

World Factbook of Criminal Justice Systems

France

by

Jacques Borricand
Institut de Sciences Penales et de Criminologie

This country report is one of many prepared for the World Factbook of Criminal Justice System under Grant No. 90-BJ-CX-0002 from the Bureau of Justice Statistics to the State University of New York at Albany. The project director for the World Factbook of Criminal Justice was Graeme R. Newman, but responsibility for the accuracy of the information contained in each report is that of the individual author. The content of these reports do not necessarily reflect the views or policies of the Bureau of Justice Statistics or the U.S. Department of Justice.

GENERAL OVERVIEW

1. Political System.

France has a centralized government, although it is decentralized to the extent that there are 22 regions, 95 departments, and 36,000 municipalities, each of which can derive benefits from the central government, while maintaining a certain amount of autonomy.

2. Legal System.

The French legal system abides by the principal of unity of the civil and criminal justice system, which means that the same court can hear both criminal and civil cases.

3. History of the Criminal Justice System.

The legal system in France has developed through several stages since the country's establishment. The stage of the Private Reaction characterized the legal system from the time France was founded up until the 16th century. The accusatory procedural system predominated judicial procedures at this time. The 16th century was marked by the stage of the Public Reaction, which established the inquisitorial system. This system was based on secret judicial procedures. Thus, repressiveness and arbitrariness in the judicial and legal procedure were characteristic of the regime before 1789. After the Revolution of 1789, a judicial system was established that was inspired by English law which enacted the principle of legality of offenses and punishments.

The stage of the Imperial Penal Law produced two written codes: the Code of Criminal Instruction of 1808 and the Penal

Code of 1810. The Code of Criminal Instruction emerged from a blending of the inquisitory procedure and the accusatory procedure. The Penal Code resulted in the creation of a list of definable offenses. A number of reforms followed the creation of these codes, which generally tried to individualize the punishment to the particular offender. Reforms included the development of a suspended sentence for juveniles in their early stages of delinquency, such as first-time offenders, stiffening of punishment for recidivists, probation, parole, and alternatives to imprisonment. In addition, reform measures were taken which strengthened the rights of the accused.

Substantial reform has taken place in the last few decades. In 1958, the Code of Penal Procedure replaced the Code of Criminal Instruction. On July 22, 1992, a new Penal Code was presented, which went into effect on March 1, 1994. The New Penal Code has retained the tripartite distinction of crimes, misdemeanors, and violations, which was first established by the Penal Code of 1810.

The Code also addresses some new issues such as corporate crime, the development of alternative punishments to the deprivation of liberty, and reinforcing the severity of punishments for criminals who have committed more serious offenses. It also includes definitions of new crimes, such as offenses wherein persons are placed in dangerous situations by others, ecological terrorism, sexual harassment, crimes against humanity, and genocide.

CRIME

1. Classification of Crime.

* Legal classification. Under both the Penal Law and Penal Procedure, there is a tripartite distinction of offenses based on their respective seriousness: crimes, misdemeanors, and violations. (New Penal Code, Article 111-1). There are distinctions between completed and attempted acts for crimes and misdemeanors, but not for violations.

Under the Penal Code, crimes and misdemeanors can incur a 20 year sentence and a 5 year sentence respectively. Violations can incur a 2 year sentence. However, in practice, sentence length is generally 10 years for crimes, 3 years for misdemeanors, and 1 year for violations.

Crimes are also classified into attacks against persons, attacks against property, and attacks against public security. Attacks against persons include intentional homicide (murder, assassination, infanticide), intentional violence (non-intentional death, harm resulting in a permanent injury), and rape (including rape with more than one offender, aggravating circumstances, simple rape, and rape of a minor under 15 years of age).

Attacks against property include theft, robbery, fraud, breach of trust, aggravated robberies, and vandalism. Attacks against the public security include counterfeiting.

* Age of criminal responsibility. The age of criminal responsibility is fixed at 18.

* Drug offenses. There were 66,775 drug offenses recorded in 1992. About 17% of the crimes and misdemeanors can be linked to drugs. (Minister of the Interior, 1993: 43).

2. Crime Statistics.

The following statistics on recorded convictions are derived from the Directory of Justice Statistics, 1989-1990. (Annuaire statistique de la justice 1989-1990).

* Murder. A total of 625 intentional homicide convictions were recorded in 1990, of which 373 were recorded as murder, 212 as assassination, 15 as infanticide, and 25 as other homicides.

* Rape. A total of 735 rape convictions were recorded in 1990.

* Armed robbery. There were 800 armed robbery convictions recorded in 1990.

* Serious drug offense. A total of 20,326 drug offense convictions occurred in 1990, including offenses such as trafficking, possession, selling and using drugs.

* Crime regions. Information not available.

VICTIMS

1. Groups Most Victimized By Crime.

Although no available statistics indicate the most victimized group, it is believed that the elderly and the young are more likely to be victimized.

2. Victims' Assistance Agencies.

The National Institute of Help for Victims and of Mediation at Paris (L'Institut National d'Aide aux Victimes et de Mediation a Paris-1'INAVEM), with its headquarters in Paris, was created in 1986. There are approximately 100 branches throughout France. The role of this institute is to receive, inform, and orient the victims of criminal acts.

3. Role of Victim in Prosecution and Sentencing.

One goal of sentencing is to address the material and moral losses of the victim. The decision to seek reparations for a crime is that of the person(s) who incur loss from the crime. The victim must establish that the crime fulfills three conditions: a) that the offense is punishable; b) that the offense attacked an interest that is penally protected; c) and that the damage incurred by the victim is in direct relation to the offense.

4. Victims' Rights Legislation.

The offender may have to compensate the victim for losses.

If the offender is financially unable to do so, this compensation is provided by the state. A law of September 9, 1986 provides for the compensation of victims of terrorist acts. A law of July 6, 1990 allows victims to be compensated when the offense results in a disability where the victim loses more than one month off from work.

POLICE

1. Administration.

The role of the police is generally to ensure that the laws are observed and enforced. Efforts are also directed at the prevention of delinquency. Police headquarters are in Paris.

The police force is under authority of the Minister of the Interior. At the top of the police hierarchy is the General Director of the National Police who oversees four divisions. The Central Division of General Information controls information services concerning political, economical, and social issues. The Central Division of the City Police is in charge of city law enforcement. The Central Branch of the Judiciary Police is in charge of coordinating the search for the most dangerous delinquents and the investigation of the most serious offenses. The Division of Territory Surveillance is in charge of State security.

In French society, the administrative police generally maintain peace and order, such as the regulation of traffic. A special squad of administrative police, the Intervention Group of the State National Police (Groupe d'Intervention de la Gendarmerie National) was created for anti-terrorist operations. In addition, municipal police contribute to law enforcement in the municipalities.

The State police force is under the authority of the Defense Minister. It fulfills the role of the administrative and judicial police in rural areas. There are also special customs police who work to control illegal entry of persons into the country to attack the public order.

2. Resources.

* Expenditures. In 1994, 26,000,000,000 francs were allocated toward the police. Nineteen billion were allocated to the state police.

* Number of police. As of 1993, there are approximately 126,000 police personnel, of which 15,846 were inspectors, 88,637 were peace agents, 3,750 were investigators, and 2,005 were superintendents. There were also an additional 35,000 Parisian police and 10,000 municipal police officers.

State Police personnel totaled 91,263, of which 2,621 were officers, 79,936 were under officers, and 12,319 were other types of police personnel.

3. Technology.

3.8 billion francs were spent on police technology and 2.26 billion francs were spent on State Police technology.

* Availability of police automobiles. Information not available.

* Electronic equipment. Information not available.

* Weapons. Information not available.

4. Training and Qualifications.

Police personnel are recruited on a competitive basis. Training is given in specialized schools. Police recruits attend the Saint-Cyr School at Mont d'Or for 10 months, Inspectors attend the Canet-Cluse School for 6 months, and peace agents attend the Superior School for 6 months.

5. Discretion.

* Use of force. Information not available.

* Stop/apprehend a suspect. Police can stop and arrest an offender and bring him or her in front of the public prosecutor if they observe an offense that is in the process of being committed or has just been committed. This arrest can take place in a coercive manner, involving the search and seizure of witnesses and suspects. As long as they have informed the public prosecutor's office, police can keep suspects under observation for 24 hours. The length of observation increases to 48 or 96 hours in drug trafficking, drug use, and terrorism cases.

For crimes not directly observable by police, a preliminary investigation is conducted under the direction of the public prosecutor to obtain information on the reported offense. In these cases, suspects can be kept under observation only if there is evidence against them and this decision can only be made by a judiciary police officer. The law of August 24, 1993 guarantees that after 21 hours under observation, suspects have the right to request an attorney and the right to inform the family of the detention.

* Decision to arrest. Police can arrest an offender if they observe an offense that is in the process of being committed or has just been committed.

* Search and seizure. Search and seizure can occur during arrest, after the police have observed that a crime has just been committed or is about to be committed.

* Confessions. Information not available.

6. Accountability. Information not available.

PROSECUTORIAL AND JUDICIAL PROCESS

1. Rights of the Accused.

* Rights of the accused. The accused has the right to a self-obtained lawyer or to a lawyer chosen by the State. The accused also has the right to appeal the judge's decision. At appeal, the accused is brought in for temporary custody under

the Chamber of Accusation. Under the law of August 24, 1993, the accused has the right to ask the President of the Accusation Chamber to suspend any sentence until a decision is made on the appeal. Finally, the accused has the right to be compensated for abusive custody.

* Assistance to the accused. The accused has the right to the assistance of an attorney.

2. Procedures.

* Preparatory procedures for bringing a suspect to trial. Generally, the procedure by which a case is brought to court is more elaborate as the seriousness of the crime increases. There are two procedural stages preceding trial. In the police stage, the police conduct a preliminary investigation under the direction of the public prosecutor. This process involves a search for the suspect, a hearing of the suspect, and an observation of the suspect, once arrested. During this investigation, the suspect is kept under observation for 24 hours, which can be lengthened under authorization of the public prosecutor. Another type of investigation takes place when the suspect is caught while committing the crime. Police officers can make observations at the scene of the crime and relate their information to the public prosecutor.

The judiciary stage can be initiated by either the Public Minister or the victim, although the Public Minister studies the legalities involved in the charges and prosecutes the suspect. The Public Minister decides whether the case should be brought before a judge (15%) or be disposed of alternatively (85%).

The victim can also initiate prosecution by bringing a civil suit against the suspect, forcing the public prosecutor to take action.

Under the Chamber of Accusation, preparatory instructions for the case are given to an examining magistrate who has the power to proceed with the examination of the suspect. (Under the law of August 24, 1993, the term "accuse" was replaced by the term "put under examination".) The magistrates can interrogate, confront, and bring warrants against the suspect. They can also arrest the suspect and bring him or her before judicial authority. Another set of instructions is given for the bringing of appeals.

The examining Magistrate reads the charge and the statement of the defense. Judges of the Correctional Court must explain reasoning for their decision.

* Official who conducts prosecution. The Public Minister can prosecute a suspect.

* Alternatives to trial. Suspects are not allowed to plead guilty.

* Proportion of prosecuted cases going to trial. Information not available.

* Pre-trial incarceration conditions. A person may be kept under observation if there is evidence against him or her.

Pre-trial detention may be decided by the judge of instruction or the Chamber of Accusation. The accused can appeal this decision and request release or can use the provisional order of release.

* Bail procedure. The accused can be released from pre-trial detention on bail. This decision is made by a judge of instruction or the Chamber of Accusation.

* Proportion of pre-trial offenders incarcerated. In 1990, the number of pre-trial offenders totaled 20,789.

JUDICIAL SYSTEM

1. Administration.

Police Court. Police Courts have jurisdiction over violations of the law that incur a punishment of less than 2 months imprisonment and a maximum fine of 25,000 francs.

Correctional Court. Correctional Courts have jurisdiction over offenses which can incur a maximum of 10 years imprisonment.

Assize Court. The Assize Court has jurisdiction over serious crimes that have possible life imprisonment sentences. The Assize Court sits on an ad hoc basis (not a permanent court). Its decisions are permanent and cannot be brought for appeal.

The Chamber of Correctional Appeals. The Chamber of Correctional Appeals hears appeals of decisions brought to it by the Police and Correctional Courts.

Supreme Court of Appeal. The Criminal Chamber of the Supreme Court of Appeal oversees the application of law in all courts. It verifies judicial decisions to ensure that the application of the law and the resulting sentences are sound, but does not actually hear any cases. Its judges determine the appropriate application of the law in a case, but do not draw any conclusions as to the facts of the case.

2. Special Courts.

Court for Children. This court hears cases involving minors charged with offenses that would be brought to the Police and Correctional Courts if they were adults (for instance, misdemeanors and violations).

Assize Court for Minors. This court hears cases involving minors charged with more serious offenses.

3. Judges.

* Number of judges. In 1990, there were 5,796 judges, 50% of whom were women.

The Assize Court consists of three professional magistrates plus a jury of nine members. All other courts are operated solely by professional magistrates.

* Appointment and qualifications. Judges are recruited and must compete for entry after 2 years of training at the National School of Magistrature.

PENALTIES AND SENTENCING

1. Sentencing Process.

* Who determines the sentence? The sentence is determined by the court. The judge that sets the punishment also decides how the punishment will be carried out.

* Is there a special sentencing hearing? Information not available.

* Which persons have input into the sentencing process? The accused, the victim, and the Public Minister can express their opinions at sentencing. Expert witnesses, such as psychiatrists, have a great influence. The court will generally abide by the conclusions of expert witnesses.

2. Types of Penalties.

* Range of Penalties. Penalties generally range from fines for minor offenses to deprivation of liberty for serious offenses, although imprisonment can be used for misdemeanors as well as more serious crimes. There are other punishments such as seizure of property, closing down of establishments, and community service.

A life sentence in prison is often given as punishment to the crimes of murder, assassination, parricide, poisoning, attack upon State security, and counterfeiting. Prison sentences are generally given for the crimes of rape, armed robbery, kidnaping of a minor, unlawful imprisonment, threats, assault, assistance of suicide, homicide, and forms of indecency (for instance, public indecency).

* Death penalty. The death penalty was repealed by the law of October 9, 1981.

PRISON

1. Description.

* Number of prisons and type. There are five types of penal institutions. Central houses receive offenders who have been sentenced to more than 1 year in prison. Detention centers can also receive offenders with long sentences, but are orientated toward the re-socialization of offenders. Stop Houses receive offenders with less than a one year sentence. Penitentiary Centers are a hybrid of Stop Houses and Central Houses and receive offenders with both long and short sentences. Semi-liberty Centers house offenders who can be released for short periods of time to go to work, school, professional training, or undergo medical treatment.

* Number of prison beds. As of 1990, there were a total of

* Expenditure on the prison system. In 1992, 27.8% of the budget for the Minister of Justice went toward prisons, totaling 5,029,398,244 francs. Each day of detention cost 252 francs per prisoner.

3. Prison Conditions.

* Remissions. Inmates can apply for early release from the Penalty Application Commission. The reduction cannot exceed 3 months per year of incarceration and 7 days per month for incarceration over one year.

Time reduction is also permitted if the inmate passes an academic exam or completes university or professional studies. However, this form of reduction cannot exceed 2 months per year of incarceration.

Prisoners with life sentences can also obtain parole. The total reduction of sentence cannot exceed 20 days or a month per year of incarceration.

* Work/education. Inmates are not obligated to work, although in principal, prisons are obligated to provide work for inmates to do. About 40% of the prisoners are provided with paid work.

* Amenities/privileges. Prisons are humanized on a physical level by the availability of sanitary conditions for inmates and on a moral level, by allowing inmates to have family contact and to receive visits at pre-determined intervals. In some cases, such as the death or imminent death of a relative, inmates can leave confinement for short periods of time.

Educators, social workers, prison visitors, and clergy from a variety of religions participate in the rehabilitation of inmates.

EXTRADITION AND TREATIES

* Extradition. Bilateral extradition agreements exist with the following countries: South Africa, Algeria, Germany, Argentina, Australia, Austria, Belgium, Benin, Brazil, Burkina Faso, Cameroon, Canada, Central African Republic, Chili, Cyprus, Colombia, Congo, Ivory Coast, Cuba, Denmark, Djibouti, Egypt, Ecuador, Spain, United States, Finland, Gabon, Great Britain, Greece, Hungary, Iran, Ireland, Israel, Italy, Laos, Latvia, Liberia, Liechtenstein, Luxemburg, Madagascar, Mali, Panama, Netherlands, Peru, Poland, Portugal, Romania, San Marino, Senegal, Sweden, Switzerland, Chad, Czechoslovakia, Thailand, Togo, Tunisia, Turkey, Venezuela, Vietnam, Yugoslavia, and Zaire.

There are several multi-lateral extradition agreements in existence as well:

- International agreement against the white slave trade, signed May 18, 1904.

- Agreement on the repression of the white slave trade, signed May 4, 1910.

- Agreement on the repression of the women and children slave trade, signed September 30, 1921.

- Geneva agreement on counterfeit money, signed April 20, 1929.

- Agreement on the repression of illicit drug traffic, signed June 26, 1936. Protocol of December 11, 1946.

- Agreement for the prevention and repression of genocide (O.N.U.), signed December 9, 1948.

- Geneva agreement (prisoners protection, civil, injured, etc., in the case of armed conflict), signed August 12, 1949.

- Agreement on the trade of humans and prostitution of others, signed December 2, 1949.

- New York agreement on the status of refugees, signed September 11, 1952.

- Protocol relative to the status of refugees, signed January 31, 1967.

- European extradition agreement of Paris, signed December 13, 1957.

- Agreement of mutual aid on penal matter, signed April 20, 1959.

- Unique agreement on drugs, signed March 30, 1961. Amendment protocol, signed March 25, 1972.

- Tokyo agreement (offenses committed on board an airplane), signed September 14, 1963.

- European agreement concerning convicted persons on parole or probation, signed November 1964.

- The Hague agreement (capture of illicit airplanes), signed December 16, 1970.

- Agreement on the physical protection of nuclear material (opening at the signature at New York and Vienna), signed March 3, 1980.

- Agreement on psychotropic drugs, signed February 21, 1971.

- Montreal agreement (civil security aviation), signed September 23, 1971.

- Strasbourg agreement (terrorism repression), signed January 27, 1977.

- Vienna agreement against illicit traffic of drug and psychotropic substances, signed December 20, 1988.

* Exchange/transfer of prisoners. Information not available.

* Specified conditions. Information not available.

SOURCES

Minister of the Interior, "Aspects of the Observed Criminality in France in 1992", The French Documentation, 1993. (Ministere de l'Interieur, "Aspects de la criminalite et de la delinquance constatees en France 1992", La Documentation Francaise, 1993).

Directory of Justice Statistics, 1989-1990. (Annuaire statistique de la justice 1989-1990, ed. La documentation francaise).

Annual Report of the Penitentiary Administration, Minister of Justice, 1992. The French Documentation.

Bouloc, B., Penology, 1991 by Dalloz.

Montreuil, Chavanne, and Buisson, The Right of Police, 1991, ed. by LITEC.

Rassat, M.L., The Judicial Institution, P.U.F., 1991.

Jurisclasseur.

Jacques Borricand
Director
l'ISPEC, Institut de Sciences Penales et Criminologie
21 Rue Gaston-de-Saporta
13625 Aix-en-Provence
France
Tel: 42-23-04-35
Fax: 42-63-02-31