

Annex D

The Constitutional Reform of 23 July 2008

Constitutional Law N° 2007-724 of 23 July 2008 on modernisation of the institutions of the Fifth Republic has significantly reformed those institutions. The main measures are as follows:

Parliamentary powers:

- Parliament and government now determine in equal measure the agenda for business in both chambers. Previously, the priority granted to the government in this respect gave it virtually total control of the agenda.
- Discussion in parliamentary sessions is now based on the text tabled by the parliamentary committee concerned and no longer the one submitted by the government, except in the case of proposals for constitutional reform, finance bills and bills concerned with funding of the social security system (Article 42).
- There is now a six-week period between the tabling of a bill or legislative proposal in the National Assembly and its first reading. The period is one of four weeks for the first reading by the upper chamber (Article 42).
- The chambers may pass resolutions under conditions determined by an organic law (Article 34-1).
- The presentation of bills tabled in the National Assembly or the Senate complies with conditions determined by an organic law. Where there is no such compliance, the bills cannot be included on the agenda. In the event of disagreement between the president of the chamber examining the bill and the prime minister about disregard for – or misunderstanding of – the rules concerned, the matter is referred to the *Constitutional Council* (Article 39).
- The extent to which the procedure under Article 49, Paragraph 3 can be invoked is limited: the government can pledge its responsibility on the vote of a text, which is considered as adopted if a motion of censure has not been voted (Article 49, Paragraph 3), solely in the case of finance laws and laws concerned with funding the social security system, and on just one single text *per session*.
- By contrast, the restrictions placed on the introduction of financial legislative proposals by members of parliament (Article 40) and the “blocked vote” measure enabling the government to request a single vote on the whole or part of a text, excluding the amendments it considers unacceptable (Article 44), are maintained.

Exercise of power by the Executive:

- The number of consecutive periods in which a President of the Republic can hold office is limited to two.
- Certain appointments made by the President of the Republic are subject to the obligation to seek the prior advice of a committee consisting of members of parliament (tasks or responsibilities are to be determined by an organic law).

Control of constitutionality¹:

- A mechanism for controlling constitutionality as a means of defence has been introduced, enabling anyone answerable to the courts to challenge, during the court proceedings, the compliance of a legislative measure with the rights and liberties recognised by the Constitution.

Defender of Citizen's Rights:

- The office of "Defender of Citizen's Rights" has been established. The person appointed is responsible for gathering the complaints of those who consider they have been wrongfully treated through the action of a public service.

The Economic and Social Council.²

- It is now possible to petition the Economic and Social Council. The reform asserts the commitment of the Economic and Social Council to taking action on issues concerning the environment.

Notes

1. Similar to the arrangement in Germany.
2. Similar to the arrangement in Austria, in so far as the environment is taken into account.



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