

## Legal professions - France



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In this section you will find an overview of the different legal professions.



## The legal professions – introduction

### Judges

#### Organisation

Professional judges in France (*magistrats*) are **career judges**, and are divided into **adjudicating judges**, who try law cases, and the **law officers who work for the State Counsel's Office** (*ministère public* or *parquet*). The adjudicating judges are often referred to as 'judges of the bench' (*magistrats du siège*), while the 'judges' who work for the State Counsel's Office are known as 'standing judges' or 'judges of the well of the court' (*magistrats du parquet*).

**Adjudicating judges decide the disputes** that come before them; **the State Council's Office represents the interests of society** in legal proceedings, and **brings prosecutions** to ensure that the law is applied. The rules governing the profession of judge are laid down in Order (*ordonnance*) No 58-1270 of 22 December 1958 enacting the institutional Act (*loi organique*) on the status of the judiciary. At different stages in the same judge's career he or she can be appointed as an adjudicating judge or to the State Counsel's Office. This is known as the principle of the unity of the judiciary (Section 1), a principle that has been reaffirmed by the Constitutional Council, notably in a decision of 11 August 1993. All judges form part of the judicial branch, which is required by Article 66 of the Constitution to protect individual freedoms. Nevertheless, there are certain differences in the rules that govern them: adjudicating judges are not subject to instructions from any higher authority, and enjoy security of tenure, in that they cannot be given a new posting without their consent.

Most judges are **recruited by competitive examination**. In order to take the first competitive examination open to students, candidates must hold a degree confirming that they have had at least four years of further education, up to master's level. Successful candidates are appointed as judges' assistants (*auditeurs de justice*), and they all then receive the same training, given by France's national college of the judiciary (*École nationale de la magistrature* — ENM). There are also channels for entering the judiciary direct. At the end of their training at the ENM, judges' assistants are appointed to a court or office by order (*décret*).

In addition to their main functions, **presidents of courts and heads of offices** also have administrative duties, for example regarding the scheduling of hearings.

On 1 January 2009 there were **8 090 judges**, of whom 7 769 were serving in the courts or the State Counsel's Office.

## The Supreme Council of the Judiciary

The Supreme Council of the Judiciary (*Conseil supérieur de la magistrature* — CSM) is provided for in **Article 65 of the Constitution**. The Constitutional Act of 23 July 2008 changed the composition of the Council and its powers in respect of appointments, and made provision for cases to be referred to it by litigants. The President of the Republic is now no longer a member of the CSM.

The **division of the Council with jurisdiction over adjudicating judges** is chaired by the First President of the Court of Cassation. It also includes five adjudicating judges, one law officer of the State Counsel's Office, one member of the Council of State (*Conseil d'État*) designated by the Council of State, one lawyer (*avocat*), and six qualified persons who do not belong to the legislature, to the ordinary courts or to the administrative courts. The President of the Republic, the chairman of the Lower House (*Assemblée nationale*) and the chairman of the Senate each designate two qualified persons.

The **division of the Council with jurisdiction over the law officers of the State Counsel's Office** is presided over by the Principal State Counsel (*procureur général*) at the Court of Cassation. It also includes five law officers of the State Counsel's Office and one adjudicating judge, along with the member of the Council of State, the lawyer and the six qualified persons already referred to.

The **division of the Council with jurisdiction over the adjudicating judges** puts forward nominations for the posts of adjudicating judges at the Court of Cassation, first presidents of the courts of appeal (*cours d'appel*), and presidents of the regional courts (*tribunaux de grande instance*). Other adjudicating judges can be appointed only with its **assent**.

This division acts as a **disciplinary board** for adjudicating judges. In that capacity it includes the adjudicating judge who sits in the division of the Council with jurisdiction over the law officers of the State Counsel's Office.

The division of the Council with jurisdiction over the law officers of the State Counsel's Office gives its opinion on appointments of such law officers. It also gives its opinion on disciplinary measures taken in respect of law officers. In that capacity, in addition to the members referred to in the third paragraph of Article 65, it includes the law officer of the State Counsel's Office who sits in the division of the Council with jurisdiction over adjudicating judges.

## The State Counsel's Office

### Organisation

The **law officers of the State Counsel's Office** are required to act in the interests of society, which they represent in seeking that the law be applied.

With the exception of the office of the Principal State Counsel (*procureur général*) at the Court of Cassation, which is separate, France's State Counsel's Offices make up a hierarchical pyramid 'under the authority of the Minister of Justice'. Article 30 of the Code of Criminal Procedure provides that the Minister of Justice is to conduct the policy determined by the government with regard to public legal actions. The Minister is to ensure that this policy is applied consistently throughout the country. To this end, the Minister may give general instructions to the law officers of the State Counsel's Office regarding the public legal actions they bring.

At each **Regional Court**, there is a State Counsel's Office, headed by a **State Counsel** (*procureur de la République*) and made up of several law officers answerable to him or her. The State Counsel manages the office, distributing tasks and departments among the deputy state counsel (*procureurs adjoints*), the vice state counsel (*viceprocureurs*) and the assistant state counsel (*substituts*). The State Counsel heading that office in turn works under the supervision and direction of the Principal State Counsel.

Despite this hierarchical structure, the State Counsel's Office is regarded as an **indivisible unit**, in that an assistant does not need authority from a superior to act, and all of his or her acts bind the State Counsel's Office as a whole.

### Role and functions

The functions of the State Counsel's Office are essentially concerned with the enforcement of **criminal law**. It directs **investigations**, and itself takes all steps necessary to prosecute offences, or sees to it that steps are taken to do so. It has discretion to decide what action should be taken in criminal cases (e.g. initiating a preliminary judicial inquiry (*ouverture d'une information judiciaire*), committing a matter for trial in court (*renvoi devant une juridiction de jugement*), or discontinuing proceedings (*classement sans suite*). It is required to appear at the court hearing; the law officer appearing is free to make such oral submissions as he or she considers most conducive to the proper administration of justice (on the facts, the character of the accused, and the sentence). The State Counsel's Office also ensures that sentences are enforced.

The State Counsel's Office is responsible for **protecting minors** who are at risk, and it has certain civil functions (concerning, for example, the status of individuals in the registers of births, marriages and deaths), administrative functions (e.g. in relation to public houses, the periodical press, or direct marketing), and commercial functions (e.g. in relation to some insolvency proceedings).

The role and functions of adjudicating judges are explained in the page on the ordinary courts.

### **Non-career judges (*juges non professionnels*)**

#### **The judges of the local courts**

The judges of the local courts (*juges de proximité*) were introduced by the Justice System Framework and Planning Act (*loi d'orientation et de justice*) of 9 September 2002, supplemented by Act No 200547 of 26 January 2005; they are appointed by order (*d'écrit*), with the assent of the Supreme Council of the Judiciary, for a term of seven years, which may not be renewed. With a few reservations their terms and conditions are governed by Order (*ordonnance*) No 581270 of 2 December 1958, referred to above.

They perform some of the **functions of judges of the ordinary courts**. In **civil matters**, they have jurisdiction to try personal and movable property actions up to a value of €4 000, save for matters which are reserved to the district court (*tribunal d'instance*). In **criminal matters**, they have jurisdiction to try minor offences that come within the first four classes of offence, to sit as assessors (*as sesseurs*) in the criminal court (*tribunal correctionnel*), which deals with intermediate offences, and to approve penalties agreed by State Counsel and the accused without a trial (*composition pénale*).

On 1 January 2013 there were 452 such judges.

#### **Members of the employment tribunals**

The members of the employment tribunals (*les conseillers prud'hommes*) are chosen every **five years**. They are elected by electoral colleges representing employers and employees in agriculture, industry, commerce, management, and miscellaneous activities, by proportional representation, on a closed list system with no ticketsplitting or preferences for individual candidates. Candidates must be French nationals, must be aged 21 years or more, and must not have been sentenced to any ban, disqualification or deprivation with regard to their civil rights.

All employees and employers aged at least 16 years of age who carry on a trade or occupation, or who have an apprenticeship contract, or who are involuntarily unemployed, are entitled to vote.

#### **Assessors at the social security tribunals**

Assessors at the social security tribunals (*tribunaux des affaires de la sécurité sociale*) are appointed for **three years** by the first president of the court of appeal with jurisdiction in the area, from a list submitted for the particular tribunal by the regional director for young people, sport and social cohesion following nominations by the most representative trade and professional organisations.

#### **Assessors at the disability tribunals**

Assessors at the disability tribunals (*tribunaux du contentieux de l'incapacité*) are appointed for **three years** by the first president of the court of appeal with jurisdiction in the area, by the regional director for young people, sport and social cohesion from lists drawn up following nominations by the most representative trade and professional organisations.

#### **Assessors at the juvenile courts**

Assessors at the juvenile courts (*tribunaux pour enfants*) are appointed for four years by the Minister for Justice. They must be noted for their interest and competence in the field of child welfare; the assessors at each juvenile court are chosen from a list of candidates submitted by the first president of the court of appeal.

#### **Assessors at the agricultural land tribunals**

The assessors at the agricultural land tribunals (*tribunaux paritaires des baux ruraux*) consist of an equal number of landlords who are not also tenants, and tenants who are not also landlords; they are elected by their peers from lists of candidates which are drawn up by a committee for the preparation of electoral lists and finalised by the prefect of the *département*.

#### **Judges of the commercial courts**

Judges of the commercial courts (*tribunaux de commerce*), sometimes known as *juges consulaires*, are **volunteer traders** elected by other traders.

They are chosen by a two-stage election process laid down in Articles L. 7231 to L. 72314 and R. 7231 to R. 72331 of the Commercial Code.

The voters at the second stage are current judges, former judges, and traders' delegates. Traders' delegates (*délégués consulaires*) are themselves traders who are elected for five years for the sole purpose of electing the judges of the commercial courts.

The judges are elected for an initial term of two years and then for terms of four years. A judge may not serve more than four terms successively. A judge who has served four successive terms is ineligible for one year thereafter.

Elections to fill any vacancies at the commercial courts are held every year in the first half of October.

### Court clerks

The court clerk (*greffier*) is a **specialist in legal procedure**. The clerk assists the judge or judges in drawing up court documents and is responsible, where the law so requires, for authenticating and certifying the acts of the court, which will otherwise be null and void.

The court clerk works hand in hand with the judge, helping to prepare cases for hearing and conducting documentary research. The clerk may greet the public and provide public information, and may also give professional training at the National School of Court Registers (*École nationale des greffes*).

Most of a court clerk's duties are performed **in the different offices of the courts**. Depending on the size and structure of the court, the court clerk may be given management responsibilities as head or deputy head of the court register or as head of a department.

### Lawyers

Lawyers (*avocats*) are officers of the court and members of an independent selfemployed profession. The rules that govern them are in the main laid down in Act (*loi*) No 71-1130 of 31 December 1971 reforming certain judicial and legal professions, and Order (*décret*) No 911197 of 27 November 1991 structuring the profession of lawyer. Act No 901259 of 31 December 1990, which amended the 1971 Act, with its implementing orders, created a new profession of lawyer (*avocat*) by amalgamating the existing professions of lawyer (*avocat*) and legal adviser (*conseil juridique*).

In their daily business lawyers advise and represent clients.

Under Section 4(1) of the Act of 31 December 1971, lawyers have a virtual monopoly on assisting and representing parties, and acting and pleading before courts, judicial authorities and disciplinary tribunals of all kinds.

There is no national association of lawyers, as lawyers wish to retain a proper representation of all bar associations. There are 161 bar associations (*barreaux*) in mainland and overseas France, each attached to a regional court (*tribunal de grande instance*) and each headed by a chairman (*bâtonnier*) and directed by a bar council (*conseil de l'ordre*); the role of the bar council is to deal with all issues concerning the practice of the profession, to ensure that lawyers fulfil their responsibilities, and to protect their rights.

The National Council of Bar Associations (*Conseil national des barreaux* — CNB), created by the Act of 31 December 1990 (Section 15), is a body recognised as being of public utility (*établissement d'utilité publique*), and has legal personality; it is responsible for representing the legal profession in dealings with public authorities and seeking to ensure that the rules and usages of the profession are harmonised.

The National Council of Bar Associations has a website which allows everyone to have free access to information on the structure of the profession, current issues concerning the profession, and a directory of all the lawyers registered with French bar associations. Most of the larger bars have their own websites, which are free and accessible to all; their addresses appear in the bar associations directory available on the CNB website.

Lawyers at France's two supreme courts, the Council of State and the Court of Cassation, form a separate profession: they are public officials appointed to their posts by order of the Minister for Justice, and when parties must be represented before those courts they have the sole right to plead. The rules governing them are laid down essentially in the Order (*ordonnance*) of 10 September 1817 establishing the Order of Lawyers at the Council of State and the Court of Cassation, Order (*décret*) No 91-1125 of 28 October 1991 relating to the conditions for entering the profession, and Order (*décret*) No 200276 of 11 January 2002 on the disciplinary rules governing the profession.

An Order (*ordonnance*) of 10 July 1814 set the number of lawyers at the supreme courts at sixty. However, an Order (*décret*) of 22 April 2009 now allows the Minister for Justice to create new offices of lawyer at the supreme courts, on grounds of the proper administration of justice, having regard in particular to changes in the workload of cases coming before those courts.

The lawyers at the supreme courts form a separate bar or order, headed by a president, who is assisted by a bar council of 11 members. This body is responsible for ensuring professional discipline, and represents the profession.

The website of the  [Order of Lawyers at the Council of State and the Court of Cassation](#) provides more details.

Is there a database for this area?

There is a database, managed by the National Council of Bar Associations, which covers the **list of lawyers appearing on the rolls of every bar association in France**.

Is access to this information free of charge?

Access to the database on the website of the [National Council of Bar Associations](#) is free.

## Notaries

### Organisation

The notary (*notaire*) is a **public legal official** appointed by order (*arrêté*) of the Minister of Justice. Notaries nevertheless operate as practitioners of an independent selfemployed profession. The rules governing the profession are laid down mainly in the Act (*loi*) of 25 Ventôse Year XI (dated according to the French Republican Calendar); Order (*ordonnance*) No 452590 of 2 November 1945; Order (*décret*) No 45-0117 of 19 December 1945 relating to the organisation of the profession of notary; Order (*décret*) No 73-609 of 5 July 1973 relating to professional training and the conditions for entering the profession of notary; and Order (*décret*) No 78-262 of 8 March 1978 fixing the schedule of notaries' fees.

The profession is organised into **chambers of notaries** at the level of *départements* and into **councils** at regional level, which are responsible for regulating and disciplining the notaries from their own areas. In dealings with national authorities the profession is represented by the **Supreme Council of Notaries** (*Conseil supérieur du notariat*).

In addition to its role in representing the profession in dealings with public authorities, the Supreme Council of Notaries has the task of preventing and resolving professional disputes between notaries who do not belong to the same regional council. [The Supreme Council of Notaries](#) has a free website which sets out the principal characteristics of the profession and contains **a directory of notaries and their chambers and councils in the départements and regions**.

### Role and functions

Notaries are empowered to **issue authenticated documents**, which are then enforceable without having to obtain a court order.

They also have the task of **advising** individuals and businesses, whether or not in connection with the drafting of official documents, and alongside their main business they may play a part in the **administration of assets and property transactions**.

## Other legal professions

### Court bailiffs

The court bailiff (*huissier de justice*) is a public legal official appointed by order (*arrêté*) of the Minister of Justice. Bailiffs nevertheless operate as Practitioners of an independent selfemployed profession. The rules governing the profession are laid down mainly in the Act (*loi*) of 27 December 1923, Order (*ordonnance*) No 45-2592 of 2 November 1945, Order (*décret*) No 56-222 of 29 February 1956, and Order (*décret*) No 75-770 of 14 August 1975.

They alone are permitted to serve court papers and to execute court orders and enforceable orders or instruments. In addition they may, either on commission from the courts or at the request of individuals, draw up reports making official findings. Alongside their main business they are also allowed to act as mediators, property administrators or insurance agents, provided they first inform their regional bailiffs' chamber and the principal state counsel (*procureur général*) at the court of appeal for their area.

For the steps they take in civil and commercial matters within their remit, bailiffs are remunerated at fixed rates set out in Order (*décret*) No 96-1080 of 12 December 1996.


The profession is represented by chambers at the level of the *départements* and regions in the geographical jurisdiction of each court of appeal. There is a national chamber that represents the entire profession in dealings with the public authorities, and resolves disputes between chambers and between bailiffs who do not belong to the same regional chamber. The [National Chamber of Court Bailiffs](#) has a free website which sets out the principal characteristics of the profession and contains **a directory of court bailiffs**.

### Other officers of the court

The **clerks of the commercial courts** (*greffiers de tribunaux de commerce*) are public legal officials whose main task is to assist the members of the commercial court during hearings and to assist the president of the court in all his or her administrative tasks. They manage the court registry and see to it that the register of commerce and companies (*registre du commerce et des sociétés* —

RCS) and the court directories and files are properly maintained. They issue official copies, are responsible for affixing the court seal, take care of money lodged at the registry, and draw up registry documents and other formal documents within their area of responsibility.

The profession is regulated by Articles L.741-1 *et seq.* to R.741-1 of the Commercial Code.

The profession is represented in dealings with the authorities by the **National Council of Clerks of the Commercial Courts** (*Conseil national des greffiers des tribunaux de commerce* — CNGTC). This is a body recognised as being of public utility (*établissement d'utilité publique*), and has legal personality; it is responsible for representing the collective interests of the profession. It organises the initial and ongoing training of court clerks and court staff and the professional examinations, and facilitates traineeships and ensures that they are followed up. The website of the  [National Council of Clerks of the Commercial Courts](#) has more information on these matters.

### Legal advisers/in-house lawyers

The profession of **legal adviser** (*conseil juridique*) was merged with the profession of lawyer (*avocat*) under Act No 90-1259 of 31 December 1990.

**Lawyers (*juristes*) who do not practise as independent lawyers (*avocats*) but instead work inhouse for businesses** are not subject to any specific professional regulation.

### Related links

 [Legal professions](#)

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