in article 45
shall then apply.

Should Parliament fail to reach a decision within fifty days, the provisions of the Bill
may be implemented by Ordinance.
The time limits set by this article shall be suspended when Parliament is not in session and, as regards each House, during the weeks when it has decided not to sit in accordance with the second paragraph of article 28.

**Article 47-2**


The accounts of public administrations shall be lawful and faithful. They shall provide a true and fair view of the result of the management, assets and financial situation of the said public administrations.

**Article 48**

Without prejudice to the application of the last three paragraphs of article 28, the agenda shall be determined by each House.

During two weeks of sittings out of four, priority shall be given, in the order determined by the Government, to the consideration of texts and to debates which it requests to be included on the agenda.

In addition, the consideration of Finance Bills, Social Security Financing Bills and, subject to the provisions of the following paragraph, texts transmitted by the other House at least six weeks previously, as well as Bills concerning a state of emergency and requests for authorization referred to in article 35, shall, upon Government request, be included on the agenda with priority.

During one week of sittings out of four, priority shall be given, in the order determined by each House, to the monitoring of Government action and to the assessment of public policies.

One day of sitting per month shall be given over to an agenda determined by each House upon the initiative of the opposition groups in the relevant House, as well as upon that of the minority groups.

During at least one sitting per week, including during the extraordinary sittings provided for in article 29, priority shall be given to questions from Members of Parliament and to answers from the Government.

**Article 49**

The Prime Minister, after deliberation by the Council of Ministers, may make the Government’s programme or possibly a general policy statement an issue of a vote of confidence before the National Assembly.

The National Assembly may call the Government to account by passing a resolution of no-confidence. Such a resolution shall not be admissible unless it is signed by at least
one tenth of the Members of the National Assembly. Voting may not take place within forty-eight hours after the resolution has been tabled. Solely votes cast in favour of the no-confidence resolution shall be counted and the latter shall not be passed unless it secures a majority of the Members of the House. Except as provided for in the following paragraph, no Member shall sign more than three resolutions of no-confidence during a single ordinary session and no more than one during a single extraordinary session.

The Prime Minister may, after deliberation by the Council of Ministers, make the passing of a Finance Bill or Social Security Financing Bill an issue of a vote of confidence before the National Assembly. In that event, the Bill shall be considered passed unless a resolution of no-confidence, tabled within the subsequent twenty-four hours, is carried as provided for in the foregoing paragraph. In addition, the Prime Minister may use the said procedure for one other Government or Private Members’ Bill per session.

The Prime Minister may ask the Senate to approve a statement of general policy.

**Article 50**

When the National Assembly passes a resolution of no-confidence, or when it fails to endorse the Government programme or general policy statement, the Prime Minister shall tender the resignation of the Government to the President of the Republic.

**Article 50-1**

The Government may, before either House, upon its own initiative or upon the request of a parliamentary group, as set down in article 51-1, make a declaration on a given subject, which leads to a debate and, if it so desires, gives rise to a vote, without making it an issue of confidence.

**Article 51**

The closing of ordinary or extraordinary sessions shall be automatically postponed in order to permit the application of article 49, if the case arises. Additional sittings shall be held automatically for the same purpose.

**Article 51-1**

The Rules of Procedure of each House shall determine the rights of the parliamentary groups set up within it. They shall recognize that opposition groups in the House concerned, as well as minority groups, have specific rights.

**Article 51-2**

In order to implement the monitoring and assessment missions laid down in the first paragraph of article 24, committees of inquiry may be set up within each House to gather information, according to the conditions provided for by statute.
Statutes shall determine their rules of organization and operation. The conditions for their establishment shall be determined by the Rules of Procedure of each House.

TITLE VI
ON TREATIES AND INTERNATIONAL AGREEMENTS

Article 52

The President of the Republic shall negotiate and ratify treaties.

He shall be informed of any negotiations for the conclusion of an international agreement not subject to ratification.

Article 53

Peace Treaties, Trade agreements, treaties or agreements relating to international organization, those committing the finances of the State, those modifying provisions which are the preserve of statute law, those relating to the status of persons, and those involving the ceding, exchanging or acquiring of territory, may be ratified or approved only by an Act of Parliament.

They shall not take effect until such ratification or approval has been secured.

No ceding, exchanging or acquiring of territory shall be valid without the consent of the population concerned.

Article 53-1

The Republic may enter into agreements with European States which are bound by undertakings identical with its own in matters of asylum and the protection of human rights and fundamental freedoms, for the purpose of determining their respective jurisdiction as regards requests for asylum submitted to them.

However, even if the request does not fall within their jurisdiction under the terms of such agreements, the authorities of the Republic shall remain empowered to grant asylum to any foreigner who is persecuted for his action in pursuit of freedom or who seeks the protection of France on other grounds.

Article 53-2

The Republic may recognize the jurisdiction of the International Criminal Court as provided for by the Treaty signed on 18 July 1998.

Article 54

If the Constitutional Council, on a referral from the President of the Republic, from the Prime Minister, from the President of one or the other Houses, or from sixty Members of the National Assembly or sixty Senators, has held that an international undertaking contains a clause contrary to the Constitution, authorization to ratify or
approve the international undertaking involved may be given only after amending the Constitution.

Article 55

Treaties or agreements duly ratified or approved shall, upon publication, prevail over Acts of Parliament, subject, with respect to each agreement or treaty, to its application by the other party.

TITLE VII

THE CONSTITUTIONAL COUNCIL

Article 56

The Constitutional Council shall comprise nine members, each of whom shall hold office for a non-renewable term of nine years. One third of the membership of the Constitutional Council shall be renewed every three years. Three of its members shall be appointed by the President of the Republic, three by the President of the National Assembly and three by the President of the Senate. The procedure provided for in the last paragraph of article 13 shall apply to these appointments. The appointments made by the President of each House shall be submitted for the opinion solely of the relevant standing committee in that House.

In addition to the nine members provided for above, former Presidents of the Republic shall be ex officio life members of the Constitutional Council.

The President shall be appointed by the President of the Republic. He shall have a casting vote in the event of a tie.

Article 57

The office of member of the Constitutional Council shall be incompatible with that of Minister or Member of the Houses of Parliament. Other incompatibilities shall be determined by an Institutional Act.

Article 58

The Constitutional Council shall ensure the proper conduct of the election of the President of the Republic.

It shall examine complaints and shall proclaim the results of the vote.

Article 59

The Constitutional Council shall rule on the proper conduct of the election of Members of the National Assembly and Senators in disputed cases.
Article 60

The Constitutional Council shall ensure the proper conduct of referendum proceedings as provided for in articles 11 and 89 and in Title XV and shall proclaim the results of the referendum.

Article 61

Institutional Acts, before their promulgation, Private Members’ Bills mentioned in article 11 before they are submitted to referendum, and the Rules of Procedure of the Houses of Parliament shall, before coming into force, be referred to the Constitutional Council, which shall rule on their conformity with the Constitution.

To the same end, Acts of Parliament may be referred to the Constitutional Council, before their promulgation, by the President of the Republic, the Prime Minister, the President of the National Assembly, the President of the Senate, sixty Members of the National Assembly or sixty Senators.

In the cases provided for in the two foregoing paragraphs, the Constitutional Council must deliver its ruling within one month. However, at the request of the Government, in cases of urgency, this period shall be reduced to eight days.

In these same cases, referral to the Constitutional Council shall suspend the time allotted for promulgation.

Article 61-1

If, during proceedings in progress before a court of law, it is claimed that a statutory provision infringes the rights and freedoms guaranteed by the Constitution, the matter may be referred by the Conseil d'État or by the Cour de Cassation to the Constitutional Council, within a determined period.

An Institutional Act shall determine the conditions for the application of the present article.

Article 62

A provision declared unconstitutional on the basis of article 61 shall be neither promulgated nor implemented.

A provision declared unconstitutional on the basis of article 61-1 shall be repealed as of the publication of the said decision of the Constitutional Council or as of a subsequent date determined by said decision. The Constitutional Council shall determine the conditions and the limits according to which the effects produced by the provision shall be liable to challenge.

No appeal shall lie from the decisions of the Constitutional Council. They shall be binding on public authorities and on all administrative authorities and all courts.
Article 63

An Institutional Act shall determine the rules of organization and operation of the Constitutional Council, the procedure to be followed before it and, in particular, the time limits allotted for referring disputes to it.

TITLE VIII

ON JUDICIAL AUTHORITY

Article 64

The President of the Republic shall be the guarantor of the independence of the Judicial Authority.

He shall be assisted by the High Council of the Judiciary.

An Institutional Act shall determine the status of members of the Judiciary.

Judges shall be irremovable from office.

Article 65

The High Council of the Judiciary shall consist of a section with jurisdiction over judges and a section with jurisdiction over public prosecutors.

The section with jurisdiction over judges shall be presided over by the Chief President of the Cour de cassation. It shall comprise, in addition, five judges and one public prosecutor, one Conseiller d'État appointed by the Conseil d'État and one practising lawyer, as well as six qualified, prominent citizens who are not Members of Parliament, of the Judiciary or of the administration. The President of the Republic, the President of the National Assembly and the President of the Senate shall each appoint two qualified, prominent citizens. The procedure provided for in the last paragraph of article 13 shall be applied to the appointments of the qualified, prominent citizens. The appointments made by the President of each House of Parliament shall be submitted for the sole opinion of the relevant standing committee in that House.

The section with jurisdiction over public prosecutors shall be presided over by the Chief Public Prosecutor at the Cour de Cassation. It shall comprise, in addition, five public prosecutors and one judge, as well as the Conseiller d'État and the practising lawyer, together with the six qualified, prominent citizens referred to in the second paragraph.

The section of the High Council of the Judiciary with jurisdiction over judges shall make recommendations for the appointment of judges to the Cour de cassation, the Chief Presidents of Courts of Appeal and the Presidents of the Tribunaux de grande instance. Other judges shall be appointed after consultation with this section.

The section of the High Council of the Judiciary with jurisdiction over public prosecutors shall give its opinion on the appointment of public prosecutors.
The section of the High Council of the Judiciary with jurisdiction over judges shall act as disciplinary tribunal for judges. When acting in such capacity, in addition to the members mentioned in the second paragraph, it shall comprise the judge belonging to the section with jurisdiction over public prosecutors.

The section of the High Council of the Judiciary with jurisdiction over public prosecutors shall give its opinion on disciplinary measures regarding public prosecutors. When acting in such capacity, it shall comprise, in addition to the members mentioned in paragraph three, the public prosecutor belonging to the section with jurisdiction over judges.

The High Council of the Judiciary shall meet in plenary section to reply to the requests for opinions made by the President of the Republic in application of article 64. It shall also express its opinion in plenary section, on questions concerning the deontology of judges or on any question concerning the operation of justice which is referred to it by the Minister of Justice. The plenary section comprises three of the five judges mentioned in the second paragraph, three of the five prosecutors mentioned in the third paragraph as well as the Conseiller d’État, the practising lawyer and the six qualified, prominent citizens referred to in the second paragraph. It is presided over by the Chief President of the Cour de cassation who may be substituted by the Chief Public Prosecutor of this court.

The Minister of Justice may participate in all the sittings of the sections of the High Council of the Judiciary except those concerning disciplinary matters.

According to the conditions determined by an Institutional Act, a referral may be made to the High Council of the Judiciary by a person awaiting trial.

The Institutional Act shall determine the manner in which this article is to be implemented.

**Article 66**

No one shall be arbitrarily detained.

The Judicial Authority, guardian of the freedom of the individual, shall ensure compliance with this principle in the conditions laid down by statute.

**Article 66-1**

No one shall be sentenced to death.

**TITLE IX**

**THE HIGH COURT**

**Article 67**

The President of the Republic shall incur no liability by reason of acts carried out in his official capacity, subject to the provisions of Articles 53-2 and 68 hereof.
Throughout his term of office the President shall not be required to testify before any French Court of law or Administrative authority and shall not be the object of any civil proceedings, nor of any preferring of charges, prosecution or investigatory measures. All limitation periods shall be suspended for the duration of said term of office.

All actions and proceedings thus stayed may be reactivated or brought against the President one month after the end of his term of office.

**Article 68**

The President of the Republic shall not be removed from office during the term thereof on any grounds other than a breach of his duties patently incompatible with his continuing in office. Such removal from office shall be proclaimed by Parliament sitting as the High Court.

The proposal to convene the High Court adopted by one or other of the Houses of Parliament shall be immediately transmitted to the other House which shall make its decision known within fifteen days of receipt thereof.

The High Court shall be presided over by the President of the National Assembly. It shall give its ruling as to the removal from office of the President, by secret ballot, within one month. Its decision shall have immediate effect.

Rulings given hereunder shall require a majority of two thirds of the members of the House involved or of the High Court. No proxy voting shall be allowed. Only votes in favour of the removal from office or the convening of the High Court shall be counted.

An Institutional Act shall determine the conditions for the application hereof.

**TITLE X**

**ON THE CRIMINAL LIABILITY OF THE GOVERNMENT**

**Article 68-1**

Members of the Government shall be criminally liable for acts performed in the holding of their office and classified as serious crimes or other major offences at the time they were committed.

They shall be tried by the Court of Justice of the Republic.

The Court of Justice of the Republic shall be bound by such definition of serious crimes and other major offences and such determination of penalties as are laid down by statute.

**Article 68-2**

The Court of Justice of the Republic shall consist of fifteen members: twelve Members of Parliament, elected in equal number from among their ranks by the National Assembly and the Senate after each general or partial renewal by election of
these Houses, and three judges of the *Cour de cassation*, one of whom shall preside over the Court of Justice of the Republic.

Any person claiming to be a victim of a serious crime or other major offence committed by a member of the Government in the holding of his office may lodge a complaint with a petitions committee.

This committee shall order the case to be either closed or forwarded to the Chief Public Prosecutor at the *Cour de cassation* for referral to the Court of Justice of the Republic.

The Chief Public prosecutor at the *Cour de cassation* may also make a referral *ex officio* to the Court of Justice of the Republic with the assent of the petitions committee.

An Institutional Act shall determine the manner in which this article is to be implemented.

**Article 68-3**

The provisions of this title shall apply to acts committed before its entry into force.

**TITLE XI**

**THE ECONOMIC, SOCIAL AND ENVIRONMENTAL COUNCIL**

**Article 69**

The Economic, Social and Environmental Council, on a referral from the Government, shall give its opinion on such Government Bills, draft Ordinances, draft Decrees, and Private Members’ Bills as have been submitted to it.

A member of the Economic, Social and Environmental Council may be designated by the Council to present, to the Houses of Parliament, the opinion of the Council on such drafts, Government or Private Members’ Bills as have been submitted to it.

A referral may be made to the Economic, Social and Environmental Council by petition, in the manner determined by an Institutional Act. After consideration of the petition, it shall inform the Government and Parliament of the pursuant action it proposes.

**Article 70**

The Economic, Social and Environmental Council may also be consulted by the Government or Parliament on any economic, social or environmental issue. The Government may also consult it on Programming Bills setting down the multiannual guidelines for public finances. Any plan or Programming Bill of an economic, social or environmental nature shall be submitted to it for its opinion.
Article 71

The composition of the Economic, Social and Environmental Council, which shall not exceed two hundred and thirty-three members, and its rules of proceeding shall be determined by an Institutional Act.

TITLE XI A

THE DEFENDER OF RIGHTS

Article 71-1

The Defender of Rights shall ensure the due respect of rights and freedoms by state administrations, territorial communities, public legal entities, as well as by all bodies carrying out a public service mission or by those that the Institutional Act decides fall within his remit.

Referral may be made to the Defender of Rights, in the manner determined by an Institutional Act, by every person who considers his rights to have been infringed by the operation of a public service or of a body mentioned in the first paragraph. He may act without referral.

The Institutional Act shall set down the mechanisms for action and the powers of the Defender of Rights. It shall determine the manner in which he may be assisted by third parties in the exercise of certain of his powers.

The Defender of Rights shall be appointed by the President of the Republic for a six-year, non-renewable term, after the application of the procedure provided for in the last paragraph of article 13. This position is incompatible with membership of the Government or membership of Parliament. Other incompatibilities shall be determined by the Institutional Act.

The Defender of Rights is accountable for his actions to the President of the Republic and to Parliament.

TITLE XII

ON TERRITORIAL COMMUNITIES

Article 72

The territorial communities of the Republic shall be the Communes, the Departments, the Regions, the Special-Status communities and the Overseas Territorial communities to which article 74 applies. Any other territorial community created, if need be, to replace one or more communities provided for by this paragraph shall be created by statute.

Territorial communities may take decisions in all matters arising under powers that can best be exercised at their level.
In the conditions provided for by statute, these communities shall be self-governing through elected councils and shall have power to make regulations for matters coming within their jurisdiction.

In the manner provided for by an Institutional Act, except where the essential conditions for the exercise of public freedoms or of a right guaranteed by the Constitution are affected, territorial communities or associations thereof may, where provision is made by statute or regulation, as the case may be, derogate on an experimental basis for limited purposes and duration from provisions laid down by statute or regulation governing the exercise of their powers.

No territorial community may exercise authority over another. However, where the exercising of a power requires the combined action of several territorial communities, one of those communities or one of their associations may be authorised by statute to organise such combined action.

In the territorial communities of the Republic, the State representative, representing each of the members of the Government, shall be responsible for national interests, administrative supervision and compliance with the law.

**Article 72-1**

The conditions in which voters in each territorial community may use their right of petition to ask for a matter within the powers of the community to be entered on the agenda of its Deliberative Assembly shall be determined by statute.

In the conditions determined by an Institutional Act, draft decisions or acts within the powers of a territorial community may, on the initiative of the latter, be submitted for a decision by voters of said community by means of a referendum.

When the creation of a special-status territorial community or modification of its organisation are contemplated, a decision may be taken by statute to consult the voters registered in the relevant communities. Voters may also be consulted on changes to the boundaries of territorial communities in the conditions determined by statute.

**Article 72-2**

Territorial communities shall enjoy revenue of which they may dispose freely in the conditions determined by statute.

They may receive all or part of the proceeds of taxes of all kinds. They may be authorised by statute to determine the basis of assessment and the rates thereof, within the limits set by such statutes.

Tax revenue and other own revenue of territorial communities shall, for each category of territorial community, represent a decisive share of their revenue. The conditions for the implementation of this rule shall be determined by an Institutional Act.
Whenever powers are transferred between central government and the territorial communities, revenue equivalent to that given over to the exercise of those powers shall also be transferred. Whenever the effect of newly created or extended powers is to increase the expenditure to be borne by territorial communities, revenue as determined by statute shall be allocated to said communities.

Equalisation mechanisms intended to promote equality between territorial communities shall be provided for by statute.

**Article 72-3**

The Republic shall recognise the overseas populations within the French people in a common ideal of liberty, equality and fraternity.

Guadeloupe, Guyane, Martinique, La Réunion, Mayotte, Saint-Barthélemy, Saint-Martin, Saint-Pierre-et-Miquelon, the Wallis and Futuna Islands and French Polynesia shall be governed by article 73 as regards overseas departments and regions and for the territorial communities set up under the final paragraph of article 73, and by article 74 for the other communities.

The status of New Caledonia shall be governed by title XIII.

The legislative system and special organisation of the French Southern and Antarctic Territories and Clipperton shall be determined by statute.

**Article 72-4**

No change of status as provided for by articles 73 and 74 with respect to the whole or part of any one of the communities to which the second paragraph of article 72-3 applies, shall take place without the prior consent of voters in the relevant community or part of a community being sought in the manner provided for by the paragraph below. Such change of status shall be made by an Institutional Act.

The President of the Republic may, on a recommendation from the Government when Parliament is in session or on a joint motion of the two Houses, published in either case in the *Journal officiel*, decide to consult voters in an overseas territorial community on a question relating to its organisation, its powers or its legislative system. Where the referendum concerns a change of status as provided for by the foregoing paragraph and is held in response to a recommendation by the Government, the Government shall make a statement before each House which shall be followed by debate.

**Article 73**

In the overseas departments and regions, statutes and regulations shall be automatically applicable. They may be adapted in the light of the specific characteristics and constraints of such communities.
Those adaptations may be decided on by the communities in areas in which their powers are exercised if the relevant communities have been empowered to that end by statute or by regulation, whichever is the case.

By way of derogation from the first paragraph hereof and in order to take account of their specific features, communities to which this article applies may be empowered by statute or by regulation, whichever is the case, to determine themselves the rules applicable in their territory in a limited number of matters that fall to be determined by statute or by regulation.

These rules may not concern nationality, civic rights, the guarantees of civil liberties, the status and capacity of persons, the organisation of justice, criminal law, criminal procedure, foreign policy, defence, public security and public order, currency, credit and exchange, or electoral law. This list may be clarified and amplified by an Institutional Act.

The two foregoing paragraphs shall not apply in the department and region of La Réunion.

The powers to be conferred pursuant to the second and third paragraphs hereof shall be determined at the request of the relevant territorial community in the conditions and subject to the reservations provided for by an Institutional Act. They may not be conferred where the essential conditions for the exercise of civil liberties or of a right guaranteed by the Constitution are affected.

The setting up by statute of a territorial community to replace an overseas department and region or a single Deliberative Assembly for the two communities shall not be carried out unless the consent of the voters registered there has first been sought as provided by the second paragraph of article 72-4.

**Article 74**

The Overseas territorial communities to which this article applies shall have a status reflecting their respective local interests within the Republic.

This status shall be determined by an Institutional Act, passed after consultation of the Deliberative Assembly, which shall specify:

– the conditions in which statutes and regulations shall apply there;

– the powers of the territorial community; subject to those already exercised by said community the transfer of central government powers may not involve any of the matters listed in paragraph four of article 73, as specified and completed, if need be, by an Institutional Act;

– the rules governing the organisation and operation of the institutions of the territorial community and the electoral system for its Deliberative Assembly;

– the conditions in which its institutions are consulted on Government or Private Members’ Bills and draft Ordinances or draft Decrees containing provisions relating
specifically to the community and to the ratification or approval of international undertakings entered into in matters within its powers.

The Institutional Act may also, for such territorial communities as are self-governing, determine the conditions in which:

– the *Conseil d’État* shall exercise specific judicial review of certain categories of decisions taken by the Deliberative Assembly in matters which are within the powers vested in it by statute;

– the Deliberative Assembly may amend a statute promulgated after the coming into effect of the new status of said territorial community where the Constitutional Council, acting in particular on a referral from the authorities of the territorial community, has found that statute law has intervened in a field within the powers of said Assembly;

– measures justified by local needs may be taken by the territorial community in favour of its population as regards access to employment, the right of establishment for the exercise of a professional activity or the protection of land;

– the community may, subject to review by the central government, participate in the exercise of the powers vested in it while showing due respect for the guaranties given throughout national territory for the exercising of civil liberties.

The other rules governing the specific organisation of the territorial communities to which this article applies shall be determined and amended by statute after consultation with their Deliberative Assembly.

**Article 74-1**

In the Overseas territorial communities referred to by Article 74 and in New Caledonia, the Government may, in matters which remain within the power of the State, extend by Ordinance, with any necessary adaptations, the statutory provisions applying in mainland France, or adapt the statutory provisions applying, to the specific organization of the community in question, provided statute law has not expressly excluded the use of this procedure for the provisions involved.

Such Ordinances shall be issued in the Council of Ministers after receiving the opinion of the relevant Deliberative Assemblies and the *Conseil d’État*. They shall come into force upon publication. They shall lapse if they are not ratified by Parliament within eighteen months of their publication.

**Article 75**

Citizens of the Republic who do not have ordinary civil status, the sole status referred to in Article 34, shall retain their personal status until such time as they have renounced the same.

**Article 75-1**

Regional languages are part of France’s heritage.
TITLE XIII

TRANSITIONAL PROVISIONS PERTAINING TO NEW CALEDONIA

Article 76


Persons satisfying the requirements laid down in article 2 of Act No. 88-1028 of 9 November, 1988 shall be eligible to take part in the vote.

The measures required to organize the voting process shall be taken by decree adopted after consultation with the Conseil d’État and discussion in the Council of Ministers.

Article 77

After approval of the agreement by the vote provided for in article 76, the Institutional Act passed after consultation with the Deliberative Assembly of New Caledonia shall determine, in order to ensure the development of New Caledonia in accordance with the guidelines set out in that agreement and in the manner required for its implementation:

– those of the State’s powers which are to be definitively transferred to the institutions of New Caledonia, the applicable time frame and the manner in which said transfer shall be proceeded with, together with the apportionment of expenditure arising in connection therewith;

– the rules governing the organization and operation of the institutions of New Caledonia, in particular the circumstances in which certain kinds of decisions taken by the Deliberative Assembly of New Caledonia may be referred to the Constitutional Council for review before publication;

– the rules concerning citizenship, the electoral system, employment, and personal status as laid down by customary law;

– the conditions and the time limits within which the population concerned in New Caledonia is to vote on the attainment of full sovereignty.

Any other measures required to give effect to the agreement referred to in article 76 shall be determined by statute.

For the purpose of defining the body of electors called upon to elect members of the Deliberative Assemblies of New Caledonia and the provinces, the list referred to in the Agreement mentioned in Article 76 hereof and Sections 188 and 189 of Institutional Act n° 99-209 of March 19, 1999 pertaining to New Caledonia is the list drawn up for the ballot provided for in Article 76 hereinabove which includes those persons not eligible to vote.
Articles 78 to 86 repealed

TITLE XIV

ON THE FRENCH-SPEAKING WORLD
AND ON ASSOCIATION AGREEMENTS

Article 87

The Republic shall participate in the development of solidarity and cooperation between States and peoples having the French language in common.

Article 88

The Republic may enter into agreements with States which wish to associate with it in order to develop their civilizations.

TITLE XV

ON THE EUROPEAN UNION

Article 88-1

The Republic shall participate in the European Union constituted by States which have freely chosen to exercise some of their powers in common by virtue of the Treaty on European Union and of the Treaty on the Functioning of the European Union, as they result from the treaty signed in Lisbon on 13 December, 2007.

Article 88-2

Statutes shall determine the rules relating to the European arrest warrant pursuant to acts adopted by the institutions on the European Union.

Article 88-3

Subject to reciprocity and in accordance with the terms of the Treaty on European Union signed on 7 February 1992, the right to vote and stand as a candidate in municipal elections shall be granted only to citizens of the Union residing in France. Such citizens shall neither hold the office of Mayor or Deputy Mayor nor participate in the designation of Senate electors or in the election of Senators. An Institutional Act passed in identical terms by the two Houses shall determine the manner of implementation of this article.

Article 88-4

The government shall lay before the National Assembly and the Senate drafts of European legislative acts as well as other drafts of or proposals for acts of the European Union as soon as they have been transmitted to the Council of the European Union.
In the manner laid down by the Rules of Procedure of each House, European resolutions may be passed, even if Parliament is not in session, on the drafts or proposals referred to in the preceding paragraph, as well as on any document issuing from a European Union Institution.

A committee in charge of European affairs shall be set up in each of the Houses of Parliament.

**Article 88-5**

Any Government Bill authorizing the ratification of a treaty pertaining to the accession of a state to the European Union shall be submitted to referendum by the President of the Republic.

Notwithstanding the foregoing, by passing a motion adopted in identical terms in each House by a three-fifths majority, Parliament may authorize the passing of the Bill according to the procedure provided for in paragraph three of article 89.

**Article 88-6**

The National Assembly or the Senate may issue a reasoned opinion as to the conformity of a draft proposal for a European Act with the principle of subsidiarity. Said opinion shall be addressed by the President of the House involved to the Presidents of the European Parliament, the Council of the European Union and the European Commission. The Government shall be informed of said opinion.

Each House may institute proceedings before the Court of Justice of the European Union against a European Act for non-compliance with the principle of subsidiarity. Such proceedings shall be referred to the Court of Justice of the European Union by the Government.

For the purpose of the foregoing, resolutions may be passed, even if Parliament is not in session, in the manner set down by the Rules of Procedure of each House for the tabling and discussion thereof. Such proceedings shall be obligatory upon the request of sixty Members of the National Assembly or sixty Senators.

**Article 88-7**

Parliament may, by the passing of a motion in identical terms by the National Assembly and the Senate, oppose any modification of the rules governing the passing of Acts of the European Union in cases provided for under the simplified revision procedure for treaties or under judicial cooperation on civil matters, as set forth in the Treaty on European Union and the Treaty on the Functioning of the European Union, as they result from the treaty signed in Lisbon on December 13, 2007.
TITLE XVI

ON AMENDMENTS TO THE CONSTITUTION

Article 89

The President of the Republic, on the recommendation of the Prime Minister, and Members of Parliament alike shall have the right to initiate amendments to the Constitution.

A Government or a Private Member’s Bill to amend the Constitution must be considered within the time limits set down in the third paragraph of article 42 and be passed by the two Houses in identical terms. The amendment shall take effect after approval by referendum.

However, a Government Bill to amend the Constitution shall not be submitted to referendum where the President of the Republic decides to submit it to Parliament convened in Congress; the Government Bill to amend the Constitution shall then be approved only if it is passed by a three-fifths majority of the votes cast. The Bureau of the Congress shall be that of the National Assembly.

No amendment procedure shall be commenced or continued where the integrity of national territory is placed in jeopardy.

The republican form of government shall not be the object of any amendment.

TITLE XVII

(Repealed)