



RESEARCH NOTE

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Express Constitutional Powers of the President of the Republic of France

Under the constitutions of most states, the executive is organised into various strata of authority with a single individual, who personifies the state, at the top. It is usual to make a distinction between constitutions where the head of state is:

- separate from the head of the executive government, serving mainly as the titular or ceremonial focus of the state (eg Germany);
- constitutions where the head of state is the effective executive officer (eg United States); and
- constitutions where the head of state has more than titular power and while not the effective executive officer enjoys very significant authority (France).

This Research Note provides a brief outline of the major express constitutional powers accorded to the President of France.

Note: Research Notes are also available in relation to express constitutional powers accorded to the President of the United States and the Federal President of Germany.

Election of the President

The Republic of France is a unitary state. Legislative power is exercised by a bicameral parliament, made up of a Senate and a

Key Express Powers of the President

- Appoint the Premier.
- Determine that a proposed constitutional amendment, even where it has been passed by the two Assemblies of the Parliament in identical terms, not be submitted to a referendum.
- Dissolve the National Assembly.
- An absolute discretion to determine when emergency domestic and war powers should be exercised and how.

National Assembly. The Senate comprises 321 members (296 for metropolitan France, 13 for the overseas territories and 12 for French nationals overseas). The National Assembly has 577 deputies, with 555 for metropolitan France and 22 for overseas departments and territories.

Executive power is divided between the President and the Government. The Republic of France is governed by a council of ministers, led by a premier. The Premier is appointed by the President and the Premier is responsible to the Parliament. Individual ministers are appointed by the President on the nomination of the Premier.

The President holds office for seven year renewable terms. The President is elected by popular vote, using a second ballot if the first ballot fails to produce an absolute majority. In the event of the Presidency being vacated, for any cause whatsoever, the functions of the President, with the

exception of those provided for by Articles 11 and 12 (referendum and dissolution of the National Assembly), are to be temporarily exercised by the President of the Senate.

Express Powers to Submit Bills to Referendum

Article 11 accords the President an express power to submit to a referendum a bill dealing with the organisation of the public powers, a Community agreement or a treaty. This power can only be exercised on the proposal of the government during parliamentary sessions.

Under Article 89, the President or members of Parliament may initiate amendments to the Constitution. This power can only be exercised on the proposal of the Premier. The President may also determine that a proposed constitutional amendment, even where it has been passed by the two assemblies of the Parliament in identical terms, not be submitted to a referendum.

Express Powers to Nominate, Appoint and Dismiss the Chief Executive and Ministers

Article 8 provides the President with an express power to appoint the Premier and on his/her proposal, to appoint and terminate the functions of ministers. The President may also terminate the functions of the Premier, but only when the latter submits the resignation of the Government.

Express Powers to Dissolve, Adjourn and Convene the Legislature

The President is accorded under Article 12 an express power to dissolve the National Assembly. This power can only be exercised after the Premier and Presidents of the two assemblies have been consulted. In addition, the National Assembly cannot be dissolved more than once every twelve months.

Article 18 provides the President with an express power, when the Parliament is not in session, to convene the Parliament. The power may only be exercised for the purpose of communicating with the two assemblies.

The President is accorded an express power under Article 30 to open and close, by decree, extraordinary sessions of the Parliament. Extraordinary sessions are sessions outside the Parliament's two ordinary sessions per year.

Emergency Domestic and War Powers

The President, under Article 16, is accorded express emergency domestic and war powers to '... take the measures commanded by these circumstances.'

The conditions attaching to Article 16 include that: the President inform the nation of any such measures; the measures be prompted by the desire to ensure to the constitutional public authorities, in the shortest possible time, the means of fulfilling their assigned functions; that the National Assembly not be dissolved during the exercise of the emergency powers; and do not detract from the absolute discretion to determine as to when the express power should be exercised or how it should be exercised. When the President assumes such emergency domestic and war powers, Article 16 provides that Parliament shall meet by right.

Express Powers over the Armed Forces

Articles 13 and 15 provide the President with an express power to make military appointments and the position of commander-in-chief of the armed forces.

Express Powers over the Judiciary

The President is accorded an express power by Article 56 to appoint three members of the Constitutional Council and the Constitutional Council's President.

Article 64 provides that the President is the guarantor of the independence of the judicial authority. The President, under Article 65, is accorded an express power to preside over the High Council of the Judiciary and appoint nine members to the High Council of the Judiciary.

Express Powers over Foreign Relations

Article 14 provides the President with an express power to accredit ambassadors and envoys extraordinary to foreign powers, and that foreign ambassadors and envoys extraordinary shall be accredited to him.

Under Article 52, the President is accorded an express power to negotiate and ratify treaties. Also, the President is accorded a role in negotiations of international agreements not subject to ratification. The President has to be informed of all negotiations leading to the conclusion of such agreements.

Articles 14 and 52 are subject to Article 53. Article 53 requires that international agreements may only be ratified or approved by way of legislation.

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