

COMPILATION OF CONSTITUTIONAL AND LEGISLATIVE PROVISIONS ON TREATY PRACTICE OF THE FRENCH REPUBLIC

IMPORTANT NOTES.....	2
1. Constitution of 4 October 1958.....	4
2. Decree on Ratification and Publication of International Agreements	9
3. Other Documentation	12
4. Official online sources of national treaty status information.....	14

IMPORTANT NOTES

This document forms part of the “**Compilation of Constitutional and Legislative Provisions on Treaty Practice of Selected States and International Organisations**” (**Compilation of Provisions on Treaty Practice**) which has been published as an online resource by the British Institute of International and Comparative Law (the Institute) and the Centre for International Law, National University of Singapore (CIL). The full Compilation is available at www.biicl.org and www.cil.nus.edu.sg

Copyright in the referenced texts is vested as indicated on the original source. **Copyright** in the selection itself and the added material belongs to the Institute and CIL. Neither the whole Compilation nor any part of it may be reproduced without the express permission of the Institute and CIL.

The Institute and CIL are grateful to those who have assisted in the identification, collection and translation of documents. Where appropriate, their names are acknowledged in footnotes to the relevant section. Responsibility for any errors or omissions in the choice of materials or any inaccuracies in the reproduction or translation of texts in this document rests with the Institute and CIL.

Links to texts on websites of third parties were checked for accuracy prior to publication of the Compilation. No responsibility can be taken for subsequent changes or faults on such websites. The name of each website is given to enable the reader to search it for the reference in the event of a link being broken.

Some constitutional and legislative provisions contained in the Compilation of Provisions on Treaty Practice were not adopted in the English language. Where an English translation has been published by a legislative, judicial or governmental body in the State concerned, that translation is provided here. In cases where no such English translation is available, the Institute and CIL have endeavoured to produce a translation of the document after consulting lawyers from the relevant country.

Please note that the Institute and CIL cannot guarantee that provisions set out in this Compilation accurately reproduce an officially adopted text; or that this Compilation is comprehensive, complete or up to date. The reader is advised in all cases to consult the official source of the full text as originally adopted in its official language or languages.

Feedback request: The two institutes will review, update and add to the Compilation from time to time. If you notice any errors, omissions, broken links or out of date material, or if you have any suggestions regarding the further development of this resource, please contact: Jill Barrett at the Institute (j.barrett@biicl.org) or Ranyta Yusran at CIL (cilry@nus.edu.sg).

This document was last amended in December 2012

1. Constitution of 4 October 1958

[Extracts of relevant provisions]

...

TITLE II - THE PRESIDENT OF THE REPUBLIC

...

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 or social 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.¹

...

¹ Amendments to Article 11 are pending – see full text at the web link given below.

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 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 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.

...

TITLE XII - ON TERRITORIAL COMMUNITIES

...

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 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.

...

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 88-4

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 88-5²

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.

Notes:

- A full copy of the French Constitution (in unofficial English translation) is accessible on the website of the National Assembly of France at:

<http://www.assemblee-nationale.fr/english/8ab.asp>

The above extracts are taken from this version.

- The full text of the official French language version of the *Constitution de la République française* (Version mise à jour en novembre 2011) is available on the website of the National Assembly at:

<http://www.assemblee-nationale.fr/connaissance/constitution.asp>

² See the notice about the application of Article 88-5 appended to the official French language version of the Constitution on the website of the National Assembly of France.

2. Decree on Ratification and Publication of International Agreements

Decree No. 53-192 of March 14, 1953 Relating to the Ratification and Publication of International Agreements Concluded by France as Modified by Decree No. 86-707 of April 11, 1986

The President of the Council of Ministers,

Upon the report of the Ministry of Foreign Affairs,

In the view of the Orates of the Executive Director of 22 Messier year VII and the Decree of December 25 1810, relating to the authorities of the Ministry of Exterior Relations

In view of a Decree of November 5, 1870, relating to the promulgation of Statutes and Decrees;

In view of the Statute of November 24, 1945, relating to the authorities of the Ministers;

In view of the Statute of August 17, 1948, for economic and financial improvement;

Having heard the Conseil d'Etat

Having heard the Council of Ministers

Decrees:

Article 1

The Ministry of Foreign Affairs is alone in charge of overseeing ratification and publications of conventions, agreements, protocols and international regulations of which France is a signatory or by which France is bound. This is also true for renewal or denunciation of the same.

However, with regard to international conventions of labour law, the MInistry of Foreign Affairs ensures that ratification and publication of those conventions are done jointly with the Ministry of Labour.

Article 2

The Ministers, for their department and for the administrative services which are separate legal entities attached thereto, when they have participated directly or through the intermediary of their representatives in the elaboration or the denunciation of conventions, agreements, protocols and regulations binding on France vis-à-vis a State or an international organization, or within an international organization to which France is a party, are obliged to transmit to the Ministry of Foreign Affairs the text of those conventions, agreements, protocols and regulations, whatever importance they have, and whatever their nature, immediately after signature or adoption.

Article 3

After transmission to the Ministry of Foreign Affairs and if necessary ratification, the conventions, agreements, protocols and regulations provided for in the preceding Articles which, by their application, might affect the rights and obligations of individuals, must be published in the *Journal officiel de la République française*.

However, these conventions, agreements, protocols or regulations may be inserted in full in an official and special bulletin printed by the *Journal officiel* available to the public. In that case, the information in the *Journal officiel*, related to such insertion, with precise indication of the date and the number of a special bulletin, is deemed to constitute publication and enjoy the same effects.

The provision of this Article are not applicable to regulations emanating from an international organization when those regulations are published in full in the official bulletin of that organization, available to the public and when this publication suffices, by virtue of the express provisions of a convention binding on France, to make those obligations affect individuals.

Article 4

Reservations and interpretative declarations which are potentially annexed to the French instruments of ratification or approval of conventions, agreements, protocols or international regulations published in accordance with the first two paragraphs of Article 3 must be published in the same form when they are of a nature to affect the rights and obligations of individuals.

Article 5

The act by which France denounces a convention, an agreement, a protocol or an international regulation published by virtue of the two first paragraphs of Article 3 must be published in the same form.

The act providing for the deletion of the reservation or of a published interpretative declaration by virtue of the provisions of Article 4 must be published in the same manner.

Article 6

The Minister of Foreign Affairs and Ministers and Secretary of State interested are charged, each within its own competence with implementing this decree which will be published in the *Journal officiel de la République française*.

Done in Paris,

March 14, 1953.

René Mayer

By the President of the Council of Ministers,

The Minister of Foreign Affairs,

Georges Bidault.

Note:

The above English translation is taken from pp.302-304 of the book *National Treaty Law and Practice*, edited by Hollis, Blakeslee and Ederington, 2005. The official French language text of *Décret n°53-192 du 14 mars 1953 relatif à la ratification et à la publication des engagements internationaux souscrits par la France* can be found on the French Government website Legifrance at: http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=16E27C2AA72C39D5F1F588A99AC16BE5.tpdjo05v_3?cidTexte=LEGITEXT000006060654&dateTexte=20111211

3. Other Documentation

The Prime Minister issued a '**Circular on the elaboration and conclusion of international agreements**'. This contains an outline of the treaty-making procedure, and is divided into the following sections:

Typology of International Agreements

Negotiation of Agreements

Drafting and Presentation

Signature

Authorization of Ratification or Approval

Entry into Force

Reservations and Interpretative Declarations

Publication

Annex I Final Clauses

Annex II Preamble to a treaty

Annex III Exchange of Letters

Annex IV Ceremonial provisions

Annex V Signature block

Annex VI Reference texts

Annex VII Information Note by the Foreign Ministry on the establishment of dossiers, the use of its services and the range of ministerial responsibilities

Note:

The official French text of *Circulaire du 30 mai 1997 relative à l'élaboration et à la conclusion des accords internationaux* is accessible on the French Government website Legifrance at:

<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000200416&dateTexte=>

The above summary of contents was prepared by the British Institute of International & Comparative Law from its own translation.³

³ The French Ministry of Foreign Affairs website sets out a glossary of terms including “accord” and “traité” at:

<http://www.doc.diplomatie.fr/pacte/lexique.html> - traite

The Institute was guided by this glossary in preparing its translation of the above document.

4. Official online sources of national treaty status information

Information about the French government's treaty collections is available on the website of the Ministry of Foreign Affairs at:

<http://www.diplomatie.gouv.fr/en/the-ministers-and-the-ministry/archives-and-heritage/treaties-and-agreements/>