

*"Administrative Judges in Europe"*

*Recruitment – Training – Career*

*A European Comparison*

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# Introduction to the French system

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*Plan of the presentation*

**I.- General information on the contemporary French administrative justice system**

**II.- Recruitment**

**III.- Training**

**IV.- Career**

**V.- Perspectives**

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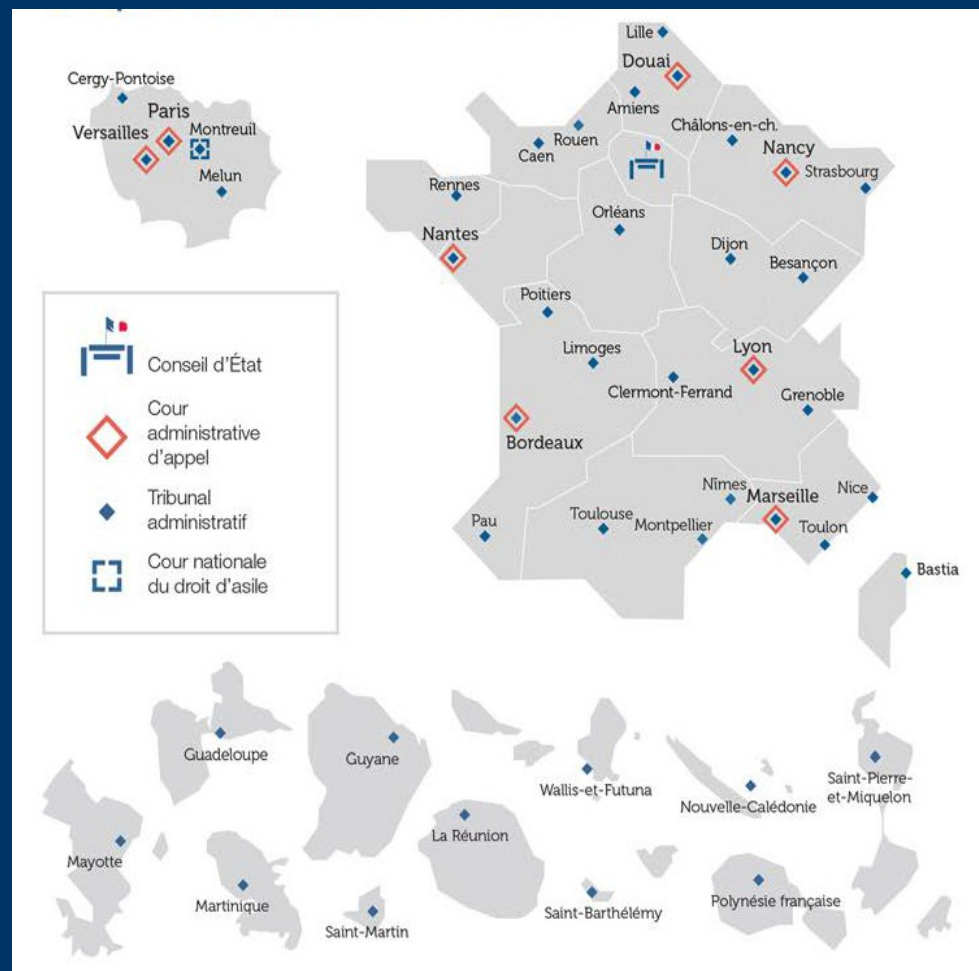
**I.- General information on the  
contemporary French administrative  
justice system**



## I.- General information on the contemporary French administrative justice system

# The Courts

- **42 administrative courts** (*tribunaux administratifs*)
- **8 administrative courts of appeals** (*cours administratives d'appel*)
- **A State Council** (*Conseil d'Etat*)
- **A National Court for Asylum** (*Cour nationale du droit d'asile*)
- **Other specialized administrative courts**



*I.- General information on the contemporary French administrative justice system*

## The Judges

- 1 399 administrative judges
    - ◆ 1 147 are on duty in the administrative justice system, including:
      - ◆ 856 in the administrative courts (74,62%)
      - ◆ 270 in the administrative courts of appeals (23,53%)
      - ◆ 18 at the National Court for Asylum (1,57%)
    - ◆ 252 are not on duty in their administrative justice system.
  - 346 members of the Council of State
    - ◆ 231 are on duty in the Council of State (litigation section: 56% of the total workforce)
    - ◆ 115 are not on duty at the State Council.
  - 8 313 judiciary judges
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## I.- General information on the contemporary French administrative justice system

# The Cases

### Administrative courts (2018)

- New cases: 213 029
- Adjudicated cases: 209 618

### Administrative courts of appeals (2018)

- New cases: 33 773
- Adjudicated cases: 32 854

### State Council (2017)

- New cases: 9 864
- Adjudicated cases: 10 139

### National Court for Asylum (2017)

- New cases: 39 986
- Adjudicated cases: 42 968

### Litigation fields (administrative courts only):

- *Foreigners law: 37,5%*
- *Social law: 13,1%*
- *Civil service: 10,7%*
- *Tax law: 8,4%*
- *Administrative polices, civil rights and freedoms: 8,2%*
- *Urban planning and environment: 6,4%*
- *Public contracts: 2,4%*
- *Administrative labor law: 1,5%*
- *Other cases: 11,9%*

## I.- General information on the contemporary French administrative justice system

# Main characteristics

- complete separation from the judiciary justice system
- strong division between the administrative courts of first instance and appeals and the administrative supreme court
- management by the State Council, through its General Secretariat (*Secrétariat général*), assisted by the High Council for administrative courts and administrative courts of appeals (*Conseil supérieur des tribunaux administratifs et des cours administratives d'appel* - CSTACAA).

The CSTACAA is composed of 13 members:

- ◆ - the vice-president of the Conseil d'Etat;
- ◆ - the general secretary of the Conseil d'Etat;
- ◆ - the State councillor, president of the administrative courts inspection;
- ◆ - the director of judiciary services at the ministry of justice;
- ◆ - a court president, elected among them;
- ◆ - five elected representants of administrative magistrates;
- ◆ - three qualified personalities, appointed by the President of the Republic, the president of the National Assembly and the president of the Senate.

## I.- General information on the contemporary French administrative justice system

### To sum it up...

#### Judiciary judges:

- wear a robe
- swear an oath
- are trained at the National School of Magistracy (*Ecole nationale de la magistrature* – ENM - <https://www.enm.justice.fr>)
- are seen on TV :-)

#### Administrative judges:

- wear civil clothing
- do not swear an oath
- receive an initial training at the Training Center of Administrative Justice (*Centre de formation de la justice administrative* - CFJA)
- are statutorily linked to the National School of Administration (*Ecole nationale d'administration* – ENA - <https://www.ena.fr>): “corps issu de l’ENA”



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## **II.- Recruitment**



## Administrative Judges

Administrative judges are recruited through five procedures:

- Former students of the ENA
  - National competition for direct access to the administrative judiciary (*concours du recrutement direct*)
  - Discretionary appointment among civil servants (*tour extérieur*)
  - Temporary detachment and secondment after detachment (*détachement, intégration après détachement*)
  - A marginal specific way for military officers.
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## II.- Recruitment

# Members of the State Council and judiciary judges

### Members of the State Council

- Former students of the ENA: 60,8%
- Discretionary appointment by the President of the Republic (*on a non-binding advice of the vice-president of the State Council*): 22,3%
- Specific ways for administrative judges: 13,1%
- Other ways: 3,8%

### Judiciary Judges

- First competition exam (*premier concours d'accès*) designed for law students; maximum age 31;
- Second competition exam (*deuxième concours d'accès*), designed for civil servants with four years of professional experience; maximum age 48;
- third competition exam (*troisième concours d'accès*), designed for private sector professionals with eight years of professional experience, maximum age 40;
- complementary competition exams (*concours complémentaires*);
- Detachment.

## II.- Recruitment

### Former ENA Students – *anciens élèves de l'ENA*

- recruitment of administrative judges since 1954
- training of 24 months (12 months of internships) on public policies
- choose their administrative career according to their ranking at the end of scolarity
- Prestigious institutions (State Council, Inspection of Finances, Court of Auditors) are chosen first ("*sortir dans la botte*")

Proportion of former ENA students among administrative judges:

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Magistrats administratifs	1188	1217	1278	1269	1322	1377	1386	1372	1373	1376	1399
Anciens élèves de l'ENA	344	343	351	371	380	376	375	364	320	309	294
% par rapport à l'effectif	28,95 %	28,18 %	27,46 %	29,2%	28,74 %	27,31 %	27,05 %	26,53 %	23,30 %	22,46 %	21,01 %

## *II.- Recruitment*

# **Competition for direct access – *concours du recrutement direct (1)***

- created in 1975 as a “temporary” and “complementary” measure (*recrutement complémentaire*), systematically renewed
  - became permanent in 2012
  - initial minimum age of 28, lowered to 25 in 2002 – suppressed in 2014
  - reformed in 2014
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## II.- Recruitment

# Competition for direct access – *concours du recrutement direct (2)*

### BEFORE 2014:

#### Admissibility (written exams)

- draft judge's report on a case (*note de rapporteur*) – 4H - coeff. 2
- dissertation on public law – 4H - coeff. 1

#### Admission (oral exam)

- Hearing on an administrative law subject and conversation with the jury – 1/2H – coeff. 2

### AFTER 2014:

- draft judge's report on a case – 4H - **coeff. 3**
- Short answers questionnaire on public law – 1H30 – coeff. 1
- dissertation on public law (externs) OR administrative brief (interns) – 4H - coeff. 1
- Hearing on an administrative law subject and legal questions – 1/2H – coeff. 2
- Conversation with the jury on motivation, experience, the profession, and deontology – 1/2H – coeff. 2

## II.- Recruitment

# Discretionary appointment (*tour extérieur*)

Open to medium to high civil servants after 8 or 10 years of professional experience

Way of vertical mobility (promotion)

Candidates are proposed by the CSTACAA after a hearing by a selection committee

Grades d'origine	2017		
	Inscrits	Sélectionnés	Nommés
Administrateur des finances publiques adjoint	2	1	1
Attaché d'administration de l'Etat	7	4	2
Attaché principal d'administration de l'Etat	17	11	5
Attaché hors classe d'administration de l'Etat	1	0	0
Attaché principal ville de Paris	3	1	1
Attaché territorial	3	1	0
Attaché principal territorial	5	2	0
Directeur territorial	5	1	0
Directeur adjoint du travail	4	1	0
Directeur des services de greffe judiciaire	1	0	0
Directeur d'établissement de santé	5	0	0
Ingénieur de recherche	2	0	0
Inspecteur des finances publiques	1	1	1
Inspecteur divisionnaire des finances publiques	2	1	0
Inspecteur du travail	1	0	0
Officier de police	1	0	0
Professeur primaire/secondaire	2	0	0
<b>Total</b>	<b>62</b>	<b>24</b>	<b>10</b>

**Medium State generalist civil servants 80%**

**Tax inspectors 20%**

## II.- Recruitment

# Detachment (*détachement*)

Open to high civil servants, as a way of horizontal mobility

Detachment for two years, renewable for one or two years; integration possible after three years.

Proposed by the CSTACAA after a hearing by a selection committee

No prefixed number of detachments – variable to reach the budgetary workforce target (*plafond d'emplois*)

Corps d'origine	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	Total
Administrateur civil	3	4	6	--	--	2	--	--	2	2	19
Administrateur territorial et de la ville de Paris	2	6	2	2	5	--	1	--	2	1	21
Administrateur de l'Assemblée nationale	--	--	--	--	--	--	--	--	--	1	1
Commissaire de police	--	--	1	2	1	--	--	--	1	4	9
Conseiller des affaires étrangères	1	2	1	1	--	--	--	--	--	--	5
Directeur d'hôpital	4	6	12	10	5	--	1	--	2	1	41
Magistrats de C.R.C.	3	1	1	--	1	--	1	1	2	3	13
Magistrat de l'ordre judiciaire	3	8	8	4	8	1	1	--	6	4	43
Professeur des universités et maître de conférences	3	4	1	2	10	2	1	3	--	1	27
Officier supérieur	--	--	--	1	--	--	--	--	--	--	1
TOTAL	19	31	32	23	30	5	5	4	15	17	181

**State and local high civil servants**  
22,5%

**Hospital Directors**  
22,5%

**Judiciary Judges**  
24%

**Law Teachers**  
15%



## II.- Recruitment

### Demographics – procedures of recruitment

VOIES D'ENTREE	NOMBRE	%	HOMMES	FEMMES
ENA	255	18,22%	178	77
Recrutement complémentaire	705	50,39%	348	357
Détachement	216	15,44%	125	91
Tour extérieur	192	13,72%	116	76
Officiers (L. 4139-2 code de la défense)	30	2,14%	21	9
Article 6 de la loi du 31/12/1987	1	0,07%	1	
Total	1399		789	610

## II.- Recruitment

# Demographics – last entries

Modes de recrutement	2008	2009	2010	2011	2012	2013	2014		2015		2016		2017		Total	%
E.N.A.	10	10	10	9	8	7	7	7	7	7	6	81	11,8			
Concours <sup>1</sup> (externe/ interne depuis 2014)	32	40	--	40	40	30	25	16	25	15	30	18	34	23	296	43,4
								9		10		12		11		
Tour extérieur	12	8	9	13	14	11	9	11	11	11	10	108	15,8			
Détachement	19	31	33	23	30	5	5	4	15	17	182	26,6				
Officiers (L. 4139-2 code de la défense)	2	3	--	2	1	1	0	1	1	4	15	2,2				
<b>Total</b>	75	92	52	87	93	54	46	48	64	71	682	100				

## II.- Recruitment

# Demographics – average age on recruitment

MOYENNE D'AGE DES NOUVEAUX MAGISTRATS A LA DATE DE LEUR NOMINATION

Modes de recrutement	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017			
E.N.A.	34,1	34,1	34,2	31,6	35,1	32,1	32,5	32	38	36			
Concours (externe/ interne depuis 2014)	29,4	29,2	-	30,2	30,1	29	28,8	26,3	30,1	26,8	32,2	29,8	30
							33,2	33,6		34,6		37	
Tour extérieur	42,7	43,5	45,3	45,1	41,6	37,9	39,5	40,9	40	42			
Détachements	42,5	42,9	44,8	40,8	43,7	41,8	39,4	40,8	44	41			
<b>Moyenne</b>	37,2	37,4	41,4	36,9	37,6	35,2	35	34	36	36			

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## **III.- Training**



## II.- Recruitment

### Initial Training

- Initial training period of six months
  - at the Training Center of Administrative Justice (*Centre de formation de la justice administrative* – CFJA) in Montreuil
  - 8 weeks of internship in administration and courts (2019)
  - administrative litigation law, material administrative law, organisation of the administrative justice system
  - mock cases (*dossiers fictifs*) in training chambers involving judges on duty (*chambres de formation*)
  - followed by a six-months period of half-duty work (“*mi-norme*”)
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## *II.- Recruitment*

### **Continuing education**

- **CFJA – 10 employees – service under the direction of the Secretariat General of the State Council**
  - **1,57 day/judge/year**
  - **Focus on material administrative law and informatic tools**
  - **Lecturers are almost exclusively administrative judges**
  - **Partnership with the ENM opening seminars on broader subjects to administrative judges**
  - **Intend to organize more formations in regions**
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## **IV.- Career**



#### IV.- Career

## Generalities

Administrative judges are divided into three grades:

- councilor (14,4%)
- first councilor (59,7%)
- president (25,9%)

Each grade follows a ladder made of “bars” (*échelons*) granting a pay raise. The evolution within each grade is solely based on seniority.

Counsellors and first counsellors are either reporting judge or *rapporteur public* in administrative courts of first instance and appeal.

Presidents are at the beginning ("*présidents P1-P4*") president of a chamber in a court of first instance or deputy president of a chamber in a court of appeal.

Presidents are then ("*présidents P5-P6*") president or deputy president in a court of first instance or president of a chamber in an administrative court of appeals.

The presidents of administrative courts of appeals are State Counsellors.

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#### IV.- Career

## Mobility - *Mobilité*

Obligation for all *ENA*-level civil servants ("*corps issus de l'ENA*")

Mandatory period of two years of civil service outside the administration of origin

Pre-requisite for advancement to the grade of president and nominations to higher administrative functions outside administrative justice

Historical exception taking into account years of service in an administrative court of appeals

Mobility can last longer and be made of several periods

Administrative judges have a right to return to their court of origin during four years

222 administrative judges are actually on mobility (16%)

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## Advancement

Advancement from counsellor to first counsellor: quasi-automatic when the required conditions are fulfilled (reaching the 6th bar + having at least three years of professional experience).

Advancement from first counsellor to president: eight years of professional experience + accomplishment of the mobility period + ranking on a liste of aptitude established by the CSTACAA.

The work of the CSTACAA is prepared by the Secretariat general of the Conseil d'Etat. The candidates are ranked according to short lists and professional evaluations previously made by presidents of courts, as well as according to their year of entry into the administrative jurisdiction, compared to a gliding year of reference (*année pivot*).

Advancement to the last bars of the grade of president (*présidents P5-P6*) are roughly made the same way after a minimum of four years of professional experience as president.

#### IV.- Career

## Presidents of Courts

Presidents of courts of first instance are appointed by the Prime minister on a binding advice of the CSTACAA.

The preselection of the candidacy submitted to the CSTACAA is made by the State Council.

Presidents of administrative courts of appeals are selected among State counsellors and presidents of courts of first instance (then automatically promoted to the grade of State counsellors).

New presidents of courts of first instance are now offered a specific set of continuing education modules on court management.

The State Council created a pool of profiles (*vivier*) for potential candidates to a nomination as president of a court of first instance, who are also offered continuing education modules.

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## **V.- Perspectives**



## French reflexions on recruitment, training and career

### Propositions of the working group and poll results

**External survey "Social Barometer",  
2017: mediocre results**

- recruit more ENA students - 10/year (79,8 % *pro*)
- limit the number discretionary appointments (50,9% *pro*)
- offer a non-legal option in the competition for direct access (59,3% *against*)

**Creation of a working group by the  
CSTACAA in February 2018**

- include more internships during initial training (84,1% *pro*)
- make continuing education a legal obligation, 3 days/year (75,2% *pro*)
- enlarge the catalog of continuing education, esp. on public policies and management (*more than 80% pro*)

**Report of the WG published in February  
2019**

- facilitate out-of-court career
- stop considering years of service into an administrative court of appeals as a mobility period (55,9% *pro*)

**Propositions of the WG to a poll (837  
answers, participating ratio appr. 73 %)**

- enhance transparency on advancement to president position (72,5% *pro*)
- create new president positions for diverse functions
- recruit more administrative judges into the Council of State (*more than 85% pro*)
- increase remuneration, including pay on merits (75,8% *pro*)

## V.- Perspectives

# Announcement of the suppression of the *Ecole nationale d'administration* (26<sup>th</sup> April 2019)

- Announcement by the President of the Republic during a press conference
  - Measure coming out of the “*Grand Débat*” after the Yellow Vests movement (“*Gilets Jaunes*”)
  - Considered as a way to answer the defiance of a part of public opinion against high civil service
  - Firm intention to end the “*grands corps*”
  - High civil servants should have more “field” experience
  - Exploratory mission given to a legal public figure
  - Impact on the recruitment and career of administrative judges yet unknown
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## Final remarks on the French system

Mixed procedures of recruitment, age diversity and various professional profiles

Governance of the administrative body in charge of initial training and continuing education

Interactions with other State administrations

Emphasis on professional administrative skills and cursus honorum rather than academic abilities

Strong external independence but heavy reliance on the State Council

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