

OPAL Country Reports

The French Parliament and EU Affairs

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OPAL Country Report on the French Parliament¹

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I. General Position of Parliament in the Constitutional Balance of the Member State: Constitutional and institutional factors	
This section looks at the role of Parliament in the political system, to help us understand the relative power position of the legislature.	
1.1	What is the type of government in the political system of your member state? (i.e. parliamentary or semi-presidential)
	Semi-presidential
1.2	Is it a uni- or bicameral Parliament? If bicameral, is one house dominant or are both equally strong? Please briefly explain.
	Bi-cameral
1.3	Is the state federal, decentralized or unitary? If applicable, is it a form of asymmetrical federalism?
	Unitary structure with continuing federalisation towards regions.
1.4	Briefly describe the electoral system, if applicable, for each chamber.
	Plurality system with two election rounds.
1.5	What (f)actors can prevent the parliament agreeing on EU legislation and/or treaty reform? (e.g. a constitutional court, or public referenda on questions of EU integration)
	<p>The constitutional council, with right to judge the constitutionality of laws and treaties.</p> <ul style="list-style-type: none"> - For treaty ratification: the constitutional council is almost always asked to review it before the ratification. When the council states that the treaty is contrary to the Constitution (which happens usually but not always), then the constitution is changed in parliament before the ratification. - For the transposition of directives. The appeal to the council has to be made after the approval of a law in parliament and before the promulgation of the law by the president. The right to appeal have: the president, the prime minister, the presidents of the two chambers, or 60 Senators or 60 MPs. <p>The president may decide on holding referenda on treaty ratification which happened in 1972 (1st enlargement), 1992 (Maastricht) and 2005 (Constitutional treaty) with in this last case a majority against the treaty. From 2005 to 2008, referendum on new adhesion to the EU were compulsory</p>

¹ This country report provides some basic data that has been collected in the context of the research for a chapter to be published in C. Heffler, C. Neuhold, O. Rozenberg, J. Smith & W. Wessels (Eds.). (forthcoming in 2014). *The Palgrave Handbook of National Parliaments and the European Union*. London: Palgrave, Macmillan.

	<p>but they can now be avoided through several votes in Parliament.</p> <p>About half of the directives are regarded as statutory law within the French legal order and therefore does not have to be transposed in Parliament.</p>
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2. General Position of Parliament in the Constitutional Balance of the Member State: Political Factors

This section is about the basic political factors which might influence parliament's strength in relation to the government.

2.1	What is the type of government after the most recent elections e.g. single party, minority, coalition, oversized coalition government?		
	<p>Coalition government: Large majority dominated by a party, PS (Parti socialiste), that is majoritarian alone.</p> <p>Two other parties are part of the majority: PRG (Parti radical de Gauche) – EELV (Europe Ecologie-Les Verts), i.e. the Green.</p> <p>328 / 577</p>		
2.2	When were the most recent general elections and what were the results? Could you please give a short list of the parliamentary groups, their no. of seats in parliament and ideological position?		
	Latest election in the LOWER HOUSE:	June 2012	
	Name of the party	No. and percentage of seats in parliament	Ideological position (e.g. Communist, left liberal, socialist, liberal, right liberal, conservative, christian democrat, extreme right, ethnic minority or regionalist party)
	Front de gauche	10 – 1.7 %	Communist
	Socialists, other left and left-wing radicals	314 – 54.4 %	Social-democrat
	Europe écologie – les verts	17 – 2.9 %	Green (left)
	MoDem	2 – 0.3 %	Centre / Christian democrat
	Nouveau centre et divers centristes	14 – 2.4 %	Right liberal
	UMP and allies	215 – 37.3 %	Right liberal
	FN	2 – 0.3 %	Extreme right
	Extreme-right	1 – 0.15 %	Extreme right
	Latest election in the UPPER HOUSE:	Sept 2011	

	Name of the party	No. and percentage of seats in parliament (if applicable)	Ideological position (if not mentioned above)
	Socialists and affiliated (Socialistes et apparentés)	128 – 36.8 %	socialist
	Communists, republicans and citizens (communiste, républicain et citoyen)	20 – 5.7 %	communist
	Ecologists (groupe écologique)	12 – 3.4 %	ecologists
	European Democratic and social reunion (Rassemblement démocratique et social européen)	18 – 5.1 %	Difficult to define; political centre without party discipline; pro-European
	Union of democrats and independents (Union des démocrates et indépendants)	32 – 9.2 %	Centre-right
	Union for people's movement (Union pour un mouvement populaire)	131 – 3.8 %	right
	Without group	7 – 2 %	
2.3	How polarized was parliamentary debate over ratification of the Lisbon Treaty? Which parliamentary party groups supported and which opposed ratification?		
	<p>Moderate to high polarization, not along traditional cleavages</p> <p>Cleavages going through the Socialist party.</p> <p>As Sarkozy made clear during the 2007 Presidential campaign that he will propose the ratification of a new treaty to the Parliament once elected, it did not come as a surprise for political observers and actors that he did so. There was also the willingness from many political actors to modify France's image in Europe after the refusal of the European Treaty.</p> <p>Vote in the National Assembly</p> <p>Voting MPs : 410</p> <p>In favour : 336</p> <p>Against : 52</p> <p><u>Support for the treaty of Lisbon :</u></p> <p>UMP (206 in favour, 5 against, 3 abstentions)</p> <p>Nouveau Centre (6 in favour)</p>		

	<p><u>With major cleavages in the party group :</u></p> <p>PS (121 in favour, 25 against, 17 abstentions)</p> <p><u>Against:</u></p> <p>Gauche démocrate et républicaine (2 in favour, 18 against, 2 abstentions)</p> <p>Non affiliated (1 in favour, 4 against)</p>
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<p>3. New Provisions of the Lisbon Treaty on Direct Contact with EU Institutions</p> <p>The Lisbon Treaty provides national parliaments with new opportunities for direct contact with the EU institutions. This section addresses the incorporation of the new Lisbon provisions into national law and concrete procedures. Questions 6.3 to 6.5 investigate in how far these procedures have been used.</p>	
6.1	<p>Have there been any regulations adopted by your member state to incorporate the new powers that are entrusted to the national parliaments by the Treaty of Lisbon? If so, please list the regulations in their appropriate categories:</p> <p>a. Constitutional provisions</p> <p>b. Legal provisions - Statutory provisions</p> <p>c. Parliamentary Standing Orders</p> <p>d. Other (please specify)</p> <p>Is this process complete or ongoing?</p>
Lower house	<p>A: Constitutional Provisions</p> <p>The Constitutional Court (<i>Conseil Constitutionnel</i>) considered in its Decision number 2007-560 DC of December 20, 2007 that a constitutional revision was required in order to meet the new provisions of the Treaty of Lisbon regarding the role of national parliaments. Thus, the Constitutional Law number 2008-103 of February 4, 2008 introduced articles 88-6 and 88-7 of the Constitution. Article 88-6, modified by the Constitutional Law number 2008-724 of July 23, 2008 concerning the modernization of the institutions of the Vth Republic, organizes the control of the subsidiarity principle. Article 88-7 establishes the “passerelle clause”.</p> <p>C: Parliamentary Standing Orders</p> <p>Anticipating the adoption of the Treaty of Lisbon and following the constitutional revision, the <i>Assemblée Nationale</i> modified its Standing Orders and inserted articles 151-3 and 151-9 to 151-12. These articles concern mainly: the information of the parliament, the subsidiarity check and the 8 weeks delay, the possibility to appeal to the ECJ and the “passerelle clause”.</p>
Upper house	<p>A: Constitutional Provisions</p> <p>See the Lower Chamber</p> <p>C: Parliamentary Standing Orders</p> <p>Following the constitutional revision, the <i>Sénat</i> modified its Standing Orders and inserted</p>

	articles 73 <i>octies</i> to 73 <i>decies</i> . These articles mainly make reference to: the subsidiarity check, the involvement of the Standing Committees in the adoption of reasoned opinions, the “passerelle clause” etc.
6.2	What exactly are the rules (i.e. parliamentary bodies involved, procedure, regional parliament’s involvement, cooperation in bicameral systems) for...
6.2 i	The “Political Dialogue“ with the Commission
Lower house	Nor the legal provisions neither the Standing Orders of the <i>Assemblée Nationale</i> make any reference to the “Political Dialogue” with the European Commission. Moreover, it is considered a useless procedure in EU affairs. A clerk of the <i>Assemblée Nationale</i> declared that this procedure was never used because it’s a destructive procedure. The <i>Assemblée Nationale</i> prefers to focus on the control of the government.
Upper house	Nor the legal provisions neither the Standing Orders of the <i>Sénat</i> make any reference to the “Political Dialogue” with the European Commission. When the Political Dialogue was put in place at the initiative of José Manuel Barosso it was considered by the French <i>Sénat</i> as a real innovation and it was very much used. As stated by a Senate report: “The European Commission has complimented the Senate for having taken more positions within the political dialogue than any other Chamber ». However, after the Lisbon Treaty and the introduction of subsidiarity check, the “Political Dialogue” becomes somehow marginalized because the subsidiarity check offers the possibility of communication with all the European Institutions and not only with the European Commission. However, it may happen that a debate in the EAC on something that is not subject to the subsidiarity check is sent to the Commission. From the senators’ point of view, this allows having an answer from the Commission. Moreover a series of other reasons like the low quality of the answers provided by the Commission and the fact that politicians prefer formal position taking have diminished the role of the « Political Dialogue ».
6.2 ii	The Early Warning Mechanism (EWM)
Lower house	The Standing orders of the <i>Assemblée Nationale</i> state that every deputy can propose a reasoned opinion. The EAC receives the reasoned opinion proposals and adopts it or rejects it. In the case a reasoned opinion is adopted by the EAC, it is afterwards sent to one or several Standing Committees according to its salience for the Committee. If the Standing Committee doesn’t take a decision within 30 days, the reasoned opinion adopted by the EAC stands as final reasoned opinion of the <i>Assemblée Nationale</i> . Upon request of the president of one party group, of the President of a Committee or of the government the reasoned opinion can be debated by the plenary. However, in practice the plenary is very rarely involved. The first time in the history of the Vth Republic a reasoned opinion was debated by the plenary concerned the reasoned opinion on the proposal of the Schengen reform (COM/2011/560, 561). Once adopted, the President of the <i>Assemblée Nationale</i> sends the reasoned opinion to the President of the European Parliament, the President of the European Commission and of the Council. A copy is also sent to the government.

	<p>In practice, this procedure should take place within the eight weeks delay requested by the Treaty of Lisbon. However, contrary to the <i>Sénat</i>, no special group on subsidiarity check was put in place in the <i>Assemblée Nationale</i> and the interviews and the numbers of reasoned opinions sent by the <i>Assemblée</i> reveal a lack of political will. The chairman of the EAC, as well as a majority of MPs and clerks sees the subsidiarity check as ‘integration-brake’. However, on very politically salient issues, one or two rapporteurs are designated and reports are drafted by both MPs of the majority and the opposition parties or by a joint group of MPs.</p>
Upper house	<p>The Standing orders of the <i>Sénat</i> state that every senator can propose a reasoned opinion. The EAC receives the reasoned opinion proposals and adopts it or rejects it. In the case a reasoned opinion is adopted by the EAC, it is afterwards sent to one or several Standing Committees according to its salience for the Committee. If the Standing Committee doesn’t take a decision, the reasoned opinion adopted by the EAC stands as final reasoned opinion of the <i>Sénat</i>. Upon request of the president of one party group, of the President of a Committee or of the government the reasoned opinion can be debated by the plenary. Once adopted, the President of the <i>Sénat</i> sends the reasoned opinion to the President of the European Parliament, the President of the European Commission and of the Council. A copy is also sent to the government.</p> <p>In practice, this procedure should take place within the eight weeks delay requested by the Treaty of Lisbon. To cope with the eight weeks since Simon Sutour is chairman, the <i>Sénat</i> put in place a working group on subsidiarity. The group meets just before the EAC meetings and is formed by one representative per party group. This working group then decides upon which acts a rapporteur will present a draft reasoned opinion on to the EAC. The objective of the group is to state only on subsidiarity and not on the content, consequently there’s no control of the proportionality within the group. As interviews show, even though is sometimes difficult to distinguish subsidiarity issues from the content of the matter at stake: « Senators have gotten accustomed to this and try to distinguish both. They take this very seriously now. You can see it in the committee discussions. You can now observe Senators contradict their colleagues if they consider that a judgment was made on the grounds of the content and not only on the grounds of subsidiarity. Given the political nature of their mandate it was not obvious for them to take decisions on questions of law interpretation. But there are Senators now that really start to get interested into this » (clerk of the Senate).</p>
6.2 iii	The "Passarelle clause"
Lower house	<p>Article 88-7 of the Constitution states the Parliament can replace the voting procedure in the Council and change the rules of adoption of a EU act by using a motion voted identically by the <i>Assemblée Nationale</i> and the <i>Sénat</i>. This motion cannot be amended and the Standing Rules of the <i>Assemblée Nationale</i> state that the motion should be signed by at least one tenth of the members of the <i>Assemblée</i> within a six-month delay. Once the motion adopted it is sent to the Senate. In case of rejection of the motion, by one of the chamber the motion is considered rejected.</p>
Upper house	Same procedure as for the Lower House
6.2 iv	<p>The action of annulment before ECJ on breach with the subsidiarity principle (What quota of MPs is needed to enforce the action of annulment?)</p>

Lower house	Each assembly can formulate an action of annulment, sent by the government to the ECJ on breach of the subsidiarity principle. 60 MPs (senators or deputies) can formulate this action on behalf of their Chamber which means that the parliamentary opposition could use that tool.					
Upper house	See Lower house.					
6.2	Accession of new member states to the EU					
Lower house	<p>In 2005, it has been decided that the ratification of a treaty on the accession of a new member state to the European Union should be submitted to public referenda. This rule changed in 2008 with a second paragraph to the article 88-5 of the Constitution stating that:</p> <p>“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.”</p> <p>In other words, referenda are not compulsory anymore if a large qualified majority supports the accession. The Standing Rules of the Assemblée Nationale state that the motion should be signed by at least one tenth of the members of the Assemblée and it is assessed by the Foreign Affairs Committee within a 15 days delay. Once the motion adopted it is sent to the Senate. In case of rejection of the motion, by one of the chamber the motion is considered rejected.</p>					
Upper house	Same procedure as for the Lower chamber					
6.3	How actively does the parliament engage in the political dialogue and “early warning mechanism” with the Commission?					
Lower house	2010		2011		2012	
	PD	EWM	PD	EWM	PD	EWM
	0	0	0	2	0	0
Upper house	2010		2011		2012	
	PD	EWM	PD	EWM	PD	EWM
	1	3	2	1	9	10
6.4	Has parliament ever threatened to bring a legislative act to the ECJ because of subsidiarity concerns?					
Lower house	No					
Upper house	No					
6.5	<p>If applicable to your member state, how does parliament proceed on the ratification of:</p> <p>a. Treaty Establishing the European Stability Mechanism, signed 2 Feb 2012</p>					

	b. Treaty on Stability, Coordination and Governance in the Economic and Monetary Union, signed 2 March 2012
Lower house	<p>a. The ESM Treaty was ratified by accelerated procedure. Thus, two draft laws (article 136 modification and ESM treaty) were submitted to the French Parliament on 8th February. The <i>Assemblée nationale</i> voted on 21st February on the treaty by 256 votes in favor, 44 against (mainly the Communists)- and 131 abstentions (mainly Socialist party).</p> <p>b. The French government and its prime-minister Jean-Marc Ayrault and the president François Hollande were favorable to the ratification of the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union. Even though, as the interviews reveal neither the <i>Assemblée Nationale</i> nor the <i>Sénat</i> were not involved in the preparation of the TSCG. The treaty was transmitted to the <i>Conseil constitutionnel</i> for an ex-ante control and it was declared to be in conformity with the constitution in 9th August 2012. The Government submitted the Treaty to the <i>Assemblée Nationale</i> on 19th September in accelerated procedure and it was ratified with 477 votes in favor, 70 against and 21 abstentions.</p>
Upper house	<p>a. The <i>Sénat</i> ratified the treaty on 28th February, with 169 votes in favor, 138 abstention (in majority Socialist party) and 35 against.</p> <p>b. Following the ratification of the <i>Assemblée Nationale</i>, the Senate adopted the bill ratifying the TSCG by 307 votes in favor, 32 against and 8 abstentions.</p>