

Overall Score:

**78 - Moderate**

Legal Framework Score:

**86 - Strong**

Actual Implementation Score:

**68 - Weak**

Category I. Civil Society, Public Information and Media

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## I-1. <sup>86</sup>Civil Society Organizations

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### 1. Are anti-corruption/good governance CSOs legally protected?

67

1a. In law, citizens have a right to form civil society organizations (CSOs) focused on anti-corruption or good governance.

**YES** | NO

**Comments:**

The Law of July 1, 1901, provides that in order to be constituted, Civil Society Organizations (associations) only need to submit to the authorities a 'request of declaration'. No authorization is needed. Decision 7144 of the Constitutional Council reaffirmed the principle of Freedom of Association (<http://www.conseil-constitutionnel.fr/decision/1971/7144dc.htm>).

**References:**

Law of July 1, 1901  
(<http://www.legifrance.gouv.fr/>)

**YES:** A YES score is earned when freedom to assemble into groups promoting good governance or anti-corruption is protected by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

**NO:** A NO score is earned when any single non-violent group is legally prohibited from organizing to promote good governance or anti-corruption. These groups may include non-violent separatist groups, political parties or religious groups.

1b. In law, anti-corruption/good governance CSOs are free to accept funding from any foreign or domestic sources.

**YES** | NO

**References:**

Law 2003-709 of Aug. 1, 2003

**YES:** A YES score is earned if anti-corruption/good governance CSOs face no legal or regulatory restrictions to raise or accept funds from any foreign or domestic sources. A YES score may still be earned if funds from groups with a history of violence or terrorism (within last ten years) are banned.

**NO:** A NO score is earned if there any formal legal or regulatory bans on foreign or domestic funding sources for CSOs focused on anti-corruption or good governance.

1c. In law, anti-corruption/good governance CSOs are required to disclose their sources of funding.

YES | **NO**

**References:**

Law of Aug. 1, 1901,  
<http://www.associanet.com/docs/loi1901.html>

**YES:** A YES score is earned if anti-corruption/good governance CSOs are required to publicly disclose their sources of funding.

**NO:** A NO score is earned if no such public disclosure requirement exists.

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## 2. Are good governance/anti-corruption CSOs able to operate freely?

75

2a. In practice, the government does not create barriers to the organization of new anti-corruption/good governance CSOs.

100 | **75** | 50 | 25 | 0

**References:**

Legislationline, Freedom of Association, October 2004, <http://www.legislationline.org/?tid=2&jid=19&less=false>:

Conseil national de la vie associative, La Documentation Française, 2007, <http://lesrapports.ladocumentationfrancaise.fr/BRP/074000322/0000.pdf>

**100:** CSOs focused on promoting good governance or anti-corruption can freely organize with little to no interaction with the government, other than voluntary registration.

**75:**

**50:** CSOs focused on promoting good governance or anti-corruption must go through formal steps to form, requiring interaction with the state such as licenses or registration. Formation is possible, though there is some burden on the CSO. Some unofficial barriers, such as harassment of minority groups, may occur.

**25:**

**0:** Other than pro-government groups, CSOs focused on promoting good governance or anti-corruption are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

2b. In practice, anti-corruption/good governance CSOs actively engage in the political and policymaking process.

100 | 75 | **50** | 25 | 0

**References:**

Legislationline, Freedom of Association, October 2004, <http://www.legislationline.org/?tid=2&jid=19&less=false>;

Conseil national de la vie associative, La Documentation Française, 2007, <http://lesrapports.ladocumentationfrancaise.fr/BRP/074000322/0000.pdf>

**100:** Civil society organizations focused on anti-corruption or good governance are an essential component of the political process. CSOs provide widely valued insights and have political power. Those CSOs play a leading role in shaping public opinion on political matters.

**75:**

**50:** Anti-corruption/good governance CSOs are active, but may not be relevant to political decisions or the policymaking process. Those CSOs are willing to articulate opinions on political matters, but have little access to decision makers. They have some influence over public opinion, but considerably less than political figures.

**25:**

**0:** Anti-corruption/good governance CSOs are effectively prohibited from engaging in the political process. Those CSOs are unwilling to take positions on political issues. They are not relevant to changes in public opinion.

2c. In practice, no anti-corruption/good governance CSOs have been shut down by the government for their work on corruption-related issues during the study period.

YES | NO

**References:**

There have been no mainstream and alternative media reports on CSOs having been shut down by the government for their work on corruption-related issues in the past year.

**YES:** A YES score is earned if there were no CSOs shut down by the government or forced to cease operations because of their work on corruption-related issues during the study period.

**NO:** A NO score is earned if any CSO has been effectively shut down by the government or forced to cease operations because of its work on corruption-related issues during the study period. The causal relationship between the cessation of operations and the CSO's work may not be explicit, however the burden of proof here is low. If it seems likely that the CSO was forced to cease operations due to its work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

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### 3. Are civil society activists safe when working on corruption issues?

100

3a. In practice, in the past year, no civil society activists working on corruption issues have been imprisoned.

YES | NO

**References:**

There has been no mention in mainstream and alternative media of civil society activists working on corruption issues having been imprisoned in the past year.

**YES:** A YES score is earned if there were no CSO activists imprisoned because of their work covering corruption. YES is a positive score.

**NO:** A NO score is earned if any activist was jailed in relation to work covering corruption. The causal relationship between the official charges and the person's work may not be explicit, however the burden of proof here is low. If it seems likely that the person was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to

include any abuses of power, not just the passing of bribes. Imprisoned" is defined here as detention by the government lasting more than 24 hours.

3b. In practice, in the past year, no civil society activists working on corruption issues have been physically harmed.

YES | NO

**References:**

Mainstream and alternative media have not mentioned civil society activists working on corruption issues having been physically harmed in the past year.

**YES:** A YES score is earned if there were no documented cases of CSO activists covering corruption being assaulted in the specific study period. A YES score can be earned if there was an attack but it was clearly unrelated to the activist's work. YES is a positive score.

**NO:** A NO score is earned if there were any documented cases during the study period of assault to an activist who covers corruption. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

3c. In practice, in the past year, no civil society activists working on corruption issues have been killed.

YES | NO

**References:**

Mainstream and alternative media report no evidence of civil society activists working on corruption issues having been killed in the past year.

**YES:** A YES score is earned if there were no documented cases of CSO activists being killed because of their work covering corruption in the specific study period. YES is a positive score.

**NO:** A NO score is earned if there were any documented cases during the study period where a person was killed related to a corruption trial, scandal or investigation. The relationship between a mysterious death and an individual's history may not be clear, however the burden of proof here is low. If it is reasonable that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

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#### 4. Can citizens organize into trade unions?

88

4a. In law, citizens have a right to organize into trade unions.

YES | NO

**Comments:**

The 1946 Preamble to which the Preamble of the 1958 Constitution refers (<http://www.conseil-constitutionnel.fr/textes/constit.htm#Preamble>) has been recognized to be of constitutional rank by the Constitutional Council (decision 71-44 DC of July 16, 1971, <http://www.conseil-constitutionnel.fr/decision/1971/7144dc.htm>).

**References:**

Point 6 of the preamble of the 1946 Constitution guarantees the right to join a trade union of one's choice. <http://www.conseil-constitutionnel.fr/textes/p1946.htm>

**YES:** A YES score is earned when trade unions are allowed by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

**NO:** A NO score is earned when any single non-violent trade union is legally prohibited by the government from organizing.

4b. In practice, citizens are able to organize into trade unions.

100 | 75 | 50 | 25 | 0

**References:**

Dominique Andolfatto,  
Les syndicats en France,  
La Documentation Française, 2004;

Interview with Max Bazignan, civil servant, education sector,  
Aug. 30, 2007, Gironde

**100:** Trade unions are common and are an important part to the political process and political discourse. Trade union organizers have widely understood rights. Trade unions are free from intimidation or violence.

**75:**

**50:** Trade unions exist, but are not always relevant to politics or policy debates. Barriers to organizing trade unions exist, such as intimidation at work, or retribution firings. Trade union organizers have some rights, but these may not be commonly known, or are difficult to defend.

**25:**

**0:** Trade unions are rare. Significant barriers to organization exist, including direct violence. Rights of union organizers are not widely known, or are ineffective in protecting organizers.

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## I-2. Media

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### 5. Are media and free speech protected?

100

5a. In law, freedom of the media is guaranteed.

YES | NO

**References:**

Déclaration des Droits de l'Homme et du Citoyen of 1789, article 11, <http://www.legifrance.gouv.fr/html/constitution/const01.htm>

**YES:** A YES score is earned if freedom of the press is guaranteed in law, including to all political parties, religions, and ideologies.

**NO:** A NO score is earned if any specific publication relating to government affairs is legally banned, or any general topic is prohibited from publication. Specific restrictions on media regarding privacy or slander are allowed, but not if these amount to legal censorship of a general topic, such as corruption or defense. A NO score is earned if non-government media is prohibited or restricted.

5b. In law, freedom of speech is guaranteed.

YES | NO

**References:**

Déclaration des Droits de l'Homme et du Citoyen of 1789, article 11, <http://www.legifrance.gouv.fr/html/constitution/const01.htm>

**YES:** A YES score is earned if freedom of individual speech is guaranteed in law, including to all political parties, religions, and ideologies.

**NO:** A NO score is earned if any individual speech is legally prohibited, regardless of topic. Specific exceptions for speech linked with a criminal act, such as a prohibition on death threats, are allowed. However, any non-specific prohibition earns a NO score.

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## 6. Are citizens able to form print media entities?

100

6a. In practice, the government does not create barriers to form a print media entity.

100 | 75 | 50 | 25 | 0

**Comments:**

No print media licence is required.

**References:**

Ministry of Foreign Affairs,  
La liberté d'expression dans les médias en France, October 2006,  
[http://www.ambafrance-dz.org/IMG/liberte\\_expression.pdf](http://www.ambafrance-dz.org/IMG/liberte_expression.pdf);

Direction du Développement des médias, Aides à la presse écrite, [http://www.ddm.gouv.fr/rubrique.php3?id\\_rubrique=27](http://www.ddm.gouv.fr/rubrique.php3?id_rubrique=27)

**100:** Print media entities can freely organize with little to no interaction with the government. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

**75:**

**50:** Formation of print media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur.

**25:**

**0:** Print media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

6b. In law, where a print media license is necessary, there is an appeal mechanism if a license is denied or revoked.

YES | NO

**Comments:**

No licence is necessary.

**References:**

Law of July 29, 1881 (in particular articles 1, 2, 5), <http://www.legifrance.gouv.fr/texteconsolide/PCEAA.htm>

**YES:** A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied print media license, including through the courts. A YES score is also earned if no print license is necessary.

**NO:** A NO score is earned if there is no appeal process for print media licenses.

6c. In practice, where necessary, citizens can obtain a print media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

No print media licence is required.

**References:**

Law of July 29, 1881 (in particular articles 1, 2, 5), <http://www.legifrance.gouv.fr/texteconsolide/PCEAA.htm>

**100:** Licenses are not required or licenses can be obtained within two months.

**75:**

**50:** Licensing is required and takes more than two months. Some groups may be delayed up to six months.

**25:**

**0:** Licensing takes close to or more than one year for most groups.

6d. In practice, where necessary, citizens can obtain a print media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

No print media licence is required.

**References:**

Law of July 29, 1881 (in particular articles 1, 2, 5), <http://www.legifrance.gouv.fr/texteconsolide/PCEAA.htm>

**100:** Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

**75:**

**50:** Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

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## 7. Are citizens able to form broadcast (radio and TV) media entities?

7a. In practice, the government does not create barriers to form a broadcast (radio and TV) media entity.

100 | 75 | 50 | 25 | 0

**References:**

Ministry of Foreign Affairs,  
La liberté d'expression dans les médias en France, October 2006,  
[http://www.ambafrance-dz.org/IMG/liberte\\_expression.pdf](http://www.ambafrance-dz.org/IMG/liberte_expression.pdf);

Amélie Blocman,  
Retrait d'autorisation démettre sans mise en demeure préalable du CSA, Légipresse, 2006,  
<http://merlin.obs.coe.int/index.php>

**100:** Broadcast media entities can freely organize with little to no interaction with the government. Media groups have equal access to broadcast bandwidth through a reasonably fair distribution system. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

**75:**

**50:** Formation of broadcast media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur. Division of broadcast bandwidth is widely viewed to be somewhat unfair.

**25:**

**0:** Broadcast media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear. This score is appropriate if the division of broadcast bandwidth is widely viewed to be used as a political tool.

7b. In law, where a broadcast (radio and TV) media license is necessary, there is an appeal mechanism if a license is denied or revoked.

YES | NO

**References:**

Law 86-1067 of Sept. 30, 1986 as amended by Law 2006-396 of March 31, 2006, <http://www.legifrance.gouv.fr/>

**YES:** A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied broadcast media license, including through the courts. A YES score is also earned if no broadcast license is necessary.

**NO:** A NO score is earned if there is no appeal process for broadcast media licenses.

7c. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

As an example, in the FM 2006 operation (renewal of radio licences ending in 2006), authorizations were delivered in an eight-month period following the application deadline.

**References:**

Conseil Supérieur de l'Audiotvisuel:

Rapport d'Activité 2005,

[http://www.csa.fr/upload/publication/rapport\\_2005.pdf](http://www.csa.fr/upload/publication/rapport_2005.pdf);

Les autorisations, 2007,

[http://www.csa.fr/conseil/role/role\\_autorisations.php](http://www.csa.fr/conseil/role/role_autorisations.php)

**100:** Licenses are not required or licenses can be obtained within two months.

**75:**

**50:** Licensing is required and takes more than two months. Some groups may be delayed up to six months.

**25:**

**0:** Licensing takes close to or more than one year for most groups.

7d. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

**References:**

Direction du Développement des médias,

Aides aux radios associatives,

[http://www.ddm.gouv.fr/rubrique.php3?id\\_rubrique=40](http://www.ddm.gouv.fr/rubrique.php3?id_rubrique=40);

Conseil Supérieur de l'Audiotvisuel:

Rapport d'Activité 2005,

[http://www.csa.fr/upload/publication/rapport\\_2005.pdf](http://www.csa.fr/upload/publication/rapport_2005.pdf)

**100:** Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

**75:**

**50:** Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

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## 8. Can citizens freely use the Internet?

75

8a. In practice, the government does not prevent citizens from accessing content published online.

100 | 75 | 50 | 25 | 0

**Comments:**

A law adopted in June 2004 places a heavy burden on internet services providers. They are required to judge the legality of the published content and can be civilly and criminally liable for not blocking access to it, even before a court ruling has been issued regarding the content.

**References:**

Reporters without borders, Internet Report 2004, France, [http://www.rsf.org/article.php3?id\\_article=10677](http://www.rsf.org/article.php3?id_article=10677);

Freedom House, France, 2006 Report, <http://www.freedomhouse.org/template.cfm?page=22&country=6964&year=2006>;

Law pour la confiance dans l'économie numérique of June 21, 2004, <http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=ECOX0200175L#>;

Constitutional Council, Cahiers, Decision 2004-496 DC of June 10, 2004, <http://www.conseil-constitutionnel.fr/cahiers/ccc17/jurisp496.htm>

**100:** The government does not prevent Internet users from accessing online content. While some forms of content may be illegal to download or own (such as child pornography), the government does not manipulate networks to prevent access to this information. This indicator addresses direct government intervention in the transfer of information, not indirect deterrents such as intimidation, surveillance or technical difficulties in countries with poor infrastructure.

**75:**

**50:** Internet users are prevented by the government from reaching online content in some cases. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

**25:**

**0:** Internet users are routinely prevented from accessing online content. Government restrictions are in place at all times for certain topics. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

8b. In practice, the government does not censor citizens creating content online.

100 | 75 | 50 | 25 | 0

**Comments:**

A law adopted in June 2004 places a heavy burden on internet services providers. They are required to judge the legality of the published content and can be civilly and criminally liable for not blocking access to it, even before a court ruling has been issued regarding the content.

**References:**

Reporters without borders, Internet Report 2004, France, [http://www.rsf.org/article.php3?id\\_article=10677](http://www.rsf.org/article.php3?id_article=10677);

Freedom House, France, 2006 Report, <http://www.freedomhouse.org/template.cfm?page=22&country=6964&year=2006>;

Law pour la confiance dans l'économie numérique of June 21, 2004, <http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=ECOX0200175L#>;

Constitutional Council, Cahiers, Decision 2004-496 DC of June 10, 2004, <http://www.conseil-constitutionnel.fr/cahiers/ccc17/jurisp496.htm>

**100:** The government never removes online information or disables servers due to their political content. All political speech is protected with limited exceptions, such as legitimate intellectual property restrictions; direct calls to violence; or pornography.

**75:**

**50:** In some cases, the government restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting restricted content, or indirectly through threats or intimidation against the persons posting political content.

**25:**

**0:** The government regularly restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting the restricted content, or indirectly through threats or intimidation against the persons posting political content.

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## 9. Are the media able to report on corruption?

83

9a. In law, it is legal to report accurate news even if it damages the reputation of a public figure.

YES | NO

**References:**

Law of July 29, 1881 (article 35 in particular), <http://www.legifrance.gouv.fr/texteconsolide/PCEAA.htm>

**YES:** A YES score is earned if it is legal to report accurate information on public figures regardless of damage to their reputations. Public figures are defined broadly, including anyone in a position of responsibility in the government or civil service; any political leader; leaders of civil society groups including religious groups, trade unions, or NGOs; leaders or officers of large businesses. A YES score can still be earned if a reckless disregard for the truth (i.e. slander) is prohibited.

**NO:** A NO score is earned if privacy laws protect any public figures (as defined in the YES coding) from accurate information.

9b. In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.

100 | 75 | 50 | 25 | 0

**Comments:**

There are reports that executives of media ownership/distribution groups, spontaneously or following unofficial instructions from politicians, make some attempts to control or restrict media coverage of sensitive issues.

**References:**

Les journalistes du « JDD » dénoncent « une censure inacceptable » de M. Lagardère, May 16, 2007,

[http://www.fairelejour.org/breve.php3?id\\_breve=1353](http://www.fairelejour.org/breve.php3?id_breve=1353)

Syndicat National des Journalistes, Le 5 novembre, journalistes et citoyens ensemble, 1st January 2007, <http://www.snj.fr/>  
Libération, Sarkozy, la main dans l'info, 27 June 2006

**100:** The government, its proxies, or media ownership/distribution groups make no attempt to restrict media coverage of corruption-related issues through unofficial means.

**75:**

**50:** The government, its proxies, or media ownership/distribution groups make some attempts to restrict media coverage of corruption-related issues through unofficial means, such as restricting access by disfavored media outlets, or other short-term consequences. Violent reprisals against media outlets are rare.

**25:**

**0:** The government, its proxies, or media ownership/distribution groups actively use illegal methods to restrict reporting of corruption-related issues. This may include harassment, arrests, and threats. Journalists and publishers take a personal risk to report on corruption, and media outlets who commonly report on corruption face long-term consequences or violent reprisals.

9c. In practice, there is no prior government restraint (pre-publication censoring) on publishing corruption-related stories.

100 | 75 | 50 | 25 | 0

**Comments:**

There are reports that executives of media ownership/distribution groups, following unofficial instructions from politicians, make some attempts to control or restrict publication of sensitive issues.

**References:**

Ministry of Foreign Affairs,

La liberté d'expression dans les médias en France, October 2006,

[http://www.ambafrance-dz.org/IMG/liberte\\_expression.pdf](http://www.ambafrance-dz.org/IMG/liberte_expression.pdf)

**100:** The government never prevents publication of controversial corruption-related materials.

**75:**

**50:** The government prevents publication of controversial corruption-related material in cases where there is a strong political incentive to suppress the information. This score is appropriate if in countries where illiteracy is high, the government may allow a free print press but censor broadcast media.

**25:**

**0:** The government regularly censors material prior to publication, especially politically sensitive or damaging corruption-related material. This score is appropriate even if the government restricts only politically damaging news while allowing favorable coverage.

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## 10. Are the media credible sources of information?

65

10a. In law, print media companies are required to disclose their ownership.

YES | **NO**

### References:

Law of July 29, 1881,  
<http://www.legifrance.gouv.fr/texteconsolide/PCEAA.htm>

**YES:** A YES score is earned if print media companies are required by law to disclose all owners of the company.

**NO:** A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain types of entities or agents from being disclosed.

10b. In law, broadcast (radio and TV) media companies are required to disclose their ownership.

**YES** | NO

### References:

Law 86-1067 of Sept. 30, 1986,  
[http://www.csa.fr/upload/dossier/mai2007\\_loi86-1067.pdf](http://www.csa.fr/upload/dossier/mai2007_loi86-1067.pdf)

**YES:** A YES score is earned if broadcast media companies are required by law to disclose all owners of the company.

**NO:** A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain type of entities or agents from being disclosed.

10c. In practice, journalists and editors adhere to strict, professional practices in their reporting.

100 | **75** | 50 | 25 | 0

**Comments:**

Editors and journalists generally abide by a code of conduct and avoid altering coverage of events. However, there are allegations that pressures or unofficial instructions sometimes lead them to sidestep their professional ethics.

**References:**

Ian Hamel,  
Mainmise sur la presse tricolore,  
Lematin.ch, Jan. 27, 2007,  
[http://www.fairelejour.org/article.php3?id\\_article=132](http://www.fairelejour.org/article.php3?id_article=132);

Observatoire Français des Médias,  
Pour des médias soustraits à l'emprise des pouvoirs économiques et politiques,  
Oct. 3, 2006,  
[http://www.observatoire-medias.info/article.php3?id\\_article=674](http://www.observatoire-medias.info/article.php3?id_article=674)  
Syndicat National des Journalistes, Déontologie : les difficultés de l'application, 27 October 2007, <http://www.snj.fr/>

**100:** Editors and journalists at the major media outlets abide by a strict journalistic code of conduct and are unwilling to alter their coverage of a particular issue, event or person in exchange for money, gifts, or other favors or remuneration.

**75:**

**50:** Editors and journalists at the major media outlets generally avoid altering coverage in exchange for favors but some exceptions have been noted. Not all newsrooms abide by a formal journalistic code of conduct.

**25:**

**0:** Editors and journalists are widely known to sell" favorable or unfavorable coverage in exchange for money, gifts, or other remuneration. The major media outlets do not abide by any formal journalistic code of conduct.

10d. In practice, during the most recent election, political parties or independent candidates received fair media coverage.

100 | 75 | 50 | 25 | 0

**References:**

Conseil Supérieur de l'Audiovisuel,  
Election du Président de la République – Période intermédiaire : 20 mars / 8 avril 2007,  
April 8, 2007,  
[http://www.csa.fr/actualite/communiqués/communiqués\\_detail.php?id=122666](http://www.csa.fr/actualite/communiqués/communiqués_detail.php?id=122666);

Conseil Supérieur de l'Audiovisuel, Election du Président de la République – Emissions des campagnes officielles et temps relevés du 23 avril au 4 mai 2007,  
May 15, 2007,  
[http://www.csa.fr/actualite/communiqués/communiqués\\_detail.php?id=122933](http://www.csa.fr/actualite/communiqués/communiqués_detail.php?id=122933)

**100:** All political parties and independent candidates have some access to media outlets. Individual media outlets may have biases, but on balance, the national media coverage reflects the interests of the electorate. Media groups generally act as disinterested parties in an election. In places where a government is popular with the public, opposition viewpoints can access the public via media outlets.

**75:**

**50:** Major popular media outlets have a persistent bias regarding some parties or independent candidates. Some major parties may be partially excluded from media coverage, or draw more negative coverage. Media sectors may have distinct biases, such as newspapers favoring one party, while radio favors another.

**25:**

**0:** The mass media, on balance, have clear preferences in election outcomes and coverage is driven to achieve these goals. Some major parties or independent candidates are excluded or consistently negatively portrayed by mass media. Dissenting political opinions are only found on fringe or elite media outlets, such as Web sites.

10e. In practice, political parties and candidates have equitable access to state-owned media outlets.

**References:**

Ministry of Foreign Affairs,  
La liberté d'expression dans les médias en France, October 2006,  
[http://www.ambafrance-dz.org/IMG/liberte\\_expression.pdf](http://www.ambafrance-dz.org/IMG/liberte_expression.pdf);

Conseil Supérieur de l'Audiovisuel,  
Election du Président de la République – Période intermédiaire : 20 mars / 8 avril 2007,  
April 8, 2007,  
[http://www.csa.fr/actualite/communiqués/communiqués\\_detail.php?id=122666](http://www.csa.fr/actualite/communiqués/communiqués_detail.php?id=122666);

Conseil Supérieur de l'Audiovisuel, Election du Président de la République – Emissions des campagnes officielles et temps relevés du 23 avril au 4 mai 2007,  
May 15, 2007,  
[http://www.csa.fr/actualite/communiqués/communiqués\\_detail.php?id=122933](http://www.csa.fr/actualite/communiqués/communiqués_detail.php?id=122933)

**100:** The government ensures that equal access and fair treatment of election contestants is provided by all state-owned media outlets, including all electronic and print media. This obligation extends to news reports, editorial comment, and all other content. All parties and candidates are offered consistent and equivalent rates for campaign advertising on state-owned media outlets.

**75:**

**50:** The government generally ensures equal access and fair treatment of all candidates and parties by state-owned media outlets but some exceptions exist. State-owned media may occasionally discriminate against particular parties or candidates and advertising rates may be confusing or non-transparent.

**25:**

**0:** The government uses state-owned media to routinely discriminate against opposition candidates and parties. Advertising space may be denied to opposition candidates and parties or higher rates may be charged.

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## 11. Are journalists safe when investigating corruption?

100

11a. In practice, in the past year, no journalists investigating corruption have been imprisoned.

YES | NO

**References:**

There have been no mainstream and alternative media reports that journalists covering corruption have been imprisoned in France over the past year.

**YES:** A YES score is earned if there were no journalists imprisoned related to work covering corruption during the study period. A YES score is positive.

**NO:** A NO score is earned if any journalist was jailed because of his/her work covering corruption during the study period. The causal relationship between the official charges and the journalist's work may not be explicit, however the burden of proof here is low. If it seems likely that the journalist was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. Imprisoned" is defined here as detention by the government lasting more than 24 hours.

11b. In practice, in the past year, no journalists investigating corruption have been physically harmed.

YES | NO

**References:**

There have been no mainstream and alternative media reports that journalists covering corruption have been physically harmed in France over the past year.

**YES:** A YES score is earned if there were no documented cases of journalists being assaulted during the specific study period for their work covering corruption issues. A YES score is positive.

**NO:** A NO score is earned if there were any documented cases of assault to a journalist covering corruption during the study period. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

11c. In practice, in the past year, no journalists investigating corruption have been killed.

YES | NO

**References:**

There have been no mainstream and alternative media reports that journalists covering corruption have been killed in France over the past year.

**YES:** A YES score is earned if there were no documented cases of journalists being killed because of their work covering corruption-related issues during the study period. A YES score is positive.

**NO:** A NO score is earned if there were any documented cases where a journalist was killed in relation to his or her work covering corruption-related issues in the study period. The relationship between a mysterious death and an individual's work may not be clear, however the burden of proof here is low. If it is a reasonable guess that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

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85  
I-3. Public Access to Information

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12. Do citizens have a legal right of access to information?

100

12a. In law, citizens have a right of access to government information and basic government records.

YES | NO

**References:**

Law 78-753 of July 17, 1978,

<http://www.legifrance.gouv.fr/texteconsolide/PPEAV.htm>;

Law 200-321 of April 12, 2000, <http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=FPPX9800029L>

**YES:** A YES score is earned if there is a formal right to access government documents, including constitutional guarantees. Exceptions can be made for national security reasons or individual privacy, but they should be limited in scope. All other government documents should be available upon a public request.

**NO:** A NO score is earned if there is no such right.

12b. In law, citizens have a right of appeal if access to a basic government record is denied.

YES | NO

**Comments:**

A person who is denied access to an administrative document must refer to the Commission for the Access to Administrative Documents (CADA) created by article 20 of the law 78-753. The commission produces an opinion. If the refusal persists, the person can refer the case to the administrative tribunals.

**References:**

Law 78-753 of July 17, 1978,  
<http://www.legifrance.gouv.fr/texteconsolide/PPEAV.htm>

**YES:** A YES score is earned if there is a formal process of appeal for rejected information requests. A YES score can still be earned if the appeals process involves redress through the courts rather than administrative appeal.

**NO:** A NO score is earned if there is no such formal process.

12c. In law, there is an established institutional mechanism through which citizens can request government records.

YES | NO

**Comments:**

Procedures for accessing documents are listed in article 4 of the Law 78-753. The Commission for the Access to Administrative Documents (CADA) created by article 20 of this law ensures that freedom to access to administrative records is respected.

**References:**

Law 78-753 of July 17, 1978,  
<http://www.legifrance.gouv.fr/texteconsolide/PPEAV.htm>

**YES:** A YES score is earned if there is a formal government mechanism/institution through which citizens can access government records available under freedom of information laws. This mechanism could be a government office (or offices within agencies or ministries) or an electronic request system.

**NO:** A NO score is earned if there is no such formal mechanism or institution.

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### 13. Is the right of access to information effective?

80

13a. In practice, citizens receive responses to access to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The administrative services have one month to answer a request. After this period, it is considered that their silence amounts to a refusal and the person requesting the document can refer the case to the Commission for Access to Administrative Documents. In about one fourth of the cases, the service in cause, when contacted by the CADA, communicates the document to the applicant and the procedure is stopped.

**References:**

Commission d'Accès aux Documents Administratifs,  
Rapport d'Activité de l'Année 2005, Août 2006,  
<http://www.cada.fr/fr/rapport/rapport2005.pdf>.

**100:** Records are available on-line, or records can be obtained within two weeks. Records are uniformly available; there are no delays for politically sensitive information. Legitimate exceptions are allowed for sensitive national security-related information.

**75:**

**50:** Records take around one to two months to obtain. Some additional delays may be experienced. Politically-sensitive information may be withheld without sufficient justification.

**25:**

**0:** Records take more than four months to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records. National security exemptions may be abused to avoid disclosure of government information.

13b. In practice, citizens can use the access to information mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The information mechanisms have virtually no cost (cost of a letter, of an email; visit to the relevant office is more costly but rarely necessary). The cost of photocopies is limited and the Commission for Access to Administrative Documents ensures there are no abuses.

**References:**

Commission d'Accès aux Documents Administratifs,  
Rapport d'Activité de l'Année 2005, Août 2006,  
<http://www.cada.fr/fr/rapport/rapport2005.pdf>;

Comment la CADA peut-elle vous aider,  
<http://www.cada.fr/fr/saisir/center2.htm>;

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

13c. In practice, citizens can resolve appeals to access to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The Commission for Access to Administrative Documents is supposed to produce opinion on the situations referred to it within one month. In practice the time period is much longer. This is partly due to the fact that the CADA only holds two sessions a month and to the time taken by the administration to reply to the requests of the CADA during the instruction. For those cases in which the citizen then refer to the administrative tribunals, delays are much longer because of the overall slowness of the justice system.

**References:**

Commission d'Accès aux Documents Administratifs,  
Rapport d'Activité de l'Année 2005, Août 2006,  
<http://www.cada.fr/fr/rapport/rapport2005.pdf>.

Government of Canada

Access to Information Review Task Force, Consultations of the Task Force with other Jurisdictions on their Access to Information Regimes, France, June 2002, <http://www.atirtf-geai.gc.ca/consultation-france-e.html>

**100:** The agency/entity acts on appeals quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

**75:**

**50:** The agency/entity acts on appeals quickly but with some exceptions. Some appeals may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency/entity does not resolve appeals in a timely fashion quickly. Appeals may be unacknowledged for many months and simple issues may take more than three months to resolve.

13d. In practice, citizens can resolve appeals to information requests at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Referring to the CADA is free. If the request is referred to a tribunal, there is a cost involved, which is passed onto the administration if the applicant wins.

**References:**

Commission d'Accès aux Documents Administratifs,  
Rapport d'Activité de l'Année 2005, Août 2006,  
<http://www.cada.fr/fr/rapport/rapport2005.pdf>.

La CADA et vous,

<http://www.cada.fr/fr/presentation/center.htm>;

Government of Canada

Access to Information Review Task Force, Consultations of the Task Force with other Jurisdictions on their Access to Information Regimes, France, June 2002, <http://www.atirtf-geai.gc.ca/consultation-france-e.html>

**100:** In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge an access to information determination.

**75:**

**50:** In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge an access to information determination.

**25:**

**0:** The prohibitive cost of utilizing the access to information appeals mechanism prevents middle class citizens from challenging access to information determinations.

13e. In practice, the government gives reasons for denying an information request.

100 | 75 | 50 | 25 | 0

**Comments:**

The administration normally gives reasons for denying the document. In some instances, however, the administration does not provide a reason or does not answer at all.

**References:**

Commission d'Accès aux Documents Administratifs,  
Rapport d'Activité de l'Année 2005, Août 2006,  
<http://www.cada.fr/fr/rapport/rapport2005.pdf>.

Comment la CADA peut-elle vous aider,  
<http://www.cada.fr/fr/saisir/center2.htm>

**100:** The government always discloses to the requestor the specific, formal reasons for denying information requests.

**75:**

**50:** The government usually discloses reasons for denying an information request to the requestor, with some exceptions. The reasons may be vague or difficult to obtain.

**25:**

**0:** The government does not regularly give reasons for denying an information request to the requestor.

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## Category II. Elections

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### II-1. <sup>85</sup> Voting & Citizen Participation

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14. Is there a legal framework guaranteeing the right to vote?

100

14a. In law, universal and equal adult suffrage is guaranteed to all citizens.

YES | NO

**Comments:**

Citizens must be 18 years old and be of French nationality (citizens of EU member states can vote in local elections). They must enroll in the electoral registry.

**References:**

Article 3 of the 1958 Constitution, <http://www.legifrance.gouv.fr/html/constitution/constitution2.htm#titre1>;  
Electoral Code

**YES:** A YES score is earned if the right to vote is guaranteed to all citizens of the country (basic age limitations are allowed). A YES score can still be earned if voting procedures are, in practice, inconvenient or unfair.

**NO:** A NO score is earned if suffrage is denied by law to any group of adult citizens for any reason. Citizen is defined broadly, to include all ethnicities, or anyone born in the country. A NO score is earned if homeless or impoverished people are legally prohibited from voting.

14b. In law, there is a legal framework requiring that elections be held at regular intervals.

YES | NO

**References:**

Article 6 of the 1958 Constitution (election of the President of the Republic, <http://www.legifrance.gouv.fr/html/constitution/constitution2.htm#titre2>;

Electoral Code

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

**YES:** A YES score is earned if there is a statutory or other framework enshrined in law that mandates elections at reasonable intervals.

**NO:** A NO score is earned if no such framework exists.

---

## 15. Can all citizens exercise their right to vote?

92

15a. In practice, all adult citizens can vote.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens must be 18 years old and be of French nationality (citizens of EU member states can vote in local elections). They must be enrolled in the electoral registry.

**References:**

Documentation Française,  
Quelles sont les conditions pour voter ?, <http://www.vie-publique.fr/decouverte-institutions/citoyen/participation/voter/droit-vote/quelles-sont-conditions-pour-voter.html>

Dmitri Georges Lavroff,  
Le droit constitutionnel de la Ve République,  
3rd edition, Dalloz, 1999

**100:** Voting is open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers.

**75:**

**50:** Voting is often open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers, with some exceptions.

**25:**

**0:** Voting is not available to some demographics through some form of official or unofficial pressure. Voting may be too dangerous, expensive, or difficult for many people.

15b. In practice, ballots are secret or equivalently protected.

100 | 75 | 50 | 25 | 0

**Comments:**

Ballots are secret and protected, but there are occasional irregularities and risks linked to the use of electronic voting procedures.

**References:**

Digital Civil Rights in Europe,  
Internet voting in France under question,  
Aug. 30, 2006,  
<http://www.edri.org/edriagram/number4.16/evotingfrance>;

Arritti, La face cachée de l'iceberg, 2003

Gilles Guglielmi,  
Violer une disposition législative du Code électorale n'est pas une atteinte grave au droit de suffrage, April 20, 2007  
<http://www.guglielmi.fr/spip.php?article75>

**100:** Ballots are secret, or there is a functional equivalent protection, in all cases.

**75:**

**50:** Ballots are secret, or there is a functional equivalent protection, in most cases. Some exceptions to this practice have occurred. Ballots may be subject to tampering during transport or counting.

**25:**

**0:** Ballot preferences are not secret. Ballots are routinely tampered with during transport and counting.

15c. In practice, elections are held according to a regular schedule.

100 | 75 | 50 | 25 | 0

**Comments:**

Elections are held regularly in accordance with the law.

**References:**

Ministry of the Interior,  
Les élections en France, [http://www.interieur.gouv.fr/sections/a\\_votre\\_service/elections/les\\_elections\\_en\\_france](http://www.interieur.gouv.fr/sections/a_votre_service/elections/les_elections_en_france);

Dmitri Georges Lavroff,  
Le droit constitutionnel de la Veme Republique,  
3rd edition, Dalloz, 1999

**100:** Elections are always held according to a regular schedule, or there is a formal democratic process for calling a new election, with deadlines for mandatory elections.

**75:**

**50:** Elections are normally held according to a regular schedule, but there have been recent exceptions. The formal process for calling a new election may be flawed or abused.

**25:**

**0:** Elections are called arbitrarily by the government. There is no functioning schedule or deadline for new elections.

---

## 16. Are citizens able to participate equally in the political process?

85

16a. In law, all citizens have a right to form political parties.

YES | NO

**References:**

Article 4 of the 1958 Constitution <http://www.legifrance.gouv.fr/html/constitution/constitution2.htm#titre1>;

Electoral Code

**YES:** A YES score is earned if citizens have the right to form political parties without interference from government. A YES score may still be earned if groups or individuals with a history of violence or terrorism (within last ten years) are banned from forming political parties. Non-discriminatory minimal criteria (e.g. minimum age) are also allowed.

**NO:** A NO score is earned if there are any legal or regulatory restrictions or prohibitions barring any types of political parties from being formed.

16b. In law, all citizens have a right to run for political office.

YES | NO

**Comments:**

Age limitations apply: a person must be 30 years old to run for the Senate, 23 to run for the National Assembly, 18 in the other cases. Candidates for the presidency of the Republic must be sponsored by 500 elected officials.

**References:**

Electoral Code;

Law 62-1292 of Nov. 6, 1962 (President of the Republic)

**YES:** A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) have the right under law to run for political office. A YES score may still be earned if Individuals with a history of violence, terrorism, or criminality are banned from running for office.

**NO:** A NO score is earned if there are any legal restrictions barring certain individuals or groups from running for political office.

16c. In practice, all citizens are able to form political parties.

100 | 75 | 50 | 25 | 0

**References:**

Documentation française,  
Comment s'organise un parti politique?, <http://www.vie-publique.fr/decouverte-institutions/citoyen/participation/parti-politique/comment-s-organise-parti-politique.html>

Dmitri Georges Lavroff,  
Le droit constitutionnel de la Veme Republique,  
3rd edition, Dalloz, 1

**100:** While there is no guarantee of electoral success, political parties can form freely without opposition.

**75:**

**50:** Some barriers to formation are present, such as burdensome registration requirements that may not be fairly applied. Some parties' political viewpoints may draw pressure from the government, such as surveillance or intimidation. Some political parties or organizations may have extra barriers to getting on a ballot.

**25:**

**0:** Some political parties are effectively barred from forming through some manner of official or unofficial pressure. This may include threats, arrest, or violence from competing parties or other groups.

16d. In practice, all citizens can run for political office.

100 | 75 | 50 | 25 | 0

**References:**

Documentation Française,  
Quelles sont les conditions pour être élu ? <http://www.vie-publique.fr/decouverte-institutions/citoyen/participation/etre-elu/quelles-sont-conditions-pour-etre-elu.html>

Ministry of the Interior,  
Les modalités d'élection en  
France, [http://www.interieur.gouv.fr/sections/a\\_votre\\_service/elections/les\\_elections\\_en\\_france/modalites-d-elections/modalites-election-france](http://www.interieur.gouv.fr/sections/a_votre_service/elections/les_elections_en_france/modalites-d-elections/modalites-election-france)

**100:** While there is no guarantee of electoral success, anyone can run for office under transparent and equitable guidelines. There is a formal process for access to the ballot which is fairly applied. The costs of running a campaign are reasonable and do not deter candidates from entering a race.

**75:**

**50:** Some barriers exist to getting on the ballot and bureaucratic or regulatory requirements for doing so may be unfairly applied. The costs of running a political campaign are significant and result in dissuading some candidates from running for office.

**25:**

**0:** Citizens can effectively be barred from the ballot through government abuse of official rules and/or unofficial pressure. The costs of running a campaign are extremely high and result in most average citizens being unable to run an effective campaign for office.

16e. In practice, an opposition party is represented in the legislature.

100 | 75 | 50 | 25 | 0

**References:**

Assemblée Nationale,  
Composition des groupes politiques,  
<http://www.assemblee-nationale.fr/13/tribun/comm6.asp>

Députés Socialistes,  
Groupe socialiste Assemblée Nationale,  
<http://www.deputes-socialistes.fr/>

Groupe socialiste du Sénat,  
<http://www.senateurs-socialistes.fr/>

**100:** The opposition party always has some influence on the proceedings of the legislature. The opposition party can introduce legislation or bring pending matters to a vote without the consent of the ruling party.

**75:**

**50:** The opposition party has influence on the proceeding of the legislature, but it is limited in scope. The opposition's ability to force votes or publicly debate certain topics may be limited.

**25:**

**0:** The opposition party has only token participation in the legislature's proceedings and cannot advance legislation or force a debate.

17. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

100

17. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

YES | NO

**References:**

The Constitutional Council monitors the election of the President of the Republic and referendums (articles 58 and 60 of the 1958 Constitution) <http://www.legifrance.gouv.fr/html/constitution/constitution2.htm#titre7>

In case of contention it gives rulings on the lawfulness of the parliamentary elections. Commissions for the control of electoral operations monitor electoral offices locally. The administrative tribunals are also competent for electoral litigation (Electoral Code, <http://www.legifrance.gouv.fr>).

**YES:** A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to ensure the integrity of the election process.

**NO:** A NO score is earned if no domestic agency or set of domestic agencies/entities that monitors elections. A NO score is earned if elections are only monitored by an agency informally, such as poll booth monitoring by the police, only by international observers, or only by NGOs. A NO score is earned if the domestic election agency or set of domestic agencies simply facilitates the process of voting but is not empowered to report violations or abuses.

---

18. Is the election monitoring agency effective?

85

18a. In law, the agency or set of agencies/entities is protected from political interference.

YES | NO

**Comments:**

The Constitutional Council has formal organizational independence from the bodies or persons contesting the election. Incompatibilities exist between membership of the Constitutional Council and electoral mandates. Its members pledge to carry out their functions with impartiality. The independence of the administrative tribunals is a constitutional principle. Administrative tribunals have formal organizational independence from the bodies or persons contesting the election.

**References:**

1958 Constitution;

Decree 59 -1292 of Nov. 13, 1959  
<http://www.conseil-constitutionnel.fr/textes/obmbr.htm>.

Article 7 of Organic Law 95-63 of Jan. 19, 1995 <http://www.admi.net/jo/19950120/INTX9400552L.html>;

Decision of the Constitutional Council 80-119 DC of July 22, 1980  
<http://www.conseil-constitutionnel.fr/decision/1980/80119dc.htm>

**YES:** A YES score is earned only if the agency or set of agencies/entities has some formal organizational independence from the bodies contesting in the election. A YES score is still earned even if the entity is legally separate but in practice staffed by partisans.

**NO:** A NO score is earned if the election monitoring agency or set of agencies/entities is legally tied to bodies contesting the election (i.e. an executive branch agency such as the Interior Ministry, or a committee of the legislature). A NO score is automatically earned if there is no domestic election monitoring agency.

18b. In practice, agency (or set of agencies/entities) appointments are made that support the independence of the agency.

100 | 75 | 50 | 25 | 0

**Comments:**

The former presidents of the Republic are members for life of the Council. This currently includes former Presidents dEstaing and Chirac. In addition there are nine appointed members. Three are appointed by the president of the Republic, three by the president of the Senate and three by the president of the National Assembly. Because of this mode of appointment, observers have criticized the political nature of the institution. A constitutional councilor had to resign in 1999 because of his involvement in a corruption-related cause. On the other hand, some of the most eminent jurists of the country are or have been members of the Constitutional Council and contribute to its prestige.

The administrative judges come in their majority from the National School of Administration (ENA).

**References:**

Dmitri Georges Lavroff,  
Le droit constitutionnel de la Veme Republique,  
3rd edition, Dalloz, 1999

René Chapus,  
Droit Administratif Général,  
Tome 1, 15e edition, 2001, Montchrestien

Web-site of the Constitutional Council,  
<http://www.conseil-constitutionnel.fr/langues/francais/liste.htm>

**100:** Appointments to the agency or set of agencies/entities are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. However, individuals appointed may have clear party loyalties.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

18c. In practice, the agency or set of agencies/entities has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The jurisdictions and commissions monitoring the elections are generally well-staffed, although there are recurrent calls for more resources and personnel in the justice sector.

**References:**

Dmitri Georges Lavroff,  
Le droit constitutionnel de la Veme Republique,  
3rd edition, Dalloz, 1999

René Chapus,  
Droit Administratif Général,  
Tome 1, 15e edition, 2001, Montchrestien

**100:** The agency or set of agencies/entities has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency or set of agencies/entities has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

**25:**

0: The agency or set of agencies/entities has no staff, or such a limited staff that is clearly unqualified to fulfill its mandate.

18d. In practice, the agency or set of agencies/entities makes timely, publicly available reports following an election cycle.

100 | 75 | 50 | 25 | 0

**Comments:**

Comprehensive reports on elections are available on the web-site of the Constitutional Council. Further material is available on other official web-sites, for example the list of supporters of the candidates for the presidential elections (<http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=CSCX0700788K>).

**References:**

Web-site of the Constitutional Council,  
<http://www.conseil-constitutionnel.fr/>;

French Legal Portal  
<http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=CSCX0700788K>;

French Official Bulletin,  
<http://www.journal-officiel.gouv.fr/jahia/Jahia/pid/1>

100: Reports are released to the public on a predictable schedule, without exceptions.

75:

50: Reports are released, but may be delayed, difficult to access, or otherwise limited.

25:

0: The agency or set of agencies/entities makes no public reports, issues reports which are effectively secret, or issues reports of no value.

18e. In practice, when necessary, the agency or set of agencies/entities imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

The electoral authorities can cancel elections, declare inadmissibilities.

**References:**

Gilles Guglielmi,  
Violer une disposition législative du Code électoral n'est pas une atteinte grave au droit de suffrage, April 20, 2007  
<http://www.guglielmi.fr/spjp.php?article75>

Dmitri Georges Lavroff,  
Le droit constitutionnel de la Veme Republique,  
3rd edition, Dalloz, 1999

100: When rules violations are discovered, the agency or set of agencies/entities is aggressive in penalizing offenders and/or in cooperating with other agencies in penalizing offenders.

75:

50: The agency or set of agencies/entities enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency or set of agencies/entities does not effectively penalize offenders and/or cooperate with other agencies in penalizing offenders. The agency may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

## 19. Are elections systems transparent and effective?

92

19a. In practice, there is a clear and transparent system of voter registration.

100 | 75 | 50 | 25 | 0

### Comments:

Citizens need to enroll in the electoral registry. In the past, there have been occasional allegations and findings of electoral fraud in some places, most notably Paris and Corsica.

### References:

Unita Nazionale,  
Fraude elettorale generalisée en Corse?  
March 28, 2007;

Arritti,  
La face cachée de l'iceberg, 2003

**100:** There is a transparent system of voter registration that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote.

**75:**

**50:** There is a transparent voter registration system that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote but there are some problems. Voters may have not access to registration lists with sufficient time to correct errors before voting or registration lists may at times be inaccessible.

**25:**

**0:** The system of voter registration is incomplete or does not exist. Government may routinely falsify registration lists to affect voting patterns and limit access to the polls. Double voting and ghost" voting by non-existent voters is common.

19b. In law, election results can be contested through the judicial system.

YES | NO

### Comments:

Election results can be challenged through the Constitutional Council, which acts as a jurisdiction, or through the administrative courts.

### References:

Constitution of 1958, art. 58, 59, 62 and 63;  
Electoral Code

**YES:** A YES score is earned if citizens or political parties can challenge allegedly fraudulent election results through the courts or other judicial mechanisms.

**NO:** A NO score is earned if there is no legal right for citizens or political parties to challenge allegedly fraudulent election results in the courts or other judicial mechanisms.

19c. In practice, election results can be effectively appealed through the judicial system.

100 | 75 | 50 | 25 | 0

**References:**

Gilles Guglielmi,  
Violer une disposition législative du Code électoral n'est pas une atteinte grave au droit de suffrage, April 20, 2007,  
<http://www.guglielmi.fr/spip.php?article75>;

Conseil Constitutionnel,  
Cahiers, No23, Décisions des 28 juin, 12 juillet et 26 juillet 2007 sur des réclamations dirigées contre les élections  
législatives, <http://www.conseil-constitutionnel.fr/cahiers/ccc23/jurislegislativesarticle38.htm>

**100:** The electoral appeals mechanism takes cases from both candidates complaining of flaws in the electoral process as well as citizens bringing complaints related to denial of suffrage or registration errors. There is an expedited process for resolving such complaints to avoid delaying a timely announcement of electoral results.

**75:**

**50:** The electoral appeals mechanism takes complaints from both candidates and voters but may not always act on complaints promptly. The appeals mechanism may be abused at times by parties or candidates seeking to delay the announcement of electoral results.

**25:**

**0:** The electoral appeals mechanism rarely or never acts on complaints brought by candidates or citizens. Citizens may not be able to bring complaints related to denial of suffrage or voter registration errors.

19d. In practice, the military and security forces remain neutral during elections.

100 | 75 | 50 | 25 | 0

**References:**

Ministry of the Interior,  
Fonctionnement d'un bureau de vote, September  
2005, [http://www.interieur.gouv.fr/sections/a\\_votre\\_service/elections/comment\\_voter/bureau-vote](http://www.interieur.gouv.fr/sections/a_votre_service/elections/comment_voter/bureau-vote);

Conseil Constitutionnel,  
Election Présidentielle 2007, <http://www.conseil-constitutionnel.fr/dossier/presidentielles/2007/documents/operations/operations.htm>

**100:** The military, military officers, and other security forces refrain from overtly supporting or opposing political candidates or commenting on elections. The military or security forces refrain from physically interfering with political campaigns, rallies, or voting.

**75:**

**50:** The military, military officers, and security forces may be known to unofficially support or oppose particular candidates or parties. The military or security forces generally refrain from the use of force to support or oppose particular candidates or parties but there are exceptions.

**25:**

**0:** The military or other security forces are an active and explicit player in politics and overtly support or oppose particular candidates or parties. The military or security forces routinely exercise the use of force to support or oppose parties or candidates.

19e. In law, domestic and international election observers are allowed to monitor elections.

YES | NO

**References:**

Electoral Code, articles L54 to 70, L85-1, R42 to R71, R93-1 to 93-3,  
<http://www.legifrance.gouv.fr/>

**YES:** A YES score is earned if domestic and international election observers are allowed to monitor the electoral process.

**NO:** A NO score is earned if there are any legal or regulatory prohibitions on the monitoring of the electoral process by domestic or international election observers.

19f. In practice, election observers are able to effectively monitor elections.

100 | 75 | 50 | 25 | 0

**References:**

Ministry of the Interior,  
Fonctionnement d'un bureau de vote, September  
2005, [http://www.interieur.gouv.fr/sections/a\\_votre\\_service/elections/comment\\_voter/bureau-vote;](http://www.interieur.gouv.fr/sections/a_votre_service/elections/comment_voter/bureau-vote;)

Conseil Constitutionnel,  
Election Présidentielle 2007, <http://www.conseil-constitutionnel.fr/dossier/presidentielles/2007/documents/operations/operations.htm>

**100:** Election observers have unfettered access to polling sites, counting stations, and voters themselves. The government does not interfere with the observers' activities.

**75:**

**50:** Election observers generally have access to polling sites, counting stations, and voters but encounter restrictions in certain areas. The government may impose burdensome regulatory or bureaucratic requirements on observers to discourage their involvement.

**25:**

**0:** Election observers' movements are significantly limited by the government and many polling and counting sites are restricted or barred from observers. The government imposes so many bureaucratic or regulatory burdens on the observers that their mission is rendered ineffective.

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92  
II-3. Political Financing

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20. Are there regulations governing political financing?

86

20a. In law, there are regulations governing private contributions to political parties.

YES | NO

**References:**

Electoral Code, Title I, Chapter V bis,  
[http://www.legifrance.gouv.fr/;](http://www.legifrance.gouv.fr/)

Law 88-227 of March 11, 1988,  
<http://www.legifrance.gouv.fr/texteconsolide/MEEAB.htm>

**YES:** A YES score is earned if there are any formal rules (by law or regulation) controlling private contributions to political parties.

**NO:** A NO score is earned if there is no regulation of private contributions to political parties.

20b. In law, there are limits on individual donations to candidates and political parties.

YES | NO

**Comments:**

individual contributions to one or several political financing associations or financial officer of a political party cannot exceed EUR 7500 annually (article 11-4 of Law 88-227).

**References:**

Electoral Code, Title I, Chapter V bis,  
<http://www.legifrance.gouv.fr/>;

Law 88-227 of March 11, 1988,  
<http://www.legifrance.gouv.fr/texteconsolide/MEEAB.htm>

**YES:** A YES score is earned if there are any limits, regardless of size, on individual contributions to political candidates and political parties. A YES score is earned if individual contributions are prohibited.

**NO:** A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition parties/candidates in a discriminatory manner.

20c. In law, there are limits on corporate donations to candidates and political parties.

YES | NO

**Comments:**

Corporate donations are prohibited.

**References:**

Electoral Code, Title I, Chapter V bis and article L 308-1,  
<http://www.legifrance.gouv.fr/>;

Law 88-227 of March 11, 1988,  
<http://www.legifrance.gouv.fr/texteconsolide/MEEAB.htm>

**YES:** A YES score is earned if there are any limits, regardless of size, on corporate contributions to political candidates and political parties. A YES score is earned if contributions are prohibited.

**NO:** A NO score is earned if there are no limits on corporate contributions to candidates or political parties. A NO score is also earned if limits are applied by the government on opposition parties/candidates in a discriminatory manner.

20d. In law, there are limits on total political party expenditures.

YES | NO

**Comments:**

Total political party expenditure is not limited. Campaign expenditures are limited.

**References:**

Electoral Code, Title 1, Chapter V bis,  
<http://www.legifrance.gouv.fr/>

**YES:** A YES score is earned if there are any limits, regardless of size, on political party expenditures. A YES score is earned if all party expenditures are prohibited.

**NO:** A NO score is earned if there are no limits on political party expenditures. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20e. In law, there are requirements for disclosure of donations to political candidates and parties.

YES | NO

**References:**

Electoral Code, Title I, Chapter V bis,  
<http://www.legifrance.gouv.fr/>;

Law 88-227 of March 11, 1988, <http://www.conseil-constitutionnel.fr/dossier/presidentielles/2007/documents/88-227.htm>;

Law 62-1292 of Nov. 6, 1962, <http://www.conseil-constitutionnel.fr/dossier/presidentielles/2002/documents/lqdr62.htm>

**YES:** A YES score is earned if there are any requirements mandating the disclosure of financial contributions to political parties or candidates.

**NO:** A NO score is earned if there are no requirements mandating the disclosure of contributions to political parties or candidates, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations.

20f. In law, there are requirements for the independent auditing of the finances of political parties and candidates.

YES | NO

**References:**

Law 88-227 of March 11, 1988, <http://www.conseil-constitutionnel.fr/dossier/presidentielles/2007/documents/88-227.htm>;

Electoral Code, Title I, Chapter V bis,  
<http://www.legifrance.gouv.fr/>

**YES:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of candidate and party finances. The auditing is performed by an impartial third-party.

**NO:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of political parties and candidates or if such requirements exist but allow for candidates or parties to self-audit.

20g. In law, there is an agency or entity that monitors the political financing process.

YES | NO

**References:**

It is the National Commission for Campaign Accounts and Political Financing (CNCCFP) created by the Law 90-55 of Jan. 15, 1990

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

Web-site of the commission:

<http://www.cnccfp.fr>

**YES:** A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around political financing. A YES score is earned even if the agency/entity is ineffective in practice.

**NO:** A NO score is earned if there is no such agency or entity.

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## 21. Are the regulations governing political financing effective?

71

21a. In practice, the limits on individual donations to candidates and political parties are effective in regulating an individual's ability to financially support a candidate or political party.

100 | 75 | 50 | 25 | 0

**References:**

Service Central de Prévention de la Corruption, Chapter IV,  
Le financement de la vie politique en Europe, approche comparative, in Rapport 2005,  
La documentation française;

Dmitri Georges Lavroff,  
Le Droit Constitutionnel de la Vème République,  
1999, Dalloz

**100:** Existing limits represent the full extent to which an individual can directly or indirectly financially support a candidate or political party. Limits are reasonably low enough in the context of the total costs of running a campaign.

**75:**

**50:** Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a candidate or political party. However, exceptions and loopholes exist through which individuals can indirectly support candidates or political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate or party; unregulated loans to candidates or parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a candidate or political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

21b. In practice, the limits on corporate donations to candidates and political parties are effective in regulating a company's ability to financially support a candidate or political party.

100 | 75 | 50 | 25 | 0

**Comments:**

Corporate donations are prohibited. However, numerous cases of illegal political financing by corporate persons show that the prohibition has been frequently bypassed and there is no evidence of improvement.

**References:**

Service Central de Prévention de la Corruption, Chapter IV,  
Le financement de la vie politique en Europe, approche comparative, in Rapport 2005,  
La documentation française;

Dmitri Georges Lavroff,  
Le Droit Constitutionnel de la Vème République,  
1999, Dalloz

**100:** Existing limits represent the full extent to which a company can directly or indirectly financially support a candidate or political party. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

**75:**

**50:** Existing limits generally represent the full extent to which a company can directly or indirectly financially support a candidate or political party. However, exceptions and loopholes exist through which companies can indirectly support candidates or political parties above and beyond those formal limitations. Such loopholes could include making to donations to third-party groups that advocate on behalf of (or against) a particular candidate or party; unregulated loans to candidates or parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to a candidate or political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

21c. In practice, the limits on total party expenditures are effective in regulating a political party's ability to fund campaigns or politically-related activities.

100 | 75 | 50 | 25 | 0

**References:**

Service Central de Prévention de la Corruption, Chapter IV,  
Le financement de la vie politique en Europe, approche comparative, in Rapport 2005,  
La documentation française;

Dmitri Georges Lavroff,  
Le Droit Constitutionnel de la Vème République,  
1999, Dalloz

**100:** Existing limits represent the full extent to which political parties are able to finance their activities. Limits are reasonably low enough in the context of the total costs of running a party to be meaningful.

**75:**

**50:** Existing limits generally represent the full extent to which a political party can finance its activities. However, exceptions and loopholes exist through which parties can generate revenue or finance their activities beyond the scope of existing regulations. Such loopholes could include taking loans that are outside of the scope of regulations covering direct donations; links to revenue-generating business activities that are beyond the scope of electoral or campaign-related regulations; or accepting in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a party

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The majority of expenditures are made outside of the formal limitation system. Limits are so high that they are meaningless in the context of the overall costs of running a party.

21d. In practice, when necessary, an agency or entity monitoring political financing independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

The National Commission for Campaign Accounts and Political Financing can refer cases to the relevant authorities (public prosecution, electoral judge, judicial police), thereby initiating investigations.

**References:**

Commission Nationale des Comptes de Campagne et des Financements Politiques:

Le rôle de la commission – Campagnes électorales,  
<http://www.cnccfp.fr/index.php?art=690>:

Le rôle de la commission – Partis politiques,  
<http://www.cnccfp.fr/index.php?art=689>

**100:** The agency or entity aggressively starts investigations into allegations of wrong doing with respect to political financing. The agency is fair in its application of this power.

**75:**

**50:** The agency or entity will start investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

**25:**

**0:** The agency or entity rarely investigates on its own, or the agency or entity is partisan in its application of this power.

21e. In practice, when necessary, an agency or entity monitoring political financing imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**References:**

Service Central de Prévention de la Corruption, Chapter IV,  
Le financement de la vie politique en Europe, approche comparative, in Rapport 2005, La documentation française;

Commission Nationale des Comptes de Campagne et des Financements Politiques,  
Neuvième Rapport d'Activité 2005-2006, [http://www.cnccfp.fr/docs/commission/cnccfp\\_activite\\_2005-2006.pdf](http://www.cnccfp.fr/docs/commission/cnccfp_activite_2005-2006.pdf);

Le rôle de la commission – Campagnes électorales,  
<http://www.cnccfp.fr/index.php?art=690>:

Le rôle de la commission – Partis politiques,  
<http://www.cnccfp.fr/index.php?art=689>

**100:** When rules violations are discovered, the agency or entity is aggressive in penalizing offenders.

**75:**

**50:** The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power.

21f. In practice, contributions to political parties and candidates are audited.

100 | 75 | 50 | 25 | 0

**References:**

Journal Officiel,  
Publication générale des comptes des partis et groupements politiques au titre de l'exercice 2005,

**100:** Political party and candidate finances are regularly audited using generally accepted auditing practices. This includes the auditing of nominally independent financial organizations that act as financial extensions of the party.

**75:**

**50:** Political party and candidate finances (as defined) are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions. Contributions to the political party or candidate may be sufficiently audited, but the auditing of nominally independent extensions of the party may not be.

**25:**

**0:** Party and candidate finances are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

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## 22. Can citizens access records related to political financing?

58

22a. In practice, political parties and candidates disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The law provides for yearly communication of the audited financial books of the parties to the relevant authority. Communication takes place during the first semester of the following year. The accounts are then published. The accounts of 2005 were published in the Journal Officiel in January 2007.

**References:**

Journal Officiel,  
Publication générale des comptes des partis et groupements politiques au titre de l'exercice 2005,  
Jan. 25, 2007,  
[http://www.cnccfp.fr/docs/partis/comptes/cnccfp\\_comptes\\_2005.pdf](http://www.cnccfp.fr/docs/partis/comptes/cnccfp_comptes_2005.pdf);

Commission Nationale des Comptes de Campagne et des Financements Politiques,  
Neuvième Rapport d'Activité 2005-2006,  
[http://www.cnccfp.fr/docs/commission/cnccfp\\_activite\\_2005-2006.pdf](http://www.cnccfp.fr/docs/commission/cnccfp_activite_2005-2006.pdf)

**100:** Political parties and candidates disclose their sources of funding and expenditures at least every quarter.

**75:**

**50:** Political parties and candidates disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

**25:**

**0:** Political parties and candidates never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.

22b. In practice, citizens can access the financial records of political parties and candidates within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The law provides for yearly communication of the audited financial books of the parties to the relevant authority. Communication takes place during the first semester of the following year. The accounts are then published. The accounts of 2003 were published in the Journal Officiel in September 2005, those of 2004 in June 2006, and those of 2005 in January 2007. Presidential election campaign accounts are published about three months after the election took place.

**References:**

Journal Officiel,  
Publication générale des comptes des partis et groupements politiques au titre de l'exercice 2005,  
Jan. 25, 2007,  
[http://www.cnccfp.fr/docs/partis/comptes/cnccfp\\_comptes\\_2005.pdf](http://www.cnccfp.fr/docs/partis/comptes/cnccfp_comptes_2005.pdf);

Commission Nationale des Comptes de Campagne et des Financements Politiques,  
Neuvième Rapport d'Activité 2005-2006, [http://www.cnccfp.fr/docs/commission/cnccfp\\_activite\\_2005-2006.pdf](http://www.cnccfp.fr/docs/commission/cnccfp_activite_2005-2006.pdf)

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take two to four weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

22c. In practice, citizens can access the financial records of political parties and candidates at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Records, sometimes only available in a summarized form, are available online or in the Journal Officiel, which can be accessed for free in city halls.

**References:**

Journal Officiel,  
Publication générale des comptes des partis et groupements politiques au titre de l'exercice 2005,  
Jan. 25, 2007,  
[http://www.cnccfp.fr/docs/partis/comptes/cnccfp\\_comptes\\_2005.pdf](http://www.cnccfp.fr/docs/partis/comptes/cnccfp_comptes_2005.pdf);

Commission Nationale des Comptes de Campagne et des Financements Politiques,  
Neuvième Rapport d'Activité 2005-2006, [http://www.cnccfp.fr/docs/commission/cnccfp\\_activite\\_2005-2006.pdf](http://www.cnccfp.fr/docs/commission/cnccfp_activite_2005-2006.pdf)

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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Category III. Government Accountability

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### III-1. Executive Accountability

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23. In law, can citizens sue the government for infringement of their civil rights?

23. In law, can citizens sue the government for infringement of their civil rights?

YES | NO

**References:**

Penal Code, article 432-4;

Code of Penal Procedure, article 136

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

Article 68-2 of the Constitution

<http://www.conseil-constitutionnel.fr/textes/constit.htm#Titre%20X>

**YES:** A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) can receive compensation or redress through the courts for civil rights violations committed by the government, such as failure to follow due process of law when detaining suspected criminals.

**NO:** A NO score is earned if any group of citizens is excluded from the right to sue the government, or no such mechanism exists.

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24. Can the chief executive be held accountable for his/her actions?

75

24a. In practice, the chief executive gives reasons for his/her policy decisions.

100 | 75 | 50 | 25 | 0

**References:**

Les dernières interventions du Président de la

République, [http://www.elysee.fr/elysee/elysee.fr/francais/interventions/2007/les\\_dernieres\\_interventions\\_du\\_president\\_de\\_la\\_republique.79086.html](http://www.elysee.fr/elysee/elysee.fr/francais/interventions/2007/les_dernieres_interventions_du_president_de_la_republique.79086.html)

Dmitri Georges Lavroff,

Le droit constitutionnel de la Veme Republique,

3rd edition, Dalloz, 1999

**100:** The chief executive and/or cabinet ministers give formal explanations of all policy matters. The chief executive regularly takes critical questions from journalists or an opposition party, usually at least once a month. There is no censoring of such sessions.

**75:**

**50:** The chief executive and/or cabinet ministers give explanations of policy, but not always in a timely or complete way. The chief executive occasionally takes critical questions from journalists or an opposition party, but not in a regular or formalized process. Particular issues of political sensitivity may be censored by government broadcasters.

**25:**

**0:** The chief executive and/or cabinet ministers do not give substantial justifications for policy. Public appearances by the chief executive offer no exposure to critical questions. The government and government-run media routinely censor such sessions.

24b. In law, the judiciary can review the actions of the executive.

YES | NO

**References:**

Jurisprudence establishing this principle: Conseil d'État Ass. 17 February 1950, Dame Lamotte; 8 December 2000, Hoffer; Constitutional Council, 18 September 1986, Liberté de Communication; Penal Code, article 432-4; Code of Penal Procedure, article 136;

**YES:** A YES score is earned if there is a formal process by which the judiciary can pass judgments on the legality or constitutionality of actions taken by the executive.

**NO:** A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exemptions exist with respect to executive actions that are reviewable (a national security exemption, for example).

24c. In practice, when necessary, the judiciary reviews the actions of the executive.

100 | 75 | 50 | 25 | 0

**References:**

René Chapus,  
Droit Administratif Général,  
Tome 1, 15e edition, 2001, Montchrestien, p.463;

Jean-François Lachaume,  
Droit Administratif,  
13e edition, 2002, Presses Universitaires de France

**100:** When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing executive actions and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power. It does not need to relay upon the executive to initiate a constitutional or legal review.

**75:**

**50:** The judiciary will review executive actions, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

**25:**

**0:** The judiciary does not effectively review executive policy. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power. It must rely on instructions from the executive in order to initiate a legal or constitutional review.

24d. In practice, the chief executive limits the use of executive orders for establishing new regulations, policies, or government practices.

100 | 75 | 50 | 25 | 0

**Comments:**

More than the president of the Republic, it is the head of the government and the government who have the power to use executive orders, and have made an increasing and worrying use of the power in recent years.

**References:**

French Senate,  
Service des études juridiques, Les ordonnances: bilan au 31 décembre 2006,  
Feb. 2, 2007,  
[http://www.senat.fr/ej/ej\\_ordonnance/ej\\_ordonnance\\_mono.html](http://www.senat.fr/ej/ej_ordonnance/ej_ordonnance_mono.html);

**100:** The chief executive utilizes executive orders only when there is no constitutional or legal requirement for official legislative action or approval. Executive orders are limited in number and narrow in scope.

**75:**

**50:** The chief executive sometimes relies on executive orders to implement policies and regulations opposed by the legislature. Some executive orders are overly broad in scope and are designed to circumvent constitutional or legal requirements for legislative action or approval.

**25:**

**0:** The chief executive routinely abuses executive orders to render the legislature practically useless. Executive orders are the norm, not the exception, and directly contravene constitutional or legal requirements for legislative action or approval.

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## 25. Is the executive leadership subject to criminal proceedings?

50

25a. In law, the heads of state and government can be prosecuted for crimes they commit.

YES | **NO**

### References:

Article 67 of the 1958 Constitution, <http://www.conseil-constitutionnel.fr/textes/constit.htm#Titre%20IX>, <http://www.assemblee-nationale.fr/english/8ab.asp#TITLE%20IX> (for the English translation)

**YES:** A YES score is earned if the heads of state and government can be investigated, charged or prosecuted for criminal allegations. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**NO:** A NO score is earned if either the head of state or government cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on the heads of state or government.

25b. In law, ministerial-level officials can be prosecuted for crimes they commit.

**YES** | NO

### References:

Article 68-1 of the 1958 Constitution <http://www.conseil-constitutionnel.fr/textes/constit.htm#Titre%20X>:

Penal Code

**YES:** A YES score is earned if ministerial-level officials, or their equivalents, can all be investigated, charged or prosecuted for criminal allegations.

**NO:** A NO score is earned if any ministerial-level official, or equivalent official, cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on ministerial-level officials.

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## 26. Are there regulations governing conflicts of interest by the executive branch?

26a. In law, the heads of state and government are required to file a regular asset disclosure form.

YES | NO

**References:**

Organic Law 88-226 of March 11, 1988

<http://www.legifrance.gouv.fr/texteconsolide/PPEBF.htm>;

Law 88-227 of March 11, 1988 <http://www.legifrance.gouv.fr/texteconsolide/MEEAB.htm>;

Law 62-1962 of Nov. 6, 1962 (article 3)

<http://www.legifrance.gouv.fr/texteconsolide/PPEAG.htm>;

Decree 96-762 of Sept. 1, 1996

<http://www.admi.net/jo/19960903/PRMX9600079D.html>

**YES:** A YES score is earned if the heads of state and government are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form need not be publicly available to score a YES. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**NO:** A NO score is earned if either the head of state or government is not required to disclose assets.

26b. In law, ministerial-level officials are required to file a regular asset disclosure form.

YES | NO

**References:**

Law 88-227 of March 11, 1988

<http://www.legifrance.gouv.fr/texteconsolide/MEEAB.htm>

**YES:** A YES score is earned if ministerial-level officials, or their equivalents, are all required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets.

**NO:** A NO score is earned if ministers are not required to disclose assets. A NO score is earned if some ministers must disclose assets, but other ministers are not required.

26c. In law, there are regulations governing gifts and hospitality offered to members of the executive branch.

YES | NO

**References:**

Penal Code, article 432-11

**YES:** A YES score is earned if there are formal guidelines regulating gifts and hospitality offered to members of the executive branch of government.

**NO:** A NO score is earned if there are no guidelines or regulations with respect to gifts and hospitality offered to members of the executive branch. A NO score is earned if the guidelines are overly general and do not specify what is and is not appropriate.

26d. In law, there are requirements for the independent auditing of the executive branch asset disclosure forms (defined here as ministers and heads of state and government).

YES | NO

**Comments:**

The declaration is sworn (faite sur l'honneur).

**References:**

Law 88-227 of March 11, 1988

<http://www.legifrance.gouv.fr/texteconsolide/MEEAB.htm>;

Law 62-1962 of Nov. 6, 1962 (article 3)

<http://www.legifrance.gouv.fr/texteconsolide/PPEAG.htm>;

Article LO 135-1 of the Electoral Code

**YES:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of executive branch asset disclosures. The auditing is performed by an impartial third-party. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**NO:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of executive branch asset disclosures or if such requirements exist but allow for self-auditing.

26e. In law, there are restrictions on heads of state and government and ministers entering the private sector after leaving the government.

YES | NO

**References:**

Penal Code, art 432-12 and 432-13, <http://www.legifrance.gouv.fr/WAspad/UnArticleDeCode?commun=CPENAL&art=432-13>; Article 87 of the Law 93-122 of Jan. 29, 1993, <http://www.legifrance.gouv.fr/texteconsolide/MEEAA.htm>; Decree 2007-611 of April 26, 2007, <http://www.legifrance.gouv.fr/texteconsolide/PBHTT.htm>

**YES:** A YES score is earned if there are regulations restricting the ability of heads of state/government and ministers to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**NO:** A NO score is earned if no such restrictions exist.

26f. In practice, the regulations restricting post-government private sector employment for heads of state and government and ministers are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

An ethics commission functionally linked to the Prime Minister was recently set up in order to assess the compatibility between the previous activity of a public servant and the private activity s/he wishes to carry out in the future. Members of ministerial cabinets are included in the list of people whose case must be examined by the commission when they wish to enter the private sector.

**References:**

Dmitri Georges Lavroff,

**100:** The regulations restricting post-government private sector employment for heads of state/government and ministers are uniformly enforced. There are no or few cases of those officials taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain sectors, heads of state/government or ministers are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Heads of state/government or ministers routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

26g. In practice, the regulations governing gifts and hospitality offered to members of the executive branch are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

The private sphere and politicians have traditionally been closed in the past. Recently, significant occurrences of hospitality offered to top politicians by business magnates have reignited the debate.

**References:**

Dmitri Georges Lavroff,  
Le droit constitutionnel de la Veme Republique,  
3rd edition, Dalloz, 1999;

Le Nouvel Observateur,  
Polémique sur les vacances de luxe de Sarkozy,  
May 9, 2007, [http://tempsreel.nouvelobs.com/speciales/elections\\_2007/20070509.OBS6243/polemique\\_sur\\_les\\_vacancesde\\_luxe\\_de\\_sarkozy.html](http://tempsreel.nouvelobs.com/speciales/elections_2007/20070509.OBS6243/polemique_sur_les_vacancesde_luxe_de_sarkozy.html)

Sarkozy connaît-il l'article 432-11 du Code Pénal? <http://fr.answers.yahoo.com/question/index?qid=20070509051334AAjLioU>

**100:** The regulations governing gifts and hospitality to members of the executive branch are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given. Members of the executive branch never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to members of the executive branch are generally applied though exceptions exist. Some ministers in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations governing gifts and hospitality to members of the executive branch are routinely ignored and unenforced. Ministers and other members of the executive branch routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

26h. In practice, executive branch asset disclosures (defined here as ministers and above) are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no such requirement.

**References:**

Dmitri Georges Lavroff,  
Le droit constitutionnel de la Veme Republique,  
3rd edition, Dalloz, 1999

**100:** Executive branch asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** Executive branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

**25:**

**0:** Executive branch asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

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## 27. Can citizens access the asset disclosure records of the heads of state and government?

33

27a. In law, citizens can access the asset disclosure records of the heads of state and government.

YES | **NO**

**Comments:**

The declaration of the president of the Republic is made public after his election and can be accessed on the internet. The confidentiality of the declaration of assets of other officials is guaranteed by the Law 88-227 (<http://www.legifrance.gouv.fr/texteconsolide/MEEAB.htm>). Unauthorized disclosure is punished by article 226-1 of the Penal Code (<http://www.legifrance.gouv.fr/WAspad/UnArticleDeCode?code=CPENALLL.rcv&art=226-1>).

**References:**

Law 88-227 of March 11, 1988  
<http://www.legifrance.gouv.fr/texteconsolide/MEEAB.htm>;

Law 62-1962 of Nov. 6, 1962 (article 3)  
<http://www.legifrance.gouv.fr/texteconsolide/PPEAG.htm>

**YES:** A YES score is earned if the heads of state and government file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

**NO:** A NO score is earned if there is no asset disclosure for either the head of state or government. A NO score is earned if the form is filed, but not available to the public.

27b. In practice, citizens can access the asset disclosure records of the heads of state and government within a reasonable time period.

100 | 75 | **50** | 25 | 0

**Comments:**

The declaration of the president of the Republic is made public after his election and can be accessed on the Internet. The confidentiality of the declaration of assets of other officials is guaranteed by the Law 88-227 (<http://www.legifrance.gouv.fr/texteconsolide/MEEAB.htm>).

Unauthorized disclosure is punished by article 226-1 of the Penal Code (<http://www.legifrance.gouv.fr/WAspad/UnArticleDeCode?code=CPENALLL.rcv&art=226-1>).

**References:**

Déclaration de situation patrimoniale de M. Nicolas Sarkozy proclamé Président de la République on March 17, 2007, published on May 11, 2007, <http://www.conseil-constitutionnel.fr/dossier/presidentielles/2007/documents/20070511dp.pdf>

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some additional delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

27c. In practice, citizens can access the asset disclosure records of the heads of state and government at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The declaration of the president of the Republic is made public after his election and can be accessed on the Internet. The confidentiality of the declaration of assets of other officials is guaranteed by the Law 88-227 (<http://www.legifrance.gouv.fr/texteconsolide/MEEAB.htm>). Unauthorized disclosure is punished by article 226-1 of the Penal Code (<http://www.legifrance.gouv.fr/WAspad/UnArticleDeCode?code=CPENALLL.rcv&art=226-1>).

**References:**

Déclaration de situation patrimoniale de M. Nicolas Sarkozy proclamé Président de la République on March 17, 2007, published on May 11, 2007, <http://www.conseil-constitutionnel.fr/dossier/presidentielles/2007/documents/20070511dp.pdf>

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

28. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

50

28. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

100 | 75 | 50 | 25 | 0

**Comments:**

The distinction between official government functions and functions in a political party is sometimes blurred. This seemed to be particularly the case during the last presidential campaign.

**References:**

Thomas Legrand,  
Deux casquettes, une de trop?,  
RTL, Jan. 29, 2007,  
<http://www.rtl2007.fr/actualite/0/deux-casquettes-une-trop-4436.html>;

**100:** Clear rules are followed distinguishing state functions from party activities. Government funds are never used for party activities. The civil service is completely distinct from party bureaucracy.

**75:**

**50:** The ruling party is, in principal, separate from the state, but exceptions to this standard sometimes occur. Examples may be the use of civil servants to organize political rallies, use of government vehicles on campaign trips, or use of government funds for party purposes.

**25:**

**0:** The government bureaucracy is an extension of the ruling party. There are few boundaries between government and party activities. Government funds, equipment and personnel are regularly used to support party activities.

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## III-2. Legislative Accountability

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29. Can members of the legislature be held accountable for their actions?

92

29a. In law, the judiciary can review laws passed by the legislature.

YES | NO

**Comments:**

The Constitutional Council can review the constitutionality of laws before they are promulgated.

**References:**

1958 Constitution, articles 61 62 and 63 [http://www.assemblee-nationale.fr/connaissance/constitution.asp#titre\\_7](http://www.assemblee-nationale.fr/connaissance/constitution.asp#titre_7), <http://www.assemblee-nationale.fr/english/8ab.asp#TITLE%20VII> (for the English translation).

**YES:** A YES score is earned if there is a formal process by which the judiciary or constitutional courts can pass judgments on the legality or constitutionality of laws passed by the legislature.

**NO:** A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exceptions exist exempting certain legislative actions from being reviewed (a national security exemption, for example).

29b. In practice, when necessary, the judiciary reviews laws passed by the legislature.

100 | 75 | 50 | 25 | 0

**Comments:**

It is not the judiciary stricto sensu, but the constitutional jurisdiction which can review laws. In principle, this can happen only before they have been promulgated.

**References:**

Conseil Constitutionnel,

**100:** When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing laws passed and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power.

**75:**

**50:** The judiciary will review laws passed, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

**25:**

**0:** The judiciary does not effectively review laws passed. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power.

29c. In law, are members of the national legislature subject to criminal proceedings?

**YES** | NO

**Comments:**

The Secretariat (Bureau) of the Chamber must consent to the parliamentarian being subject to the proceedings (such consent is not required in the case of a serious crime or other major offence committed flagrante delicto or a final sentence). The Bureau of the National Assembly is made of 22 members: the President of the Assembly, its six vice-presidents, three questors and twelve secretaries, appointed so that they reflect the political composition of the Assembly.

**References:**

1958 Constitution, article 26 [http://www.assemblee-nationale.fr/connaissance/constitution.asp#titre\\_4](http://www.assemblee-nationale.fr/connaissance/constitution.asp#titre_4), <http://www.assemblee-nationale.fr/english/8ab.asp#TITRE%20IV> (for the English translation)

**YES:** A YES score is earned if all members of the legislature can, in law, be investigated and prosecuted for criminal allegations.

**NO:** A NO score is earned if any member of the legislature cannot, in law, be investigated and prosecuted for criminal proceedings.

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30. Are there regulations governing conflicts of interest by members of the national legislature?

39

30a. In law, members of the national legislature are required to file an asset disclosure form.

**YES** | NO

**References:**

Article LO 135-1 of the Electoral Code

**YES:** A YES score is earned if all members of the legislature are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

**NO:** A NO score is earned if any member of the legislature is not required to disclose assets.

30b. In law, there are restrictions for national legislators entering the private sector after leaving the government.

YES | **NO**

**References:**

There are no restrictions once the parliamentary mandate has expired.

**YES:** A YES score is earned if there are regulations restricting national legislators' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

**NO:** A NO score is earned if no such restrictions exist.

30c. In law, there are regulations governing gifts and hospitality offered to members of the national legislature.

**YES** | NO

**References:**

Penal Code, art. 432-11,  
<http://www.legifrance.gouv.fr/>

**YES:** A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the legislature.

**NO:** A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the legislature. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

30d. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national legislature.

YES | **NO**

**Comments:**

The declaration is sworn (faite sur l'honneur).

**References:**

Article LO 135-1 of the Electoral Code.

**YES:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of legislative branch asset disclosures. The auditing is performed by an impartial third-party.

**NO:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of legislative branch asset disclosures or if such requirements exist but allow for self-auditing.

30e. In practice, the regulations restricting post-government private sector employment for national legislators are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no restrictions.

**References:**

Dmitri Georges Lavroff,  
Le droit constitutionnel de la Veme Republique,  
3rd edition, Dalloz, 1999

**100:** The regulations restricting post-government private sector employment for national legislators are uniformly enforced. There are no or few cases of legislators taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain sectors, legislators are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

30f. In practice, the regulations governing gifts and hospitality offered to national legislators are effective.

100 | 75 | 50 | 25 | 0

**References:**

Dmitri Georges Lavroff,  
Le droit constitutionnel de la Veme Republique,  
3rd edition, Dalloz, 1999

**100:** The regulations governing gifts and hospitality to national legislators are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given to legislators. Legislators never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to national legislators are generally applied though exceptions exist. Some legislators in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations governing gifts and hospitality to national legislators are routinely ignored and unenforced. Legislators routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

30g. In practice, national legislative branch asset disclosures are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

The declarartions of assets are sworn.

**References:**

Dmitri Georges Lavroff,  
Le droit constitutionnel de la Veme Republique,  
3rd edition, Dalloz, 1999

**100:** Legislative branch asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** Legislative branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

**25:**

**0:** Legislative branch asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

---

### 31. Can citizens access the asset disclosure records of members of the national legislature?

0

31a. In law, citizens can access the asset disclosure records of members of the national legislature.

YES | **NO**

**Comments:**

The confidentiality of the declaration of assets is guaranteed by the Law 88-227 (<http://www.legifrance.gouv.fr/texteconsolide/MEEAB.htm>). Unauthorized disclosure is punished by article 226-1 of the Penal Code (<http://www.legifrance.gouv.fr/WAspad/UnArticleDeCode?code=CPENALLL.rcv&art=226-1>).

**References:**

Law 88-227 of March 11, 1988  
<http://www.legifrance.gouv.fr/texteconsolide/MEEAB.htm>;

Article 226-1 of the Penal Code <http://www.legifrance.gouv.fr/WAspad/UnArticleDeCode?code=CPENALLL.rcv&art=226-1>

**YES:** A YES score is earned if members of the national legislature file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

**NO:** A NO score is earned if there is no asset disclosure for members of the national legislature. A NO score is earned if the form is filed, but not available to the public.

31b. In practice, citizens can access legislative asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | **0**

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

31c. In practice, citizens can access legislative asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

---

## 32. Can citizens access legislative processes and documents?

100

32a. In law, citizens can access records of legislative processes and documents.

YES | NO

### Comments:

The Chambers can opt to hold sessions in confidentiality. In practice the last time this happened was in 1940.

### References:

Article 33 of the 1958 Constitution [http://www.assemblee-nationale.fr/connaissance/constitution.asp#titre\\_4](http://www.assemblee-nationale.fr/connaissance/constitution.asp#titre_4);

Internal Guidelines of the National Assembly <http://www.assemblee-nationale.fr/connaissance/reglement.asp>

**YES:** A YES score is earned if there is a general legal right to access records of legislative proceedings including voting records. A YES score can still be given if there are formal rules for specific exemptions to the right to disclosure (special secret sessions related to national security).

**NO:** A NO score is earned if there is no general right to access documents recording legislative proceedings. A NO score is earned if there exemptions to the general right that are not clearly defined by formal rules.

32b. In practice, citizens can access records of legislative processes and documents within a reasonable time period.

100 | 75 | 50 | 25 | 0

### Comments:

Records are available on the official internet web-sites and in the Official Gazette, which can be accessed for free in town halls.

### References:

Journal Officiel (Official Gazette), daily publication,  
<http://www.journal-officiel.gouv.fr/jahia/Jahia/pid/1>;

Publications of the National Assembly,  
<http://www.assemblee-nationale.fr/>;

Yves Michel, Philippe Jabaud and Frédéric Taillet,  
La séance publique, October 2000, [http://www.assemblee-nationale.fr/connaissance/collection/6.asp#P619\\_122657](http://www.assemblee-nationale.fr/connaissance/collection/6.asp#P619_122657)

Assemblée Nationale,  
La séance plénière, Fiche 33, [http://www.assemblee-nationale.fr/connaissance/fiches\\_synthese/fiche\\_33.asp](http://www.assemblee-nationale.fr/connaissance/fiches_synthese/fiche_33.asp)

Publications of the Senate,  
<http://www.senat.fr/>

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

32c. In practice, citizens can access records of legislative processes and documents at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Records are available on the official internet web-sites and in the Official Gazette, which can be viewed for free in town halls.

**References:**

Journal Officiel (Official Gazette), daily publication,  
<http://www.journal-officiel.gouv.fr/jahia/Jahia/pid/1>;

Publications of the National Assembly,  
<http://www.assemblee-nationale.fr/>;

Yves Michel, Philippe Jabaud and Frédéric Taillet,  
La séance publique, October 2000, [http://www.assemblee-nationale.fr/connaissance/collection/6.asp#P619\\_122657](http://www.assemblee-nationale.fr/connaissance/collection/6.asp#P619_122657)

Assemblée Nationale,  
La séance plénière, Fiche 33, [http://www.assemblee-nationale.fr/connaissance/fiches\\_synthese/fiche\\_33.asp](http://www.assemblee-nationale.fr/connaissance/fiches_synthese/fiche_33.asp)

Publications of the Senate,  
<http://www.senat.fr/>

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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### 33. Are judges appointed fairly?

100

33a. In law, there is a transparent procedure for selecting national-level judges.

YES | NO

#### References:

Conseil Supérieur de la Magistrature, 1958 Constitution, article 65, <http://www.conseil-constitutionnel.fr/textes/constit.htm>

**YES:** A YES score is earned if there is a formal process for selecting national level justices. This process should be public in the debating and confirmation stages. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

**NO:** A NO score is given if there is no formal process of selection or the process is conducted without public oversight. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

33b. In practice, there are certain professional criteria required for the selection of national-level judges.

100 | 75 | 50 | 25 | 0

#### References:

Justice Ministry,  
Recrutement de magistrats, <http://www.justice.gouv.fr/index.php?rubrique=10016&ssrubrique=10259&article=11714>;

Cour d'Appel de Grenoble,  
Recrutement des magistrats et fonctionnaires de justice, March 2007, <http://www.ca-grenoble.justice.fr/d1.php>;

Cour des Comptes,  
Les conditions et modalités de recrutement des magistrats de la Cour des comptes, <http://www.ccomptes.fr/JF/documents/divers/LesConditionsEtModalitesDeRecrutementDesMagistrats.pdf>

**100:** National-level judges selected have relevant professional qualifications such as formal legal training, experience as a lower court judge or a career as a litigator.

**75:**

**50:** Most national-level judges selected meet these qualifications, with some exceptions.

**25:**

**0:** National-level judges are often unqualified due to lack of training or experience.

33c. In law, there is a confirmation process for national-level judges (i.e. conducted by the legislature or an independent body).

YES | NO

**References:**

Conseil Supérieur de la Magistrature, 1958 Constitution, article 65, <http://www.conseil-constitutionnel.fr/textes/constit.htm>

**YES:** A YES score is earned if there is a formal process establishing a review of national-level judicial nominees by an agency independent from the body appointing the judges.

**NO:** A NO score is earned if there is no formal review. A NO score is earned if the review is conducted by a body directed by the body appointing the judges (such as review by the head of police if judges are appointed by the executive).

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### 34. Can members of the judiciary be held accountable for their actions?

71

34a. In law, members of the national-level judiciary are obliged to give reasons for their decisions.

YES | NO

**References:**

Article 455 of the New Civil Procedure Code;  
Code of Criminal Procedure,  
<http://www.legifrance.gouv.fr/>

**YES:** A YES score is earned if there is a formal and mandatory process for judges to explain their decisions.

**NO:** A NO score is earned if justices are not required to explain decisions. A NO score is earned if there is a general exemption from explaining some decisions (such as national security).

34b. In practice, members of the national-level judiciary give reasons for their decisions.

100 | 75 | 50 | 25 | 0

**Comments:**

Depending on the kind of judgment or decision rendered, national judges might not be legally required to give their decisions. When they are required to, the motivations given are usually substantial but might at times be more cursory.

**References:**

Ministry of Foreign Affairs,  
La France à la loupe, La justice en France, June 2007, <http://www.ambafrance-dz.org/IMG/Justice.pdf>;

Les principes fondamentaux du règlement des litiges,  
April 30, 2006,  
<http://www.aesplus.net/Les-principes-fondamentaux-du.html>;

François Luchaire,  
Les droits et libertés fondamentaux,  
<http://www.conseil-constitutionnel.fr/dossier/quarante/q04.htm>

**100:** Judges are formally required to explain their judgments in detail, establishing a body of precedent. All judges comply with these requirements.

**75:**

**50:** Judges are compelled to give substantial reasons for their decisions, but some exceptions exist. These may include special courts, such as military courts or tribunals.

**25:**

0: Judges commonly issue decisions without formal explanations.

34c. In law, there is a disciplinary agency (or equivalent mechanism) for the national-level judicial system.

YES | NO

**References:**

Conseil Supérieur de la Magistrature: 1958 Constitution, article 65, <http://www.conseil-constitutionnel.fr/textes/constit.htm#Titre%20VIII>;

Inspection Générale des Services Judiciaires,  
Ordonnance 58-1270 of Dec. 22, 1958,  
<http://www.legifrance.gouv.fr/>;

Ministry of Justice,  
Ordonnance 58-1270 of Dec. 22, 1958,  
<http://www.legifrance.gouv.fr/>

**YES:** A YES score is earned if there is a disciplinary agency (or equivalent mechanism) for the judicial system. A disciplinary agency is defined here as an agency or mechanism specifically mandated to investigate breaches of procedure, abuses of power or other failures of the judiciary.

**NO:** A NO score is earned if no agency or mechanism is specifically mandated to act as a disciplinary mechanism for the national-level judiciary.

34d. In law, the judicial disciplinary agency (or equivalent mechanism) is protected from political interference.

YES | NO

**References:**

The Inspection Générale des Services Judiciaires is under the authority of the Ministry of Justice. The Conseil Supérieur de la Magistrature is chaired by the président of the Republic.

**YES:** A YES score is earned if there are formal rules establishing that the judicial disciplinary agency (or equivalent mechanism) is operationally independent from political interference by the executive, legislative and judicial branches.

**NO:** A NO score is earned if there are no formal rules establishing the independence of the judicial disciplinary agency (or equivalent mechanism). A NO score is given if the judicial disciplinary agency or equivalent mechanism function is carried out by an inherently subordinate organization, such as an executive ministry, legislative committee, or by an internal judiciary committee or council that can only act with the approval of judges themselves.

34e. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) initiates investigations.

100 | 75 | 50 | 25 | 0

**References:**

Ministry of Justice,  
L'inspection générale des services judiciaires,  
Feb. 9, 2007,  
<http://www.justice.gouv.fr/index.php?rubrique=10017&ssrubrique=10027>;

Conseil Supérieur de la Magistrature:  
Rapports annuels 2003-2004 and 2004-2005,  
<http://www.conseil-superieur-magistrature.fr/>;

**100:** The judicial disciplinary agency (or equivalent mechanism) aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The judicial disciplinary agency (or equivalent mechanism) is fair in its application of this power.

**75:**

**50:** The judicial disciplinary agency (or equivalent mechanism) will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The judicial disciplinary agency (or equivalent mechanism), though limited in effectiveness, is still fair in its application of power.

**25:**

**0:** The judicial disciplinary agency (or equivalent mechanism) rarely investigates on its own or cooperates in other agencies' investigations, or the judicial disciplinary agency (or equivalent mechanism) is partisan in its application of this power.

34f. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**References:**

Conseil Supérieur de la Magistrature,  
Rapport 2005, <http://www.conseil-superieur-magistrature.fr/rapports-annuels/rapport2005/chap2-2.htm>;

Cour de Cassation,  
Bulletin d'information 627, Annexe : Analyse détaillée des manquements des magistrats sanctionnés par l'instance disciplinaire,  
October  
2005, [http://www.courdecassation.fr/jurisprudence\\_publications\\_documentation\\_2/bulletin\\_information\\_cour\\_cassation\\_27/bulletins\\_information\\_2005\\_1f](http://www.courdecassation.fr/jurisprudence_publications_documentation_2/bulletin_information_cour_cassation_27/bulletins_information_2005_1f)

**100:** When rules violations are discovered, the judicial disciplinary agency (or equivalent mechanism) is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

**75:**

**50:** The judicial disciplinary agency (or equivalent mechanism) enforces rules, but is limited in its effectiveness. The judicial disciplinary agency (or equivalent mechanism) may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The judicial disciplinary agency (or equivalent mechanism) does not effectively penalize offenders. The judicial disciplinary agency (or equivalent mechanism) may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The judicial disciplinary agency (or equivalent mechanism) may be partisan in its application of power.

35. Are there regulations governing conflicts of interest for the national-level judiciary?

50

35a. In law, members of the national-level judiciary are required to file an asset disclosure form.

YES | NO

**References:**

There is no such law.

**YES:** A YES score is earned if all members of the national-level judiciary are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

**NO:** A NO score is earned if any member of the national-level judiciary is not required to publicly disclose assets.

35b. In law, there are regulations governing gifts and hospitality offered to members of the national-level judiciary.

YES | NO

**References:**

Penal Code, art.432-11,  
<http://www.legifrance.gouv.fr/>

**YES:** A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the national-level judiciary.

**NO:** A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the national-level judiciary. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

35c. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national-level judiciary.

YES | NO

**References:**

There is no such law.

**YES:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of national-level judiciary asset disclosures. The auditing is performed by an impartial third-party.

**NO:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of national-level judiciary asset disclosures or if such requirements exist but allow for self-auditing.

35d. In law, there are restrictions for national-level judges entering the private sector after leaving the government.

YES | NO

**Comments:**

An ethics commission exists to assess the compatibility between the activity carried out by the magistrate over the last three years and the private activity s/he wishes to enter.

**References:**

Article 72 of the Ordinance 58-1270 of Dec. 22, 1958, <http://www.legifrance.gouv.fr/texteconsolide/PFFAA.htm>;

Article 87 of the Law 93-122 of Jan. 29, 1993, <http://www.legifrance.gouv.fr/texteconsolide/MEEAA.htm>;

Decree 2007-611 of April 26, 2007,  
<http://www.legifrance.gouv.fr/texteconsolide/PBHTT.htm>

**YES:** A YES score is earned if there are regulations restricting national-level judges ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

**NO:** A NO score is earned if no such restrictions exist.

35e. In practice, the regulations restricting post-government private sector employment for national-level judges are effective.

100 | 75 | 50 | 25 | 0

**References:**

Conseil Supérieur de la Magistrature,  
Rapport annuel 2000, La mise en disponibilité, <http://www.conseil-superieur-magistrature.fr/rapports-annuels/rapport2000/rapport2000-partie6bis.htm>

Senate, Projet de loi organique relatif au recrutement, à la formation et à la responsabilité des magistrats,  
Chapitre 2 – Dispositions relatives à la discipline, Jan. 24, 2007, <http://www.senat.fr/rap/06-176/06-17615.html>

**100:** The regulations restricting post-government private sector employment for national-level judges are uniformly enforced. There are no or few cases of judges taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain cases, judges are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

35f. In practice, the regulations governing gifts and hospitality offered to members of the national-level judiciary are effective.

100 | 75 | 50 | 25 | 0

**References:**

Senate, Projet de loi organique relatif au recrutement, à la formation et à la responsabilité des magistrats,  
Chapitre 2 – Dispositions relatives à la discipline, Jan. 24, 2007, <http://www.senat.fr/rap/06-176/06-17615.html>;

Commission de réflexion sur l'éthique dans la magistrature,  
Rapport, November 2003,  
<http://lesrapports.ladocumentationfrancaise.fr/BRP/034000695/0000.pdf>

**100:** The regulations governing gifts and hospitality to members of the national-level judiciary are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given to judges. Judges never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to members of the national-level judiciary are generally applied though exceptions exist. Some judges are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations governing gifts and hospitality to members of the national-level judiciary are routinely ignored and unenforced. Judges routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

35g. In practice, national-level judiciary asset disclosures are audited.

100 | 75 | 50 | 25 | 0

**References:**

This is not required by law.

**100:** National-level judiciary asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** National-level judiciary asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

**25:**

**0:** National-level judiciary asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

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36. Can citizens access the asset disclosure records of members of the national-level judiciary?

0

36a. In law, citizens can access the asset disclosure records of members of the national-level judiciary.

YES | NO

**References:**

There is no such law.

**YES:** A YES score is earned if members of the national-level judiciary file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

**NO:** A NO score is earned if there is no asset disclosure for members of the national-level judiciary. A NO score is earned if the form is filed, but not available to the public.

36b. In practice, citizens can access judicial asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | 0

**References:**

There is no such practice.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

36c. In practice, citizens can access judicial asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

**References:**

There is no such practice.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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## III-4. Budget Processes

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37. Can the legislature provide input to the national budget?

83

37a. In law, the legislature can amend the budget.

YES | NO

**References:**

Organic Law 2001-692 of Aug. 1, 2001, <http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=ECOX0104681L>

**YES:** A YES score is earned if the legislature has the power to add or remove items to the national government budget.

**NO:** A NO score is earned if the legislature can only approve but not change details of the budget. A NO score is earned if the legislature has no input into the budget process.

37b. In practice, significant public expenditures require legislative approval.

100 | 75 | 50 | 25 | 0

**References:**

Ministry of Finance,  
Les nouvelles modalités de vote du budget, [http://www.minefi.gouv.fr/lof/downloads/101\\_guide\\_lof\\_pouvoir\\_decision.pdf](http://www.minefi.gouv.fr/lof/downloads/101_guide_lof_pouvoir_decision.pdf);

Senat,  
La LOLF, nouvelle constitution financière de l'Etat, April 2007,  
<http://www.senat.fr/role/fiche/lof.html>

**100:** All significant government expenditures (defined as any project costing more than 1% of the total national budget), must be approved by the legislature. This includes defense and secret programs, which may be debated in closed hearings.

**75:**

**50:** Most significant government expenditures (as defined) are approved by the legislature, but some exceptions to this rule exist. This may include defense programs, an executive's personal budget, or other expenses.

**25:**

**0:** The legislature does not have the power to approve or disapprove large portions of the government budget, or the legislature does not exercise this power in a meaningful way.

37c. In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.

100 | 75 | 50 | 25 | 0

**Comments:**

The legislature usually has the necessary competencies to monitor the budget process but, in comparison with the legislature of other countries, does not have much budgetary powers to provide input or changes.

**References:**

Ministry of Finance,  
Les nouvelles modalités de vote du budget, [http://www.minefi.gouv.fr/lof/downloads/101\\_guide\\_lof\\_pouvoir\\_decision.pdf](http://www.minefi.gouv.fr/lof/downloads/101_guide_lof_pouvoir_decision.pdf);

Senat,  
La LOLF, nouvelle constitution financière de l'Etat, April 2007,  
<http://www.senat.fr/role/fiche/lof.html>

**100:** Legislators benefit from a sufficient and qualified staff as well as adequate financial and physical resources. Lack of capacity is never a reason why legislators cannot carry out their duties effectively.

**75:**

**50:** Legislators have some staff and financial resources but are limited by a shortfall of resources to adequately perform all of their budgetary oversight functions. Legislators are occasionally overwhelmed by the volume of work to be performed.

**25:**

**0:** Legislators have little to no staff and virtually no financial resources with which to perform their budgetary oversight role. Lack of resources is a regular and systemic problem that cripples the performance of the legislature.

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### 38. Can citizens access the national budgetary process?

50

38a. In practice, the national budgetary process is conducted in a transparent manner in the debating stage (i.e. before final approval).

100 | 75 | 50 | 25 | 0

**References:**

Ministry of Finance,

Les nouvelles modalités de vote du budget, [http://www.minefi.gouv.fr/lojf/downloads/101\\_guide\\_lojf\\_pouvoir\\_decision.pdf](http://www.minefi.gouv.fr/lojf/downloads/101_guide_lojf_pouvoir_decision.pdf);

Senat,

La LOLF, nouvelle constitution financière de l'Etat, April 2007,

<http://www.senat.fr/role/fiche/lojf.html>

**100:** Budget debates are public and records of these proceedings are easily accessible. Authors of individual budget items can easily be identified. Nearly all budget negotiations are conducted in these official proceedings.

**75:**

**50:** There is a formal, transparent process for budget debate, but major budget modifications may be negotiated in separate, closed sessions. Some items, such as non-secret defense projects, may be negotiated in closed sessions. Authors of individual line items may be difficult to identify.

**25:**

**0:** Budget negotiations are effectively closed to the public. There may be a formal, transparent process, but most real discussion and debate happens in other, closed settings.

38b. In practice, citizens provide input at budget hearings.

100 | 75 | 50 | 25 | 0

**Comments:**

Citizens can only rely on their representatives in Parliament to provide input on their behalf.

**References:**

Daniel Hochedez,

La mission dévaluation et de contrôle (MEC);

Une volonté de retour aux sources du Parlement : la défense du citoyen contribuable, Assemblée Nationale, December 1999,

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

Assemblée Nationale,

Les missions d'évaluation et de contrôle, Fiche No 46, 2007, [http://www.assemblee-nationale.fr/connaissance/fiches\\_synthese/fiche\\_46.asp](http://www.assemblee-nationale.fr/connaissance/fiches_synthese/fiche_46.asp);

C6R, Lettre No 4, October 2006,

[http://www.c6r.org/IMG/pdf/Lettre\\_no\\_4.pdf](http://www.c6r.org/IMG/pdf/Lettre_no_4.pdf)

**100:** Citizens, usually acting through CSOs, can provide information or commentary to the budget debate through a formal process. This information is essential to the process of evaluating budget priorities.

**75:**

**50:** Citizens or CSOs can provide input, but this information is often not relevant to budget decisions.

**25:**

**0:** Citizens or CSOs have no formal access to provide input to the budget debate.

38c. In practice, citizens can access itemized budget allocations.

**References:**

C6R, Lettre No 4, October 2006,  
[http://www.c6r.org/IMG/pdf/Lettre\\_no\\_4.pdf](http://www.c6r.org/IMG/pdf/Lettre_no_4.pdf);

Ministry for Culture and Communication,  
 Budget 2006 du Ministère de la culture et de la communication, Sept. 28,  
 2005, <http://www.culture.gouv.fr/culture/actualites/dossiers-presse/budget2006.pdf>;

Daniel Hochedez,  
 La mission dévaluation et de contrôle (MEC);

Une volonté de retour aux sources du Parlement: la défense du citoyen contribuable,  
 Assemblée Nationale, December 1999,  
<http://www.assemblee-nationale.fr/connaissance/mec.asp>;

Assemblée Nationale,  
 Les missions d'évaluation et de contrôle, Fiche No 46, 2007, [http://www.assemblee-nationale.fr/connaissance/fiches\\_synthese/fiche\\_46.asp](http://www.assemblee-nationale.fr/connaissance/fiches_synthese/fiche_46.asp)

**100:** Citizens, journalists and CSOs can access itemized lists of budget allocations. This information is easily available and up to date.

**75:**

**50:** Citizens, journalists and CSOs can access itemized lists of budget allocations but this information may be difficult to access, incomplete or out of date.

**25:**

**0:** Citizens cannot access an itemized list of budget allocations, due to secrecy, prohibitive barriers or government inefficiency.

39. In law, is there a separate legislative committee which provides oversight of public funds?

100

39. In law, is there a separate legislative committee which provides oversight of public funds?

YES | NO

**References:**

Commission des finances, du contrôle budgétaire et des comptes économiques de la Nation:  
 Senate rules,  
[http://senat.fr/reglement/reglement\\_mono.html](http://senat.fr/reglement/reglement_mono.html)

**YES:** A YES score is earned if there is a dedicated legislative committee (or equivalent group located in the legislature) that oversees the expenditure of public funds.

**NO:** A NO score is earned if no such body exists within the legislature. A NO score is earned if there is a body executing this function but it is not part of the legislature (such as a separate supreme audit institution).

40. Is the legislative committee overseeing the expenditure of public funds effective?

75

40a. In practice, department heads regularly submit reports to this committee.

100 | 75 | 50 | 25 | 0

**References:**

Ministry of Finance,  
Les nouvelles modalités de vote du budget, [http://www.minefi.gouv.fr/lof/downloads/101\\_guide\\_lof\\_pouvoir\\_decision.pdf](http://www.minefi.gouv.fr/lof/downloads/101_guide_lof_pouvoir_decision.pdf);

Senat,  
La LOLF, nouvelle constitution financière de l'Etat, April 2007,  
<http://www.senat.fr/role/fiche/lof.html>

**100:** Heads of ministry- or cabinet-level agencies submit regular, formal reports of expenses to a budget oversight committee.

**75:**

**50:** Agency heads submit reports to a budget oversight committee, but these reports are flawed in some way. The reports may be inconsistently delivered, or lacking important details.

**25:**

**0:** There is no budget oversight committee or equivalent, or heads of agencies do not submit meaningful reports to the agency.

40b. In practice, the committee acts in a non-partisan manner with members of opposition parties serving on the committee in an equitable fashion.

100 | 75 | 50 | 25 | 0

**References:**

Ministry of Finance,  
Les nouvelles modalités de vote du budget, [http://www.minefi.gouv.fr/lof/downloads/101\\_guide\\_lof\\_pouvoir\\_decision.pdf](http://www.minefi.gouv.fr/lof/downloads/101_guide_lof_pouvoir_decision.pdf);

Senat,  
La LOLF, nouvelle constitution financière de l'Etat, April 2007,  
<http://www.senat.fr/role/fiche/lof.html>

**100:** The committee is comprised of legislators from both the ruling party (or parties) and opposition parties in a roughly equitable distribution. All members of the committee — including opposition party members — are able to fully participate in the activities of the committee and influence the committee's work to roughly the same extent as any other member of the committee.

**75:**

**50:** The committee is comprised of legislators from both the ruling party (or parties) and opposition parties although the ruling party has a disproportionate share of committee seats. The chairperson of the committee may be overly influential and curb other members' ability to shape the committee's activities.

**25:**

**0:** The committee is dominated by legislators of the ruling party and/or the committee chairperson. Opposition legislators serving on the committee have in practice no way to influence the work of the committee.

40c. In practice, this committee is protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

The committee is theoretically independent but it is a parliamentary committee made of politicians who sometimes have been

former government members or hope to become one in the future, so in practice a total lack of political interference is difficult to obtain.

**References:**

Ministry of Finance,  
Les nouvelles modalités de vote du budget, [http://www.minefi.gouv.fr/lolf/downloads/101\\_guide\\_lolf\\_pouvoir\\_decision.pdf](http://www.minefi.gouv.fr/lolf/downloads/101_guide_lolf_pouvoir_decision.pdf);

Daniel Hochedez,  
La mission d'évaluation et de contrôle (MEC)  
Une volonté de retour aux sources du Parlement: la défense du citoyen contribuable,  
Assemblée Nationale, December 1999,  
<http://www.assemblee-nationale.fr/connaissance/mec.asp>;

Assemblée Nationale,  
Les missions d'évaluation et de contrôle, Fiche No 46, 2007, [http://www.assemblee-nationale.fr/connaissance/fiches\\_synthese/fiche\\_46.asp](http://www.assemblee-nationale.fr/connaissance/fiches_synthese/fiche_46.asp)

**100:** This committee operates independently of the political process, without incentive or pressure to render favorable judgments on politically sensitive issues. Investigations are rarely praised or criticized by political figures.

**75:**

**50:** This committee is usually independent but is sometimes influenced by negative or positive political incentives. This may include public praise or criticism by the government.

**25:**

**0:** This committee is commonly influenced by personal or political forces or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties that ultimately influence the committee's behavior and decision-making. Negative incentives may include threats, harassment or other abuses of power by the government.

40d. In practice, when necessary, this committee initiates independent investigations into financial irregularities.

100 | 75 | 50 | 25 | 0

**References:**

Ministry of Finance,  
Les nouvelles modalités de vote du budget, [http://www.minefi.gouv.fr/lolf/downloads/101\\_guide\\_lolf\\_pouvoir\\_decision.pdf](http://www.minefi.gouv.fr/lolf/downloads/101_guide_lolf_pouvoir_decision.pdf);

Senat,  
Rapport sur l'enquête de la Cour des comptes relative aux frais de justice pénale, 2006, <http://senat.fr/rap/r05-216/r05-2160.html>;

Travaux de la Commission des finances, 9 mars 2006,  
<http://www.senat.fr/bulletin/20060313/fin.html>; Table nominative Jean  
Arthuis, [http://senat.fr/themas/nomina2006/arthuis\\_jean83011j.rtf](http://senat.fr/themas/nomina2006/arthuis_jean83011j.rtf)

**100:** When irregularities are discovered, the committee is aggressive in investigating the government.

**75:**

**50:** The committee starts investigations, but is limited in its effectiveness. The committee may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The committee does not effectively investigate financial irregularities. The committee may start investigations but not complete them, or may fail to detect offenders. The committee may be partisan in its application of power.

41. Are there national regulations for the civil service encompassing, at least, the managerial and professional staff?

100

41a. In law, there are regulations requiring an impartial, independent and fairly managed civil service.

YES | NO

**References:**

Law 83-634 of July 13, 1983,  
<http://www.legifrance.gouv.fr/>

**YES:** A YES score is earned if there are specific formal rules establishing that the civil service carry out its duties independent of political interference.

**NO:** A NO score is earned if there are no formal rules establishing an independent civil service.

41b. In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.

YES | NO

**References:**

Law 83-634 of July 13, 1983,  
<http://www.legifrance.gouv.fr/>

**YES:** A YES score is earned if there are specific formal rules prohibiting nepotism, cronyism, and patronage in the civil service. These should include competitive recruitment and promotion procedures as well as safeguards against arbitrary disciplinary actions and dismissal.

**NO:** A NO score is earned if no such regulations exist.

41c. In law, there is an independent redress mechanism for the civil service.

YES | NO

**References:**

Conseil supérieur de la fonction publique de l'Etat,  
decree 82-450 of May 28, 1982,  
<http://www.legifrance.gouv.fr/>

**YES:** A YES score is earned if there is a mechanism to which civil servants and applicants for the civil service can take grievances regarding civil service management actions. Civil servants are able to appeal the mechanism's decisions to the judiciary.

**NO:** A NO score is earned if no such mechanism exists.

41d. In law, civil servants convicted of corruption are prohibited from future government employment.

YES | NO

**Comments:**

This sanction is optional.

**References:**

Penal Code, article 432-17,  
[//www.legifrance.gouv.fr/](http://www.legifrance.gouv.fr/)

**YES:** A YES score is earned if there are specific rules prohibiting continued government employment following a corruption conviction.

**NO:** A NO score is earned if no such rules exist.

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42. Is the law governing the administration and civil service effective?

78

42a. In practice, civil servants are protected from political interference.

100 | 75 | 50 | 25 | 0

**References:**

Direction générale de l'administration et de la fonction publique,  
Les droits et les obligations, Octobre 2005,  
<http://www.fonction-publique.gouv.fr/article518.html>;

Interview with Max Bazignan, civil servant, education sector,  
Aug. 30, 2007, Gironde

**100:** Civil servants operate independently of the political process, without incentive or pressure to render favorable treatment or policy decisions on politically sensitive issues. Civil servants rarely comment on political debates. Individual judgments are rarely praised or criticized by political figures. Civil servants can bring a case to the courts challenging politically-motivated firings.

**75:**

**50:** Civil servants are typically independent, yet are sometimes influenced in their judgments by negative or positive political or personal incentives. This may include favorable or unfavorable treatment by superiors, public criticism or praise by the government, or other forms of influence. Civil servants may bring a case to the judicial system challenging politically-motivated firings but the case may encounter delays or bureaucratic hurdles.

**25:**

**0:** Civil servants are commonly influenced by political or personal matters. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. Civil servants are unable to find a remedy in the courts for unjustified or politically-motivated firings.

42b. In practice, civil servants are appointed and evaluated according to professional criteria.

100 | 75 | 50 | 25 | 0

**Comments:**

Civil servants are appointed and evaluated according to professional criteria. However, from a certain level or for certain positions career progression may also be dependent on party loyalties. In some areas such as health or education, the new evaluation criteria have been criticized as not being well-suited to public service tasks.

**References:**

L'évaluation et la notation des fonctionnaires de l'Etat, la Documentation Française, 2007, <http://lesrapports.ladocumentationfrancaise.fr/BRP/074000473/0000.pdf>;

Interview with Max Bazignan, civil servant, education sector, Aug. 30, 2007, Gironde

Maya Bacache-Beauvallet, Les limites de l'usage des primes à la performance dans la fonction publique, in La voix des cadres des douanes no 126, 2007, [www.sncd.info/vdc126.html](http://www.sncd.info/vdc126.html)

**100:** Appointments to the civil service and their professional evaluations are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments and professional assessments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

**25:**

**0:** Appointments and professional assessments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

42c. In practice, civil service management actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.

100 | 75 | 50 | 25 | 0

**References:**

L'évaluation et la notation des fonctionnaires de l'Etat, la Documentation Française, 2007, <http://lesrapports.ladocumentationfrancaise.fr/BRP/074000473/0000.pdf>;

Interview with Max Bazignan, civil servant, education sector, Aug. 30, 2007, Gironde

**100:** Nepotism (favorable treatment of family members), cronyism (favorable treatment of friends and colleagues), and patronage (favorable treatment of those who reward their superiors) are actively discouraged at all levels of the civil service. Hirings, firings, and promotions are based on merit and performance.

**75:**

**50:** Nepotism, cronyism, and patronage are discouraged, but exceptions exist. Political leaders or senior officials sometimes appoint family member or friends to favorable positions in the civil service, or lend other favorable treatment.

**25:**

**0:** Nepotism, cronyism, and patronage are commonly accepted principles in hiring, firing and promotions of civil servants.

42d. In practice, civil servants have clear job descriptions.

100 | 75 | 50 | 25 | 0

**References:**

Université de Versailles Saint-Quentin-en-Yvelines,  
Contributions des laboratoires de l'UVSQ pour les assises de la Recherche – Thème 3 : Le statut des personnels, June 2004,  
<http://www.uvsq.fr/rech/colloques/AR2004-Personnels.pdf>;

Interview with Max Bazignan, civil servant, education sector,  
Aug. 30, 2007, Gironde

**100:** Civil servants almost always have formal job descriptions establishing levels of seniority, assigned functions, and compensation. Job descriptions are a reliable means to map positions to both human capital requirements (including the position's authority and responsibilities) and base pay.

**75:**

**50:** Civil servants often have formal job descriptions, but exceptions exist. Some civil servants may not be part of the formal assignment of duties and compensations. Some job descriptions may not map clearly to pay or responsibilities in some cases.

**25:**

**0:** Civil servants do not have formal roles or job descriptions. If they do, such job descriptions have little or nothing to do with the position's responsibilities, authority, or pay.

42e. In practice, civil servant bonuses constitute only a small fraction of total pay.

100 | 75 | 50 | 25 | 0

**References:**

Direction générale de l'administration et de la fonction publique, Rémunérations, <http://www.fonction-publique.gouv.fr/rubrique170.html>;

Interview with Max Bazignan, civil servant, education sector,  
Aug. 30, 2007, Gironde

Maya Bacache-Beauvallet, Les limites de l'usage des primes à la performance dans la fonction publique, in La voix des cadres des douanes no 126, 2007,  
[www.sncd.info/vdc126.html](http://www.sncd.info/vdc126.html)

**100:** Civil servant bonuses constitute no more than 10% of total pay and do not represent a major element of take-home pay.

**75:**

**50:** Civil servant bonuses are generally a small percentage of total take-home pay for most civil servants though exceptions exist where some civil servants' bonuses represent a significant part of total pay.

**25:**

**0:** Most civil servants receive bonuses that represent a significant amount of total take-home pay. In some cases bonuses represent the majority of total pay to civil servants.

42f. In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.

100 | 75 | 50 | 25 | 0

**References:**

La Documentation française, Rapport annuel sur l'état de la fonction publique 2006-2007 : volume 1 – Faits et chiffres, <http://www.fonction-publique.gouv.fr/article992.html>

Interview with Max Bazignan, civil servant, education sector,  
Aug. 30, 2007, Gironde

**100:** The government publishes such a list on a regular basis.

**75:**

**50:** The government publishes such a list but it is often delayed or incomplete. There may be multiple years in between each successive publication.

**25:**

**0:** The government rarely or never publishes such a list, or when it does it is wholly incomplete.

42g. In practice, the independent redress mechanism for the civil service is effective.

100 | 75 | 50 | 25 | 0

**Comments:**

The redress mechanism sometimes has a bigger workload than it can deal with. It is sometimes influenced by the bodies that manage civil servants or by political considerations.

**References:**

Commission de déontologie de la fonction publique de l'Etat,  
Accès des agents publics au secteur privé, 2006, <http://lesrapports.ladocumentationfrancaise.fr/BRP/074000402/0000.pdf>;

Interview with Max Bazignan, civil servant, education sector,  
Aug. 30, 2007, Gironde

**100:** The independent redress mechanism for the civil service can control the timing and pace of its investigations without any input from the bodies that manage civil servants on a day-to-day basis.

**75:**

**50:** The independent civil service redress mechanism can generally decide what to investigate and when but is sometimes subject to pressure from the executive or the bodies that manage civil servants on a day-to-day basis on politically sensitive issues.

**25:**

**0:** The civil service redress mechanism must rely on approval from the executive or the bodies that manage civil servants on a day-to-day basis before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

42h. In practice, in the past year, the government has paid civil servants on time.

100 | 75 | 50 | 25 | 0

**Comments:**

Public servants employed on a long-term basis rarely suffer late payments. However, contractual (short-term) personnel working in the public service sometimes suffer late payments, as was recently the case for assistants working in the education sector.

**References:**

Interview with Max Bazignan, civil servant, education sector,  
Aug. 30, 2007, Gironde;

Syndicat National Unitaire des Instituteurs, Professeurs des écoles et PEGC, EVS : premiers recrutements et premiers problèmes,

<http://www.snuipp.fr/spip.php?article3116>

Carrières, personnels,

<http://www.snuipp.fr/spip.php?article1744>

**100:** In the past year, no civil servants have been paid late.

**75:**

**50:** In the past year, some civil servants have been paid late.

**25:**

**0:** In the past year, civil servants have frequently been denied due pay.

42i. In practice, civil servants convicted of corruption are prohibited from future government employment.

100 | 75 | **50** | 25 | 0

**References:**

Le Figaro,

Un haut responsable soupçonné de corruption,

April 13, 2006, [http://www.lefigaro.fr/france/20060413.FIG000000143\\_un\\_haut\\_responsable\\_soupconne\\_de\\_corruption.html](http://www.lefigaro.fr/france/20060413.FIG000000143_un_haut_responsable_soupconne_de_corruption.html)

Interview with Max Bazignan, civil servant, education sector,

Aug. 30, 2007, Gironde

**100:** A system of formal blacklists and cooling off periods is in place for civil servants convicted of corruption. All civil servants are subject to this system.

**75:**

**50:** A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some civil servants may not be affected by the system, or the prohibitions are sometimes not effective.

**25:**

**0:** There is no such system, or the system is consistently ineffective in prohibiting future employment of convicted civil servants.

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#### 43. Are there regulations addressing conflicts of interest for civil servants?

88

43a. In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.

**YES** | NO

**References:**

Penal Code, art 432-12, <http://www.legifrance.gouv.fr/WAspad/UnArticleDeCode?code=CPENALLL.rcv&art=432-12>

**YES:** A YES score is earned if there are requirements for civil servants to recuse themselves from policy decisions where their personal interests, including personal financial interests as well as those of their family and friends, are affected.

**NO:** A NO score exists if no such requirements exist in regulation or law.

43b. In law, there are restrictions for civil servants entering the private sector after leaving the government.

YES | NO

**Comments:**

An ethics commission exists to assess the compatibility between the activity carried out by the public servant over the last three years and the private activity s/he wishes to enter. Prohibitions are listed in a decree.

**References:**

Penal Code, art 432-12 and 432-13, <http://www.legifrance.gouv.fr/WAspad/UnArticleDeCode?commun=CPENAL&art=432-13>;

Article 87 of the Law 93-122 of Jan. 29, 1993, <http://www.legifrance.gouv.fr/texteconsolide/MEEAA.htm>;

Decree 2007-611 of April 26, 2007,  
<http://www.legifrance.gouv.fr/texteconsolide/PBHTT.htm>

**YES:** A YES score is earned if there are regulations restricting civil servants' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

**NO:** A NO score is earned if no such restrictions exist.

43c. In law, there are regulations governing gifts and hospitality offered to civil servants.

YES | NO

**References:**

Penal Code, art.432-11,  
<http://www.legifrance.gouv.fr/>

**YES:** A YES score is earned if there are formal guidelines regarding gifts and hospitality given to civil servants.

**NO:** A NO score is earned if there are no such guidelines or regulations.

43d. In practice, the regulations restricting post-government private sector employment for civil servants are effective.

100 | 75 | 50 | 25 | 0

**References:**

Commission de déontologie de la fonction publique de l'Etat,  
Accès des agents publics au secteur privé, 2006, <http://lesrapports.ladocumentationfrancaise.fr/BRP/074000402/0000.pdf>;

Interview with Max Bazignan, civil servant, education sector,  
Aug. 30, 2007, Gironde

**100:** The regulations restricting post-government private sector employment for civil servants are uniformly enforced. There are no or few cases of civil servants taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain sectors, civil servants are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Civil servants routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

43e. In practice, the regulations governing gifts and hospitality offered to civil servants are effective.

100 | 75 | 50 | 25 | 0

**References:**

Direction générale de l'administration et de la fonction publique,  
Les droits et obligations, Octobre 2005,  
<http://www.fonction-publique.gouv.fr/article518.html>;

Interview with Max Bazignan, civil servant, education sector,  
Aug. 30, 2007, Gironde

**100:** The regulations governing gifts and hospitality to civil servants are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given to civil servants. Civil servants never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to civil servants are generally applied though exceptions exist. Some civil servants in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations governing gifts and hospitality to the civil service are routinely ignored and unenforced. Civil servants routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

43f. In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

The rule is generally applied, but sometimes with some leniency.

**References:**

Direction générale de l'administration et de la fonction publique,  
Les droits et obligations, Octobre 2005,  
<http://www.fonction-publique.gouv.fr/article518.html>;

Interview with Max Bazignan, civil servant, education sector,  
Aug. 30, 2007, Gironde

**100:** The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are routinely followed by most or all civil servants.

**75:**

**50:** The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are followed by most civil servants though exceptions exist. In certain sectors, civil servants are known to routinely participate in policy decisions where their personal interests are affected.

25:

0: Most civil servants routinely ignore recusal requirements and continue to participate in policy decisions where their personal interests are affected.

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#### 44. Can citizens access the asset disclosure records of senior civil servants?

0

44a. In law, citizens can access the asset disclosure records of senior civil servants.

YES | **NO**

**Comments:**

Only a very limited number of senior civil servants has to produce a declaration of assets. These declarations are confidential.

**References:**

Law 88-227 of 11 March 1988, articles 2, 3 and 4,  
<http://www.legifrance.gouv.fr/>

**YES:** A YES score is earned if laws or regulations guarantee that citizens can access the asset records of senior civil servants.

**NO:** A NO score is earned if senior civil servants do not file an asset disclosure. A NO score is earned if senior civil servants file an asset disclosure, but it is not available to the public.

44b. In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.

100 | 75 | 50 | 25 | **0**

**References:**

Only a very limited number of senior civil servants has to produce a declaration of assets (Law 88-227 of March 11, 1988, articles 2, 3 and 4). These declarations are confidential, thus not intended for public distribution. There is no informal practice of asset disclosure by senior civil servants.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

44c. In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.

100 | 75 | 50 | 25 | **0**

**References:**

Only a very limited number of senior civil servants has to produce a declaration of assets (Law 88-227 of March 11, 1988, articles 2, 3 and 4). These declarations are confidential, thus not intended for public distribution. There is no informal practice of asset disclosure by senior civil servants.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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## IV-2. Whistle-blowing Measures

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45. Are employees protected from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?

50

45a. In law, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES | NO

**References:**

Article 11 du titre I du Statut général des fonctionnaires  
Délibération de la CNIL n° 2005-305 du 8 décembre 2005 portant autorisation unique de traitements automatisés de données à caractère personnel mis en oeuvre dans le cadre de dispositifs d'alerte professionnelle,  
<http://www.cnil.fr/index.php?id=1907>;

Loi n° 78-17 du 6 Janvier 1978 relative à l'informatique, aux fichiers et aux libertés, <http://www.cnil.fr/index.php?id=301>

**YES:** A YES score is earned if there are specific laws against recrimination against public sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

**NO:** A NO score is earned if there are no legal protections for public-sector whistleblowers.

45b. In practice, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | 0

**References:**

CNIL (National Commission on Informatics and Freedom),  
La CNIL rappelle les règles pour les dispositifs d'alerte professionnelle,  
March 8, 2007,  
<http://www.cnil.fr/index.php?id=2201>;

FAQ sur les dispositifs d'alerte professionnelle,  
March 1, 2006,  
<http://www.cnil.fr/index.php?id=1969>,

English version: FAQs on whistleblowing systems,  
<http://www.cnil.fr/index.php?id=1982>

Délibération de la CNIL n° 2005-305 portant autorisation unique de traitements automatisés de données à caractère personnel mis en Suvre dans le cadre de dispositifs d'alerte professionnelle, Dec. 8, 2005,  
<http://www.cnil.fr/index.php?id=1907>;

Transparency International,  
In Focus Whistleblowers,  
Aug. 15, 2007,  
[http://www.transparency.org/news\\_room/in\\_focus/2007/whistleblowers](http://www.transparency.org/news_room/in_focus/2007/whistleblowers)

**100:** Public sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

**75:**

**50:** Public sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

**25:**

**0:** Public sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

45c. In law, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES | **NO**

**References:**

There is no such law.

**YES:** A YES score is earned if there are specific laws against recrimination against private sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

**NO:** A NO score is earned if there are no legal protections for private-sector whistleblowers.

45d. In practice, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | **50** | 25 | 0

**Comments:**

Whistleblowers enjoy protection from other more general statutes (work law, criminal law), even though their situation is delicate and they might fear recrimination.

**References:**

CNIL (National Commission on Informatics and Freedom),  
La CNIL rappelle les règles pour les dispositifs d'alerte professionnelle,  
March 8, 2007,  
<http://www.cnil.fr/index.php?id=2201>;

FAQ sur les dispositifs d'alerte professionnelle,  
March 1, 2006,  
<http://www.cnil.fr/index.php?id=1969>,

English version: FAQs on whistleblowing systems,  
<http://www.cnil.fr/index.php?id=1982>

Délibération de la CNIL n° 2005-305 portant autorisation unique de traitements automatisés de données à caractère personnel mis en Suivre dans le cadre de dispositifs d'alerte professionnelle, Dec. 8, 2005,  
<http://www.cnil.fr/index.php?id=1907>;

Transparency International,  
In Focus Whistleblowers,  
Aug. 15, 2007,  
[http://www.transparency.org/news\\_room/in\\_focus/2007/whistleblowers](http://www.transparency.org/news_room/in_focus/2007/whistleblowers)

**100:** Private sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

**75:**

**50:** Private sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

**25:**

**0:** Private sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

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46. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

100

46. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

YES | NO

**References:**

The mechanism is called dispositif d'alerte professionnelle". It is aimed at inciting employees to report to their employer behaviors which they consider to be unlawful or irregular.

Délibération de la CNIL n° 2005-305 portant autorisation unique de traitements automatisés de données à caractère personnel mis en oeuvre dans le cadre de dispositifs d'alerte professionnelle, Dec. 8, 2005,  
<http://www.cnil.fr/index.php?id=1907>

**YES:** A YES score is earned if there is a mechanism, or multiple mechanisms for multiple national government agencies, through which civil servants can report cases of graft, misuse of public funds, or corruption.

**NO:** A NO score is earned if no such mechanism (or equivalent series of mechanisms) exists.

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47. In practice, is the internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption effective?

50

47a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

Internal reporting mechanisms for public sector corruption are under development and are not always fully operational in all administrations.

**References:**

Pierre-David Labani,  
Le whistleblowing est désormais explicitement autorisé en France,  
March 2006, Transparence France,  
<http://www.transparence-france.org/LLT28.pdf>;

Transparence France,  
Déclencher l'alerte, Octobre 2004,  
<http://www.transparence-france.org/wfavordeclenchtalert.htm>;

Délibération de la CNIL n° 2005-305 portant autorisation unique de traitements automatisés de données à caractère personnel mis en oeuvre dans le cadre de dispositifs d'alerte professionnelle,  
Dec. 8, 2005,  
<http://www.cnil.fr/index.php?id=1907>

**100:** The agency/entity has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency/entity has limited staff, a fact that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency/entity has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

47b. In practice, the internal reporting mechanism for public sector corruption receives regular funding.

100 | 75 | **50** | 25 | 0

**Comments:**

Internal reporting mechanisms for public sector corruption are under development and are not fully operational in all administrations.

**References:**

Pierre-David Labani,  
Le whistleblowing est désormais explicitement autorisé en France,  
March 2006, Transparence France,  
<http://www.transparence-france.org/LLT28.pdf>;

Transparence France,  
Déclencher l'alerte, Octobre 2004,  
<http://www.transparence-france.org/wfavordeclenchtalert.htm>;

Délibération de la CNIL n° 2005-305 portant autorisation unique de traitements automatisés de données à caractère personnel mis en oeuvre dans le cadre de dispositifs d'alerte professionnelle,  
Dec. 8, 2005,  
<http://www.cnil.fr/index.php?id=1907>

**100:** The agency/entity has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency/entity has a regular source of funding but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

47c. In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Internal reporting mechanisms for public sector corruption are under development and are not always fully operational in all administrations.

**References:**

Pierre-David Labani,  
Le whistleblowing est désormais explicitement autorisé en France,  
March 2006, Transparence France,  
<http://www.transparence-france.org/LLT28.pdf>;

Transparence France,  
Déclencher l'alerte, Octobre 2004,  
<http://www.transparence-france.org/wfavordeclenchtalert.htm>;

Délibération de la CNIL n° 2005-305 portant autorisation unique de traitements automatisés de données à caractère personnel mis en oeuvre dans le cadre de dispositifs d'alerte professionnelle,  
Dec. 8, 2005,  
<http://www.cnil.fr/index.php?id=1907>

**100:** The agency/entity acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency/entity acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

47d. In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

Internal reporting mechanisms for public sector corruption are under development and are not always fully operational in all administrations.

**References:**

Pierre-David Labani,  
Le whistleblowing est désormais explicitement autorisé en France,  
March 2006, Transparence France,  
<http://www.transparence-france.org/LLT28.pdf>;

Transparence France,  
Déclencher l'alerte, Octobre 2004,  
<http://www.transparence-france.org/wfavordeclenchtalert.htm>;

Délibération de la CNIL n° 2005-305 portant autorisation unique de traitements automatisés de données à caractère personnel mis en oeuvre dans le cadre de dispositifs d'alerte professionnelle,  
Dec. 8, 2005,  
<http://www.cnil.fr/index.php?id=1907>

**100:** When irregularities are discovered, the agency/entity is aggressive in investigating the government or in cooperating with other agencies' investigations.

**75:**

**50:** The agency/entity starts investigations, but is limited in its effectiveness. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other investigative agencies, or occasionally unable to enforce its judgments.

25:

0: The agency/entity does not effectively investigate. The agency/entity may start investigations but not complete them, may refuse to cooperate with other investigative agencies, or may fail to detect offenders. The agency/entity may be partisan in its application of power.

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67  
IV-3. Procurement

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48. Is the public procurement process effective?

60

48a. In law, there are regulations addressing conflicts of interest for public procurement officials.

YES | NO

**References:**

Penal Code, article 432-12, <http://www.legifrance.gouv.fr/WAspad/UnArticleDeCode?code=CPENALLL.rcv&art=432-12>

**YES:** A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for public procurement officials. A YES score is earned if such regulations cover all civil servants, including procurement officials.

**NO:** A NO score is earned if no such rules exist.

48b. In law, there is mandatory professional training for public procurement officials.

YES | NO

**References:**

Statut Général de la Fonction Publique (in particular Title II, chapter 3).

**YES:** A YES score is earned if public procurement officials receive regular mandatory training to ensure professional standards in supervising the tendering process.

**NO:** A NO score is earned if there is no regular required training of public procurement officials or if training is sporadic, inconsistent, unrelated to procurement processes, or voluntary.

48c. In practice, the conflicts of interest regulations for public procurement officials are enforced.

100 | 75 | 50 | 25 | 0

**Comments:**

Violations can be difficult to detect. There is not always a real political will to monitor and enforce conflict of interest regulations.

**References:**

Beaugé, Thierry,  
Le nouveau code des marchés publics et la transparence,  
Transparence France, January 2004, <http://www.transparence-france.org/wlenouvcodmarchpubettransp.htm>;

Transparence France,  
La lettre de transparence, actualité judiciaire,  
March 2007,  
<http://www.transparence-france.org/LLT%2032%20.pdf>

**100:** Regulations regarding conflicts of interest for procurement officials are aggressively enforced.

**75:**

**50:** Conflict of interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from regulations.

**25:**

**0:** Conflict of interest regulations do not exist, or are consistently ineffective.

48d. In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.

YES | NO

**References:**

There is no such legal mechanism.

**YES:** A YES score is earned if there is a formal mandate to some agency to monitor the assets, incomes and spending habits of public procurement officials, such as an inspector general, or ombudsman.

**NO:** A NO score is earned if no such mandate exists.

48e. In law, major procurements require competitive bidding.

YES | NO

**References:**

Code des marchés publics (Public procurement code), article 1,  
<http://www.legifrance.gouv.fr/>

**YES:** A YES score is earned if all major procurements (defined as those greater than 0.5% of GDP) require competitive bidding.

**NO:** A NO score is earned if competitive bidding is not required by law or regulation for major procurement (greater than 0.5% OF GDP).

48f. In law, strict formal requirements limit the extent of sole sourcing.

YES | NO

**References:**

Code des marchés publics (Public procurement code),  
<http://www.legifrance.gouv.fr/>

**YES:** A YES score is earned if sole sourcing is limited to specific, tightly defined conditions, such as when a supplier is the only source of a skill or technology.

**NO:** A NO score is earned if there are no prohibitions on sole sourcing. A NO score is earned if the prohibitions on sole sourcing are general and unspecific.

48g. In law, unsuccessful bidders can instigate an official review of procurement decisions.

YES | **NO**

**References:**

This is not the case.

**YES:** A YES score is earned if there is a formal appeal process for unsuccessful bidders.

**NO:** A NO score is earned if no such process exists.

48h. In law, unsuccessful bidders can challenge procurement decisions in a court of law.

**YES** | NO

**References:**

This possibility has been established through the Jurisprudence of the Conseil d'Etat (Jurisprudence Schwetstoff of 1973, Tropic Travaux Signalisation of July 16, 2006), <http://www.conseil-etat.fr/ce/home/index.shtml>.

**YES:** A YES score is earned if unsuccessful bidders can use the courts to appeal a procurement decision.

**NO:** A NO score is earned if no such process exists.

48i. In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

YES | **NO**

**Comments:**

Companies are prohibited from participating in procurement bids if they are in breach of their tax obligations or have been declared bankrupt (Decree 2004-15 of Jan. 7, 2004, <http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=ECOZ0300023D>)

**References:**

There is no such prohibition.

**YES:** A YES score is earned if there are formal procurement blacklists, preventing convicted companies from doing business with the government.

**NO:** A NO score is earned if no such process exists.

48j. In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

100 | 75 | 50 | 25 | 0

**References:**

Beaugé, Thierry,  
Le nouveau code des marchés publics et la transparence,  
Transparence France, January 2004, <http://www.transparence-france.org/wlenouvcodmarchpubettransp.htm>;

Transparence France,  
La lettre de transparence, actualité judiciaire,  
March 2007,  
<http://www.transparence-france.org/LLT%2032%20.pdf>

**100:** A system of formal blacklists and cooling off periods is in place for companies convicted of corruption. All companies are subject to this system.

**75:**

**50:** A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some procurements or companies may not be affected by the system, or the prohibitions are sometimes not effective.

**25:**

**0:** There is no such system, or the system is consistently ineffective in prohibiting future hiring of blacklisted companies.

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#### 49. Can citizens access the public procurement process?

92

49a. In law, citizens can access public procurement regulations.

YES | NO

**References:**

Code des marchés publics (Public procurement code),  
<http://www.legifrance.gouv.fr/>

**YES:** A YES score is earned if procurement rules are, by law, open to the public. These regulations are defined here as the rules governing the competitive procurement process.

**NO:** A NO score is earned if procurement rules are officially secret for any reason or if there are no procurement rules.

49b. In law, the government is required to publicly announce the results of procurement decisions.

YES | NO

**References:**

Code des marchés publics (Public procurement code),

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

**YES:** A YES score is earned if the government is required to publicly post or announce the results of the public procurement process. This can be done through major media outlets or on a publicly-accessible government register or log.

**NO:** A NO score is earned if there is no requirement for the government to publicly announce the results of the public procurement process.

49c. In practice, citizens can access public procurement regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The rules governing the competitive procurement process can be obtained but there might be delays or impossibilities when information is sensitive.

**References:**

Code des marchés publics (Public procurement code),  
<http://www.legifrance.gouv.fr/>;

Beaugé, Thierry,  
Le nouveau code des marchés publics et la transparence,  
Transparence France, January 2004, <http://www.transparence-france.org/wlenouvcodmarchpubettransp.htm>

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information. These records are defined here as the rules governing the competitive procurement process.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

49d. In practice, citizens can access public procurement regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The rules governing the competitive procurement process can be obtained at no or little cost but there might be delays or impossibilities when information is sensitive.

**References:**

Code des marchés publics (Public procurement code),  
<http://www.legifrance.gouv.fr/>;

Beaugé, Thierry,  
Le nouveau code des marchés publics et la transparence,  
Transparence France, January 2004, <http://www.transparence-france.org/wlenouvcodmarchpubettransp.htm>

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line. These records are defined here as the rules governing the competitive procurement process.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

49e. In practice, major public procurements are effectively advertised.

100 | 75 | 50 | 25 | 0

**References:**

Beaugé, Thierry,  
Le nouveau code des marchés publics et la transparence,  
Transparence France, January 2004, <http://www.transparence-france.org/wlenouvcodmarchpubettransp.htm>;

Ministry of Finance,  
La publicité pour les marchés publics dun montant inférieur à 90.000 →  
HT, [http://www.minefi.gouv.fr/themes/marches\\_publics/outils/directions\\_services-daj-marches\\_publics-pub\\_site.php](http://www.minefi.gouv.fr/themes/marches_publics/outils/directions_services-daj-marches_publics-pub_site.php)  
<http://www.transparence-france.org/index.htm>

**100:** There is a formal process of advertising public procurements. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

**75:**

**50:** There is a formal process of advertisement but it is flawed. Some major procurements may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

**25:**

**0:** There is no formal process of advertising major public procurements or the process is superficial and ineffective.

49f. In practice, citizens can access the results of major public procurement bids.

100 | 75 | 50 | 25 | 0

**References:**

Beaugé, Thierry,  
Le nouveau code des marchés publics et la transparence,  
Transparence France, January 2004, <http://www.transparence-france.org/wlenouvcodmarchpubettransp.htm>;

Ministry of Finance,  
L'Observatoire économique de l'achat public, [http://www.minefi.gouv.fr/directions\\_services/daj/oeap/index.htm](http://www.minefi.gouv.fr/directions_services/daj/oeap/index.htm)

**100:** Records of public procurement results are publicly available through a formal process.

**75:**

**50:** Records of public procurements are available, but there are exceptions to this practice. Some information may not be available, or some citizens may not be able to access information.

**25:**

**0:** This information is not available to the public through an official process.

## IV-4. Privatization

50. Is the privatization process effective?

83

50a. In law, all businesses are eligible to compete for privatized state assets.

YES | NO

**References:**

Code des marchés publics (Public procurement code), article 1,  
<http://www.legifrance.gouv.fr/>

**YES:** A YES score is earned if all businesses are equally eligible to compete for privatized assets. A YES score is still earned if the government did not privatize any state-owned assets during the study period.

**NO:** A NO score is earned if any group of businesses (other than those blacklisted due to corruption charges) is excluded by law.

50b. In law, there are regulations addressing conflicts of interest for government officials involved in privatization.

YES | NO

**References:**

Penal Code, article 432-12, <http://www.legifrance.gouv.fr/WAspad/UnArticleDeCode?code=CPENALLL.rcv&art=432-12>

**YES:** A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for privatization officials. A YES score is earned if such regulations cover all civil servants, including privatization officials.

**NO:** A NO score is earned if there are no such formal regulations.

50c. In practice, conflicts of interest regulations for government officials involved in privatization are enforced.

100 | 75 | 50 | 25 | 0

**Comments:**

Conflict of interest regulations exist but leave some grey zones. Violations can be difficult to detect.

**References:**

Beaugé, Thierry,  
Le nouveau code des marchés publics et la transparence,  
Transparence France, January 2004, <http://www.transparence-france.org/wlenouvcodmarchpubettransp.htm>;

Transparence France,  
La lettre de transparence, actualité judiciaire, March 2007, <http://www.transparence-france.org/LLT%2032%20.pdf>

**100:** Regulations regarding conflicts of interest for privatization officials are aggressively enforced.

**75:**

**50:** Conflict of interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from the regulations.

**25:**

**0:** Conflict of interest regulations do not exist, or are consistently ineffective.

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## 51. Can citizens access the terms and conditions of privatization bids?

90

51a. In law, citizens can access privatization regulations.

YES | NO

### References:

Code des marchés publics (Public procurement code),  
<http://www.legifrance.gouv.fr/>

**YES:** A YES score is earned if privatization rules (defined here as the rules governing the competitive privatization process) are, by law, open to the public. Even if privatization is infrequent or rare, the most recent privatization should be used as the basis for scoring this indicator.

**NO:** A NO score is earned if privatization rules are officially secret for any reason or if there are no privatization rules.

51b. In practice, privatizations are effectively advertised.

100 | 75 | 50 | 25 | 0

### References:

Christian Nzaloussou,  
De l'exigence de la publicité et de sa mise en oeuvre en matière de marché public,  
Feb. 17, 2007,  
[http://www.legiweb.com/article.php3?id\\_article=87;](http://www.legiweb.com/article.php3?id_article=87;)

Ministry of Foreign Affairs,  
Press release, Ouverture du capital d'EDF-GDF, ht  
<tp://www.diplomatie.gouv.fr/>

**100:** There is a formal process of advertising privatizations. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

**75:**

**50:** There is a formal process of advertisement but it is flawed. Some privatizations may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

**25:**

**0:** There is no formal process of advertising privatizations or the process is superficial and ineffective.

51c. In law, the government is required to publicly announce the results of privatization decisions.

YES | NO

**References:**

Code des marchés publics (Public procurement code),  
<http://www.legifrance.gouv.fr/>

**YES:** A YES score is earned if the government is required to publicly post or announce the results of the privatization process. This can be done through major media outlets or on a publicly-accessible government register or log.

**NO:** A NO score is earned if there is no requirement for the government to publicly announce the results of the privatization process.

51d. In practice, citizens can access privatization regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The rules governing the competitive privatization process can be obtained but there might be delays or impossibilities when information is sensitive.

**References:**

Code des marchés publics (Public procurement code),  
<http://www.legifrance.gouv.fr/>;

Beaugé, Thierry,  
Le nouveau code des marchés publics et la transparence,  
Transparence France, January 2004, <http://www.transparence-france.org/wlenouvcodmarchpubettransp.htm>

**100:** Records (defined here as the rules governing the competitive privatization process) are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

51e. In practice, citizens can access privatization regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The rules governing the competitive privatization process can be obtained at no or little cost but there might be delays or impossibilities when information is sensitive.

**References:**

Code des marchés publics (Public procurement code),  
<http://www.legifrance.gouv.fr/>;

Beaugé, Thierry,  
Le nouveau code des marchés publics et la transparence,

**100:** Records (defined here as the rules governing the competitive privatization process) are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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## Category V. Oversight and Regulation

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### V-1. <sup>81</sup>National Ombudsman

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52. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

100

52. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

YES | NO

**References:**

The tribunals can be competent to judge the action of the administration and abuses of power. There is nonetheless a specific Ombudsman-like institution in France called Mediateur de la Republique. It was created by the Law of Jan. 3, 1973, later amended by the Laws of Dec. 24, 1976, Jan. 13, 1989, and April 12, 2000.

**YES:** A YES score is earned if there is a specific agency or set of agencies whose primary mandate is to investigate the actions of government on the behalf of common citizens. This agency or set of agencies should be specifically charged with seeking out and documenting abuses of power.

**NO:** A NO score is earned if no such agency or set of agencies exists, or that function is a secondary concern of a larger body, such as the legislature.

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53. Is the national ombudsman effective?

73

53a. In law, the ombudsman is protected from political interference.

YES | NO

**Comments:**

The law of Jan. 13, 1989 states that the Mediateur is an 'independent authority'. It cannot receive orders from other authorities.

**References:**

Laws of Jan. 3, 1973 , Dec. 24, 1976, Jan. 13, 1989 and April 12, 2000.

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

**YES:** A YES score is earned only if the agency (or set of agencies) has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**NO:** A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

53b. In practice, the ombudsman is protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

The mediateur is appointed by the president of the Republic.

**References:**

René Chapus,

Droit Administratif Général,

Tome 1, 15e edition, 2001, Montchrestien, p.463;

Web-site of the Senate,

[http://www.senat.fr/senfic/delevoye\\_jean\\_paul92017r.html](http://www.senat.fr/senfic/delevoye_jean_paul92017r.html)

**100:** This agency (or set of agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information. .

**75:**

**50:** This agency (or set of agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include public criticism or praise by the government. The ombudsman may not be provided with some information needed to carry out its investigations.

**25:**

**0:** This agency (or set of agencies) is commonly influenced by political or personal incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The ombudsman cannot compel the government to reveal sensitive information.

53c. In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

**References:**

René Chapus,

Droit Administratif Général,

Tome 1, 15e edition, 2001, Montchrestien

Médiateur de la République, Le statut du Médiateur de la République, <http://www.mediateur-republique.fr/fr-citoyen-01-01-04>

**100:** The director of the ombudsman (or directors of multiple agencies) serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director of the ombudsman (or directors of multiple agencies) serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director of the ombudsman (or directors of multiple agencies) can be removed at the will of political leadership.

53d. In practice, the ombudsman agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The delegates of the mediateur are volunteers, active or retired.

In the 2006 hearings before the Senate, the mediateur highlighted that the Organic Law of Aug. 1, 2001, (abbreviated LOLF) made it more complex and expensive to resort to detached civil servants, thereby raising issues in terms of human resources management.

**References:**

Web-site of the Mediateur

<http://www.mediateur-republique.fr/en-citoyen-03-00>;

Hearing of the Mediateur Jean-Paul Delevoye before the Commission of Laws of the Senate, April 12, 2006,

<http://www.senat.fr/bulletin/20060410/lois.html>

**100:** The ombudsman agency (or agencies) has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The ombudsman agency (or agencies) has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The ombudsman agency (or agencies) has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

53e. In practice, agency appointments support the independence of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

**Comments:**

The mediateur is not a jurisdictional institution but an administrative authority. Unlike some countries where the Ombudsman is appointed by Parliament, the French mediateur is appointed by Decree of the president of the Republic (décret du Président de la République en Conseil des Ministres). This direct nomination by the president means that partisanship considerations can easily influence the choice. Thus, the current Mediateur has been an important figure of the Gaullist party. The mediateur's delegates are chosen by the mediateur.

**References:**

René Chapus,

Droit Administratif Général,

Tome 1, 15e edition, 2001, Montchrestien;

Jean-François Lachaume,

Droit Administratif, 13e edition, 2002, Presses Universitaires de France

**100:** Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

53f. In practice, the ombudsman agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

**References:**

Hearing of the Mediateur Jean-Paul Delevoye before the Commission of Laws of the Senate, April 12, 2006,

<http://www.senat.fr/bulletin/20060410/lois.html>;

Senat,

Legislative report, Les autorités administratives indépendantes: des dotations en légère baisse, <http://senat.fr/rap/I04-074-329/I04-074-3294.html>

**100:** The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

53g. In practice, the ombudsman agency (or agencies) makes publicly available reports.

100 | 75 | 50 | 25 | 0

**Comments:**

The mediateur produces public annual reports. They are downloadable on the internet and can be requested by phone. The law also lists circumstances in which the mediateur writes a special report to be published in the Journal Officiel (for example, in case of non-execution of a judgement by the administration).

**References:**

Web-site of the Mediateur

<http://www.mediateur-republique.fr/>;

Request directed to the mediateur's office

**100:** The agency (or agencies) makes regular, publicly available, substantial reports either to the legislature or directly to the public outlining the full scope of its work.

**75:**

**50:** The agency (or agencies) makes publicly available reports to the legislature and/or directly to the public that are sometimes delayed or incomplete.

**25:**

**0:** The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

53h. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.

100 | 75 | 50 | 25 | 0

**References:**

Hearing of the Mediateur Jean-Paul Delevoye before the Commission of Laws of the Senate,  
April 12, 2006,  
<http://www.senat.fr/bulletin/20060410/lois.html>;

René Chapus,  
Droit Administratif Général,  
Tome 1, 15e edition, 2001, Montchrestien

Mediateur de la Republique,  
Les moyens pour agir,  
<http://www.mediateur-republique.fr/fr-citoyen-01-01-03>

**100:** The agency aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The agency is fair in its application of this power.

**75:**

**50:** The agency will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

**25:**

**0:** The agency rarely investigates on its own or cooperates in other agencies' investigations, or the agency is partisan in its application of this power.

53i. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

The ombudsman's primary role is one of reconciliation, not one of penalizing. When reconciliation cannot be reached the case is usually forwarded to other institutions or agencies.

**References:**

René Chapus,  
Droit Administratif Général,  
Tome 1, 15e edition, 2001, Montchrestien

Mediateur de la Republique,  
Les moyens pour agir,  
<http://www.mediateur-republique.fr/fr-citoyen-01-01-03>

**100:** When rules violations are discovered, the agency is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

**75:**

**50:** The agency enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency does not effectively penalize offenders. The agency may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

53j. In practice, the government acts on the findings of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

**Comments:**

The recommendations of the mediateur have triggered several legal reforms, for example regarding social benefits for children or the prevention of forced marriages.

**References:**

Hearing of the Mediateur Jean-Paul Delevoye before the Commission of Laws of the Senate, April 12, 2006, <http://www.senat.fr/bulletin/20060410/lois.html>;

Web-site of the Mediateur. For 2006 see <http://www.mediateur-republique.fr/page.php?lg=fr&rub=06&srub=02&ssrub=00> (French).

**100:** Ombudsman's reports are taken seriously, with negative findings drawing prompt corrective action.

**75:**

**50:** In most cases, ombudsman's reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

**25:**

**0:** Ombudsman reports are often ignored, or given superficial attention. Ombudsman reports do not lead to policy changes.

53k. In practice, the ombudsman agency (or agencies) acts on citizen complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The mediateur reported during the 2006 hearings before the Senate that reactivity and promptness are priorities, with a reply time comprised between three days and three weeks.

**References:**

Hearing of the Mediateur Jean-Paul Delevoye before the Commission of Laws of the Senate, April 12, 2006, <http://www.senat.fr/bulletin/20060410/lois.html>;

Mediateur de la Republique, Quel est le délai de traitement d'un dossier présenté au Médiateur ou à l'un de ses Délégués?, <http://www.mediateur-republique.fr/fr-citoyen-11-Question0009#faq>

**100:** The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

---

## 54. Can citizens access the reports of the ombudsman?

54a. In law, citizens can access reports of the ombudsman(s).

YES | NO

**Comments:**

The mediateur produces public annual reports. The law also lists circumstances in which the mediateur writes a special report to be published in the Journal Officiel (for example, in case of non-execution of a judgement by the administration).

**References:**

Laws of Jan. 3, 1973, Dec. 24, 1976, Jan. 13, 1989 and April 12, 2000  
<http://www.legifrance.gouv.fr/>

**YES:** A YES score is earned if all ombudsman reports are publicly available.

**NO:** A NO score is earned if any ombudsman reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute the reports.

54b. In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Annual reports are published on the Internet (<http://www.mediateur-republique.fr/page.php?lg=en&rub=08>). They can also be requested by telephone. In the present case, the report requested by phone on a Thursday arrived the following Tuesday.

**References:**

Web-site of the mediateur  
<http://www.mediateur-republique.fr;>

Request directed to the mediateur's office

**100:** Reports are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Reports take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Reports take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

54c. In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Reports are freely downloadable on the website (<http://www.mediateur-republique.fr/page.php?lg=en&rub=08>) and available in French and English.  
A paper copy can be obtained for free, simply at the cost of a phone call when making the request by phone, or after an email request.

**References:**

Web-site of the mediateur

<http://www.mediateur-republique.fr/>

Request directed to the mediateur's office

**100:** Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Reports impose a financial burden on citizens, journalists or CSOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving reports imposes a major financial burden on citizens. Reports costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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## V-2. Supreme Audit Institution

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55. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

100

55. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

YES | NO

**References:**

The supreme audit institution is the Cour des Comptes.

It was created by the law of Sept. 16, 1807 (<http://www.ccomptes.fr/CC/documents/divers/LoiDu16091807.pdf>). It is governed by the law of June 22, 1967, the decree of Feb. 11, 1985, the law 2006-769 of July 1, 2006 and other provisions which have been incorporated into the Code of Financial Jurisdictions (<http://www.legifrance.gouv.fr/>).

**YES:** A YES score is earned if there is a specific agency whose primary mandate is to audit and track the movement of money through the government. This agency should be specifically charged to investigate and document the misuse of funds. A system of agencies located in each department is equivalent.

**NO:** A NO score is earned if no such agency exists, or that function is a secondary concern of a larger body, such as the executive.

---

56. Is the supreme audit institution effective?

84

56a. In law, the supreme audit institution is protected from political interference.

YES | NO

**Comments:**

The decision of the Constitutional Council amounts to a constitutional provision.

**References:**

Decision 2001-448 DC of July 25, 2001 of the Constitutional Council <http://www.conseil-constitutionnel.fr/decision/2001/2001448/2001448dc.htm>;

Code of Financial Jurisdictions

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

**YES:** A YES score is earned only if the agency has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**NO:** A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

56b. In practice, the head of the audit agency is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

**References:**

Official web-site,

<http://www.ccomptes.fr/CC/Organisation.html>;

Senat,

Projet de loi portant dispositions statutaires applicables aux membres de la Cour des comptes,  
June 2006,

<http://www.senat.fr/rap/l05-410/l05-410.html>

**100:** The director of the agency serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director of the agency serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director of the agency can be removed at the will of political leadership.

56c. In practice, the audit agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**References:**

Cour des Comptes,  
rapport public annuel 2007,

<http://www.ccomptes.fr/CC/Sommaire-3.html>;

Assemblée Nationale,

Rapport sur le projet de loi portant dispositions statutaires applicables aux membres de la Cour des comptes,  
May 17, 2006,

<http://www.assemblee-nat.com/12/rapports/r3090.asp>

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

56d. In practice, audit agency appointments support the independence of the agency.

100 | 75 | 50 | 25 | 0

**References:**

Intervention de Jean Arthuis au Sénat en réponse au premier président de la Cour des comptes,  
Feb. 22, 2006,  
[http://www.udf.org/discours/arthuis\\_220206.html](http://www.udf.org/discours/arthuis_220206.html);

Cour des Comptes,  
rapport public annuel 2007,  
<http://www.ccomptes.fr/CC/Sommaire-3.html>;

Assemblée Nationale,  
Rapport sur le projet de loi portant dispositions statutaires applicables aux membres de la Cour des comptes,  
May 17, 2006,  
<http://www.assemblee-nat.com/12/rapports/r3090.asp>

**100:** Appointments to the agency are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

56e. In practice, the audit agency receives regular funding.

100 | 75 | 50 | 25 | 0

**References:**

Cour des Comptes,  
Rapport public annuel 2007,  
<http://www.ccomptes.fr/CC/Sommaire-3.html>;

Assemblée Nationale,  
Rapport sur le projet de loi portant dispositions statutaires applicables aux membres de la Cour des comptes,  
May 17, 2006,  
<http://www.assemblee-nat.com/12/rapports/r3090.asp>

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

56f. In practice, the audit agency makes regular public reports.

100 | 75 | 50 | 25 | 0

**References:**

Cour des Comptes,  
Rapport public annuel 2007,  
<http://www.ccomptes.fr/CC/Sommaire-3.html>;

Assemblée Nationale,  
Rapport sur le projet de loi portant dispositions statutaires applicables aux membres de la Cour des comptes,  
May 17, 2006,  
<http://www.assemblee-nat.com/12/rapports/r3090.asp>

**100:** The agency makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

**75:**

**50:** The agency makes publicly available reports to the legislature and/or to the public directly that are sometimes delayed or incomplete.

**25:**

**0:** The agency makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

56g. In practice, the government acts on the findings of the audit agency.

100 | 75 | 50 | 25 | 0

**References:**

Cour des Comptes,  
Rapport public annuel 2007,  
<http://www.ccomptes.fr/CC/Sommaire-3.html>;

Assemblée Nationale,  
Rapport sur le projet de loi portant dispositions statutaires applicables aux membres de la Cour des comptes,  
May 17, 2006,  
<http://www.assemblee-nat.com/12/rapports/r3090.asp>

Senat,  
Rapport sur l'enquête de la Cour des comptes relative aux frais de justice pénale, 2006, <http://senat.fr/rap/r05-216/r05-2160.html>

**100:** Audit agency reports are taken seriously, with negative findings drawing prompt corrective action.

**75:**

**50:** In most cases, audit agency reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

**25:**

**0:** Audit reports are often ignored, or given superficial attention. Audit reports do not lead to policy changes.

56h. In practice, the audit agency is able to initiate its own investigations.

100 | 75 | 50 | 25 | 0

**References:**

Cour des Comptes,  
Rapport public annuel 2007,  
<http://www.ccomptes.fr/CC/Sommaire-3.html>;

Assemblée Nationale,  
Rapport sur le projet de loi portant dispositions statutaires applicables aux membres de la Cour des comptes,  
May 17, 2006,  
<http://www.assemblee-nat.com/12/rapports/r3090.asp>

Senat,  
Rapport sur l'enquête de la Cour des comptes relative aux frais de justice pénale, 2006, <http://senat.fr/rap/r05-216/r05-2160.html>

**100:** The supreme audit institution can control the timing and pace of its investigations without any input from the executive or legislature.

**75:**

**50:** The supreme audit institution can generally decide what to investigate, and when, but is subject to pressure from the executive or legislature on politically sensitive issues.

**25:**

**0:** The supreme audit institution must rely on approval from the executive or legislature before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

---

## 57. Can citizens access reports of the supreme audit institution?

50

57a. In law, citizens can access reports of the audit agency.

YES | NO

**Comments:**

The Cour des Comptes produces reports for public distribution. It also produces specific reports ('rapports particuliers') not intended for public distribution. The latter regards the management of publicly-owned companies.

**References:**

Article 135-3 of the Code of Financial Institutions, <http://www.legifrance.gouv.fr/WAspad/RechercheSimpleArticleCode?code=CJURFINL.rcv&art=L135-3&indice=0>

**YES:** A YES score is earned if all supreme auditor reports are available to the general public.

**NO:** A NO score is earned if any auditor reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute.

57b. In practice, citizens can access audit reports within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Those reports which are intended for public distribution are available for free on the web-site or upon request.

**References:**

Web-site of the Cour des Comptes,  
<http://www.ccomptes.fr/CC/Missions.html>;

Cour des Comptes,  
Rapport d'Activités 2006,  
<http://www.ccomptes.fr/CC/documents/divers/RapportActiviteCour2006.pdf>;

Cour des Comptes,  
Rapport sur la Situation et les Perspectives des Finances Publiques, June  
2007, <http://www.ccomptes.fr/CC/documents/RSFPE/RSPFP-v2.pdf>

**100:** Reports are available on-line, or records can be obtained within two days. Reports are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Reports take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Reports take more than a month to acquire. In some cases, most reports may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

57c. In practice, citizens can access the audit reports at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Those reports which are intended for public distribution are available for free on the web-site or upon request.

**References:**

Web-site of the Cour des Comptes,  
<http://www.ccomptes.fr/CC/Missions.html>;

Cour des Comptes,  
Rapport d'Activités 2006, <http://www.ccomptes.fr/CC/documents/divers/RapportActiviteCour2006.pdf>;

Cour des Comptes,  
Rapport sur la Situation et les Perspectives des Finances Publiques, June  
2007, <http://www.ccomptes.fr/CC/documents/RSFPE/RSPFP-v2.pdf>

**100:** Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Reports impose a financial burden on citizens, journalists or CSOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving reports imposes a major financial burden on citizens. Report costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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78  
V-3. Taxes and Customs

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58. In law, is there a national tax collection agency?

58. In law, is there a national tax collection agency?

YES | NO

**References:**

Tresor Public (Treasury),  
<http://www.impots.gouv.fr/>

**YES:** A YES score is earned if there is a national agency formally mandated to collect taxes.

**NO:** A NO score is earned if that function is spread over several agencies, or does not exist. A NO score is earned if national government ministries can collect taxes independently.

---

59. Is the tax collection agency effective?

88

59a. In practice, the tax collection agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**References:**

Direction Générale des Impôts,  
Rapport annuel de performance 2006, [http://www2.impots.gouv.fr/documentation/rapports/activites/dgi/2006/dgi\\_intro.htm](http://www2.impots.gouv.fr/documentation/rapports/activites/dgi/2006/dgi_intro.htm);

Direction Générale de la Comptabilité Publique,  
Rapport annuel de performance 2006

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

59b. In practice, the tax agency receives regular funding.

100 | 75 | 50 | 25 | 0

**References:**

Direction Générale des Impôts,  
Rapport annuel de performance 2006, [http://www2.impots.gouv.fr/documentation/rapports/activites/dgi/2006/dgi\\_intro.htm](http://www2.impots.gouv.fr/documentation/rapports/activites/dgi/2006/dgi_intro.htm);

Direction Générale de la Comptabilité Publique,  
Rapport annuel de performance 2006

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

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## 60. In practice, are tax laws enforced uniformly and without discrimination?

75

60. In practice, are tax laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

### References:

Alvaro Gil-Robles,  
Commissioner for Human Rights, Report on the effective Respect for Human Rights in France, February 2006,  
<http://www.libertysecurity.org/article837.html>;

Direction Générale des Impôts,  
Rapport annuel de performance 2006, [http://www2.impots.gouv.fr/documentation/rapports/activites/dgi/2006/dgi\\_intro.htm](http://www2.impots.gouv.fr/documentation/rapports/activites/dgi/2006/dgi_intro.htm)

**100:** Tax laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade tax law than another.

**75:**

**50:** Tax laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade tax law. Some arbitrary and discriminatory tax rules exist.

**25:**

**0:** Tax law is unequally applied. Some groups of citizens are consistently more or less likely to evade tax law than others. Tax regulations are, as a rule, written to be discriminatory and/or arbitrary.

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## 61. In law, is there a national customs and excise agency?

100

61. In law, is there a national customs and excise agency?

YES | NO

### References:

Administration des Douanes, Code des Douanes (Customs and Excise Code), <http://www.legifrance.gouv.fr/>

**YES:** A YES score is earned if there is an agency formally mandated to collect excises and inspect customs.

**NO:** A NO score is earned if that function is spread over several agencies, or does not exist.

---

## 62. Is the customs and excise agency effective?

88

62a. In practice, the customs and excise agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

### References:

Syndicat National des Cadres des Douanes,  
La voix des cadres des douanes no 126, 2007,  
[www.sncd.info/vdc126.html](http://www.sncd.info/vdc126.html);

CFDT Finances, Dépêche 07/030, Grâce aux Echos : la douane sait où elle va !,  
May 2007,  
<http://www.cfdt-finances.fr/Douanes/depeche/depeche07-030.htm>;

La loi de finances pour 2007, [http://www.performance-publique.gouv.fr/cout\\_politique/loi\\_finances/2007/](http://www.performance-publique.gouv.fr/cout_politique/loi_finances/2007/)

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

62b. In practice, the customs and excise agency receives regular funding.

100 | 75 | 50 | 25 | 0

### References:

La loi de finances pour 2007, [http://www.performance-publique.gouv.fr/cout\\_politique/loi\\_finances/2007/](http://www.performance-publique.gouv.fr/cout_politique/loi_finances/2007/);

Syndicat National des Cadres des Douanes,  
La voix des cadres des douanes no 126, 2007,  
[www.sncd.info/vdc126.html](http://www.sncd.info/vdc126.html)

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

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## 63. In practice, are customs and excise laws enforced uniformly and without discrimination?

75

63. In practice, are customs and excise laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

**References:**

Alvaro Gil-Robles, commissioner for Human Rights,  
Report on The Effective Respect for Human Rights in France,  
February 2006,  
<http://www.libertysecurity.org/article837.html>;

Commission Nationale de Déontologie de la Sécurité,  
Rapport Annuel 2006,  
<http://www.cnds.fr/pages/ra.htm>

**100:** Customs and excise laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade customs than another.

**75:**

**50:** Customs and excise laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade customs requirements.

**25:**

**0:** Customs and excise laws are unequally applied. Some groups of citizens are consistently more or less likely to evade customs and excise laws than others.

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#### V-4. State-Owned Enterprises

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64. In law, is there an agency or equivalent mechanism overseeing state-owned companies?

100

64. In law, is there an agency or equivalent mechanism overseeing state-owned companies?

YES | NO

**References:**

The mechanisms for the supervision for state-owned companies (called tutelle) are complex and involve various public authorities depending on what is being supervised (operations, routine supervision, appointments...). The main authorities involved are the president of the Republic, the prime minister, the minister of Finance, government commissioners, inspection bodies, the Financial Court, Parliament...

**YES:** A YES score is earned if there is an agency or equivalent mechanism tasked with overseeing the conduct and performance of state-owned companies on behalf of the public. State-owned companies are defined as companies owned in whole or in part by the government.

**NO:** A NO score is earned if this function does not exist.

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65. Is the agency or equivalent mechanism overseeing state-owned companies effective?

45

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65a. In law, the agency or equivalent mechanism overseeing state-owned companies is protected from political interference.

YES | NO

**Comments:**

The mechanisms are diverse. Protection from political interference is not always possible.

**References:**

There is no such law.

**YES:** A YES score is earned only if the agency or equivalent mechanism has some formal operational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**NO:** A NO score is earned if the agency or equivalent mechanism is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

65b. In practice, the agency or equivalent mechanism overseeing state-owned companies has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The mechanisms for the supervision for state-owned companies, called tutelle, are complex and involve various public authorities (president of the Republic, the prime minister, the minister of Finance, government commissioners, inspection bodies, the Financial Court, Parliament).

**References:**

Ariane Amson,  
Le gouvernement d'entreprise dans les entreprises publiques,  
April 1, 2005, <http://www.melchior.fr/melchior/melchior.nsf/allbyID/91F199BA4219BD1CC1256FD500454DB5>

**100:** The agency or equivalent mechanism has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency or equivalent mechanism has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency or equivalent mechanism has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

65c. In practice, the agency or equivalent mechanism overseeing state-owned companies receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

The mechanisms and bodies are diverse. They have regular sources of funding but the proportion of funds attached to the oversight of state-owned companies is not always sufficient. As part of a general cut in public expenditure, there are threats of budget cuts.

**References:**

Ariane Amson,  
Le gouvernement d'entreprise dans les entreprises publiques,  
April 1, 2005, <http://www.melchior.fr/melchior/melchior.nsf/allbyID/91F199BA4219BD1CC1256FD500454DB5>

**100:** The the agency or equivalent mechanism has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The the agency or equivalent mechanism has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

65d. In practice, when necessary, the agency or equivalent mechanism overseeing state-owned companies independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

Powers to initiate investigations are not always fully exercised and do not always develop into far-reaching investigations. Investigations and their results are not always visible to the public. There can be difficulties in cooperating with other agencies.

**References:**

Ariane Amson,  
Le gouvernement d'entreprise dans les entreprises publiques,  
April 1, 2005, <http://www.melchior.fr/melchior/melchior.nsf/allbyID/91F199BA4219BD1CC1256FD500454DB5>

**100:** When irregularities are discovered, the agency or equivalent mechanism is aggressive in investigating and/or in cooperating with other investigative bodies.

**75:**

**50:** The agency or equivalent mechanism starts investigations, but is limited in its effectiveness or in its cooperation with other investigative agencies. The agency may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency or equivalent mechanism does not effectively investigate financial irregularities or cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

65e. In practice, when necessary, the agency or equivalent mechanism overseeing state-owned companies imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

The mechanisms and bodies are diverse. Some make recommendations but do not have the power to impose penalties. Investigations which threaten powerful offenders are usually slow and rarely result in significant penalties.

**References:**

Ariane Amson,  
Le gouvernement d'entreprise dans les entreprises publiques,  
April 1, 2005, <http://www.melchior.fr/melchior/melchior.nsf/allbyID/91F199BA4219BD1CC1256FD500454DB5>

**100:** When rules violations are discovered, the agency or equivalent mechanism is aggressive in penalizing offenders and/or in cooperating with other agencies that impose penalties.

**75:**

**50:** The agency or equivalent mechanism enforces rules, but is limited in its effectiveness or reluctant to cooperate with other agencies. The agency may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency or equivalent mechanism does not effectively penalize offenders or refuses to cooperate with other agencies that enforce penalties. The agency may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

## 66. Can citizens access the financial records of state-owned companies?

35

66a. In law, citizens can access the financial records of state-owned companies.

YES | NO

### References:

There is no such law.

**YES:** A YES score is earned if the financial information of all state-owned companies is required by law to be public. State-owned companies are defined as companies owned in whole or in part by the government.

**NO:** A NO score is earned if any category of state-owned company is exempt from this rule, or no such rules exist.

66b. In practice, the financial records of state-owned companies are regularly updated.

100 | 75 | 50 | 25 | 0

### Comments:

State-owned companies disclose financial data but it is usually succinct, published late and hardly understandable for the public when they can obtain it.

### References:

Senat,

Le président de la commission des finances du sénat se félicite de la première publication des comptes combinés des entreprises publiques,

Nov. 16, 2004,

<http://www.senat.fr/presse/cp20041116.html>;

Cour des Comptes,

Rapport sur la situation et les perspectives des finances publiques, June 2007,

<http://www.ccomptes.fr/CC/documents/RSFPE/RSPFP-v2.pdf>

**100:** State-owned companies always disclose financial data, which is generally accurate and up to date.

**75:**

**50:** State-owned companies disclose financial data, but it is flawed. Some companies may misstate financial data, or file the information behind schedule.

**25:**

**0:** Financial data is not available, or is consistently superficial or otherwise of no value.

66c. In practice, the financial records of state-owned companies are audited according to international accounting standards.

100 | 75 | 50 | 25 | 0

**Comments:**

Financial records are sometimes audited according to international standards. But this is no automatic guarantee that the financial records provided are truthful, that every relevant piece of information has been disclosed or that there is no collusion between the audited company and the audit company.

**References:**

Senat,

Le président de la commission des finances du sénat se félicite de la première publication des comptes combinés des entreprises publiques,

Nov. 16, 2004,

<http://www.senat.fr/presse/cp20041116.html>;

Cour des Comptes,

Rapport sur la situation et les perspectives des finances publiques, June 2007,

<http://www.ccomptes.fr/CC/documents/RSFPE/RSPFP-v2.pdf>;

Capron, Michael (ed)

Les normes comptables internationales, instruments du capitalisme financier,

Editions La Découverte, Paris, 2005

**100:** Financial records of all state-owned companies are regularly audited by a trained third party auditor using accepted international standards.

**75:**

**50:** Financial records of state-owned companies are regularly audited, but exceptions may exist. Some companies may use flawed or deceptive accounting procedures, or some companies may be exempted from this requirement.

**25:**

**0:** State-owned companies are not audited, or the audits have no functional value. The auditors may collude with the companies in providing misleading or false information to the public.

66d. In practice, citizens can access the financial records of state-owned companies within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Records of state-owned companies can be difficult to obtain and the records obtained can be incomplete.

**References:**

Senat,

Le président de la commission des finances du sénat se félicite de la première publication des comptes combinés des entreprises publiques,

Nov. 16, 2004,

<http://www.senat.fr/presse/cp20041116.html>;

Cour des Comptes,

Rapport sur la situation et les perspectives des finances publiques, June 2007,

<http://www.ccomptes.fr/CC/documents/RSFPE/RSPFP-v2.pdf>;

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

66e. In practice, citizens can access the financial records of state-owned companies at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Records of state-owned companies can be difficult to obtain and the records obtained can be incomplete.

**References:**

Senat,  
Le président de la commission des finances du sénat se félicite de la première publication des comptes combinés des entreprises publiques,  
Nov. 16, 2004,  
<http://www.senat.fr/presse/cp20041116.html>;

Cour des Comptes,  
Rapport sur la situation et les perspectives des finances publiques, June 2007,  
<http://www.ccomptes.fr/CC/documents/RSFPE/RSPFP-v2.pdf>;

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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60  
V-5. Business Licensing and Regulation

---

67. Are business licenses available to all citizens?

88

67a. In law, anyone may apply for a business license.

YES | NO

**References:**

Code de Commerce,  
<http://www.legifrance.gouv.fr/>

**YES:** A YES score is earned if no particular group or category of citizens is excluded from applying for a business license, when required. A YES score is also earned if basic business licenses are not required.

**NO:** A NO score is earned if any group of citizens are categorically excluded from applying for a business license, when required

67b. In law, a complaint mechanism exists if a business license request is denied.

YES | NO

**Comments:**

Most activities do not require a license. For those activities which require it, refusal to grant it is a decision of the administration, which can be challenged in court.

**References:**

Jurisprudence of the Conseil d'Etat.

**YES:** A YES score is earned if there is a formal process for appealing a rejected license.

**NO:** A NO score is earned if no such mechanism exists.

67c. In practice, citizens can obtain any necessary business license (i.e. for a small import business) within a reasonable time period.

100 | 75 | 50 | 25 | 0

**References:**

Agence française pour les investissements internationaux,  
Doing business in France, July 2006, [http://www.afii.fr/France/Newsroom/Publications/publication\\_2006-10-03\\_fr.pdf](http://www.afii.fr/France/Newsroom/Publications/publication_2006-10-03_fr.pdf);

Agence pour la création d'entreprises,  
Les formalités de création,  
June 2007,  
<http://www.apce.com/pid224/8-les-formalites-de-creation.html>;

The World Bank Group,  
Doing Business in France, 2006,  
<http://www.doingbusiness.org/ExploreEconomies/?economyid=70>

**100:** Licenses are not required, or licenses can be obtained within roughly one week.

**75:**

**50:** Licensing is required and takes around one month. Some groups may be delayed up to a three months

**25:**

**0:** Licensing takes more than three months for most groups. Some groups may wait six months to one year to get necessary licenses.

67d. In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.

100 | 75 | 50 | 25 | 0

**References:**

Agence française pour les investissements internationaux,  
Doing business in France, July 2006, [http://www.afii.fr/France/Newsroom/Publications/publication\\_2006-10-03\\_fr.pdf](http://www.afii.fr/France/Newsroom/Publications/publication_2006-10-03_fr.pdf);

Agence pour la création d'entreprises,  
Les formalités de création, June 2007,  
<http://www.apce.com/pid224/8-les-formalites-de-creation.html>;

**100:** Licenses are not required, or licenses are free. Licenses can be obtained at little cost to the organization, such as by mail, or on-line.

**75:**

**50:** Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

---

68. Are there transparent business regulatory requirements for basic health, environmental, and safety standards?

100

68a. In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.

YES | NO

**References:**

Code du travail (Labor Code),  
Partie réglementaire – décrets en Conseil d'Etat, Livre 2, Titre 3;

Code de la santé publique (Public Health Code),  
<http://www.legifrance.gouv.fr>

**YES:** A YES score is earned if basic regulatory requirements for meeting public health standards are publicly accessible and transparent.

**NO:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

68b. In law, basic business regulatory requirements for meeting public environmental standards are transparent and publicly available.

YES | NO

**References:**

Code du travail (Labor Code),  
Partie réglementaire – décrets en Conseil d'Etat, Livre 2, Titre 3;

Code de la santé publique (Public Health Code);

Code de l'environnement (Environment Code),  
<http://www.legifrance.gouv.fr>

**YES:** A YES score is earned if basic regulatory requirements for meeting public environmental standards are publicly accessible and transparent.

**NO:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

68c. In law, basic business regulatory requirements for meeting public safety standards are transparent and publicly available.

YES | NO

**References:**

Code du travail (Labor Code),  
Partie réglementaire – décrets en Conseil d'Etat, Livre 2, Titre 3;

Code de la santé publique (Public Health Code),  
<http://www.legifrance.gouv.fr>

**YES:** A YES score is earned if basic regulatory requirements for meeting public safety standards are publicly accessible and transparent.

**NO:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

---

69. Does government effectively enforce basic health, environmental, and safety standards on businesses?

75

69a. In practice, business inspections by government officials to ensure public health standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

**References:**

Ministère de l'Emploi du Travail et de la Cohésion Sociale,  
Plan Santé au Travail 2005-2009, [http://www.fnath.org/actions\\_revendicatives/PST\\_2005\\_2009\\_17.02.05.pdf](http://www.fnath.org/actions_revendicatives/PST_2005_2009_17.02.05.pdf);

L'Agence française de sécurité sanitaire de l'environnement et du travail,  
Plan national santé environnement : évaluation à mi-parcours, July 2007, [http://www.sante-environnement-travail.fr/IMG/pdf/CODEV\\_Rapport.pdf](http://www.sante-environnement-travail.fr/IMG/pdf/CODEV_Rapport.pdf);

Conseil Supérieur de Prévention des Risques Professionnels,  
Bilan et perspectives de la santé au travail 2004-2005, June 2005, [http://www.travail-solidarite.gouv.fr/IMG/pdf/20050620\\_dp\\_CSPRP.pdf](http://www.travail-solidarite.gouv.fr/IMG/pdf/20050620_dp_CSPRP.pdf)

**100:** Business inspections by the government to ensure that public health standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

**75:**

**50:** Business inspections by the government to ensure public health standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

**25:**

**0:** Business inspections to ensure that public health standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

69b. In practice, business inspections by government officials to ensure public environmental standards are being met are carried out in a uniform and even-handed manner.

**References:**

Ministère de l'Emploi du Travail et de la Cohésion Sociale,  
Plan Santé au Travail 2005-2009, [http://www.fnath.org/actions\\_revendicatives/PST\\_2005\\_2009\\_17.02.05.pdf](http://www.fnath.org/actions_revendicatives/PST_2005_2009_17.02.05.pdf);

L'Agence française de sécurité sanitaire de l'environnement et du travail,  
Plan national santé environnement : évaluation à mi-parcours, July 2007, [http://www.sante-environnement-travail.fr/IMG/pdf/CODEV\\_Rapport.pdf](http://www.sante-environnement-travail.fr/IMG/pdf/CODEV_Rapport.pdf);

Conseil Supérieur de Prévention des Risques Professionnels,  
Bilan et perspectives de la santé au travail 2004-2005, June 2005, [http://www.travail-solidarite.gouv.fr/IMG/pdf/20050620\\_dp\\_CSPRP.pdf](http://www.travail-solidarite.gouv.fr/IMG/pdf/20050620_dp_CSPRP.pdf)

**100:** Business inspections by the government to ensure that public environmental standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

**75:**

**50:** Business inspections by the government to ensure public environmental standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

**25:**

**0:** Business inspections to ensure that public environmental standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

69c. In practice, business inspections by government officials to ensure public safety standards are being met are carried out in a uniform and even-handed manner.

**References:**

Ministère de l'Emploi du Travail et de la Cohésion Sociale,  
Plan Santé au Travail 2005-2009, [http://www.fnath.org/actions\\_revendicatives/PST\\_2005\\_2009\\_17.02.05.pdf](http://www.fnath.org/actions_revendicatives/PST_2005_2009_17.02.05.pdf);

L'Agence française de sécurité sanitaire de l'environnement et du travail,  
Plan national santé environnement : évaluation à mi-parcours, July 2007, [http://www.sante-environnement-travail.fr/IMG/pdf/CODEV\\_Rapport.pdf](http://www.sante-environnement-travail.fr/IMG/pdf/CODEV_Rapport.pdf);

Conseil Supérieur de Prévention des Risques Professionnels,  
Bilan et perspectives de la santé au travail 2004-2005, June 2005, [http://www.travail-solidarite.gouv.fr/IMG/pdf/20050620\\_dp\\_CSPRP.pdf](http://www.travail-solidarite.gouv.fr/IMG/pdf/20050620_dp_CSPRP.pdf)

**100:** Business inspections by the government to ensure that public safety standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

**75:**

**50:** Business inspections by the government to ensure public safety standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

**25:**

**0:** Business inspections to ensure that public safety standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

## VI-1. <sup>81</sup>Anti-Corruption Law

70. Is there legislation criminalizing corruption?

100

70a. In law, attempted corruption is illegal.

YES | NO

**References:**

Penal Code, art. 432-10, 432-11,  
<http://www.legifrance.gouv.fr/>

**YES:** A YES score is earned if corruption laws include attempted acts.

**NO:** A NO score is earned if this is not illegal.

70b. In law, extortion is illegal.

YES | NO

**References:**

Penal Code, Book III, Title I, Chapter II,  
<http://www.legifrance.gouv.fr/>

**YES:** A YES score is earned if corruption laws include extortion. Extortion is defined as demanding favorable treatment (such as a bribe) to withhold a punishment.

**NO:** A NO score is earned if this is not illegal.

70c. In law, offering a bribe (i.e. active corruption) is illegal.

YES | NO

**References:**

Penal Code, art. 432-10, 432-11, 433-1, 433-2, 445-1, 445-2,  
<http://www.legifrance.gouv.fr/>

**YES:** A YES score is earned if offering a bribe is illegal.

**NO:** A NO score is earned if this is not illegal.

70d. In law, receiving a bribe (i.e. passive corruption) is illegal.

YES | NO

**References:**

Penal Code, art. 432-10, 432-11, 433-1, 433-2, 445-1, 445-2,  
<http://www.legifrance.gouv.fr/>

**YES:** A YES score is earned if receiving a bribe is illegal.

**NO:** A NO score is earned if this is not illegal.

70e. In law, bribing a foreign official is illegal.

YES | NO

**References:**

Penal Code, Book IV, Title III, Chapter V,  
<http://www.legifrance.gouv.fr/>

**YES:** A YES score is earned if bribing a foreign official is illegal.

**NO:** A NO score is earned if this is not illegal.

70f. In law, using public resources for private gain is illegal.

YES | NO

**References:**

Penal Code, article 432-15, 433-4,  
<http://www.legifrance.gouv.fr/>

**YES:** A YES score is earned if using public resources for private gain is illegal.

**NO:** A NO score is earned if this is not illegal.

70g. In law, using confidential state information for private gain is illegal.

YES | NO

**References:**

Penal Code, Book 4, Title 3, Chapter 2,  
<http://www.legifrance.gouv.fr/>

**YES:** A YES score is earned if using confidential state information for private gain is illegal.

**NO:** A NO score is earned if this is not illegal.

70h. In law, money laundering is illegal.

YES | NO

**References:**

Penal Code, Book III, Title II, Chapter IV,  
<http://www.legifrance.gouv.fr/>

**YES:** A YES score is earned if money laundering is illegal. Money laundering is defined as concealing the origin of funds to hide wrongdoing or avoid confiscation.

**NO:** A NO score is earned if this is not illegal.

70i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

YES | NO

**References:**

Penal Code, Book IV, Title V, art. 450-1 to 450-5,  
<http://www.legifrance.gouv.fr/>

**YES:** A YES score is earned if organized crime is illegal.

**NO:** A NO score is earned if this is not illegal.

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## VI-2. Anti-Corruption Agency

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71. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

100

71. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

YES | NO

**Comments:**

Specialized units of the police and prosecuting authority also exist to deal with corruption and economic crime.

**References:**

The law 93-122 of Jan. 29, 1993,  
<http://www.legifrance.gouv.fr/texteconsolide/MEEAA.htm>.

The law creates the Central Service for the Prevention of Corruption (SCPC).

**YES:** A YES score is earned if an agency is specifically mandated to address corruption. A YES score is earned if there are several agencies or entities with specific roles in fighting corruption, including special prosecutorial entities.

**NO:** A NO score is earned if no agency (or group of agencies/entities) is specifically mandated to prevent or prosecute corruption.

---

## 72. Is the anti-corruption agency effective?

61

72a. In law, the anti-corruption agency (or agencies) is protected from political interference.

YES | NO

**References:**

Law 93-122 of Jan. 29, 1993;  
Decree 93-232 of Feb. 22, 1993.

**YES:** A YES score is earned only if the agency (or agencies) has some formal organizational or operational independence from the government. A YES score is earned even if the agency/agencies is legally separate but in practice staffed by partisans.

**NO:** A NO score is earned if the agency (or agencies) is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department, in such a way that limits its operational independence.

72b. In practice, the anti-corruption agency (or agencies) is protected from political interference.

100 | 75 | 50 | 25 | 0

**References:**

Bruno Fay,  
Service central de prévention de la corruption : dans les starting blocks depuis 10 ans,  
Sept. 30, 2005,  
[http://investigation.blog.lemonde.fr/2005/09/30/2005\\_09\\_service\\_central/](http://investigation.blog.lemonde.fr/2005/09/30/2005_09_service_central/).

Thomas Vallières,  
La lutte anticorruption entre de bonnes mains,  
Marianne, Feb. 25 – March 3, 2006

**100:** This agency (or agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information. .

**75:**

**50:** This agency (or agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government, political appointments, or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

**25:**

**0:** This agency (or agencies) is commonly influenced by political or personal incentives. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The agency (or agencies) cannot compel the government to reveal sensitive information.

72c. In practice, the head of the anti-corruption agency (or agencies) is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

**References:**

Bruno Fay,  
Service central de prévention de la corruption : dans les starting blocks depuis 10 ans,  
Sept. 30, 2005;

Service Central de Prévention de la Corruption,  
Rapport d'activité 2003,  
[http://www.justice.gouv.fr/art\\_pix/scpc2003.pdf](http://www.justice.gouv.fr/art_pix/scpc2003.pdf)

**100:** The director(s) cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director(s) can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director(s) can be removed at the will of political leadership.

72d. In practice, appointments to the anti-corruption agency (or agencies) are based on professional criteria.

100 | 75 | 50 | 25 | 0

**Comments:**

The current head of the service, appointed in 2006, is said to be close to the right-wing party UMP (formerly RPR). He is a controversial figure. As a public prosecutor he allegedly re-oriented politically-sensitive investigations in a direction which protected the politicians involved.

**References:**

Arnaud Montebourg,  
open letter to the minister of Justice,  
July 17, 2003,  
[http://www.c6r.org/article.php3?id\\_article=234](http://www.c6r.org/article.php3?id_article=234);

Eric Halphen,  
Sept ans de solitude,  
2002, Editions Denoël;

Thomas Vallières,  
La lutte anticorruption entre de bonnes mains,  
Marianne, Feb. 25- March 3, 2006;

L'investigateur,  
Alègre a parlé pour la première fois mais l'enquête est « en danger d'étouffement »,  
June 2, 2003,  
[http://www.investigateur.info/news/articles/article\\_2003\\_06\\_2\\_danger.html](http://www.investigateur.info/news/articles/article_2003_06_2_danger.html)

**100:** Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

72e. In practice, the anti-corruption agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

The Central Service for the Prevention of Corruption is a small agency with a limited staff. Positions sometimes remain vacant for a long period of time. Members of the staff are generally experienced professionals from other ministries or services seconded to the SCPC. Some critics (Mazeaud, cited in Fay) think that these officials would be more useful if they stayed in their administration of origin.

**References:**

Bruno Fay,  
Service central de prévention de la corruption: dans les starting blocks & depuis 10 ans,  
Sept. 30, 2005,  
[http://investigation.blog.lemonde.fr/2005/09/30/2005\\_09\\_service\\_central/](http://investigation.blog.lemonde.fr/2005/09/30/2005_09_service_central/);

Jean Gaubert,  
parliamentary question, Le fonctionnement du service central de prévention de la corruption,  
Sept. 8, 2003 (question) and March 2, 2004 (answer), <http://www.jeangaubert.com/questions/scpc.html>;

Service Central de Prévention de la Corruption,  
Rapport 2005, La documentation Française

**100:** The agency (or agencies) has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency (or agencies) has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

**25:**

**0:** The agency (or agencies) has no staff, or a limited staff, that is clearly unqualified to fulfill its mandate.

72f. In practice, the anti-corruption agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

**Comments:**

Staff seconded to the SCPC are paid by their administration of origin, thus generating no expense for the SCPC. The Ministry of Foreign Affairs finances the SCPC's missions abroad. Scholars and parliamentarians, doubtful about the effectiveness of the Service, have proposed to close the Service altogether.

**References:**

Bruno Fay,  
Service central de prévention de la corruption: dans les starting blocks & depuis 10 ans,  
Sept. 30, 2005,  
[http://investigation.blog.lemonde.fr/2005/09/30/2005\\_09\\_service\\_central/](http://investigation.blog.lemonde.fr/2005/09/30/2005_09_service_central/);

Service Central de Prévention de la Corruption,  
Rapport 2005, La documentation Française;

Contribution of the Head of the SCPC at the conference 'European Anti-Corruption Agencies, protecting the Community's financial interests in a knowledge-based, innovative and integrated manner',  
ISCTE, Lisbon, May 17-19, 2006

**100:** The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** The agency's funding sources are unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

72g. In practice, the anti-corruption agency (or agencies) makes regular public reports.

100 | 75 | 50 | 25 | 0

**Comments:**

The anti-corruption agency publishes an annual report with thematic articles. It publishes little in-depth or substantial analysis of events or phenomena. The Agency is a small and little-publicized body.

**References:**

Service Central de Prévention de la Corruption,  
Rapport 2005, La documentation Française;

Rapport d'activité 2003,  
[http://www.justice.gouv.fr/art\\_pix/scpc2003.pdf](http://www.justice.gouv.fr/art_pix/scpc2003.pdf).

Rapport d'activité 2004,  
<http://lesrapports.ladocumentationfrancaise.fr/BRP/054000473/0000.pdf>

**100:** The agency (or agencies) makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

**75:**

**50:** The agency (or agencies) makes publicly available reports to the legislature that are sometimes delayed or incomplete.

**25:**

**0:** The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

72h. In practice, the anti-corruption agency (or agencies) has sufficient powers to carry out its mandate.

100 | 75 | 50 | 25 | 0

**Comments:**

The mandate of the SCPC does not include investigative powers. The main activities of the Service are research, formulating recommendations upon request, training, establishing and developing partnerships with the public and private sectors, with foreign authorities and international bodies.

**References:**

Service Central de Prévention de la Corruption,  
Rapport 2005, La documentation Française;

Service Central de Prévention de la Corruption,  
Rapport d'activité 2003,  
[http://www.justice.gouv.fr/art\\_pix/scpc2003.pdf](http://www.justice.gouv.fr/art_pix/scpc2003.pdf).

Rapport d'activité 2004,  
<http://lesrapports.ladocumentationfrancaise.fr/BRP/054000473/0000.pdf>

**100:** The agency (or agencies) has powers to gather information, including politically sensitive information. The agency (or agencies) can question suspects, order arrests and bring suspects to trial (or rely on related agencies or law enforcement authorities to perform such functions).

**75:**

**50:** The agency (or agencies) has most of the powers needed to carry out its mandate with some exceptions.

**25:**

**0:** The agency (or agencies) lacks significant powers which limit its effectiveness.

72i. In practice, when necessary, the anti-corruption agency (or agencies) independently initiates investigations.

100 | 75 | 50 | 25 | 0

**References:**

Décision du Conseil constitutionnel n° 92-316 DC du 20 janvier 1993 <http://www.conseil-constitutionnel.fr/decision/1992/92316dc.htm>;

Service Central de Prévention de la Corruption,  
Rapport 2005, La documentation Française;

Rapport d'activité 2003,  
[http://www.justice.gouv.fr/art\\_pix/scpc2003.pdf](http://www.justice.gouv.fr/art_pix/scpc2003.pdf).

Rapport d'activité 2004,  
<http://lesrapports.ladocumentationfrancaise.fr/BRP/054000473/0000.pdf>

**100:** When irregularities are discovered, the agency (or agencies) is aggressive in investigating the government or in cooperating with other investigative agencies.

**75:**

**50:** The agency (or agencies) starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency (or agencies) may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency (or agencies) does not effectively investigate or does not cooperate with other investigative agencies. The agency (or agencies) may start investigations but not complete them, or may fail to detect offenders. The agency (or agencies) may be partisan in its application of power.

---

### 73. Can citizens access the anti-corruption agency?

50

73a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Only specified authorities can make a request for advice to the SCPC. The SCPC produces about 50 pieces of advice per year. It also endeavours to answer the requests it receives from simple citizens.

**References:**

Service Central de Prévention de la Corruption,  
Rapport 2005, La documentation Française,

Service Central de Prévention de la Corruption,  
replies given to the National Assessment Survey on ACAs, ISCTE, 2006-2007, [http://ancorage-net.org/index.jsp?page=acas&country=France&menu=sub\\_aca](http://ancorage-net.org/index.jsp?page=acas&country=France&menu=sub_aca);

Bruno Fay,  
Service central de prévention de la corruption: dans les starting blocks& depuis 10 ans,  
Sept. 30, 2005,  
[http://investigation.blog.lemonde.fr/2005/09/30/2005\\_09\\_service\\_central/Service](http://investigation.blog.lemonde.fr/2005/09/30/2005_09_service_central/Service)

**100:** The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

73b. In practice, citizens can complain to the anti-corruption agency (or agencies) without fear of recrimination.

100 | 75 | 50 | 25 | 0

**Comments:**

Only specified authorities can make a request for advice to the SCPC. Citizens cannot make requests -although the SCPC endeavors to answer their letters- and there is no proper complaint mechanism. The SCPC reportedly regrets that it is sometimes being used in a manipulative way by local politicians. The political loyalties of the people in charge of the SCPC might also induce fear of recrimination in the requesting persons or organizations.

**References:**

Service Central de Prévention de la Corruption,  
replies given to the National Assessment Survey on ACAs, ISCTE, 2006-2007, [http://ancorage-net.org/index.jsp?page=acas&country=France&menu=sub\\_aca](http://ancorage-net.org/index.jsp?page=acas&country=France&menu=sub_aca);

Bruno Fay,  
Service central de prévention de la corruption: dans les starting blocks& depuis 10 ans,  
Sept. 30, 2005,  
[http://investigation.blog.lemonde.fr/2005/09/30/2005\\_09\\_service\\_central/Service](http://investigation.blog.lemonde.fr/2005/09/30/2005_09_service_central/Service)

**100:** Whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers, or may be due to a culture that encourages disclosure and accountability.

**75:**

**50:** Whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

**25:**

**0:** Whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

74a. In law, there is a general right of appeal.

YES | NO

**References:**

Code of Criminal Procedure, articles 380-1 and following, 496 and following, 546 and following, <http://legifrance.gouv.fr/WAspad/ListeCodes>

**YES:** A YES score is earned if there is a formal process of appeal for challenging criminal judgments.

**NO:** A NO score is earned if there is no such process.

74b. In practice, appeals are resolved within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Justice operates slowly in France and the country has been condemned several times by the European Court of Human Rights for this problem.

**References:**

Alvaro Gil-Robles, commissioner for Human Rights,  
Report on the Effective Respect for Human Rights in France,  
Council of Europe, February 2006,  
<http://www.libertysecurity.org/article837.html>;

Fédération Internationale des ligues des Droits de l'Homme,  
La Cour européenne des droits de l'Homme condamne la France pour la lenteur de sa justice,  
June 10, 2004,  
[http://www.fidh.org/article.php3?id\\_article=1311](http://www.fidh.org/article.php3?id_article=1311)

**100:** Appeals are acted upon quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

**75:**

**50:** Appeals are generally acted upon quickly but with some exceptions. Some appeals may not be acknowledged, and simple cases may take years to resolve.

**25:**

**0:** Most appeals are not resolved in a timely fashion. Appeals may go unacknowledged for months or years and simple cases may never be resolved.

74c. In practice, citizens can use the appeals mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

**References:**

Académie des Sciences Morales et Politiques,  
debate on The Independence of Justice, with Jean-François Burgelin,  
March 20, 2066,  
<http://www.asmp.fr/travaux/communications/2006/burgelin.htm>;

**100:** In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge criminal judgments.

**75:**

**50:** In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge criminal judgments.

**25:**

**0:** The prohibitive cost of utilizing the appeals mechanism prevents middle class citizens from challenging criminal judgments.

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## 75. In practice, do judgments in the criminal system follow written law?

75

75. In practice, do judgments in the criminal system follow written law?

100 | 75 | 50 | 25 | 0

### References:

Académie des Sciences Morales et Politiques,  
debate on The Independence of Justice, with Jean-François Burgelin,  
March 20, 2006,  
<http://www.asmp.fr/travaux/communications/2006/burgelin.htm>:

Tribunal de Grande Instance de Toulon,  
Jugement sur requête, jugement correctionnel du 13 octobre 2005, N° de Jugement : D3477/05, N° de Parquet : 050132

**100:** Judgments in the criminal system are made according to established legal code and conduct. There are no exceptional cases in which individuals are treated by a separate process. Political interference, bribery, cronyism or other flaws are rarely factors in judicial outcomes.

**75:**

**50:** Judgments in the criminal system usually follow the protocols of written law. There are sometimes exceptions when political concerns, corruption or other flaws in the system decide outcomes.

**25:**

**0:** Judgments in the criminal system are often decided by factors other than written law. Bribery and corruption in the criminal judicial process are common elements affecting decisions.

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## 76. In practice, are judicial decisions enforced by the state?

75

76. In practice, are judicial decisions enforced by the state?

100 | 75 | 50 | 25 | 0

### Comments:

There can be important delays in the execution of judicial decisions.

**References:**

Les Echos,  
Interview of Jean-Luc Warsmann,  
July 18, 2007,  
[http://www.ump.assemblee-nationale.fr/imprimer.php3?id\\_article=6588](http://www.ump.assemblee-nationale.fr/imprimer.php3?id_article=6588);

Antoine de Font-Réaulx,  
L'exécution des peines en France montrée du doigt,  
La Revue Parlementaire No 881, [http://www.larevueparlementaire.fr/pages/RP881/RP881\\_AN\\_peines.htm](http://www.larevueparlementaire.fr/pages/RP881/RP881_AN_peines.htm);

Alvaro Gil-Robles, commissioner for Human Rights,  
Report on the effective Respect for Human Rights in France, February 2006, <http://www.libertysecurity.org/article837.html>

**100:** Judicial decisions are enforced quickly regardless of what is being decided or who is appearing before the court. Failure to comply brings penalties enforced by the state.

**75:**

**50:** Judicial decisions are generally enforced by the state, with some exceptions. Certain areas of law may be ignored, or certain parties appearing before the courts may evade or delay enforcement.

**25:**

**0:** Judicial decisions are often ignored. The state lacks the will or capacity to consistently enforce these decisions.

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## 77. Is the judiciary able to act independently?

88

77a. In law, the independence of the judiciary is guaranteed.

YES | NO

**References:**

Constitution of 1958, article 64,  
<http://www.conseil-constitutionnel.fr/textes/constit.htm#Titre%20VIII>, <http://www.assemblee-nationale.fr/english/8ab.asp#TITLE%20VIII> (English)

**YES:** A YES score is earned if there are formal rules establishing that the judiciary is independent from political interference by the executive and legislative branches. Independence include financial issues (drafting, allocation, and managing the budget of the courts ).

**NO:** A NO score is earned if there are no formal rules establishing an independent judiciary.

77b. In practice, national-level judges are protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

Judges, especially when they happen to be investigating a politically sensitive case, can face severe obstacles and difficulties.

**References:**

Syndicat de la Magistrature,  
Tentative de déstabilisation d'un magistrat,  
May 11, 2006,  
<http://www.syndicat-magistrature.org/spip.php?article295>;

**100:** National level judges operate independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Judges never comment on political debates. Individual judgments are rarely praised or criticized by political figures.

**75:**

**50:** National level judges are typically independent, yet are sometimes influenced in their judgments by negative or positive political incentives. This may include favorable or unfavorable treatment by the government or public criticism. Some judges may be demoted or relocated in retaliation for unfavorable decisions.

**25:**

**0:** National level judges are commonly influenced by politics and personal biases or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include demotion, pay cuts, relocation, threats or harassment.

77c. In law, there is a transparent and objective system for distributing cases to national-level judges.

YES | NO

**References:**

1958 Constitution, article 65,  
<http://www.conseil-constitutionnel.fr/textes/constit.htm>

**YES:** A YES score is earned if there is an objective system that is transparent to the public that equitably or randomly assigns cases to individual judges. The executive branch does not control this process.

**NO:** A NO score is earned if the case assignment system is non-transparent or subjective where judges themselves have influence over which cases they adjudicate. A NO score is also earned if the executive branch controls this process.

77d. In law, national-level judges are protected from removal without relevant justification.

YES | NO

**References:**

1958 Constitution, article 64,  
<http://www.conseil-constitutionnel.fr/textes/constit.htm>

**YES:** A YES score is earned if there are specific, formal rules for removal of a justice. Removal must be related to abuse of power or other offenses related to job performance.

**NO:** A NO score is earned if justices can be removed without justification, or for purely political reasons. A NO score is earned if the removal process is not transparent, or not based on written rules.

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## 78. Are judges safe when adjudicating corruption cases?

100

78a. In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.

YES | NO

**References:**

Syndicat de la Magistrature,  
Communiqué à la suite de l'agression d'un magistrat ce jour,  
June 5, 2007,  
<http://www.syndicat-magistrature.org/spjp.php?article518>;

Communiqué d'action collective suite à l'agression de notre collègue de Metz,  
June 7, 2007,  
<http://www.syndicat-magistrature.org/spjp.php?article519>;

Tentative de déstabilisation d'un magistrat,  
May 11, 2006,  
<http://www.syndicat-magistrature.org/spjp.php?article295>;

Annonce de la Soirée de soutien à Renaud Van Ruymbeke à Paris,  
May 23, 2007,  
<http://syndicat-magistrature.org/spjp.php?article509>;

Web-site of the Office of the High Commissioner for Human Rights, <http://www.ohchr.org/english/docsearch.htm>;

Freedomhouse,  
Country report, France, <http://www.freedomhouse.org/template.cfm?page=22&year=2007&country=7178>

**YES:** A YES score is earned if there were no documented cases of judges being assaulted because of their involvement in a corruption case during the specific study period. YES is a positive score.

**NO:** A NO score is earned if there were any documented cases of assault to a judge related to his/her participation in a corruption trial. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

78b. In practice, in the last year, no judges have been killed because of adjudicating corruption cases.

YES | NO

**References:**

Syndicat de la Magistrature,  
Communiqué à la suite de l'agression d'un magistrat ce jour,  
June 5, 2007,  
<http://www.syndicat-magistrature.org/spjp.php?article518>;

Communiqué d'action collective suite à l'agression de notre collègue de Metz,  
June 7, 2007,  
<http://www.syndicat-magistrature.org/spjp.php?article519>;

Tentative de déstabilisation d'un magistrat,  
May 11, 2006,  
<http://www.syndicat-magistrature.org/spjp.php?article295>;

Annonce de la Soirée de soutien à Renaud Van Ruymbeke à Paris,  
May 23, 2007,  
<http://syndicat-magistrature.org/spjp.php?article509>;

Web-site of the Office of the High Commissioner for Human Rights, <http://www.ohchr.org/english/docsearch.htm>;

Freedomhouse,  
Country report, France, <http://www.freedomhouse.org/template.cfm?page=22&year=2007&country=7178>

**YES:** A YES score is earned if there were no documented cases of judges being killed related to their involvement in a corruption case during the study period. YES is a positive score.

**NO:** A NO score is earned if there were any documented cases where a judge was killed because of his/her participation in a corruption trial. The relationship between a mysterious death and a judge's involvement in a case may not be clear, however the burden of proof here is low. If it is a reasonable assumption that a judge was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

## 79. Do citizens have equal access to the justice system?

79

79a. In practice, judicial decisions are not affected by racial or ethnic bias.

100 | 75 | 50 | 25 | 0

### References:

Alvaro Gil-Robles, commissioner for Human Rights,  
Report on the Effective Respect for Human Rights in France, February 2006, <http://www.libertysecurity.org/article837.html>

**100:** Judicial decisions are not affected by racial or ethnic bias.

**75:**

**50:** Judicial decisions are generally not affected by racial or ethnic bias, with some exceptions. Some groups may be occasionally discriminated against, or some groups may occasionally receive favorable treatment.

**25:**

**0:** Judicial decisions are regularly distorted by racial or ethnic bias. Some groups consistently receive favorable or unfavorable treatment by the courts.

79b. In practice, women have full access to the judicial system.

100 | 75 | 50 | 25 | 0

### References:

Assemblée Nationale,  
Rapport dinformation,  
Sept. 19, 2006,  
<http://www.assemblee-nationale.fr/12/rap-info/i3333.asp>:

Alvaro Gil-Robles, commissioner for Human Rights,  
Report on the effective Respect for Human Rights in France, February 2006, <http://www.libertysecurity.org/article837.html>

**100:** Women enjoy full and equal status in the eyes of the courts. There are no exceptions or practices in which women are treated differently by the judicial system. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

**75:**

**50:** Women generally have use of the judicial system, with some exceptions. In some cases, women may be limited in their access to courts, or gender biases may affect court outcomes. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

**25:**

**0:** Women generally have less access to the courts than men. Court decisions are commonly distorted by gender bias. Women may have to go through intermediaries to interact with the court, or are unable to present evidence. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

79c. In law, the state provides legal counsel for defendants in criminal cases who cannot afford it.

YES | NO

**References:**

Law 91-64 of July 10, 1991;

Ordinance 2005-1526 of Dec. 8, 2005,

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

**YES:** A YES score is earned if the government is required by law to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

**NO:** A NO score is earned if there is no legal requirement for the government to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

79d. In practice, the state provides adequate legal counsel for defendants in criminal cases who cannot afford it.

100 | 75 | 50 | 25 | 0

**References:**

Académie des Sciences Morales et Politiques,  
debate on The Independence of Justice, with Jean-François Burgelin,  
March 20, 2066,

<http://www.asmp.fr/travaux/communications/2006/burgelin.htm>;

Portal of the French Administration,  
Conditions de ressources pour bénéficier de l'aide juridictionnelle,  
April 2007,

<http://vosdroits.service-public.fr/>;

Eric Halpen,  
Sept ans de solitude,  
2002, éditions Denoël

**100:** State-provided legal aid is basic, but well-trained and effective in representing the rights of impoverished defendants.

**75:**

**50:** State-provided legal aid is available, but flawed. Legal aid may be unavailable to some impoverished defendants. Legal aid/public defenders may be sometimes unable or unwilling to competently represent all defendants.

**25:**

**0:** State-provided legal aid is unavailable to most impoverished defendants. State legal aid/public defenders may be consistently incompetent or unwilling to fairly represent all defendants.

79e. In practice, citizens earning the median yearly income can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

**References:**

Académie des Sciences Morales et Politiques,  
Debate on The Independence of Justice, with Jean-François Burgelin,  
March 20, 2066,

<http://www.asmp.fr/travaux/communications/2006/burgelin.htm>;

Senat,  
Note de synthèse sur l'aide juridictionnelle,

March 2007,  
<http://www.senat.fr/lc/lc1/lc10.html>

**100:** In most cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance.

**75:**

**50:** In some cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. In other cases, the cost is prohibitive.

**25:**

**0:** The cost of engaging the legal system prevents middle class citizens from filing suits.

79f. In practice, a typical small retail business can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

**References:**

Académie des Sciences Morales et Politiques,  
Debate on The Independence of Justice, with Jean-François Burgelin,  
March 20, 2066,  
<http://www.asmp.fr/travaux/communications/2006/burgelin.htm>;

Senat,  
Note de synthèse sur l'aide juridictionnelle,  
March 2007,  
<http://www.senat.fr/lc/lc1/lc10.html>

**100:** In most cases, the legal system is an affordable option to a small retail business seeking to redress a grievance.

**75:**

**50:** In some cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. In other cases, the cost is prohibitive.

**25:**

**0:** The cost of engaging the legal system prevents small businesses from filing suits.

79g. In practice, all citizens have access to a court of law, regardless of geographic location.

100 | 75 | 50 | 25 | 0

**References:**

Alvaro Gil-Robles, commissioner for Human Rights,  
Report on the effective Respect for Human Rights in France, Council of Europe,  
February 2006,  
<http://www.libertysecurity.org/article837.html>;

Eolas,  
La réforme de la carte judiciaire,  
June 25, 2007,  
<http://www.maitre-eolas.fr/2007/06/25/653-la-reforme-de-la-carte-judiciaire>

**100:** Courtrooms are always accessible to citizens at low cost, either through rural courthouses or through a system of traveling magistrates.

**75:**

50: Courts are available to most citizens. Some citizens may be unable to reach a courtroom at low cost due to location.

25:

0: Courts are unavailable to some regions without significant travel on the part of citizens.

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## VI-4. Law Enforcement

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80. Is the law enforcement agency (i.e. the police) effective?

67

80a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

100 | 75 | 50 | 25 | 0

### References:

Le nouvel observateur,

Un proche de Sarkozy à la tête de la police,

May 23,

2007, [http://tempsreel.nouvelobs.com/speciales/politique/elections\\_2007/20070523.OBS8420/un\\_proche\\_de\\_sarkozya\\_la\\_tete\\_de\\_la\\_police.html](http://tempsreel.nouvelobs.com/speciales/politique/elections_2007/20070523.OBS8420/un_proche_de_sarkozya_la_tete_de_la_police.html)

Le Point,

Bernard Squarcini, proche de Sarkozy, nommé à la tête de la DST,

June 27, 2007,

<http://www.lepoint.fr/content/france/article?id=189861>;

Police, le « spoil system » de Sarkozy, May 31, 2007, [http://www.lepoint.fr/content/point\\_semaine/article.html?id=185532](http://www.lepoint.fr/content/point_semaine/article.html?id=185532)

**100:** Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

80b. In practice, the law enforcement agency (or agencies) has a budget sufficient to carry out its mandate.

100 | 75 | 50 | 25 | 0

### References:

Senat,

Projet de loi de finances pour 2007 : sécurité,

<http://senat.fr/rap/a06-083-8/a06-083-88.html>;

Groupe UMP,

Projet de loi de finances pour 2006 : missions sécurité, sécurité civile et administration générale et territoriale de l'Etat,

[http://www.ump.assemblee-nationale.fr/article.php3?id\\_article=4699](http://www.ump.assemblee-nationale.fr/article.php3?id_article=4699);

**100:** The agency (or agencies) has a budget sufficient to fulfill its basic mandate.

**75:**

**50:** The agency (or agencies) has limited budget, generally considered somewhat insufficient to fulfill its basic mandate.

**25:**

**0:** The agency (or agencies) has no budget or an obviously insufficient budget that hinders the agency's ability to fulfill its mandate.

80c. In practice, the law enforcement agency is protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

In cases in which investigations could become embarrassing for politicians, the efforts of the law enforcement are sometimes re-oriented (this can be done through the action or decisions of the public prosecutor) in ways which seem to favor the tranquility of the politicians over the full investigation of the events.

**References:**

Le nouvel observateur,  
Un proche de Sarkozy à la tête de la police,  
May 23,  
2007, [http://tempsreel.nouvelobs.com/speciales/politique/elections\\_2007/20070523\\_OBS8420/un\\_proche\\_de\\_sarkozya\\_la\\_tete\\_de\\_la\\_police.html](http://tempsreel.nouvelobs.com/speciales/politique/elections_2007/20070523_OBS8420/un_proche_de_sarkozya_la_tete_de_la_police.html)

Le Point,  
Bernard Squarcini, proche de Sarkozy, nommé à la tête de la DST,  
June 27, 2007,  
<http://www.lepoint.fr/content/france/article?id=189861>;

Police, le « spoil system » de Sarkozy, May 31, 2007, [http://www.lepoint.fr/content/point\\_semaine/article.html?id=185532](http://www.lepoint.fr/content/point_semaine/article.html?id=185532)

Halphen, Eric, Sept ans de solitude.

**100:** The agency (or agencies) operates independently of the political process and has operational independence from the government. All laws can be enforced regardless of the status of suspects or the sensitivity of the investigation.

**75:**

**50:** The agency (or agencies) is typically independent, yet is sometimes influenced in its investigations or enforcement actions by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

**25:**

**0:** The investigative and enforcement work of the agency (or agencies) is commonly influenced by political actors or the government. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power by the government.

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81. Can law enforcement officials be held accountable for their actions?

75

81a. In law, there is an independent mechanism for citizens to complain about police action.

YES | NO

**References:**

Citizens can challenge police action by referring to an officer of higher rank, to the Commission nationale de déontologie de la sécurité (<http://www.cnds.fr/>), before a court of law or the ombudsman. The Inspection Générale de la Police Nationale investigates police action ([http://www.interieur.gouv.fr/sections/a\\_1\\_interieur/la\\_police\\_nationale/organisation/igpn](http://www.interieur.gouv.fr/sections/a_1_interieur/la_police_nationale/organisation/igpn)).

**YES:** A YES score is earned if there is a formal process or mechanism by which citizens can complain about police actions. A YES score is earned if a broader mechanism such as the national ombudsman, human rights commission, or anti-corruption agency has jurisdiction over the police.

**NO:** A NO score is earned if there is no such mechanism

81b. In practice, the independent law enforcement complaint reporting mechanism responds to citizen's complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**References:**

Alvaro Gil-Robles, commissioner for Human Rights,  
Report on the effective Respect for Human Rights in France,  
Council of Europe, February 2006,  
<http://www.libertysecurity.org/article837.html>

**100:** The agency/entity responds to complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency/entity responds to complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take three to six months to resolve. Serious abuses are not investigated with any urgency.

81c. In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.

YES | NO

**References:**

Inspection Générale de la Police  
Nationale, [http://www.interieur.gouv.fr/sections/a\\_1\\_interieur/la\\_police\\_nationale/organisation/igpn](http://www.interieur.gouv.fr/sections/a_1_interieur/la_police_nationale/organisation/igpn)

**YES:** A YES score is earned if there is an agency/entity specifically mandated to investigate corruption-related activity within law enforcement. This agency/entity may be internal to the police department (provided it has a degree of independence, such as an internal affairs unit) or part of a broader national mechanism such as the national ombudsman, human rights commission, or anti-corruption agency.

**NO:** A NO score is earned if no such agency/entity exists.

81d. In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.

**References:**

Alvaro Gil-Robles, commissioner for Human Rights,  
Report on the effective Respect for Human Rights in France,  
Council of Europe, February 2006,  
<http://www.libertysecurity.org/article837.html>

**100:** When irregularities are discovered, the agency/entity is aggressive in investigating government law enforcement officials or in cooperating with other investigative agencies.

**75:**

**50:** The agency/entity starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency/entity does not effectively investigate or does not cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

81e. In law, law enforcement officials are not immune from criminal proceedings.

YES | NO

**References:**

Penal Code, articles 121-1 to 122-8

**YES:** A YES score is earned if law enforcement officers are fully accountable for their actions under the law and can be investigated and prosecuted for their actions.

**NO:** A NO score is earned if law enforcement enjoys any special protection from criminal investigation or prosecution.

81f. In practice, law enforcement officials are not immune from criminal proceedings.

**References:**

Alvaro Gil-Robles, commissioner for Human Rights,  
Report on the Effective Respect for Human Rights in France,  
Council of Europe, February 2006,  
<http://www.libertysecurity.org/article837.html>

**100:** Law enforcement officers are subject to criminal investigation for official misconduct. No crimes are exempt from prosecution.

**75:**

**50:** Law enforcement is generally subject to criminal investigation but exceptions may exist where criminal actions are overlooked by the police or prosecutors. Some crimes may be exempt from prosecution, such as actions taken in the line of duty.

**25:**

**0:** Law enforcement enjoys a general protection from most criminal investigation. This may be due to a formal immunity or an informal understanding that the law enforcement community protects itself.

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