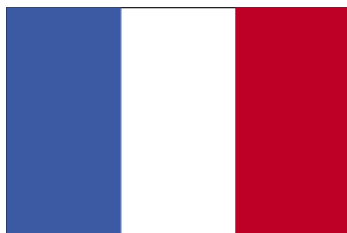


FRANCE

(RÉPUBLIQUE FRANÇAISE)



BACKGROUND AND LEGAL SYSTEM

LEGAL SYSTEM	Civil law system with indigenous concepts; review of administrative but not legislative acts. The same civil code operates throughout the whole jurisdiction. There is no federal law.
POLITICAL SYSTEM	Republic.
HEAD OF STATE	President (<i>le Président de la République</i>), elected by a popular vote. Reelection allowed. The President serves a term of 5 years.
HEAD OF GOVERNMENT	Prime Minister, nominated by the National Assembly majority and appointed by the President.
SUBNATIONAL ENTITIES	Mainland France divided into 22 regions (including Corsica). The capital is Paris.
SUBLOCAL ENTITIES	Regions subdivided into 96 departments, including 4 overseas departments (<i>outré-mer</i>) and three overseas territories.
TRANSLITERATION SYSTEM	None
LANGUAGE	French.

NOTE ON FRENCH
LEGAL
PUBLICATIONS

There is no official or unofficial compilation of all French laws and regulations in force. The last total compilation of French laws took place in the 19th century and has long expired. The French now rely primarily on individually commercially produced codes and subject compilations for access to in-force legislation.

CONSTITUTION

OFFICIAL NAME

The Constitution, (*La Constitution*).

ENACTMENT

Adopted by Referendum 28 September 1958, amended concerning election of President in 1962, amended to comply with provisions of 1992 EC Maastricht Treaty, 1996 Amsterdam Treaty, 2000 Treaty of Nice; amended to tighten immigration laws in 1993; amended in 2000 to change the seven-year presidential term to a five-year term.

CITATION FORMAT

CONST., Art. <article> (FRN).

Example

CONST., Art. 16. (FRN).

Note

France has had fifteen constitutions since 1791. Citation format for one of those constitutions: <year> CONST. <article>.

STATUTES

GOVERNMENT STRUCTURE	France is a centralized country ruled by a semi-presidential system, called “rationalized parlementarism.”
-------------------------	--

LEGISLATIVE
PROCESS

The President designates a Prime Minister from the parliamentary majority. Parliament (*Parlement*) is comprised of the National Assembly (*Assemblée nationale*), whose 577 members are elected by popular vote under a single-member majority system to serve five-year terms and the Senate (*Sénat*), whose 321 members are indirectly elected by an electoral college to serve nine-year terms (elected by thirds every three years). They both pass the statutes (*lois*), but according to Article 34 of the 1958 Constitution they are only allowed to do so in certain designated fields (such as civil rights, nationality, status and capacity of persons, inheritance, crimes and criminal procedure, taxes and currency, fundamental principles of education, property rights, labor law, and social security). The rest of the laws are regulations by the executive, designed to be either autonomous laws (*ordonnances*) or clarifications of parliamentary statutes (*décrets*).

France is ruled by a strict hierarchy of norms. The supreme source of law is the Constitution (traditionally merged with declarations of rights of 1789 and 1946). After this text, Parliament should pass *les lois*, with an internal hierarchy: institutional act (*loi organique*), ordinary act (*loi ordinaire*), ordinance (*ordonnance*), followed in authority by treaties and other international agreements, then organic laws, and finally the hierarchy of executive regulations.

The members of the executive have the right to enact regulations (*règlements*). These regulations (*règlements*) are *décret* (if taken by the President or the Prime Minister) (*autonome* or *d'application*), *arrêté* (*ministériel*, *préfectoral* or *municipal*) (if taken by a minister, a prefect or a mayor), or *circulaire* (no force of law but can be reviewed by administrative courts). Statutes and non-individual decrees have received a number under the shape "99-1234" since 1945. For 2000, the number is under the shape "2000-1234". All statutes and decrees, and the most important *arrêtés*, are published in the official gazette "Journal officiel de la République française, édition lois et décrets", and receive unique reference numbers (since 1987: a NOR (for normalized)).

REPORTER	Journal Officiel de la République Française [J.O.] [Official Gazette of France].
CITATION FORMAT	Cite to the J.O., as well as one other source: Law. No. <part>-<number> of <date>, J.O., <publication date>, p. <page>; <additional source, including date, section of journal, page>.
<i>Example</i>	Law No. 85-669 of July 11, 1985, J.O., July 12, 1985, p. 7865; JCP 1985, III, 57447.
OTHER SOURCES	Receuil Dalloz: D.S.L. (1965 – date)—Dalloz-Sirey, Législation. D.L. (1945-64)—Dalloz, Législation. D.A.L. (1941-44)—Analytique, Législation. D.C.L. (1941-44)—Critique, Législation. D.P. IV (1848-1950)—Périodique et Critique. D.P. III (1825-47) B.L.D. (1918-1982)—Bulletin législatif Dalloz. A.L.D. (1983 – date)—Actualité législative Dalloz. La Semaine Juridique (Juris-Classeur Périodique): J.C.P. III, No. x (1942 – date). J.C.P., No. x (1927 – date). Collection complète, décrets, ordonnances, règlements et avis du Conseil d’Etat: Duv. & Boc. (1788-1949)—Duvergier & Bocquet.

CONSTITUTIONAL COURT

BACKGROUND	The Constitutional Council, or <i>Conseil Constitutionnel</i> , is in charge of the constitutional review of the statutes before they are enacted and run national elections (Parliament, President of the Republic, Referendum). The Constitutional Council consists of nine members: three members appointed by the President, three members appointed by the president of the National Assembly, and three appointed by the president of the Senate.
COURT	Conseil constitutionnel (Cons. const.)

CITE Cite to J.O. or to the Recueil des decisions du Conseil constitutionnel (REC.) , CC <decision number followed by category of the decision>, <date of decision>, <name of publication> <page>.

Example CC decision no. 82-154DC, Dec. 29, 1982, Rec. 80.

CODES

BACKGROUND The sources of these codes go back to Napoleon, and are the primary basis for most civil law countries. There are seven codes : *Code Administratif* (Administrative code), *Code Civil* (Civil Code), *Code de Commerce* (Commercial Code), *Code Pénal* (Criminal Code), *Code Procédure Pénal* (Code of Criminal Procedure), *Code du Travail* (Employment Code), and *Nouveau Code de Procédure Civile* (New Code of Civil Procedure). Though historically all laws enacted in France were required to be within the realm of the Codes, there has been a decodification movement, resulting in a body of extra-code legislation that regulates areas traditionally covered by the codes.

CODE
ABBREVIATIONS :

- Code administratif- C. ADM.
- Code civil- C. CIV.
- Code de commerce- C. COM.
- Code pénal- C. PÉN.
- Code procédure pénal- C. PR. PEN.
- Code du travail- C. TRAV.
- Nouveau code de procédure civil- N.C.P.C.

Example C. Civ. § 16.

TREATIES

FORMAT	Cite treaties to the <i>Journal Officiel</i> (J.O.) and one of the two sources listed below.
CITATION	<title of treaty>, <date>, <countries involved>, J.O., <date of publication in J.O.>, <page>; <additional source>.
<i>Example</i>	Tourism Accord, Oct. 26, 1979, Fr.-Mex., J.O., June 15, 1980, p. 1478; 1980 Recueil des traités, No. 28.
OTHER SOURCES	<ul style="list-style-type: none"> • Recueil des traités et accords de la France (1961- date)—[year] Recueil des traités, No. [x]. • Recueil des traités de la France (1713-1906)—[x] Recueil des traités [xxx].

CASE LAW

JUDICIAL OVERVIEW

The French judicial system is divided into two separate bodies: judiciary (ordinary) law and administrative law.

At the top of the judiciary courts (concerning civil, trade, labor and criminal law) there is a Supreme Court of Appeals or *Cour de Cassation*: 80 judges are appointed by the President of the Republic from nominations of the High Council of the Judiciary. These are listed below.

There are also 35 courts of appeals, 181 grand tribunaux, and 473 tribunaux (the lower level). All cites to a *Cour d'appel* or any tribunal should include the city or region, and the chamber, if applicable. The Bluebook contains numerous reporters to which one can cite, but the three most important are listed below.

At the top of the administrative courts (concerning the litigations involving public sector), there is the Council of State or *Conseil d'Etat*, with 7 administrative appellate courts and 35 administrative tribunaux.

NOTE ON FRENCH
CASELAW

The vast majority of decisions in France are summary affirmations of existing judgment, and most are not even published. Most decisions are in the form of a syllogism, beginning with applicable principles, moving on to selected facts, and then concluding with what often appears, due to the logic followed, to be the only result. Judges often make no effort to clarify or explore the legal principles upon which they rely. Dissents and concurrences are unknown. This style fits the civil law mythology that judging is a technical and deductive skill. Though this is what the opinions end up being, this is not to say that case law and previous decisions have no effect on the outcome of a case. In fact, many scholars would say it is just the opposite. Though previously decided cases are not cited to, they are considered persuasive authority and have been called a “nearly mandatory” rule of *stare decisis*.

FORMAT

<court> [<abbreviation of court>] [<name of court in English>], <region if applicable>, <date of decision>, <reporter or journal>, <year of publication>, <section of journal if applicable>, <page on which decision appears or decision number>, <pinpoint cite>, <author of case note> (Country abbreviation if not evident from context.).

Example

- Cour d’appel [CA] [regional court of appeals] Paris, 1e ch., Dec. 20, 1994, J.C.P. 1994, II, 22250, note Neirinck.

COURT
ABBREVIATIONS

- Cours d’appel (CA)—regional courts of appeal.
- Tribunaux de Grande Instance (T.G.I.)—ordinary courts of original jurisdiction.
- Cours d’assises (no abbreviation)—criminal courts of original and appellate jurisdiction.
- Tribunaux d’instance (Trib. inst.)—courts of petty jurisdiction.
- Tribunal des conflits (Trib. conflits)—reconciles disputes between Conseil d’Etat and Cour de cassation.
- Conseil d’Etat (no abbreviation)—highest administrative court.
- Tribunaux administratifs (Trib. adm.)—regional administrative court of first instance.

CITATION FORMAT FOR <i>COUR DE</i> <i>CESSATION</i> CHAMBERS	<ul style="list-style-type: none"> • Assemblée plénière (1978-date)—Cass. ass. plén. • Chambres reunites (to 1978)—Cass. ch. réuns. • Chambre mixte—Cass. ch. mixte • Première chambre civile—Cass. 1e civ. • Deuxième chambre civile—Cass. 2e civ. • Troisième chambre civile—Cass. 3e civ. • Chambre criminelle—Cass. crim. • Chambre commerciale et financière—Cass. com. • Chambre sociale—Cass. soc. • Chambre des requêtes (to 1947)—Cass. req. • Chambres temporaires des expropriations (1964-1967)—Cass. chs. exprops.
REPORTERS OF <i>COUR DE</i> <i>CESSATION</i> DECISIONS	<ul style="list-style-type: none"> • <i>Bulletin des arrêts de la Cour de cassation, chambres civiles</i> (1792-date) - <year> Bull. Civ. I, No. <number>. • <i>Bulletin des arrêts de la Cour de cassation, chambres criminelles</i> (1798-date) - <year> Bull. Crim., No. <number>.
REPORTERS FOR COUR D'APPELS	<p><i>Recueil Dalloz</i></p> <ul style="list-style-type: none"> • Dalloz-Sirey (1965-date). • Jurisprudence—D. [year]. • Informations Rapides—D. [year] inf. rap. • Sommaires Commentés—D. [year] somm. <p><i>Gazette du Palais</i> (1881-date).</p> <ul style="list-style-type: none"> • Panorama de jurisprudence—Gaz. Pal. [year], 2, pan. jurispr. • Panorama de droit administrative—Gaz. Pal. [year], 2, pan. admin. <p><i>Juris-Classeur Périodique</i>.</p> <ul style="list-style-type: none"> • Edition entreprise—JCP [year] éd. E. [year], [no.]. • Edition avoués—JCP [year] éd. av. [year], [no.]. • Edition commerce en industrie—JCP [year], éd. com. [year], [no.]. • Edition notariale—JCP [year] éd. not. [year], [no.].
REPORTERS FOR ADMINISTRATIVE JURISDICTION	<p>Recueil des decisions [arrets] du Conseil d'Etat (1821-date).</p> <p>Cite to <i>Lebon</i> if therein, otherwise to <i>Dalloz</i> or <i>Sirey</i>.</p>

SOURCES

Legifrance

<http://www.legifrance.gouv.fr>

CIA World Factbook

<http://www.cia.gov/cia/publications/factbook/geos/fr.html>

Researching French Law

<http://www.llrx.com/features/french.htm>

The Bluebook: France

French Law Guide: Cornell Law School

<http://www.lawschool.cornell.edu/lawlibrary/encyclopedia/countries/france/>

SPECIAL THANKS

Ann MacDonald – Staff Member. Oct. 2006

Isabella Stankowski – ICM Committee Member. Oct. 2006

Matthew T. Nagel – ICM Coordinator. Oct. 2006