



**Discover the
Constitutional Council**

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were to be summed up
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might be “liberty”.**

Welcome to the French Constitutional Council. Touring these august chambers, you will discover both the remarkable heritage of the Palais-Royal and the rooms where the Constitutional Council has performed its duties since the body was established by the Constitution of 4 October 1958. If the spirit of these halls were to be summed up in one word, that word might be “liberty”.

The history of the Palais-Royal itself is infused with this spirit of liberty: it is here, in these parlours and this garden, that freedom of thought and freedom of religion came to the fore in the 18th century, changing the history of our country in profound ways. Today, protecting liberty lies at the core of the Constitutional Council’s duties, whether by ensuring that laws are consistent with the Constitution or by supervising the main elections that sustain our democratic tradition. This mission is one of the constitutional obligations in respect of which the Constitutional Council hands down decisions that punctuate the political life of our country week after week.

The Constitutional Council could not perform its duties in these chambers without being open to dialogue and debate.

Today, citizens have the right to petition the Council by way of the procedure known as the “priority preliminary ruling on the issue of constitutionality”. The body is thus receptive to public debate around the core issues it is called upon to adjudicate.

All are welcome to attend our public hearings at the Palais-Royal or watch them on our website. We also place great value on dialogue with the constitutional courts of other countries, particularly in Europe, as well as with other national high courts.

I wish you a pleasant visit and hope that the experience, and this booklet, bring the spirit of these halls to life!

What is the Constitutional Council?

Freedom of expression, freedom of association, gender equality, freedom of religion, right to strike and more. These fundamental rights in our democracy are safeguarded by the French Constitution. The Constitution is the supreme Law of the Land, meaning that all laws must comply with it. Created in 1958, the French Constitutional Council ensures that all laws are consistent with the Constitution, and strikes down those deemed unconstitutional.

Prompt rulings

3 months for QPCs

1 month for ex ante reviews

8 days when executive authorities request an expedited procedure

CONSTITUTIONAL REVIEW

The Constitutional Council exercises two types of constitutional review to verify the compliance of laws.

It may intervene after a law has been voted by Parliament and before enactment by the President of the Republic. This procedure is known as an *ex ante* review of constitutionality (DC) as it takes place before the law enters into force. In the framework of this function, the Constitutional Council may be petitioned by the President of the Republic, the Prime Minister, the President of the Senate or the National Assembly, sixty MPs or sixty senators.

It may also conduct an *ex post* review of laws that have already been enacted. Instituted in 2010, this procedure is carried out in the context of a priority preliminary ruling on the issue of constitutionality (QPC), initiated by a party to a trial who believes that the penalty imposed goes against constitutional principles. Such cases are referred to the Council by either the Council of State or the Court of Cassation.

For a law to be declared constitutional, it must comply with the rules of the Constitution of the 5th Republic, adopted in 1958, and which incorporates the Declaration of the Rights of Man and Citizen of 1789, the Preamble of the Constitution

of the 4th Republic of 1946 and the Charter for the Environment of 2004. Following its review, the Constitutional Council may judge the law to be in compliance with the Constitution, express reservations or strike down all or part of the law.

ELECTION SUPERVISION

The Constitutional Council also ensures that presidential elections and referenda are properly conducted, and may be called upon to judge disputes regarding the election of MPs and senators. For the election of the President of the Republic, the Council validates and publishes the sponsorships of each candidate, draws up the official list of candidates having garnered at least 500 sponsorships, monitors the legality of the electoral process, examines complaints and announces the official results of the first and second rounds.

Decisions handed down by the Constitutional Council are not subject to appeal. They are binding on all parties, including the Executive, Ministries, Parliament and the Judiciary.

SHAPING LAW

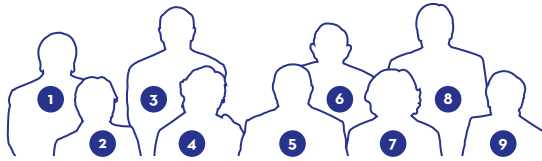
Since its creation, the Constitutional Council has continuously evolved to suit the times. It is an original institution with a specific position at the centre of the French Republic. The Council examines and shapes law through the binding decisions it hands down, mindful of changes in society and with full regard for fundamental freedoms. This perpetual dialogue has made the French constitutional jurisdiction a worldwide reference for constitutional courts.

Members of the Constitutional Council



Members as at 15 March 2019

- ① François Pillet
- ② Dominique Lottin
- ③ Alain Juppé
- ④ Claire Bazy Malaurie
- ⑤ Laurent Fabius, President
- ⑥ Jacques Mézard
- ⑦ Nicole Maestracci
- ⑧ Michel Pinault
- ⑨ Corinne Luquiens



All decisions within the Constitutional Council are taken by a nine-member college, known as the “Sages”. Three are appointed by the President of the Republic, three by the President of the National Assembly and three by the President of the Senate. The President of the Republic selects the President of the Council from among these nine members, one-third of whom are appointed every three years.

Members serve nine-year terms and are not eligible for reappointment to ensure the institution’s independence. This independence is further strengthened by the members’ strict obligation to exercise reserve and to refrain from holding any elected office or practising any other incompatible occupation.

Any citizen enjoying civil and political rights may serve on the Constitutional Council, although in practice seats are attributed to figures recognised for their expertise. The make-up of the Council is moving toward gender equality.

The Constitutional Council is a collegial body: all rulings are handed down in plenary session. Decisions are taken by majority vote, with a quorum of seven members required for rulings. Members may disagree on any given topic: in the event of a tie, the President holds a casting vote.

AN INSTITUTION OPEN ONTO THE WORLD

The Constitutional Council takes part in intense dialogue and joint deliberation with other constitutional courts. It belongs to several international bodies, including the Venice Commission, the Conference of the European Constitutional Courts, the grouping of “Latin Courts”, the World Conference on Constitutional Justice and the Association of Constitutional Courts using the French Language (ACCPUF). The President of the Council and associate members regularly meet with their counterparts around the world.

Thanks to these actions, the Constitutional Council enjoys international recognition and benefits from the experience of foreign courts. Such exchanges are essential to safeguarding fundamental rights.

Key dates

4 October
1958

Proclamation of the Constitution of the 5th Republic. A notable innovation in the Constitution was the creation of the Constitutional Council, which convened for the first time on 13 March 1959. The body originally served mainly to arbitrate the division of powers between the legislative and executive branches. Its role in terms of constitutional review was secondary.

16 July
1971

The Constitutional Council added a new dimension to its constitutional review prerogatives. It judged that laws must be consistent not only with the articles of the Constitution, but also with its Preamble, which refers to the Declaration of the Rights of Man and Citizen of 1789 and the preamble of the Constitution of the 4th Republic of 1946. With this decision, the Council positioned itself as a true guardian of fundamental freedoms.

29 October
1974

The constitutional amendment of 29 October 1974 extended to 60 MPs or 60 senators the right to request constitutional review. Until then, only the President of the Republic, the Prime Minister and the Presidents of the two parliamentary assemblies could make such a request. This reform made it possible for the parliamentary opposition to refer a law to the Constitutional Council.

March
1989

1989 marked the 30th anniversary of the Constitutional Council and the bicentennial of the French Revolution. Robert Badinter, then President of the Council, took advantage of this doubly symbolic date to put forth an innovative idea: to grant any citizen party to a trial the right to contest the constitutionality of a law that has not previously been reviewed by the Constitutional Council. However, the Senate voted down the bill in 1990 and 1993.

1 March
2005

The Charter for the Environment was incorporated into the Preamble of the Constitution of 1958 via the constitutional law of 1 March 2005. The Constitutional Council adapted the constitutional corpus to reflect current issues in French society.

23 July
2008

The constitutional amendment of 2008 instituted the priority preliminary ruling on the issue of constitutionality (QPC), which entered into force on 1 March 2010. Henceforth, a law could be referred to the Council not only by political authorities, but by any citizen subject to said law who raises a QPC in the context of a trial. Since 2010, the Constitutional Council has handed down more than 670 QPC rulings, and today nearly two such cases per week come before the body.

100

constitutional review rulings per year

On issues that directly concern the population as a whole: civil liberties, labour law, taxation, healthcare, the environment, etc.

20

DC rulings
On laws prior to enactment

80

QPC rulings
On laws already in force

1/3

of legislative provisions

Reviewed through a QPC are deemed unconstitutional

2 Rue de Montpensier: a dynamic site

The Constitutional Council is an accessible institution. Every year, it hosts a variety of events where representatives of foreign courts, professors, legal professionals, students and even the general public can meet and consort.

The grand salon

A venue for constitutional dialogue, this room hosts events such as the *Nuit du Droit* ("Law Night"), the Legal Book Fair and the *Découvrons notre Constitution* ("Let's Discover our Constitution") awards ceremony, as well as official announcements of presidential election results.



The library

The Council library contains more than 18,000 books and features one of the oldest architectural steel structures in France.



The deliberation room

This is where members of the Constitutional Council take *in camera* decisions. Members are seated according to seniority, and then according to the authority having appointed them. The President sits in the centre. The general secretary and the legal department also attend deliberations.



The hearing room

This room was overhauled in 2012 as a venue for hearings on priority preliminary rulings on the issue of constitutionality. These hearings are open to the public.



www.conseil-constitutionnel.fr

A single point of reference containing:

- Constitutional Council news and current events
- A presentation of the Constitutional Council, its duties and operation
- The full text of the Constitution of 4 October 1958
- Videos of public hearings
- All rulings of the Constitutional Council

HERITAGE

Since 13 March 1959, the Constitutional Council has occupied the Montpensier Wing of the Palais-Royal, which previously accommodated the Court of Auditors and the Economic and Social Council. The Council of State, the Ministry of Culture and the Comédie Française are housed in the same building.

Built by Cardinal Richelieu beginning in 1624, the Palais-Royal was the residence of Queen Anne of Austria. The Orléans family, including future King Louis-Philippe, subsequently occupied the premises until the Second Empire. The Montpensier Wing later became the home of Marie-Clotilde de Savoie, wife of Prince Jérôme Bonaparte, a cousin of Napoleon III. The Princess undertook a comprehensive redecoration of the premises.