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French

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## National ordinary courts

France

In this section you will find an overview of the ordinary courts in France.

### The ordinary courts — introduction

#### Courts of first instance

##### Civil courts

##### 1. Regional courts

A regional court (*tribunal de grande instance*) hears disputes between private parties (**civil cases**) where the value in dispute is **over €10 000**.

It also has jurisdiction in the following areas, **irrespective of the amount** of the claim:

family law: marriage, filiation, adoption, declarations that a person is missing (*déclarations d'absence*);

rectification of records of civil status (*état civil*: births, marriages, deaths etc.);

succession;

penalties (*amendes civiles*) incurred by public records officers (*officiers d'état civil*);

actions in respect of claims to immovable property (*actions immobilières*);

the dissolution of associations;

protection from creditors (*sauvegarde*), court-supervised recovery (*redressement judiciaire*) and liquidation by the court (*liquidation judiciaire*), where the debtor is neither a trader nor a person registered in the register of trades and crafts (*répertoire des métiers*);

accident and occupational illness insurance for non-wage-earning persons working in agriculture;

registration fees (*droits d'enregistrement*), charges for the publication of land registry notices (*taxes de publicité foncière*), stamp duties (*droits de timbre*) and indirect taxes, and other taxes equivalent to those fees, charges, or duties;

commercial property leases (*baux commerciaux*), with the exception of disputes regarding the setting of rent for revised or renewed leases, professional and craft activity property leases (*baux professionnels*), and provisional contracts for commercial purposes (*conventions d'occupation précaire en matière commerciale*);

claims of falsification (*inscription en faux*) made in objection to authentic documents (*actes authentiques*);

civil actions for defamation (*diffamation*) or for insult (*injure*), whether or not public, and whether verbal or in writing.

The **criminal court** (*tribunal correctionnel*) is the criminal division of the regional court: it has jurisdiction to try **intermediate offences** (*délits*, see below).

A regional court is made up of professional judges (*magistrats*): the president, the vice-presidents, the ordinary judges, the State Counsel (*procureur de la République*), Deputy State Counsel (*vice-procureurs*) and Assistant State Counsel (*substitués*).

There are also specialised judges of the regional courts, including the following.

The **judge in juvenile matters**, or children's judge (*juge des enfants*), has power to take measures to protect minors who are in danger, and to try minors accused of minor and intermediate criminal offences (*contraventions, délits*). When the judge decides without the public present, he or she can order only measures with a view to the better upbringing of the minor (*mesures éducatives*); when the judge presides over the juvenile court (*tribunal pour enfants*), he or she sits with two assessors (*assesseurs*) who are not professional judges, and the court has the power to order measures for the better upbringing of the minor or a criminal sentence as the case may be.

The **judge for the enforcement of sentences** (*juge de l'application des peines*) determines the way in which a sentence involving deprivation of liberty is to be enforced. If the convict is imprisoned, the judge can order measures that alleviate the penalty, such as outside placement, semiliberty, conditional release, or release under electronic surveillance; if the convict is not imprisoned, the judge supervises the serving of the sentence, in the case for example of a suspended sentence on probation (*emprisonnement avec sursis et mise à l'épreuve*), community service (*travail d'intérêt général*), or social and judicial supervision (*suivi socio-judiciaire*).

The **investigating judge** (*juge d'instruction*) reports to the investigation division of the court of appeal (*chambre de l'instruction de la cour d'appel*). In a criminal investigation the investigating judge is required to take all steps likely to lead to the truth. The investigating judge assembles all the evidence, whether it is against a suspect or in the suspect's favour. When the judge is of the opinion that the investigation is complete, he or she can make an order discharging the suspect (*ordonnance de non-lieu*), or commit the person under investigation for trial by the criminal court or the assize court (*cour d'assises*). Investigating judges cannot take up cases on their own initiative. Cases must be referred to them for investigation by State Counsel, or by an injured party who lodges a complaint alleging a criminal offence and asks to be treated as a civil party to the criminal proceedings (*constitution de partie civile*).

The regional court generally sits in the chief town of a *département*, but there are regional courts that sit in other places too. On 1 January 2013 there were 161 regional courts.

##### 2. District courts

The district court (*tribunal d'instance*) hears disputes between private parties (**civil cases**) where the value in dispute **does not exceed €10 000**.

It has other **areas of jurisdiction conferred on it**, such as attachment orders seizing wages or salaries (*saisies des rémunérations du travail*), life annuity contracts (*rentes viagères*), disputes relating to elections, and residential property leases (*baux d'habitation*). It has some areas of **administrative jurisdiction** too: for example, the chief clerk of a district court issues certificates of nationality.

The criminal division of a district court is the **police court** (*tribunal de police*), which has jurisdiction to try **minor offences** of the fifth class (*contraventions de la cinquième classe*, see below).

A judge of the district court also deals with **guardianship** matters, though not in the case of minors, who under an Act passed on 12 May 2009 now come under the jurisdiction of a family judge at the regional court: the district court judge protects vulnerable adults, by supervising the management of their resources.

A district court is made up of one or more judges, but cases are always heard by a single judge.

The district court generally sits in the chief town of an *arrondissement*. On 1 January 2013 there were 307 district courts.

### 3. Local courts

The local court (*juridiction de proximité*) hears civil disputes between private parties where the amount in dispute is **less than €4 000**.

The local courts also try **minor offences** in the first four classes.

In the local court the State Counsel's Office (*ministère public*, which essentially brings the prosecution) need not be represented by a law officer attached to the State Counsel's Office itself, and may be represented for example by a commissioner of police (*commissaire de police*).

### 4. Commercial courts

The commercial court (*tribunal de commerce*) hears disputes regarding **contracts between traders**, or between credit institutions, or both, and disputes regarding commercial companies or commercial transactions between parties of any kind. The commercial court also deals with **proceedings relating to firms in difficulty**.

The judges of the commercial courts are not career judges but elected traders. They are elected for terms of two or four years by an electoral college made up of current and former judges of the commercial courts and traders' delegates (*délégués consulaires*), who are themselves traders elected in the area within the jurisdiction of the court.

On 1 January 2013 there were 134 commercial courts.

### 5. Employment tribunals

The employment tribunal (*conseil de prud'hommes*) rules on **individual disputes between employers and employees** in connection with a contract of employment or apprenticeship.

Employment tribunals are made up of elected judges, half representing employers and half representing employees. An employment tribunal is divided into five specialised divisions, for management, manufacturing, distributive trades and commercial services, agriculture, and miscellaneous activities. If the four members hearing a case are tied, the tribunal will be chaired by a judge of the district court.

There are one or more employment tribunals in each *département*, and at least one in the area of jurisdiction of each regional court.

There are 210 employment tribunals.

### 6. Social security tribunals

The social security tribunal (*tribunal des affaires de la sécurité sociale*) rules on disputes between **social security funds** (*caisses de sécurité sociale*) and **users**, for example regarding membership of a fund or the award and payment of benefits.

A social security tribunal is made up of a president, who is a judge of the regional court, and assessors, who are not professional judges, appointed for three years by the first president of the court of appeal from a list drawn up for the area within the jurisdiction of the particular tribunal by the regional director for young people, sport and social cohesion, following nominations by the most representative trade and professional organisations. The president of the social security tribunal also gives his opinion.

There are 115 social security tribunals.

### 7. Disability tribunals

The disability tribunal (*tribunal du contentieux de l'incapacité*) adjudicates on disputes regarding the invalidity or incapacity for work of a person covered by social insurance, that is to say the state of invalidity or the degree of invalidity caused by an occupational or other illness or accident.

A disability tribunal is made up of a president who is an honorary judge or qualified person, an assessor representing employees, and an assessor representing employers or the selfemployed; both assessors are appointed for three years by the first president of the court of appeal for the area, from a list drawn by the regional director for young people, sport and social cohesion, following nominations from the most representative professional organisations.

There are 26 disability tribunals.

Appeals are possible from the disability tribunals to the National Court for Disability and Rates of Occupational Accident Insurance (*Cour nationale de l'incapacité et de la tarification de l'assurance des accidents du travail*), which is also the court of first and last instance for disputes regarding rates of insurance against occupational accidents.

### 8. Agricultural land tribunals

The agricultural land tribunal (*tribunal paritaire des baux ruraux*) hears disputes between **landlords and tenants of agricultural land** regarding various forms of lease or contract for tenancy and the working of land (*fermage, métayage, baux à cheptel, baux à domaine congéable, baux à complants, baux emphytéotiques, or contrats d'exploitation de terres à vocation pastorale*).

The tribunal is presided over by a judge of the district court. The president sits with four nonprofessional assessors: two of them are landlords and two are tenants, and all four are elected by their peers for six years from lists of candidates drawn up by the prefect following nominations by a committee for the preparation of electoral lists.

## Criminal courts

### 1. Assize courts

The assize court (*cour d'assises*) tries **serious crimes** (*crimes*): these are offences in the most serious category, carrying a sentence from ten years' imprisonment to life imprisonment.

There is an assize court in **each département**, but it is not a permanently constituted court. The dates of its opening sittings are set whenever necessary. In the biggest *départements*, however, the assize court sits almost permanently.

The court is made up of three career judges — a president who is the president of a division or an ordinary judge at the court of appeal, and two assessors who are ordinary judges at the court of appeal or judges at the regional court for the *département* — and a jury of six citizens chosen by lot. When it deals with serious crimes committed by minors it is called the juvenile assize court (*cour d'assises des mineurs*). In that case the two assessors are judges of the juvenile courts.

Some crimes under terrorism legislation or military law, or related to drug trafficking, are tried by an assize court composed of judges only.

The State Counsel's Office is represented by an advocategeneral (*avocat général*).

### 2. Criminal courts

The criminal court (*tribunal correctionnel*) has jurisdiction for **intermediate offences** (*délits*): these are offences that carry a sentence of no more than 10 years' imprisonment or a fine of no less than €3 750. The criminal court is a division of the regional court. The general rule is that it is composed of three professional judges, but there is also provision for specific offences to be dealt with by a judge sitting alone.

The State Counsel's Office is represented by the State Counsel (*procureur de la République*) or one of the State Counsel's assistants (*substitués*).

### 3. Police courts

The police court (*tribunal de police*) tries minor offences of the fifth class (*contraventions de cinquième classe*). It sits at the district court. It is a single judge court, the judge being a judge of the district court.

The State Counsel's Office is represented by the State Counsel or one of the State Counsel's assistants.

### 4. Local courts

The local court (*juridiction de proximité*) tries minor offences of the first to the fourth classes (*contraventions de la première à la quatrième classe*). It sits at the district court. The judge is a local court judge, who sits alone.

The functions of the State Counsel's Office are generally exercised by a commissioner of police.

### 5. Specialised criminal courts

There are also specialised courts dealing with specific criminal matters, such as the maritime commercial courts (*tribunaux maritimes commerciaux*), of which there are currently 14, and which try certain maritime offences.

#### Courts of second instance

The **courts of appeal** (*cours d'appel*) hear appeals on points of fact and law (*appels*) **against judgments already given** by the courts of first instance.

A court of appeal is composed of professional judges only: a first president (*premier président*), presidents of divisions (*présidents de chambre*) and ordinary appeal court judges (*conseillers*) (this does not apply to the assize court of appeal, see below).

Each court has specialised divisions dealing with civil, social, commercial or criminal cases, each composed of three professional judges: a president and two other judges.

Appeals against judgments of an assize court are heard by an **assize court of appeal** (*cours d'assise d'appel*), the members of which are designated by the criminal division of the Court of Cassation. The assize court of appeal has a jury of nine.

Appeals against judgments in disability cases are heard by the **National Court for Disability and Rates of Occupational Accident Insurance**.

The State Counsel's Office is represented by the Principal State Counsel (*procureur général*) or an Assistant Principal State Counsel (*substitut général*).

#### The Court of Cassation

The Court of Cassation (*Cour de cassation*) is the **supreme court** in the ordinary court structure. It sits in Paris. Its function is to verify that the decisions of the lower courts do not conflict with some point of law: it does not make any fresh assessment of the facts. It is not regarded as a court of third instance: it maintains **uniformity of caselaw, and acts as a regulator of law and compliance with legality**.

A judgment of the Court of Cassation is delivered in response to an **appeal on points of law** (*pourvoi en cassation*) brought by a party who is the subject of a court judgment, or by the State Counsel's Office.

If the Court takes the view that the judgment challenged was not arrived at in accordance with the legal rules, it **quashes the judgment** (*casse la décision*). It then sends the case back to another court for retrial.

Otherwise it dismisses the appeal, and the judgment challenged is definitive.

In exceptional cases it may be that the quashing of the judgment does not require that the substance of the case be reconsidered, and the Court of Cassation may then quash the judgment without remitting it for retrial (*casser sans renvoi*). It may also quash a judgment without remitting it for retrial, and decide the case itself, if it is able to apply the correct rule of law in the light of the facts as found by the court that considered the substance of the case (whose findings and assessments of fact the Court of Cassation will not reconsider).

The Court of Cassation is divided into divisions (*chambres*): three civil divisions, one commercial division, one social division and one criminal division, each composed of a president and other professional judges. Depending on the nature of the case, the Court may also sit as a joint bench (*chambre mixte*, at least three divisions together) or as a full court (*assemblée plénière*, consisting of the first president, the presidents of division and ordinary judges).

The State Counsel's Office is represented by the Principal State Counsel and advocates general.

#### Legal databases

Legal databases in France are accessible via the Internet as a public service. The [Légifrance](#) site covers the judgments of the Court of Cassation and the courts of appeal:

on the 'CASS' database, for published judgments of the Court of Cassation,

on the 'INCA' database, for unpublished judgments, and

on the 'CAPP' database, for judgments of the courts of appeal.

#### Is access to the database free of charge?

Yes, access to the database is **free**.

#### Brief description of content

Judgments are available in French. Some judgments are also available in English, Arabic or Chinese translation.

The CASS database has a stock of 120 000 judgments, with 2 100 added annually.

The INCA database has a stock of 246 000 judgments, with 10 000 added annually.

La CAPP database has a stock of 19 000 judgments, with 20 000 added annually.

#### Related links

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