

COUNTRY PROFILE FRANCE

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Legal System

Civil law system: the main sources of French law are the five basic codes (*Code civil*, *Le nouveau code de la procedure civile*, *Code de commerce*, *Code pénal*, and *Code de procedure pénal*) and the French Constitution. These five codes as well as customary international law constitute primary sources of law. Persuasive sources of law include jurisprudence (judicial decisions of national courts) and doctrine (legal writings of scholars). The French legal system is based on a clear distinction between ‘public law’ and ‘private law’. While the former applies to issues concerning the apparatus of government, the constitution, public administration, and criminal law, the latter applies to legal disputes between private legal and/or natural persons.[1]

Monist system: The French legal system is a monist system, as provided by **article 55 of the Constitution**: “Treaties or agreements duly ratified or approved shall, upon publication, prevail over Acts of Parliament with respect to each agreement or treaty, to its application by the other party.” (**Article 55:** « Les traités ou accords régulièrement ratifiés ou approuvés ont, dès leur publication, une autorité supérieure à celle des lois, sous réserve, pour chaque accord ou traité, de son application par l'autre partie. »)

Health Care System

Co-existence of public and private structures: there is statutory health insurance (SHI), which currently covers almost 100% of the resident population. The 1999 Universal Health Coverage Act (*couverture maladie universelle*; CMU Act; Act no. 99-641 of 27 July 1999), came into force on 1 January 2000, established universal health coverage, establishing the right to SHI coverage financed mostly by the state through the CMU Fund (*Fonds CMU*), based on residence in France. In addition to SHI, which covers, on average, 75% of the basic benefit package expenditure, private complementary coverage can be purchased so that individuals’ medical expenses are 100% covered. The health system includes a health, a social care sector and a ‘third sector’, which provides care and services to elderly and disabled people.[2]

Overview of Relevant Provisions

	Signed	Ratified	Acceded
International Convention on Economic, Social and Cultural Rights			4 Nov 1980 a
Convention on the Elimination of All Forms of Discrimination against Women	17 Jul 1980	14 Dec 1983	
Convention of the Rights of the Child	26 Jan 1990	7 Aug 1990	
ILO Convention 169 (Indigenous and Tribal People Convention)	-	-	-
International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families	-	-	-
Convention on the Rights of Persons	30 Mar 2007	18 Feb 2010	

with Disabilities			
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Constitution

The **Preamble of the Constitution** provides that “the Nation [...] shall guarantee to all, notably to children, mothers and elderly workers, protection of their health, material security, rest and leisure. All people who, by virtue of their age, physical or mental condition, or economic situation, are incapable of working shall have to the right to receive suitable means of existence from society.” (« La Nation garantit à tous, notamment à l'enfant, à la mère et aux vieux travailleurs, la protection de la santé, la sécurité matérielle, le repos et les loisirs. Tout être humain qui, en raison de son âge, de son état physique ou mental, de la situation économique, se trouve dans l'incapacité de travailler a le droit d'obtenir de la collectivité des moyens convenables d'existence. ») [3]

Indicator	National Legislation	National Regulation
Government Commitment Mandatory language	<p>-France acceded to the Constitution of the World Health Organization on 16 Jun 1948 according to which it has “a responsibility for the health of its peoples which can be fulfilled only by the provision of adequate health and social measures.” (« Les gouvernements ont la responsabilité de la santé de leurs peuples ; ils ne peuvent y faire face qu'en prenant les mesures sanitaires et sociales appropriées.»)</p> <p>-France acceded to the International Covenant on Economic, Social and Cultural Rights (ICESCR) on 4 November 1980; as a State Party, France “undertakes to take steps [...] to the maximum of its available resources, with a view to achieving progressively the full realization of the right to health, including particularly the adoption of legislative measures, [...] without discrimination of any kind.” (Article 2) It also recognizes the “right of everyone to the enjoyment of the highest attainable standard of physical and mental health.” (Article 12) (Article 2- «Chacun des Etats parties au présent Pacte s'engage à agir [...] au maximum de ses ressources disponibles, en vue d'assurer progressivement le plein exercice de droits reconnus dans le présent Pacte par tous les moyens appropriés, y compris en particulier 'adoption de mesures législatives. [...] s'engagent à garantir que les droits qui y sont dénoncés seront exercés sans discrimination. » Article 12- «Les Etats parties au présent Pacte reconnaissent le droit qu'a toute personne de jouir du meilleur état de santé physique et mentale qu'elle soit capable d'atteindre. »)</p> <p>-France became a State Party to the Convention on the Elimination of All Forms of Discrimination against Women on 14 December 1983 according to which it “shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.” (Article 12) (Article 12- « Les Etats parties prennent toutes les mesures appropriées pour éliminer la discrimination f l'égard des femmes dans le domaine des soins de santé en vue de leur assurer, sur la base de l'égalité de l'homme et de la femme, les moyens d'accéder aux services médicaux, y compris ceux qui concernent la planification de la famille. »)</p>	

	<p>- France is a State Party to the Convention on the Rights of the Child which entered into force on 2 September 1990; it recognizes “the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health”; it “shall strive to ensure that no child is deprived of his or her right of access to such health care services.” (Article 24) (Article 24- «Les Etats parties reconnaissent le droit de l'enfant de jouir du meilleur état de santé possible et de bénéficier de services médicaux et de rééducation. Ils s'efforcent de garantir qu'aucun enfant ne soit privé du droit d'avoir accès à ces services. ») [4]</p> <p>-France is bound by the Charter of Fundamental Rights of the European Union when implementing European Union law. Article 35 of the Charter provides that “Everyone has the right of access to preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices. A high level of human health protection shall be ensured in the definition and implementation of all the Union's policies and activities.” (Article 35- «Toute personne a le droit d'accéder à la prévention en matière de santé et de bénéficier de soins médicaux dans les conditions établies par les législations et pratiques nationales. Un niveau élevé de protection de la santé humaine est assuré dans la définition et la mise en oeuvre de toutes les politiques et actions de l'Union. ») [5]</p>	
	<p>- The French Code of Public Health provides that “the fundamental right to the protection of health must be implemented by all available means for the benefit of any person.” (Article L1110-1) (Article L1110-1- «Le droit fondamental à la protection de la santé doit être mis en œuvre par tous moyens disponibles au bénéfice de toute personne.») [6]</p>	
<p>Sustainable Financing State reimbursement scheme</p>	<p>- low reimbursement of dental and optical health care expenses[5] - Coinsurance rates are applied to all health services and drugs in the Statutory Health Insurance System benefits package, and vary according to the type of care (inpatient care, 20%; doctor visits, 30%; dental care, 30%);[8]</p> <p>- ‘Medical goods and services covered by SHI:</p> <ul style="list-style-type: none"> • hospital care and treatment in public or private institutions providing health care, rehabilitation or physiotherapy; • outpatient care provided by general practitioners, specialists, dentists and midwives; • diagnostic services and care prescribed by doctors and carried out by laboratories and paramedical professionals (nurses, physiotherapists, speech therapists, etc.); • pharmaceutical products, medical appliances and 	

	<p>prostheses prescribed and included in the positive lists of products eligible for reimbursement;</p> <ul style="list-style-type: none"> • prescribed health care-related transport.' [2] <p>-In specific situations, patients are covered for 100% of the statutory tariffs. For instance, there are exemptions:</p> <ul style="list-style-type: none"> • related to health status, specifically if a person is suffering from one of 30 long-term illnesses (<i>affection de longue durée</i>; ALD); <p>exemption linked to the nature of the treatment provided, such as certain hospital treatments and infertility treatments;</p> <ul style="list-style-type: none"> • related to the specific individual, <i>inter alia</i> those involved in work-accidents, pregnant women. There are no exemptions based on economic grounds. Still, complementary VHI coverage for people with low incomes is provided for under the CMU Act (<i>couverture maladie universelle complémentaire</i>; CMU-C).[2] <p>-The ALD scheme provides for a list of 30 (mostly chronic) diseases. The SHI will cover all the expenses related to the treatment of any ALD-listed disease. The general practitioner has to present the patient to SHI which will decide whether he or she qualifies for full coverage of medical expenses.[2]</p> 	
<p>Sustainable Financing State subsidy</p>	<p>- Article L1432-6 of the French Code of Public Health provides that the financial resources of the Regional Health Agency shall be constituted, <i>inter alia</i>, of state subsidies. (Article L1432-6- Les ressources de l'agence [régionale de santé] sont constituées par : une subvention de l'Etat [...].)</p> <p>- Article L5123 -7 "To avoid wastage of drugs and without prejudice to the freedom of prescriptions , special conditions may be laid down by decree for drug delivery to the beneficiaries of a health insurance plan and beneficiaries of social assistance." (Article L5123-7 "Afin d'éviter le gaspillage des médicaments et sans porter atteinte à la liberté des prescriptions médicales, des modalités particulières peuvent être fixées par décret pour la délivrance des médicaments aux bénéficiaires d'un régime d'assurance maladie et aux bénéficiaires de l'aide sociale.")</p> <p>- Article L5321 -1 The agency is subject to financial and accounting administrative, fiscal regime and a state control adapted to the particular nature of its mission, defined in this book and defined by decree in Conseil d'Etat. (Article L5321-1 "L'agence est soumise à un régime administratif, budgétaire, financier et comptable et à un contrôle de l'Etat adaptés à la nature particulière de sa mission, définis au présent livre et précisés par décret en Conseil d'Etat.")</p> <p>- Article L5321 -2 Resources of the agency are made including:</p> <ol style="list-style-type: none"> 1 A state subsidy ; 2 Grants from other public authorities, their public institutions, 	

	<p>social security institutions , the European Union and international organizations ; 3 Different products, gifts and bequests ; 4 Loans. The agency cannot receive donations from people who control its activity. The Agency may award grants under conditions prescribed by the Board (Article L5321-2 "Les ressources de l'agence sont constituées notamment: 1° Par une subvention de l'Etat ; 2° Par des subventions d'autres collectivités publiques, de leurs établissements publics, des organismes de sécurité sociale, de l'Union européenne ou des organisations internationales ; 3° Par des produits divers, dons et legs ; 4° Par des emprunts. L'agence ne peut recevoir des dons des personnes dont elle contrôle l'activité. L'agence peut attribuer des subventions dans des conditions prévues par le conseil d'administration.") - Law No. 99-641 of 27 July 1999 establishing a universal health coverage; PRELIMINARY: UNIVERSAL HEALTH COVERAGE.</p> <p>Article 1- It is created for residents of metropolitan France and overseas departments, universal health coverage, which guarantees all the support care by a health insurance plan, and those whose incomes are lower the right to protection: * insurance * additional and exemption from advance fees paid * third *. (Loi n° 99-641 du 27 juillet 1999 portant création d'une couverture maladie universelle; TITRE PRÉLIMINAIRE : DE LA COUVERTURE MALADIE UNIVERSELLE; Article 1- "Il est créé, pour les résidents de la France métropolitaine et des départements d'outre-mer, une couverture maladie universelle qui garantit à tous une prise en charge des soins par un régime d'assurance maladie, et aux personnes dont les revenus sont les plus faibles le droit à une protection *assurance* complémentaire et à la dispense d'avance de frais *tiers payant*").[11]</p> <p>- Even if in France there is a universal public health insurance system, there is no complete coverage; 5.2% of total expenditure on health is covered by state budget and almost 20.2% by private sources. Hence, private complementary VHI is utilised by almost 88% of the French population. [2]</p> <p>- Between 1946 and 1991, contributions from employees and employers as a proportion of wages and salaries constituted almost the exclusive fund for SHI, in the beginning there was</p>	
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	<p>a ceiling on contributions but later the ceiling was abolished. [2]</p> <p>- The Social Security Financing Act imposes an obligation on the pharmaceutical industry to contribute through a 1% tax on their turnover, on advertising, on drug retailing and a supplementary tax in case their turnover goes above a ceiling established by the above mentioned act. In 2007, the pharmaceutical industry contributed with €662 billion for SHI. Profit of companies whose turnover exceeds €760 000 provide additional revenue for SHI. There is a 0.03% tax which constituted almost €15.4 billion in 2008. Taxes are also imposed, <i>inter alia</i>, on companies' polluting activities. [2]</p> <p>-A part of the state budget is allocated in order to finance SHI. As a measure aimed at promoting employment of low-waged workers, employers have to contribute less for such employees (almost two-thirds of the ordinary rate). The state is to compensate for the difference between the ordinary rate of an employer's contribution for an employee and the actual contribution for a low-waged worker.[2]</p>	
<p>Rational Selection Essential medicines framework</p>	<p>- Article L1411-1 of the French Code of Public Health provides that "Prevention of diseases and health care of vulnerable populations is a priority objective of the health policy. The public health programs implemented by the state, local authorities and health insurance bodies are to take into account the specific difficulties of vulnerable populations." (Article L1411-1-1- «L'accès à la prévention et aux soins des populations fragilisées constitue un objectif prioritaire de la politique de santé.Les programmes de santé publique mis en oeuvre par l'Etat ainsi que par les collectivités territoriales et les organismes d'assurance maladie prennent en compte les difficultés spécifiques des populations fragilisées. »)</p> <p>- There are various types of vaccinations which are provided free of costs. These types of vaccinations are provided for in the French Code of Public Health: Article L3111-2- "The diphtheria immunization and the vaccination against tetanus are mandatory, unless in case of contrary medical indications." Article L3111-3- "The poliomyelitis immunization is mandatory, unless in case of contrary medical indications." Article L3111-4- "A person who works in a public or private institution dealing with the prevention of diseases or the housing of the elderly, exercising a professional activity which exposes oneself to risks of contamination must be immunized against hepatitis B , diphtheria, tetanus, poliomyelitis and influenza. People who are gainfully employed in a clinical laboratory must be immunized against typhoid fever. Any pupil or student preparing for the medical profession and other health professions [...] must be immunized against the diseases mentioned in the first paragraph of this article." Decree number 2006-1260 of 14 October 2006, Article 1- "The mandatory vaccination against influenza as laid down in</p>	

	<p>Article L. 3111-4 of the Public Health Code is suspended.”</p> <p>Article L3111-8- “In case of war, public emergency, epidemics or threat of epidemics, the vaccination or revaccination against smallpox can be rendered mandatory for anyone by a decree issued by the prefect.”</p> <p>Article L3111-10- “The Ministry of Health has the obligation to ensure the existence of a sufficient national stock of vaccinations, pharmaceutical products against smallpox.”</p> <p>Article L3111-11- “The vaccinations performed by institutions and other authorised bodies in conditions defined by decree are free of any charge.”</p> <p>(Article L3111-2- «Les vaccinations antidiphtérique et antitétanique par l'anatoxine sont obligatoires, sauf contre-indication médicale reconnue.» Article L3111-3- «La vaccination antipoliomyélitique est obligatoire, sauf contre-indication médicale reconnue.» Article L3111-4- «Une personne qui, dans un établissement ou organisme public ou privé de prévention de soins ou hébergeant des personnes âgées, exerce une activité professionnelle l'exposant à des risques de contamination doit être immunisée contre l'hépatite B, la diphtérie, le tétanos, la poliomyélite et la grippe. Les personnes qui exercent une activité professionnelle dans un laboratoire de biologie médicale doivent être immunisées contre la fièvre typhoïde. Tout élève ou étudiant d'un établissement préparant à l'exercice des professions médicales et des autres professions de santé [...] doit être immunisé contre les maladies mentionnées à l'alinéa premier du présent article.» Décret numéro 2006-1260 du 14 octobre 2006, Article 1- « L'obligation vaccinale contre la grippe prévue à l'article L. 3111-4 du code de la santé publique est suspendue. » Article L3111-8- «En cas de guerre, de calamité publique, d'épidémie ou de menace d'épidémie, la vaccination ou la revaccination antivariolique peut être rendue obligatoire par décret ou par arrêtés préfectoraux pour toute personne, quel que soit son âge. » Article L3111-10- «Le ministre chargé de la santé s'assure de l'existence sur le territoire national d'un stock national de vaccins et de produits pharmaceutiques et biologiques antivarioliques.» Article L3111-11- «Les vaccinations réalisées par les établissements et organismes habilités dans des conditions définies par décret sont gratuites. »)</p>	
<p>Affordable Prices Availability of generics</p>	<p>-There is a compulsory health insurance, instituted by regulation number 45-2250, of 4 October 1945, which aims to ensure that all the French have equal access to health care, regardless of their income level. This system of insurance covers almost 77% of health care expenses, the rest is to be provided for by complementary bodies.[7]</p> <p>- Article L5123 -1 Medicines and products referred to in Article L. 5121-8 cannot be sold at a higher price than that resulting from the regulation of prices. Other drugs and products whose sale is restricted to pharmacists cannot be sold at a higher price than that resulting from the national drug list price. This rate is fixed by order of the ministers of</p>	

	<p>economy and finance, health and social security. The first two paragraphs do not apply to drugs and products not consumed in France and aimed for exportation. The private health institutions for profit, with a pharmacy for internal use, must apply for drugs not included in the daily rate abatement on the price limit specified in the preceding paragraphs.</p> <p>The minimum rate of this allowance is fixed by order of the ministers of economy and finance, health and social security (Article L5123-1 “Les médicaments et produits mentionnés à l'article L. 5121-8 ne peuvent être vendus à un prix supérieur à celui qui résulte de la réglementation des prix. Les autres médicaments et produits dont la vente est réservée aux pharmaciens ne peuvent être vendus à un prix supérieur à celui qui résulte du tarif pharmaceutique national. Ce tarif est fixé par arrêté des ministres chargés de l'économie et des finances, de la santé et de la sécurité sociale. Les deux premiers alinéas ne s'appliquent pas aux médicaments et produits non consommés en France et destinés à l'exportation. Les établissements de santé privés à but lucratif, disposant d'une pharmacie à usage intérieur, appliquent obligatoirement pour les médicaments non inclus dans les prix de journée un abatement sur le prix limite prévu aux alinéas précédents. Le taux minimum de cet abatement est fixé par arrêté des ministres chargés de l'économie et des finances, de la santé et de la sécurité sociale.”)</p>	
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Sustainable Financing - State subsidy: a National Council shall coordinate all Regional Health Agencies according to **Article L1433-1** of the **French Code of Public Health**; it shall issue guidelines to Regional Health Agencies for the implementation of the national health policy, it shall ensure the consistency of the policies of Regional Health Agencies in terms of the organization of health care. This system is part of a reform brought in 2009 by the **Hospital, Patients, Health, Territories Reform Act**. (**Article L1433-1**- «Le Conseil national de pilotage des agences régionales de santé donne aux agences régionales de santé les directives pour la mise en œuvre de la politique nationale de santé sur le territoire. Il veille à la cohérence des politiques qu'elles ont à mettre en œuvre en termes de santé publique, d'organisation de l'offre de soins.»)[8]

Complementary universal health coverage: on December 31, 2011, 4.4 million people were beneficiaries of the complementary universal health coverage in France, 6% of the population in urban France. It is granted for one year to persons with stable and regular residence on French territory, whose resources for the last twelve months are lower than a certain threshold, set at 661 euros per month for one person, at the date of 1 July 2012. [12]

List of long-term conditions (*affection de longue durée*; ALD)

Source: Article D 322–1 of the social security code

Disabling stroke	Parkinson's disease
Aplastic anaemia and other chronic cytopenias	Hereditary metabolic conditions requiring long-term specialized treatment
Chronic arteriopathies with ischaemic manifestations	Cystic fibrosis
Complex schistosomiasis	Chronic nephropathy and primary nephrotic syndrome
Severe heart failure, arrhythmias, valvular cardiomyopathy, congenital cardiomyopathy	Paraplegia
Active chronic diseases of the liver and cirrhoses	Polyarteritis nodosa, acute disseminated erythematus lupus, generalized progressive scleroderma
Primary severe immunodeficiency requiring long-term treatment, infection by HIV virus	Severe progressive rheumatoid polyarthritis
Diabetes type 1, diabetes type 2	Long-term psychiatric conditions
Severe forms of neurological and muscular conditions (including myopathy), serious epilepsy	Ulcerative colitis and severe progressive Crohn's disease
Chronic severe constitutional and acquired haemoglobinopathies, haemolysis	Multiple sclerosis
Haemophilia and constitutional conditions of severe haemostasis	Severe progressive structural scoliosis (the angle of which is equal or superior to 25 degree) until rachidian maturation
Severe arterial hypertension	Severe ankylosing spondylarthritis
Coronary heart disease	Organ transplant sequelae
Chronic obstructive pulmonary disorder	Active tuberculosis, leprosy
Alzheimer's disease and other dementias	Malignant tumours, malignant lymphatic or hematopoietic tissue

Sources of revenue as a percentage of total expenditure on health, 1990–2007

Percentage of total expenditure on health (%)

	1990	1995	2000	2005	2006	2007
SHI	74,3	75,1	74,9	74,3	74,0	73,8
General Government	2,3	4,6	4,5	4,9	5,1	5,2
Out of pocket payments	11,4	7,6	7,1	6,8	6,8	6,8
Private Health Insurance	11,0	11,9	12,7	13,2	13,3	13,4
Other Sources	1,0	0,8	0,8	0,8	0,8	0,8

Source: Eco-Santé 2009; OECD 2009a.

Revenue received by SHI (the general scheme) in 1990, 2000 and 2007

Revenue	Percentage (billion euros)		
	1990	2000	2007
Employees contributions	32,2 (20,1)	3,4 (3,4)	2,9 (3,8)
Employers contributions	63,1 (39,3)	51,1 (49,8)	46,6 (61,8)
Total contributions	95,2 (59,4)	54,5 (53,2)	49,5 (65,6)
General social contribution (CSG)	0,0()	34,6(33,8)	37,6 (49,8)
Specific taxes (for example, cars, tobacco)	1,6(1,0)	3,3(3,3)	3,4 (4,5)
Taxes on pharmaceutical companies	0,0()	0,8(0,7)	1,2(1,6)
Total taxes	1,6(1,0)	38,7(37,8)	40,9 (54,2)
State compensation for the loss of contributions	0,5(0,3)	4,9(4,8)	7,8(10,3)
Adjustment between health insurance schemes	1,1(0,7)	0,3(0,3)	0,7(0,9)
Other	1,5(1,0)	1,6(1,5)	1,1(1,5)
Total revenue	100,0(62,3)	100,0(97,6)	100,0(132,5)

Source: Commission des comptes de la sécurité sociale 2001, 2009.

Notes: This includes contributions paid by SHI on behalf of doctors; the state compensates SHI for the loss of contributions directly related to economic policy decisions; a recent example is the reduction of employers' contributions for employees working in support services at home.

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