Legal Framework for Protected Areas:

France

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Abstract

France is characterized by a broad range of protected area categories. These may be created as a result of initiatives by the national government, or local or regional authorities, and may be established under environmental legislation or sectoral laws.

Firstly, this case study sets out the national legal and institutional context for protected areas. Secondly, an analysis is presented of the legal frameworks for various French protected area categories that are specifically aimed at the protection of biodiversity and vulnerable terrestrial and marine ecosystems. These include national parks, marine parks, nature reserves and so on. This analysis concludes with an explanation of the way in which France fulfils its binding international and European commitments with respect to protected areas.

Protected areas established under environmental law are not the only protection tool available; sectoral legislation also contributes to environmental protection. Two sectoral laws in particular contain specific provisions concerning the protection of natural areas: land use planning law may protect certain areas from urban development, and forestry law may be used to protect forest areas and ecosystems of environmental value.

The final part of this study focuses more specifically on tools for national land use planning. Regional nature parks can be used as protection instruments or land use planning instruments, and as such are subject to a special analysis. The study concludes with a critique of ecological connectivity and an overview of the latest instruments that have been developed to ensure its realization.
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### Acronyms and abbreviations

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<th>Description</th>
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<tr>
<td>CEN</td>
<td>Conservatoire des espaces naturels (natural areas conservation society)</td>
</tr>
<tr>
<td>DOCOB</td>
<td>document d’objectifs (document of objectives)</td>
</tr>
<tr>
<td>EU</td>
<td>European Union</td>
</tr>
<tr>
<td>IUCN</td>
<td>International Union for Conservation of Nature</td>
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<tr>
<td>NGO</td>
<td>non-governmental organization</td>
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1 Introduction

1.1 Protected areas in France: introductory remarks

In contrast to many other countries, France has never adopted a specific law governing protected areas. The concept of protected areas itself is neither used nor defined by French law, which refers to the various categories by their names (national parks, regional nature parks, nature reserves, and so on). The absence of a definition has not prevented the establishment of a very broad range of protected area categories with differing legal status. No reference is made to the IUCN categories1 but it is nevertheless possible to establish correlations with all of them. However, since French protected areas law introduces a high level of flexibility within each category (zoning, site-specific regime through the legal instrument establishing the protected area), it is difficult to establish exact correlations.

This diversity includes instruments related to various branches of law (environmental, forest, land use planning). A specific geographical area may benefit from various levels of protection, from strict protection to concerted planning with a view to protecting natural habitats. The larger group of protected areas consists of national parks, marine nature parks, national and regional nature reserves, classified and registered sites, Coastline and Lakeshore Protection Agency sites, and areas covered by biotope protection orders (hereafter referred to as ‘protected biotopes’), as well as regional nature parks which combine environmental law and land use planning. Forestry law and urban planning law also significantly contribute to the protection of individual natural areas.

Protected areas are not isolated; like the rest of the national territory, they are subject to land use and urban planning regulations that incorporate and support them. Regional and local authorities play a major and increasingly important role in the field of biodiversity protection.2 To that effect, they apply a number of tools deriving from environmental law (for example, regional authorities are empowered to establish regional nature reserves), urban planning law or land use planning law.

This wide variety of categories constitutes both an opportunity and a drawback. The opportunity stems from the fact that the various categories may overlap, each with its own specific purposes. Thus, the designation of a national park does not preclude the adoption of an order to protect the habitats of listed species (arrêtés de biotope), applicable within its boundaries. This synergy enhances the effectiveness of the intended protection. The drawbacks stem from the fact that this kind of overlapping of protected areas may muddy the legal waters.3

1.2 Biodiversity protection strategy

No overall policy and no national strategy for protected areas have been developed or implemented to date.4 However, the “natural heritage” action plan of the 2004 National Biodiversity Strategy serves as a national strategy for protected areas.

In France, two major trends emerge with respect to the protection of natural areas. First, conservation remains the essential goal when establishing protected areas. The protection of natural resources, environmental balance and biodiversity is enshrined in the French Constitution (preamble to the

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1 Dudley, 2008.
2 Clap and Moral, 2010.
3 Cans, 2008, pp. 149–166.
4 Comité français de l’UICN, 2010.
Constitutional Charter for the Environment of 1 March 2005, hereafter referred to as the Constitutional Charter). However, the status of national parks has been modified, putting greater emphasis on sustainable development. Furthermore, powers with respect to biodiversity protection have been increasingly devolved to regional and local authorities, enabling them to designate protected areas (in the stricter sense, for example, regional nature reserves) or to establish biodiversity protection tools within the larger framework of land use planning.

The protection of natural heritage through the creation of protected areas is in fact part of national land use planning policy. Since the 1970s, environmental concerns have been taken into consideration at the political level and incorporated into land use planning. Protected areas become structuring elements of land use planning.

France used to be a highly centralized country. The decentralization process, launched in the early 1980s, has helped to devolve powers to regional and local authorities (regions, departments, municipalities), notably with respect to environmental protection. The possibility for the regions to establish regional nature parks provides the means to manage regional territories sustainably while protecting the region’s natural heritage. In the same way, decentralization has allowed sensitive natural areas to be fully taken into consideration in the land use planning policies of departments.

1.3 Environmental law principles applicable to protected areas

The Constitution and Article L. 110-1 of the Environmental Code set forth the principles governing the protection, enhancing, restoration, rehabilitation and management, inter alia, of natural areas, resources and habitats. The precautionary principle, as well as the principles of preventive action and correction of environmental damage at the source, polluter pays, reparation and participation apply generally, and thus apply also to protected areas. As a result, they do not need to be stated in the legal provisions applicable to each protected area.

- **Precautionary principle**: Constitutional Charter, Article 5: “Whenever potential damage, even if its occurrence is uncertain on the basis of available scientific knowledge, might entail severe and irreversible harm, government authorities shall, applying the precautionary principle and within their fields of competence, undertake risk assessment procedures and take provisional measures of appropriate proportionality in order to prevent the damage.”

- **Principles of preventive action and correction of environmental damage at the source**: Environmental Code, Article L. 110-1: “The principle of preventive action and correction of environmental damage at source, using the best techniques available at an economically acceptable cost.”

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5 The Preamble of the French Constitution refers to three founding texts: the Declaration of the Rights of Man and of the Citizen of 1789, covering mainly civil and political rights; the Preamble of the Constitution of 27 October 1946, covering social and economic rights; and the Environmental Charter of 28 February 2005. All legislation must comply with these texts; compliance may be verified by the judicial system.


7 Local authorities are government administrations distinct from the central government. According to the French Constitution, such authorities may be municipalities, departments, regions, authorities with a particular status (for example, Corsica) or overseas territories under Article 74 (for example, French Polynesia, New Caledonia, Wallis and Futuna). Local authorities are legal entities. They have specific powers provided by law and decision-making powers. To exercise decision-making powers, each local authority has a council of elected members (in municipalities, this is called the Conseil Municipal; in departments, it is the Conseil Général, and in the regions, the Conseil Régional).
Constitutional Charter, Article 3: “All persons, under the terms defined by the law, shall strive to prevent any harm that they would be likely to cause the environment or to limit the consequences thereof.”

- **Polluter pays principle**: Environmental Code, Article L. 110-1: “The polluter pays principle, according to which the costs arising from measures intended to prevent, reduce or combat pollution, must be borne by the polluter.”

- **Reparation principle**: Constitutional Charter, Article 4: “Every person must contribute to the reparation of environmental damage caused, pursuant to the terms defined by the law.”

- **Participation principle**: Constitutional Charter, Article 7: “Every person is entitled, under the terms and limitations defined by the law, to access information related to the environment held by government agencies and to participate in public decision-making processes having an impact on the environment.”

Furthermore, Article 6 of the Constitutional Charter establishes as an additional principle: “Public policies shall promote sustainable development. For that purpose, they shall reconcile environmental protection and use, economic development and social progress.”

### 1.4 Legal framework

The legal framework for French protected areas is based on various legislative and regulatory instruments which were consolidated in the year 2000 as part of the Environmental Code. At the same time, some types of protected areas may be established on the basis of non-environmental sectoral legislation, such as the Land Use Planning Code and the Forestry Code.

The Environmental Code codifies the laws and decrees relating to protected areas in France. To facilitate reading of this case study, references will be to articles of the Code. A brief historical summary of the laws and decrees relating to natural protected areas is as follows:

- Law of 21 April 1906, replaced by Law of 2 May 1930 relating to the protection of natural monuments and sites of artistic, historic, scientific, legendary or picturesque interest;
- Law of 22 July 1960 establishing national parks;
- Decree of 1 March 1967 creating regional nature parks;
- Law of 10 July 1976 on nature protection (this law established nature reserves);
- Law of 27 February 2002 (known as the law on community-level participation);
- Decree of 18 May 2005 abolishing voluntary reserves and creating regional nature reserves;
- Law of 14 April 2006 relating to national parks, marine nature parks and regional nature parks (amending the system of national parks, establishing marine nature parks and amending regional nature parks);
- Planning Law of 3 August 2009 for the implementation of the Grenelle Environment Forum outcomes, and Law of 12 July 2010 stating the national commitment to the environment, both resulting from the participatory process of the Grenelle Environment Forum (see Box 1).

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8 The Environmental Code includes all environmental laws passed by Parliament and all regulatory instruments (decrees). All law articles and decrees are included as specific articles of the Code. The Code includes two sections: a legislative section, covering all law provisions ("L." articles), and a regulatory section, covering decrees ("R." articles). For example, Article 1 of Law No. 2006-436 of 14 April 2006 relating to national parks, marine nature parks and regional nature parks becomes Article L.331.1 of the Environmental Code. This codification process aims at facilitating access to the legal framework, since law articles are thematically classified and systematized. Quotations refer to code articles instead of law articles. The present study also refers to the Environmental Code articles. There are about 60 codes in France, and the Environmental Code is one of them. Codes may be found at: www.legifrance.gouv.fr.
Box 1: The Grenelle Environment Forum

The Grenelle Environment Forum was launched in 2007 as a comprehensive process of national dialogue and negotiation, involving environmental non-governmental organizations (NGOs), businesses, trade unions, local authorities and the government.\(^1\)

The name ‘Grenelle’ is a reference to French history and the ‘Grenelle Agreements’, adopted after the demonstrations of May 1968. Those negotiations between trade unions, management and government took place at the Ministry of Employment building in Rue de Grenelle in Paris. Since then, the name ‘Grenelle’ has been used to designate major negotiation processes between civil society and the government.

Following the presidential elections in March 2007, the new French President decided to launch a comprehensive process of negotiation on the environment, known as the Grenelle Environment Forum. From this process of negotiation emerged Law No. 2009-967 of 3 August 2009, planning the implementation of the Grenelle Environment Forum outcomes (known as Loi Grenelle I). This law included all the commitments made by the government and various stakeholders during the negotiations. As it stands, it is essentially a statement of public policy which requires practical implementation. A second law was passed to this effect, known as Loi Grenelle II, stating the national commitment to the environment. It was adopted in June 2010 and published on 13 July 2010 (Law No. 2010-788 of 12 July 2010 on the national commitment to environment). This law amends French legislation (in particular the Environmental Code, but also the Land Use Planning Code and the Heritage Code) in order to implement the Grenelle Forum results.

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1. **Institutional framework**

From an institutional point of view, there is no single, specific agency or body that is responsible for the management of all of France’s protected areas. There are numerous agencies in charge of various types of protected areas.

1.5.1 **Central government**

Within the central government (the Ministry of Ecology, Energy, Sustainable Development and Land Use Planning, hereinafter referred to as the ministry in charge of nature protection) there is no directorate specifically in charge of protected areas. Biodiversity protection and terrestrial protected areas fall within the competence of the General Directorate for Housing, Land Use Planning and Nature. Marine protected areas (marine nature parks) come under the General Directorate for Infrastructure, Transport and the Sea.

The ministry in charge of nature protection is represented at the local level by Regional Directorates for Environment, Land Use Planning and Housing (Direction Régionale de l’environnement, de l’aménagement et du logement, or DREAL).

1.5.2 **Specific agencies**

The diversity of protected area categories led to the establishment in 2006 of specific agencies, but only for two categories: national parks and marine protected areas.

1.5.2.1 **National Parks of France**

The 2006 reform established a national agency, called “Parcs Nationaux de France” (National Parks of France), placed under the authority of the minister in charge of nature protection. The agency is managed by a governing board that includes the chairperson of the management board, the director...
of each national park or their representatives, two representatives of local or regional authorities, one member of parliament, one senator, two qualified experts and a representative of staff trade unions that are representative at the national level. The agency is, inter alia, in charge of:

- providing technical and administrative support to the management boards of national parks;
- developing a common communications policy at the national and international levels;
- representing park management boards in national and international forums; and
- managing the collective brand for national parks (Environmental Code, Art. L.331-29).

### 1.5.2.2 Marine Protected Areas Agency

Created in 2006, the Marine Protected Areas Agency (*Agence des aires marines protégées*) is an administrative public entity under the authority of the minister in charge of environmental protection. It has two main goals: at the national level it leads “the network of French marine protected areas”, while internationally it “contributes to the involvement of France in the establishment and management of marine protected areas” (Environmental Code, Art. L.334.1-II).

The emergence of this new player in the French institutional landscape reflects a trend towards greater consistency in the management and protection of this specific category of protected area.

The scope of the Marine Protected Areas Agency is wide, covering all marine protected areas. This includes marine nature parks, the marine portions of national parks, nature reserves and Natura 2000 sites, as well as the marine portions of protected biotopes and areas under the jurisdiction of the Coastline Protection Agency (Environmental Code, Art. L.334-1.III).

Its fields of competence include direct management of marine protected areas (particularly marine parks), as well as technical, administrative and scientific support to other managers of marine protected areas. It can also propose the establishment of new marine protected areas.

Its operational management board includes all relevant stakeholders: representatives of the central government, marine protected area management bodies, regional and local governments, sectoral trade organizations, users and environmental non-governmental organizations (NGOs) (Environmental Code, Art. L.334-2). It also has a scientific committee which is “consulted on projects relating to the creation of marine parks and their management plans” and makes “recommendations on the establishment of a national network of marine protected areas and on the creation of international marine protected areas” (Environmental Code, Art. R. 334-17).

### 1.5.2.3 The Coastline and Lakeshore Protection Agency

The Coastline and Lakeshore Protection Agency (*Conservatoire du Littoral et des Rivages Lacustres*) is a public administrative entity under the authority of the ministry in charge of nature protection. Created in 1975, it aims to implement “an active land purchasing policy for the protection of coastal areas and the preservation of natural sites and biological balance” (Environmental Code, Art. L. 322-1). Its managing board includes an equal number of representatives from the central government and qualified experts, as well as members of parliament and members of the local and regional bodies concerned (Environmental Code, L. 322-11). Its geographic scope covers mainland France and overseas coastlines, as well as the shorelines of some inland bodies of water.
1.5.3 Advisory bodies

1.5.3.1 National level: National Council for Nature Conservation

The National Council for Nature Conservation is an advisory body under the authority of the minister in charge of nature protection. Its 40 members include 20 ex officio members (for example, representatives of various ministries, NGO chairpersons, directors of public entities) and 20 members appointed for 4-year terms (renowned scientists, chairpersons of national parks or regional nature parks) (Environmental Code, R. 133-4 and R. 133-5).

Pursuant to the Environmental Code, Article 133-1, the Council provides advice to the minister in charge of nature protection on the means required to “preserve and restore the diversity of wildlife and natural habitats” and to “ensure the protection of natural areas and the preservation of associated biological balance, particularly as regards national parks, regional nature parks, marine parks and nature reserves, and sites of community importance”. It also reviews legislative and regulatory measures and scientific studies relating to these issues.

1.5.3.2 Regional level: Regional Scientific Councils for Natural Heritage

Pursuant to Article L.411-5.III of the Environmental Code, each region has a regional scientific council for natural heritage. Such councils include recognized scientific experts, drawn mainly from universities, research institutions and regional natural history museums, or appointed by the regional prefect. Maximum membership is 25 and members are appointed for a 5 year-term (Environmental Code, Art. R. 411-22).

The regional scientific councils are advisory groups. They may be consulted as required by the Environmental Code (for example, in the case of the establishment of a nature reserve), or by the prefect or the regional council chairperson, on any issue relating to the conservation of natural heritage (Environmental Code, Art. R. 411-23).

1.6 Geographical scope

This study covers the instruments applicable to mainland France and to some overseas territories, with respect to both terrestrial and marine areas. Some protected area categories apply specifically to the marine environment while others may be used independently of the type of area.

1.7 Correlation with IUCN protected area categories

It is difficult to establish an exact correlation between IUCN protected area categories and the protected area categories used in France. While a general correlation can be made, it may not always be relevant for a given protected area since the applicable legal and management frameworks, zoning and other features may differ for areas with the same designation.

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9 France consists of mainland France on the European continent, as well as overseas territories outside Europe, in the Atlantic, Indian and Pacific oceans, in Latin America and in the Antarctic. These overseas territories do not all have the same legal status. Some are considered full-fledged French départements (French Guiana, Guadeloupe, Martinique and Reunion), while others have greater administrative autonomy. The latter consist of French Polynesia, New Caledonia, and Wallis and Futuna, which have been devolved powers on environment matters, and others territories including Saint Pierre and Miquelon, Mayotte (which will become a department in 2011), Saint Martin, Saint Barthelemy, the French territories in the Indian Ocean and Antarctic, and Clipperton (an island with no specific legal status) (see Annex 1).
National nature reserves may correspond to IUCN categories III or IV, depending on the applicable regulatory and management arrangements.\textsuperscript{10}

In IUCN typology, marine nature parks belong to categories V and VI. In France, depending on the protected area management objectives, they may correspond to category V when they involve interaction between people and nature and aim to protect a seascape and its various values, or to category VI when they have the dual purpose of conservation and sustainable use of natural resources.

\textsuperscript{10} Martinez, 2008, p. 23.
The French concept of a national park does not correlate to any single category in the IUCN typology. Since it may include three types of zones, each with specific purposes and rules, a French national park corresponds to IUCN categories I, II and V. Strict protection reserve areas correspond to category I, core areas to category II and peripheral areas to category V.

Despite their unclear designation and the fact that, according to legislation, a biotope protection order merely defines regulatory measures (banning or restriction of activities), such an order actually results in the demarcation of an area subject to those measures (the protected biotope). Consequently, such an area is a protected area. Even if management measures are not provided for, such areas may correspond to IUCN category IV, as they aim to protect specific species. Classified and registered sites correspond to IUCN category III.11 Coastline Protection Agency sites correspond to IUCN category IV (as they may protect specific habitats) and category V.12

On the basis of their objectives, regional nature parks correspond to IUCN category V, even if they may also overlap with various other types of protected areas (nature reserves, protected biotopes) that do not correlate to this category.

2 Biodiversity and sensitive ecosystem protected areas

From among the wide range of tools available for biodiversity protection in France, this case study reviews those stemming from environmental law: national parks, marine nature parks, national and regional nature reserves, classified and registered sites, Coastline Protection Agency sites, protected biotopes and, subject to certain conditions, some kinds of private protected areas.

2.1 National Parks

2.1.1 Definition and purposes

According to the Environmental Code, a national park may be created in terrestrial or marine areas when the preservation of the natural environment, especially flora and fauna, soil and subsoil, air and water, landscape and, as appropriate, the cultural heritage, is of special interest, and when it is important to protect them by preventing degradation and damage likely to have an impact on their diversity, composition, appearance and evolution (Environmental Code, Art. L. 331-1).

Nine national parks have been created, of which six are located in mainland France and three are in overseas territories.13 Special provisions were introduced for overseas parks, taking into account the bio-geographical, cultural, social and economic contexts, as well as the specific environmental challenges in mainland and overseas territories (Environmental Code, Art. L. 331-15).

The year 2006 marked a turning point for French national parks, with comprehensive legal reform under Law No. 2006-436 of 14 April 2006 (Environmental Code, Art. L. 331-1 to L. 331-29), relating to national parks, marine nature parks and regional nature parks. The legal status and framework of national parks was modified, giving full consideration to sustainable development and increasing local involvement.

13 The National Parks in mainland France are: La Vanoise (established by the Decree of 6 July 1963); Port-Cros (Decree of 14 December 1963); the Pyrenees (Decrees of 23 March 1967 and 14 February 1989); the Cevennes (Decrees of 2 September 1970 and 7 August 1984); Les Ecrins (Decree of 27 March 1973); and Le Mercantour (Decree of 18 August 1979). Those in overseas territories are: Guadeloupe (Decree of 20 February 1989); the Amazonian Park of French Guyana (Decree of 27 February 2007); and Reunion Island (Decree of 5 March 2007). One proposed national park, the Calanques of Marseille, on the mainland, is under review.
Map 1: Main protected areas

Espaces naturels protégés (état au 1er janvier 2010)

- Réserve naturelle nationale de moins de 5000 ha
- Réserve naturelle de Corse
- Arrêté préfectoral de protection de biotope
- APB concernant un cours d'eau
- Site du Conservatoire du littoral
- Réserve biologique intégrale
- Réserve biologique dirigée
- Réserve naturelle nationale de plus de 5000 ha
- Parc national : zone de coeur
- Parc national : aire d'adhésion
- Parc national régional
- Réserve nationale de chasse et de faune sauvage
- Parc naturel marin
- Site RAMSAR

Source: Protected Areas Database, MNHN (SPN) and RNF, 2008
Although French national parks were originally intended to ensure the preservation of fauna, flora, soil and subsoil, air and water, and generally of any natural environment of special interest, this conservation approach constituted the main barrier to the further creation of national parks in France. Such was the case with the proposed park in French Guyana, where the region was intent on economic and social development and considered the park to be a potential asset for sustainable development.\(^{14}\) Article 6 of the Constitutional Charter sets forth as a principle that “public policies shall promote sustainable development. To this effect, they shall reconcile environmental protection and enhancement, economic development and social progress.” This principle entailed a modification of the original (1960) national parks legal regime.

At present, French national parks seek to maintain a delicate balance between biodiversity protection and sustainable development, combined with an increasing role for regional and local authorities.\(^{15}\) This balance is achieved by means of a new zoning system for park territories and the establishment of a major instrument, the national park charter. Also, at long last, cultural heritage and the landscape\(^{16}\) have become part of the objectives of a national park.

2.1.2 Establishment, modification

2.1.2.1 Establishment of a national park

A national park is established through a central government initiative, with political approval at the local level. It is created under a decree signed by the Prime Minister (décret en Conseil d’État) issued after mandatory advisory consultation with the Conseil d’État.\(^{17}\) The decree is signed by the Prime Minister and adopted following a process involving several phases.

First, an initial public interest group\(^{18}\) prepares a file with documents for the proposed national park and submits it for consultation and to obtain the opinion of the municipalities likely to be totally or partially included in the park’s core area, the municipalities eligible to adhere to the charter, and the inter-municipal associations\(^{19}\) to which such municipalities may belong, as well as to regional or departmental authorities (Environmental Code, Art. R. 331-4).

Once opinions have been expressed, the file is submitted by the minister in charge of nature protection to the Prime Minister. The latter then decides whether or not to “take the project into consideration” (that is, to move forward with the project) (Environmental Code, Art. R. 331-5). The decision to move forward with the project, announced through a ministerial order that must be published, constitutes the first phase in the creation of the park.


\(^{15}\) This reform led many authors to wonder about the actual status of these “new” parks, and especially how they relate to regional nature parks. See Romi, 2007; Cans, 2006. “The increasing success of the legal framework for regional nature parks is very probably the rationale for the transposition of some of their features” (Fevrier, 2006).

\(^{16}\) Prieur, 2008.

\(^{17}\) The Conseil d’État is the highest administrative court in France. It has two roles: it is the court of last resort on actions by administrative bodies; and it advises the government on draft laws, orders and certain decrees. These decrees are called Décrets en Conseil d’État (Decree of the Conseil d’État) because the approval of the Council is mandatory. They are signed by the Prime Minister, which distinguishes them from ordinary decrees or decrees issued by the council of ministers.

\(^{18}\) Pursuant to the Environmental Code, Article L. 131-8, such public interest groups, which have legal status and financial autonomy, may comprise public or private entities, including at least one public entity. They are established for the purpose of carrying out joint activities in the environmental field for a given period of time.

\(^{19}\) These are public entities which bring together several municipalities working on cooperative projects; they have tax-raising powers.
While the first phase is highly centralized, the second phase involves much broader participation. First, a charter is drafted by the public interest group in consultation with the municipalities and other local authorities involved. In addition, the entire case file for the park’s creation (including the presentation report, draft charter and graphics, as stipulated in Environmental Code, Article R. 331-8), is submitted to a public inquiry.  

On the basis of the report and assessment of the commissioner in charge of the inquiry, and the proposals and comments made by the public interest group upon completion of the inquiry, the park creation proposal and the draft charter are finalized by the ministry in charge of environmental protection. The charter is sent by the prefect (who represents the central government) to local communities eligible to adhere to the charter, who must decide within a period of four months whether to adhere or not. In the final phase, the establishment decree for the creation of the national park is issued, based on the report and recommendations of the relevant ministries and the deliberations of the municipalities involved (Environmental Code, Art. R. 331-11). This decree specifies a number of elements, pursuant to the Environmental Code, Article L. 331-2:

- delimitation of the core area or areas, and general protection rules applicable;
- designation of the territory of the municipalities eligible to adhere to the charter;
- approval of the charter and list of municipalities that have agreed to adhere to it;
- establishment of the park’s administrative public entity in charge of park management and planning (Environmental Code, Art. L. 331-8).

A national park may be established irrespective of the ownership status of the land. It may be established on land belonging to the state, to sub-national public entities or to private landowners. The public inquiry process allows landowners to express their views on the proposed park but their agreement is not mandatory for the park’s creation. Since the establishment of a national park does not entail either expropriation or purchase of private land, but merely easements related to its legal framework, there is a procedure enabling landowners to “demand that the park purchase their property if the measures taken for park management and planning have reduced by more than half the total benefit they used to gain from it” (Environmental Code, Art. R. 331-546). The easements created by park regulations may entitle landowners to compensation. Landowners in park core areas may apply for compensation if the park authority “calls for building work or requires measures to restore damaged ecosystems” under the Environmental Code, Article R. 331-55.

Strict protection reserves may be established on private land without the approval of the owner but after their consultation (Environmental Code, Art. R. 331-53). In such cases, the landowners can either ask for their property to be purchased or ask for compensation (Environmental Code, Art. R. 331-55).

### 2.1.2.2 Amendments to a national park

Pursuant to Article R. 331-15 of the Environmental Code, the “boundaries of the national park’s core area and of the territory of the municipalities eligible to adhere to the national park charter may be
extended.” Extension may be requested by municipalities wishing to adhere to the charter or by the park management board. The case file for a modification of the perimeter and, if need be, the charter, is submitted to the same public entities that were consulted prior to the park’s creation in order to obtain their opinion. It is then submitted to public inquiry throughout the territory of the municipalities concerned by the extension.

Box 3: The French Guyana Amazonian Park

It should not be forgotten that French overseas territories are a major challenge for the protection of global biodiversity. For this reason, France has special responsibility with respect to their terrestrial and maritime environments.

The Law of 2006 related to national parks reform provides for the creation of a national park with special status: the Guyana Amazonian Park (Parc amazonien de Guyane). Besides providing the overall legal framework for national parks and containing general clauses applicable to all national parks, the Law of 2006 includes special provisions for this park.

Particular care is taken in the case of this particular territory due to the plurality of communities living in French Guyana.

Pursuant to the Environmental Code, Article L. 331-15-5, the park aims to:

• Protect, manage, enhance and promote, at the national and international level, the biodiversity of French Guyana;
• Contribute to the development of local communities whose livelihoods depend traditionally on the forest, taking into consideration their traditional ways of life; and
• Participate in a number of social, economic and cultural achievements and improvements, within the framework of the sustainable development plan established under the park’s charter.

The Guyana Amazonian Park was established by the Decree of 27 February 2007. The park covers 3.4 million hectares, with a core area of 2.03 million hectares, and is home to a population of around 10,000. Its charter should be approved by 2011.

Ninety per cent of French Guyana is covered by tropical rainforests. The Guyanese forest, which is “the European Community’s only tropical rainforest”,1 plays a role in the larger context of Amazonia and South America. The Amazonian Park partially borders the Brazilian park of Tumucumaque and their combined surface area constitutes the largest tropical protected area in the world, thus also demonstrating the need for cooperation between these two parks.

The Amazonian Park completes the array of protected areas already existing in French Guyana: 6 national nature reserves, 1 regional nature reserve, 1 regional nature park, 14 registered sites under the law on protected monuments and sites, a dozen Coastline Protection Agency sites, and 2 Ramsar sites.2


Charter amendments are required only if the boundaries are modified. If the need arises for such amendments, they follow the same procedure as charter drafting (Environmental Code, Art. R.331-17), under the “parallelism of forms” legal principle.

Neither the former legal framework for national parks nor the reform of 2006 includes provisions for the abolishment of parks. Since the parallelism of forms principle22 is mandatory, any abolishment process must follow the same procedures as the establishment. To date, no national park has been abolished in France.

22 In the absence of legal provisions relating to the abolishment of a park, the procedure must be the same as the procedure relating to park establishment. This ensures parallelism of forms (consultation, publicity, and so on) between establishment and abolishment. This principle makes up for the absence of legal provisions and provides legal certainty.
2.1.3 Institutional arrangements: national parks

Each national park has an administrative public entity which ensures “management and land use planning of the national park” (Environmental Code, Art. L.331-8). Its tasks include:

- supporting natural, cultural and physical heritage protection policies;
- supporting and developing initiatives aimed at enhancing knowledge and monitoring the natural, cultural and physical heritage;
- contributing to public education policies regarding environmental knowledge and preservation (Environmental Code, Art. R.331-22).

Each park has a management board and a director. The management board includes representatives of the central government, the regional or local governments concerned, and members chosen for their national or local relevance (for example, landowners, residents, users, and representatives of environmental NGOs or sectoral trade organizations). The director is appointed by an order of the minister in charge of environmental protection.

The management board is assisted by:

- a scientific committee, consisting of qualified scientists (life and earth sciences, human and social sciences), appointed for a renewable six-year term; and
- an economic, social and cultural committee, consisting of representatives of agencies and NGOs, and individuals who by virtue of their area of expertise or capacity are involved in the park’s economic, social and cultural activities or participate in local life, as well as of representatives of park’s residents and users.

“In preparing its decisions, the national park’s management board may rely on the expertise of its scientific committee and on the debates held within its economic, social and cultural committee” (Environmental Code, Art. L.331-8).

2.1.4 Management

2.1.4.1 Zoning: responding to strict protection and ecological connectivity requirements

Up until the 2006 reform, national parks were divided into a central zone and a peripheral area. The central zone constituted the park itself, where human activities were regulated or, as the case may be, banned. Strict reserves set aside exclusively for scientific research could be established within the park (only one of this kind was created). A park could be surrounded by a peripheral area designed to promote economic, social and cultural development consistent with protection objectives but this kind of area was not considered to be part of the park itself. In fact, many such ‘buffer’ zones did not serve as an interface between protection and development, favouring economic development instead of contributing to enhanced protection of the park.

The new structure of national parks is in keeping with this trend towards differentiated land zoning. Park core areas (cœurs de parc) thus replace the former ‘central’ zones. A national park may have several core areas. The objective of national parks is the protection of the natural, cultural and landscape heritage. Peripheral zones are now called areas of adherence (aires d’adhésion). They are integrated into the park and are defined as “all or part of the territory of the municipalities eligible to be part of the national park, particularly due to their geographical continuity or their ecological links with the core zone, that have decided to adhere to the national park charter and voluntarily contribute to its protection” (Environmental Code, Art. L. 331-1). The territory of the municipalities that decide to
adhere to the park charter thus determines the park boundaries. These areas combine park protection, enhancement and sustainable development goals.

**Box 4: The involvement of indigenous communities in the Guyana Amazonian park: fact or fiction?**

Guyana is characterized by significant cultural and ethnic diversity. Its communities include six indigenous Amerindian peoples living either on the coastline (the Arawak, Kalina and Palikur) or inland (the Wayampi along the Oyapock river to the East, the Wayana along the Maroni river, and the Emerillon), as well as the Maroons (former runaway slaves, including the Boni (Aluku) and the Businenge peoples), the Mongs, and the Guyanese Creole.

The Amazonian Park affects Amerindians (the Wayampi, Wayana and Emerillon), and the Saul and Boni peoples, but each group's demands are different. Although the Amazonian Park provides for exceptions to the rules and regulations to take into consideration local communities, they are weak in comparison to the issues at stake for these groups. Guyanese communities are directly concerned by the following issues:

- **First**, the park’s charter may establish favourable provisions for communities or groups living within the park (communities who traditionally depend on forest resources for their livelihoods; permanent residents in the park core areas; natural or legal persons who are park residents and practise permanent agricultural or forestry activity in the park core areas, or who occasionally depend on these areas for their livelihoods) (Environmental Code, Art. L. 331-15-3).
- **Second**, traditional authorities are represented in the national park’s management board, along with representatives of state and local authorities, and qualified individuals. But there are only three Amerindian representatives among the 43 members of the management board and this situation raises a number of questions concerning the role that these communities actually play in the decision-making process, notably regarding the park’s charter.

In addition, a provision on access to and use of genetic resources of park species, requiring permits, has been introduced specifically for the Amazonian Park (Environmental Code, Art. L. 331-15-6). The park’s charter must establish guidelines concerning access and use conditions for these resources, particularly with regard to benefit-sharing arrangements, in accordance with the principles of the Convention on Biological Diversity (CBD). Benefit-sharing modalities remain to be defined, as well as their corollary—the prior informed consent of indigenous communities. Prior informed consent is not mentioned in this article but is required for compliance with the principles set out in the CBD, particularly its Articles 8(j) and 15.

Authorizations relating to the use of genetic resources of species taken in the park are granted by the chairman of the regional council, upon approval of the chairman of the departmental council. The national park’s management board is only consulted; the opinion of the traditional authorities represented on the board, and even that of local authorities, is thus not binding. In other words, the principle of prior informed consent for access to resources is not complied with. It should be noted that these authorizations are granted without prejudice to the provisions of the Intellectual Property Code. Nevertheless, since authorizations are issued by Guyana’s authorities, independently of the powers of the central government, they may contribute to the autonomous development of the region.

When drafting the charter, consideration should be given to practical benefit-sharing modalities, while paying attention to the risks involved in certain types of arrangements, such as bioprospecting agreements. The charter must provide guidelines concerning access to and use of genetic resources on the basis of a proposal of the congress of both elected assemblies (regional and departmental). It should be recalled that access to genetic resources is inextricably linked to associated traditional knowledge and its protection. When developing guidelines for resource access and use, therefore, consideration should be given to the protection of associated knowledge, in order to limit the risk of biopiracy.

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1. Adapted from Guignier and Teixeira, 2009.
2.1.4.2 The national park charter

Definition

The charter constitutes a major innovation in national parks reform. It aims to achieve greater local involvement and the sustainable development of peripheral areas. The charter envisions “a land use scheme for the core area and the territory of the municipalities eligible to adhere to it.”

The park charter “defines a land use scheme that reflects the ecological links between the park’s core areas and its surrounding areas” (Environmental Code, Art. L. 331-3). This tool did not previously exist for national parks. The new system requires that the establishing decree of each park is supplemented by a charter, which constitutes the park’s management plan. In the previous system, the decree creating the park included the rules applicable within its boundaries, and beyond this provided only for the establishment of a management plan. This plan is to be gradually replaced by the charter.

Provisional measures are provided by the Law of 2006 (Art. 31). National parks existing prior to the 2006 reform enactment are subject to the new legislative framework but have a five-year period to develop their charter, that is, until 2011. The same rule applies to parks established after the 2006 enactment. In the case of Guyana Amazonian Park and Reunion Park, the preliminary order (announcing state approval for their establishment) was adopted prior to the 2006 law; consequently, the same five-year period applies to them and their charter should be developed by 2011. But in the case of future national parks, approved after 2006, their establishment decree must be accompanied by a charter.

23 Article 2, Order of 23 February 2007 relating to the fundamental principles applicable to all national parks.
(Environmental Code, Art. L. 331-2). (This will be the case for the Calanques National Park project currently under review.) To date, no charter has yet been adopted.

Map 3: Reunion Island National Park


**Drafting process and content**

The charter is drafted by the public interest group in consultation with the “municipalities likely to be totally or partially included in the park’s core area, the municipalities eligible to adhere to the charter, and the inter-municipal associations to which such municipalities may belong, as well as regional or departmental authorities” (Environmental Code, Art. R.331-4 and R. 331-7). An inventory of the natural, landscape and cultural heritage, a compilation of socio-economic data, and a demographic survey of the population residing in the area to be declared a national park are carried out. They serve as a basis for the preparation of documents with graphics showing park zones and their intended uses (Environmental Code, Art. L. 331-3.I.2).

The charter is divided into two parts:

- a general section, summarizing the fundamental principles applicable to all parks;
- a specific section, which includes:
  
  - protection objectives for the natural, cultural and physical heritage of the park’s core area;
  
  - guidelines for the protection, implementation and sustainable development of the peripheral area; and
  
  - provisions related to specific characteristics of the park (cultural, social, environmental, economic).

The charter may ban genetically modified crops on all or part of national park territory, on the basis of the consent of all local farmers (Environmental Code, Art. L. 335.1).
**Implementation**

Municipal governments located in the peripheral area adhere voluntarily to the charter. They decide if they wish to join the park’s peripheral area, thereby modifying the park boundaries. By adhering to the charter, a municipal government “commits to make activities planned throughout its territory consistent with the land use scheme defined by the charter, and to take into consideration the significant impact that these activities are likely to have on the heritage of the park core area.”

However, municipalities are not bound permanently to the charter. They may decide to withdraw from it, 15 years after its approval, or when it is revised (Environmental Code, Art. L.331-3.II). Local authorities that withdraw from the charter are no longer a part of the national park’s peripheral area and the boundaries of the national park are modified accordingly. The charter is applied through implementation agreements, in the case of local authorities adhering to it, and partnership contracts, in the case of legal persons under private law.

The Environmental Code sets no specific duration of validity for the charter. It may be reviewed every 12 years or more; review is not mandatory. The park authority “assesses charter implementation and considers whether it is appropriate to review it” (Environmental Code, Art. L.331-3.II).

Despite the fact that charters are used in national parks and in regional nature parks, the nature of the instrument in each case is different. National park charters are binding. Regional nature park charters are guidelines for action and to govern the behaviour of private individuals.

**2.1.5 Regulation of human activities**

The state must foster “exemplary integrated protection” of national parks. This integrated protection is reflected in national park zoning, which seeks to provide strict protection for the park core area and exemplary sustainable development in the peripheral area.

The regulation of a national park is determined both by overall legislative provisions for these areas (notably Environmental Code, Art. L.331-4 and L.331-5) and by provisions specific to each park through the establishment decree, supplemented by the park charter.

**2.1.5.1 Park core areas**

Park core areas are emblematic of the challenges that the national park status has to meet, which form part of “an ethic of responsibility.”

**The ambivalent character of the new provisions concerning park core areas**

“The core area of a national park constitutes an area of protection and for scientific reference, of national and international importance, which enables the monitoring of ecological succession, particularly as part of biological diversity and climate change monitoring. It also enables visitors to discover nature, recharge their batteries and relax.”

24 Article 5, Order of 23 February 2007 on the fundamental principles applicable to all national parks.

25 Article 1, Order of 23 February 2007 on the fundamental principles applicable to all national parks.

26 Article 6, Order of 23 February 2007 on the fundamental principles applicable to all national parks: “Peripheral areas, given their geographical continuity and ecological links with core areas, contribute to the protection of the national park core area, while pursuing sustainable development objectives in an exemplary way.”

27 Preamble, Order of 23 February 2007 on the fundamental principles applicable to all national parks.

28 Article 3, Order of 23 February 2007 on the fundamental principles applicable to all national parks.
One might therefore expect that the park core area would benefit from the strictest protection, allowing little if any room for exceptions (except for greater protection in the strictest reserve established within the core area). While it is true that the park core area must be protected because of its many values, the new provisions allow for some flexibility which may increase the core area’s vulnerability (for example, provisions concerning the authorization of works).\textsuperscript{29}

**The regulation of national parks: legal provisions specific to national parks (notably Environmental Code, Art. L. 331-4 and L.331-5)**

Once the preliminary order for the establishment of a national park has been adopted, but prior to its formal establishment, a number of protection measures are put in place with respect to works and facilities planned for those areas eligible to become the park core area, in order to avoid modification of their condition or features. Works are subject to an authorization from the competent administrative or land use planning authority (Environmental Code, Art. L331-6).

In the park core areas, the burying of electrical and telephone cables is mandatory for all new lines (Environmental Code, Art. L.331-5). Industrial and mining activities are banned (Environmental Code, Art. L.331-4-1). In park core areas (undeveloped areas), works (except for ordinary maintenance or public interest infrastructure), buildings and facilities are forbidden as a matter of principle. However, special authorizations may be granted by the park management. For developed areas, the principle is that such works, buildings and facilities are subject to authorization (Environmental Code, Art. L.331-4).

Measures regarding the prohibition of works, buildings and facilities or the corresponding authorization requirement constitute public interest easements. Such easements may be subject to compensation, pursuant to Article 331-55 of the Environmental Code.

**The park’s establishment decree**

The park’s establishment decree (and charter) may establish specific provisions for the park core area by making it subject to a particular regime or by banning certain activities such as hunting, fishing, commercial activities, extractive activities, water use, public access and, generally, any action likely to damage the natural development of fauna and flora or to modify the characteristics of the national park (Environmental Code, Art. L.331-4-1).

The park’s establishment decree (and charter) may also establish specific provisions for certain categories of people. Prior to 2006, only one park (the Cevennes Park) had permanent inhabitants. In order to take into consideration the population’s activities, derogations were granted, particularly regarding hunting. The 2006 reform provided the opportunity to take fully into account human settlements in national parks and to modify the legislation accordingly. Indeed, the delays involved in the creation of the Amazonian and Reunion Island parks were the result of attempts to reconcile the age-old human presence in these areas with the need to protect the areas.

Derogations, either general (regarding legislative provisions) or specific (for the Guyana Amazonian Park), have been granted in favour of certain categories of people, to allow them, “insofar as it is consistent with the protection objectives of the park core area, normal living conditions and the exercise of their rights” (Environmental Code, Art. L. 331-4-2). These measures may thus be specified in each case by the decree creating a park or by its charter. The categories of persons are:

\textsuperscript{29} Cans, 2006.
• permanent residents of the park core area;
• natural or legal persons carrying out permanent or seasonal agricultural, pastoral or forestry activity within the core area; and
• natural persons conducting professional activities on the date of the park's creation and duly authorized by the park management board to continue such activities.

These favourable provisions involve, on the one hand, authorizations to carry out certain types of activities within the park core area (building renovation and restoration works) and, on the other hand, derogations to prohibitions concerning commercial activities, water use, traffic and the removal of animals or plants for personal consumption (Environmental Code, Art. R. 331-20, R. 331-21).

With the establishment of the Guyana national park, the 2006 law introduced the possibility of issuing specific provisions in favour of certain categories of people, particularly communities traditionally depending on forest resources, communities having collective recognized hunting and fishing rights or rights to perform livelihood activities, and permanent residents of the park core area (Environmental Code, Art. L.331-15-3).

Box 5: Example of regulatory measures specified in the establishment decree

Excerpt from Decree 2007-266 of 27 February 2007 establishing the Guyana Amazonian Park.

Chapter I
General provisions
Section I

Rules regarding the protection of natural habitat

Article 3. It is forbidden to:
1. Introduce animals or plants, regardless of their development stage, into the core area of the National Park;
2. Damage, in any manner whatsoever, wildlife, rocks, minerals or fossils;
3. Damage, in any manner whatsoever, the wild flora of the core area of the National Park, regardless of its development stage, except in the case of the establishment of observation sites, paths or clearings, or for fire in park sectors where these activities are authorized by the Park charter;
4. Remove, hold or transport, in any manner whatsoever, wild animals or plants, or parts thereof, regardless of their developmental stage, rocks, minerals or fossils from the core area of the National Park.

Section III
Rules regarding activities

Article 7. Exploration and exploitation of non-concessionable materials are forbidden.

Article 8. Hunting and fishing are forbidden.
Derogations may be granted through an authorization of the Park's management body director. These are applicable to expeditions lasting more than fifteen days and unable to ensure food self-sufficiency.

Article 10. Agricultural, pastoral and forestry activities are subject to authorization of the management body director.

Article 11. Commercial activities other that those associated with tourism and handicrafts are forbidden.

Charter's provisions

The charter's provisions establish objectives related to the protection of natural, cultural and physical heritage, and specify enforcement modalities for the regulations set forth in the establishment decree.
2.1.5.2 Peripheral areas

“Peripheral areas, given their geographical continuity and ecological links with core areas, contribute to the protection of the national park core area, while pursuing sustainable development objectives in an exemplary way.”30 While industrial and mining activities are forbidden in the core area of a park, they are not prohibited in peripheral areas. This situation has given rise to severe criticism, particularly in the case of the Guyana Amazonian Park.

2.2 Marine nature parks

2.2.1 Definition and objectives

Marine nature parks, a category created in 2006, are the latest addition to the protected areas system. This category responds to the need for specific protection of the marine environment, since terrestrial tools are not adequate for the purpose. The uniqueness of the marine environment is taken into account by the creation of an adaptive tool designed to ensure the consistency of activities carried out in marine areas. Marine nature parks aim to contribute to the implementation of the national strategy for marine protected areas.31

Even though national parks may be located on the coast and cover maritime public domain waters, they were considered too restrictive to fully take into consideration the various uses of marine areas and the ecological and economic issues involved.32 The Port Cros National Park was the only park established both as a marine and terrestrial protected area, including a marine protected area of 600 metres around all the islands and islets concerned.

Marine nature parks are not coastal parks, in the sense that they have no terrestrial area except for the intertidal zone.33 They are established “in territorial waters and, as appropriate, in the contiguous zone, in waters under national jurisdiction, and in areas belonging to the maritime public domain”34 (Environmental Code, Art. L. 331-3). Furthermore, “the creation of marine nature parks located partially in waters under national jurisdiction shall take into account the provisions of the United Nations Convention on the Law of the Sea of 10 December 1982, particularly Section XII.”

The purpose of marine national parks as defined by legislation is comprehensive. While seascapes are not included, the aim is nevertheless to “contribute to an improved knowledge of the marine heritage as well as to the protection and sustainable development of the marine environment” (Environmental Code, Art. L. 334-3). In contrast with the provisions governing other types of protected areas, no specific criteria are specified to motivate the establishment of a marine park.35 On the basis of the creation decree of the first marine nature park (Mer d’Iroise),36 however, it would seem necessary to claim a unique character deriving from exceptional, rare or important elements, such as the occurrence of rare

30 Article 6, Order of 23 February 2007 relating to fundamental principles applicable to all national parks.
33 The intertidal zone is the portion of the coastline between the point of the highest high tide on the shore and the lowest low tide position.
34 The maritime public domain comprises a natural public domain and an artificial public domain. The natural maritime public domain includes the seabed and the sea subsoil from the seashore to the outer limits of the territorial sea; the bed and subsoil of saline ponds that are connected to the sea in a direct, permanent and natural way; and foreshores and alluvial land (General Code for Public Property, Art. L. 2111-4). The artificial maritime public domain includes equipment or facilities for the safety of or facilitating maritime navigation (General Code for Public Property, Art. L. 2111-6).
species of national and European importance, exceptional productivity of the marine environment, outstanding habitat diversity, or the exceptional nature of particular habitats.

2.2.2 Establishment, amendment

2.2.2.1 Establishment

The establishment process of a marine nature park falls under the authority of the national government. This process involves a public inquiry, enabling the public to express opinions on the case file. The latter includes “a document indicating the park boundaries; an overview of the condition of marine resources and uses of the marine environment; draft management guidelines for research, conservation and use of the marine resources and environment; and draft membership of the management board” (Environmental Code, Art. R. 334-28). This case file is also submitted for consultation and opinion to direct stakeholders (individuals and organizations), with a two-month deadline for their input, in the absence of which approval is automatic. Marine nature parks are established through a decree.

2.2.2.2 Amendment of park boundaries

Pursuant to Article R. 334-30 of the Environmental Code, the “proposal to extend a marine nature park shall be sent for consultation and opinion to those individuals and institutions included in the list mentioned in Article R. 343-29 and shall be subject to a public inquiry in the municipalities concerned by the extension.” No special procedure is stipulated by law for the abolishment of a marine nature park; therefore, a process identical to that of establishment must be followed, pursuant to the principle of parallelism of forms.

2.2.3 Institutional arrangements

The Marine Protected Areas Agency directly manages all marine parks (Environmental Code, Art. L. 334-4 i). It also provides technical, scientific and administrative support. Each park also has a management board that develops its management plan and rules on all issues concerning the park.

2.2.3.1 Marine Protected Areas Agency

The Marine Protected Areas Agency may be entrusted with direct management of marine protected areas, particularly marine nature parks.

2.2.3.2 Management boards of marine nature parks

Management boards of marine nature parks consist of “a minority of local representatives of the state, as well as representatives of the local governments involved and their relevant cooperative groupings, the regional nature park or parks involved, the management body of any adjacent marine protected area, and sectoral trade, user and environmental protection organizations, as well as qualified individuals” (Environmental Code, Art. L. 334-4.II). This ensures that all relevant stakeholders are represented, while minimizing the state's intervention. However, it is still too early to assess the effectiveness of this arrangement.

In addition to the development of a management plan, which must be reviewed every 15 years, the management board develops an action plan for the implementation, monitoring and evaluation of the management plan. It may also formulate proposals related to actions required for the protection
and sustainable management of the park (land and water use, fisheries, motor vehicles, recreational activities) and submit them to the competent government authorities, but it does not have the power to decide on such actions (Environmental Code, Art. R. 344-33). Its approval may be required for a number of activity permits, as in the case of marine areas within national parks (Environmental Code, Art. L. 334-5). The management board also decides on “technical support to be provided to environmental protection and sustainable development projects with a positive impact on water quality, and habitat and wildlife species preservation” (Environmental Code, Art. R. 334-33.5)

2.2.4 Management: towards integrated management of the marine environment

Marine parks are a response to the unsuitability of the national park model in its application to marine areas. Marine areas are associated with multiple uses and issues which are sometimes highly contradictory. However, marine parks are not intended to replace national parks or nature reserves that extend into the maritime domain, the main goal of which is protection. Marine parks are complementary and pursue three goals: knowledge of the marine heritage, protection and sustainable development. They represent a category of marine protected area that is defined in terms of the degree of protection granted to the marine environment. IUCN defines a marine protected area as “any intertidal or subtidal terrain, together with its overlying water, and associated flora, fauna and historical and cultural features, which has been set aside by law or other effective means to protect part of or the entire marine environment.” French marine protected areas can belong to various IUCN categories.

Box 6: The Mer d’Iroise Marine Park: the first marine park in France

Created by a decree on 28 September 2007, the Mer d’Iroise Marine Park is the first example of this new category of French protected areas. Even prior to this decree, the area was far from unprotected, as it was subject to several protection regimes involving for the most part the land area: a regional nature park, a biosphere reserve and a nature reserve. The marine portion was managed by the sectoral authorities concerned.1

The idea of establishing a national park in the area emerged in 1989 but met with strong local opposition on economic grounds. Gradually, through consultations and meetings, the idea of establishing a marine national park took hold but the unsuitability of the national park model to the marine environment made its immediate realization impossible. Issues related to the Iroise area contributed to the debate on parks reform and led to the establishment of the new marine park category.2

The park management board consists of 6 state representatives, 11 representatives of local governments or their groupings, 12 representatives of sectoral organizations (fishing, shellfish farming, tourism, industry, quarries), 8 representatives of user organisations (fishing, sailing, hunting, education, marine sports), 2 representatives of environmental NGOs, and 9 qualified individuals.

The park’s creation decree sets out 10 management guidelines, to be elaborated in the management plan. They include both protection and economic guidelines, illustrating the integrated character of the marine parks approach:

- Improved understanding of marine ecosystems and dissemination of knowledge;
- Healthy conservation status of protected, rare or endangered species populations and their habitats;
- Decrease of land-based pollution and the risk of diffuse or accidental maritime and harbour pollution;
- Regulation of extractive activities;
- Sustainable exploitation of fishery resources;
- Support to professional coastal fisheries;
- Sustainable exploitation of algae;
- Support to maritime activities on islands in the area, in order to maintain a population of permanent inhabitants;
- Preservation and development of the land, of architectural, marine and archaeological (particularly submarine) heritage, and of local knowledge;
- Sound development of tourism, water sports and leisure activities, consistent with the protection of marine ecosystems.

1 Mabile, 2007, p. 301.
2 Rousseau, 2008.
French marine parks are a clear example of the trend towards integrated management of the marine environment, contributing to protection within the framework of sustainable development. This integration is reflected both in the management plan for each marine park and in zoning which corresponds to a variety of uses.

2.2.4.1 Management plan

Marine nature parks are not subject to specific regulations defined by legislation. The creation decree sets out “management guidelines” that are implemented through a management plan. Each marine park has a management plan that “defines actions to be taken for protection, research, enhancement and sustainable development” (Environmental Code, Art. L. 334-5). The management plan is developed by the management board of the marine park and submitted for approval to the governing board of the Marine Protected Areas Agency (Environmental Code, Art. R. 334-33.2). The management plan is subject to review every 15 years (Environmental Code, Art. L. 334-5). It would be premature to assess the effectiveness of management plans, since the only marine park established so far has not yet adopted such a plan.

2.2.4.2 Zoning

Marine parks are subject to zoning according to various uses. The management plan for each marine park defines a variety of zones and specifies the permitted uses. A diagram showing zoning is included in the management plan. Unlike national parks, there are no predetermined zoning categories (core and peripheral areas) in the creation decrees of marine parks or in their regulations.

2.3 Nature reserves

2.3.1 Definition and objectives

There are three categories of nature reserves, depending on the government authority that establishes them: national nature reserves (national government), regional nature reserves (regional councils, the elected assemblies) and Corsican nature reserves (Corsican Regional Assembly37).

Nature reserves may be created “if conservation of the flora and fauna, soils, water, mineral and fossil deposits, and of the overall natural environment is of particular importance or if protection is required from human activities likely to degrade them” (Environmental Code, Art. L. 332-1).

The main purpose of all reserves (national, regional and Corsican) is comparable to that of a national park but a reserve also serves special objectives:

- preservation of animal or plant species and habitats that are endangered in all or part of the national territory, or are of outstanding value;
- rehabilitation of animal or plant populations or their habitats;
- conservation of botanical gardens;
- protection of outstanding biotopes and geological formations;
- preservation or creation of stop-over sites in major wildlife migration routes;
- scientific research;
- preservation of sites of special value for the study of the evolution of life and early human activities.

37 Corsica has a special status that provides for a greater degree of self-government than other territories. It has an Executive Council, an Economic and Social Council, and an Assembly. The establishment process for Corsican nature reserves differs from the processes applicable to national and regional nature reserves elsewhere. There are currently six nature reserves in Corsica.
It is worth noting that landscape is not included in this list.

Nature reserves are complementary to other protected area categories. They differ from national parks by the specificity of their objectives and by the fact that they generally cover a smaller area. Nature reserves must be managed, while management is not mandatory for areas covered by biotope protection orders.

The scope of nature reserves covers terrestrial areas as well as the maritime public domain and territorial waters, both in mainland France and in French overseas territories. Nature reserves may be established on public or private property.

2.3.2 Establishment, amendment

2.3.2.1 National nature reserves

The decision to establish a national nature reserve is made in order to:

- provide protection for natural features of national interest,
- implement a European Union (EU) regulation (Habitats Directive, Birds Directive), or
- comply with an obligation under an international treaty.

Establishment

The process leading to the establishment of a reserve is lengthy and must meet a set of formal obligations, including approval by the National Council for Nature Protection with respect to the ecological value of the area. A public inquiry is also required. The creation of a national nature reserve requires a ministerial decree or, in the case of private land where the owner is not in agreement, a decree issued after mandatory advisory consultation with the Conseil d’Etat (the highest administrative court).

Amendment of the area, modification of the regulations or abolition of the reserve

Any modification of a reserve’s boundaries, or of the regulations applicable to a national nature reserve, or its partial or total abolition, must follow the principle of parallelism of forms. Such matters are thus “subject to the same requirements of public inquiry, consultation and public information as those governing establishment” (Environmental Code, Art. R. 332-14). The authorities concerned and the type of legal instruments required are also the same: a ministerial decree or a decree issued after consultation with the Conseil d’Etat.

As of 31 December 2009 there were 164 national nature reserves, including 18 located in overseas territories. Their surface area varies considerably, from 0.6 hectares for the smallest to 2 million hectares for the largest (French Southern Lands in the Indian Ocean).

2.3.2.2 Regional nature reserves

Regional nature reserves constitute a new category of reserves established in 2002. They have been designed to replace voluntary reserves and to provide the regions, for the first time, with a regulatory process for the protection of natural habitats, thus conferring on them new powers for

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38 The Law of 27 February 2002 on community-level participation established regional reserves, thus amending the relevant articles of the Environmental Code on nature reserves.
biodiversity conservation (Environmental Code, Art. L. 332-2.2). They constitute a “new step towards the decentralisation of environmental protection”. 39

**Establishment**

The initiative to establish a regional nature reserve may come from the regional council (the region’s elected assembly) or from the landowners concerned, as in the case of voluntary reserves. The value of the area must be proved in terms of its flora or fauna, geological or palaeontological characteristics, or for ecosystem protection. The decision to establish a regional nature reserve is taken by the regional council, following consultations with the relevant local authorities, input from the regional scientific council for natural heritage, a public inquiry, and the agreement of the landowners concerned. However, decentralization does not always operate fully. If a landowner disagrees, the reserve may be created by a decree issued after advisory consultation with the Conseil d’Etat, and signed by the Prime Minister. The instrument establishing the reserve specifies the duration, applicable protection provisions, and management and oversight arrangements for the reserve.

The designation of a regional nature reserve is automatically renewable for the same duration, with no need for a new designation decision. This automatic renewal does not occur if one or several landowners withdraw their agreement. In such cases, renewal is decided by a decree issued after advisory consultation with the Conseil d’Etat (Environmental Code, Art. R. 332-35).

**Amendment**

The boundaries of a regional nature reserve can be extended. Downsizing would amount to partial abolishment. The amendment procedure is subject to the same consultation and publicity requirements as the establishment procedure.

**Abolishment**

Partial or total abolishment of a regional nature reserve is possible. The initiative may come from the regional council or from the landowners. The abolishment procedure is subject to the same consultation and publicity requirements as the establishment procedure. Abolishment is declared after a public inquiry (Environmental Code, Art. R. 332-40).

As in the case of national nature reserves, regional nature reserves are subject to provisions restricting or banning activities, as well as to management provisions (Environmental Code, Art. L. 332-3). As of 31 December 2009 there were 173 regional nature reserves covering 27,550 hectares.

**2.3.3 Institutional arrangements**

**2.3.3.1 Management authorities**

The management of national and regional reserves may be entrusted, through an agreement, to public entities, public interest groups, non-profit organizations such as natural areas conservation societies (conservatoire des espaces naturels, or CENs), foundations, owners of protected land, or to local governments or their groupings (Environmental Code, Art. L. 332-8). The prefect (representative of the central government) appoints managers of national reserves (Environmental Code, Art. R. 332-19), while the chairperson of the regional council appoints managers of regional reserves.

Managers must ensure “conservation and, if necessary, restoration of the natural heritage of the reserve” (Environmental Code, Art. R. 332-20). They also ensure compliance with reserve’s regulations and submit an annual report accounting for the implementation of the management plan and the use of funds. They also propose a draft budget for the following year (Environmental Code, Art. R. 332-20). This report is submitted to the advisory committee.

2.3.3.2 The advisory committee

National and regional nature reserves have an advisory committee whose membership is specified in the instrument establishing the reserve or by an order of the prefect. This committee includes “representatives of the civil and military authorities and public entities concerned; representatives of local authorities or their groupings; representatives of landowners and users; and qualified scientists and representatives of registered civil society organizations whose main aim is the protection of natural areas” (Environmental Code, Art. R. 332-15). It is chaired by the prefect or their representative. The role of the advisory committee is:

- to advise on the reserve’s operation and management and on the implementation of the provisions of the instrument establishing the reserve;
- to advise on the draft management plan;
- it can request the reserve management to conduct scientific studies and to obtain any relevant opinion in order to ensure the conservation, protection and improvement of the reserve’s natural habitats (Environmental Code, Art. R. 332-17).

2.3.3.3 The scientific council

National nature reserves must have a scientific council (Environmental Code, Art. R. 332-18). Such a council is not mandatory for regional nature reserves. The scientific council assists the manager and the advisory committee. It is consulted when developing the management plan (Environmental Code, Art. R. 332-18). The scientific council can be specific to a single reserve or shared with a similar nature reserve or a national park. The regional scientific council for natural heritage can act as the scientific council of a reserve (Environmental Code, Art. R. 332-18).

2.3.4 Management measures

Every national nature reserve is managed with a view to preserving and restoring the area’s natural heritage, in compliance with the provisions of the instrument establishing the reserve and according to a management plan. Management plans are mandatory for all national and regional nature reserves, pursuant to the decree of 18 May 2005, implementing the Law of 27 February 2002 (Law on community-level participation) (Environmental Code, Art. R. 332-21 and R. 332-22). A methodological guide has been published to help nature reserve managers prepare management plans.40

The Environmental Code (Art. R. 332-21 and R. 332-22 for national reserves, and Art. R. 332-41 to 332-43 for regional reserves) includes provisions on the development of management plans. The management plan of a national or regional nature reserve must be drafted by the manager not later than three years after the reserve’s designation. Management plans are based on a scientific assessment of the natural heritage and the way it evolves. Socio-economic background should also be included in this preliminary assessment. Building on this information, the manager must set objectives for the

40 Chiffaut, 2006.
protection of natural heritage. The management plan is adopted for a five-year period, at the end of which it is reviewed and, if necessary, amended (Environmental Code, Art. R. 322-22). This limited time span does not affect the duration of the reserve in any way.

| Box 7: Example of management measures for national nature reserves |
| Excerpt from Decree 98-842 of 15 September 1998 relating to the establishment of the Nature Reserve of the Dauges Peatland (Haute-Vienne). |

Chapter II  
Management of the Nature Reserve

Article 2. The Prefect, having taken into consideration the opinion of the Saint-Léger-la-Montagne municipality and the recommendation of the Advisory Committee required by Article 3, shall entrust management of the reserve, by way of an agreement, to the owners of the designated lands, a non-profit organization, a foundation, a local government or a public entity.

To ensure conservation of the reserve's natural heritage and biodiversity, the manager shall design and implement an ecological management plan based on a scientific assessment of natural habitats and their evolution.

The first management plan shall be submitted by the Prefect, upon recommendation from the Advisory Committee, to the minister in charge of environmental protection. The management plan shall be approved by the minister following consultation with the National Council for Nature Protection. The Prefect shall follow plan implementation by the manager.

The subsequent management plans shall be approved by the Prefect upon recommendation from the Advisory Committee. However, ministerial approval may be sought if objectives are modified.

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Other observations

This national nature reserve is managed, pursuant to a contractual agreement, by the Limousin Regional Natural Areas Conservation Society.

A five-year management plan has been adopted for this national nature reserve. The following priority long-term objectives have been defined:

- slowing down the trend towards peatland conversion, while maintaining a degree of habitat diversity;
- ensuring the restoration of heathlands, meadows and grasslands;
- intervening specifically to preserve populations of sensitive natural heritage species.

Source: Regional Natural Areas Conservation Society, Limousin.

2.3.5 Regulation of activities

The legal instrument establishing a national nature reserve may set up a specific regime or prohibit a number of activities which could potentially “damage the natural development of fauna and flora, and more generally modify the reserve's characteristics.” Such activities may include agriculture, livestock husbandry, forestry, industry, mining, infrastructure works, movement of traffic, dumping waste and other materials, and acts which affect wildlife (Environmental Code, Art. L. 332-3.I).

The instrument establishing a regional nature reserve may also set up a specific regime or ban activities such as “agriculture, livestock husbandry, forestry, building, construction and infrastructure works, the movement and stationing of people, animals and vehicles, dumping or depositing of building materials or any waste which might damage the natural environment, actions likely to cause bodily harm to wild animals and plants within the reserve, or the removal from the reserve of such animals or plants” (Environmental Code, Art. L. 332-3.II). However, hunting and fishing cannot be regulated by regional councils.
Box 8: Example of Regulations for national nature reserves

Excerpt from Decree 98-842 of 15 September 1998 relating to the establishment of the Nature Reserve of the Dauges Peatland (Haute-Vienne).

Chapter III
Nature Reserve Regulations

Article 7. Hunting and fishing are subject to applicable regulations.

Article 8. It is forbidden to:
• introduce into the reserve non-domestic animals, whatever their state of development, except under authorization granted by the Prefect upon consultation with the National Council for Nature Protection;
• harm wildlife, or their eggs, hatchlings, litters or nests, in any manner whatsoever, or take them off the reserve, except when hunting or fishing. However, the Prefect may authorize the taking of invertebrate samples for scientific purposes, upon recommendation from the Advisory Committee;
• disturb wildlife in any way whatsoever except when hunting or fishing, or in the case of authorization granted by the Prefect for scientific purposes, upon recommendation from the Advisory Committee.

Article 9. Except for agricultural, forestry or pastoral purposes, it is forbidden to:
• introduce into the reserve any plant whatsoever, except with authorization granted by the Prefect upon consultation of the National Council for Nature Protection;
• harm wild plants in any manner whatsoever, or take them off the reserve, except for upkeep purposes or subject to authorizations granted by the Prefect for scientific purposes, upon recommendation from the Advisory Committee.

However, subject to owners’ rights and considering usual practice, the picking of daffodils and of edible plants meant for family consumption is allowed, but may be regulated by the Prefect upon recommendation from the Advisory Committee.

Article 11. It is forbidden to:
• discard, throw or dump any product likely to harm the quality of the water, air, soil or site, or the integrity of the fauna and flora;
• discard, throw or dump garbage except in facilities specifically intended for this purpose;
• disrupt the quietness of the site through any noisy disturbance, subject to the exercise of those activities allowed hereunder;
• damage natural habitats through the use of fire, except as part of reserve management and maintenance activities or of agricultural, pastoral and forestry activities;
• create any signage other than those required for public information or for boundary delimitation.

Article 13. All exploration and mining operations, as well as peat extraction, are forbidden.

Article 14. All industrial and commercial activities are forbidden. Only those commercial activities related to reserve management and events are authorized.

Article 16. The Prefect may, upon recommendation from the Advisory Committee, regulate traffic and parking for persons other than state agents in the exercise of their duties on all or part of the reserve.

Article 17. Motor vehicles are forbidden in the reserve area. Other vehicles may only circulate on public pathways.

However, this prohibition does not apply to vehicles used:
• for reserve maintenance or surveillance;
• by state agents in the exercise of their duties;
• for police, emergency or rescue operations;
• for agricultural, pastoral or forestry activities;
• for the maintenance of water and electricity installations.

Article 18. Camping in tents, vehicles or any other shelter is forbidden. However, the Prefect may allow and regulate camping upon recommendation from the Advisory Committee.

Source: Regional Environment Directorate, Limousin.

The instrument establishing a national or regional nature reserve also takes into consideration the potential value of allowing traditional activities that are consistent with the reserve’s objectives. It may create easements for landowners. Compensation may be awarded when the relevant provisions are
likely to change the area’s state or previous use, thereby resulting in direct, material and definite damage. Claims must be filed within a six-month period following notification of the reserve’s establishment (Environmental Code, Art. L. 332-5). Measures may also be taken to safeguard an area pending formal designation. From the date of the notification of intention to the landowner, no modifications may be made for 15 months, except with a special permit.

Finally, the Environmental Code prohibits advertising within national and regional nature reserves (Environmental Code, Art. L. 332-14). Electrical and telephone cables must be buried according to certain requirements (Environmental Code Art. L. 332-15).

### 2.4 Biotope protection orders

#### 2.4.1 Definition and objectives

This is a process targeting species protection through the protection of their habitat. Biotope protection orders are issued by the central government’s representative at the departmental level (the Prefect).

#### 2.4.2 Establishment and amendment

The Prefect may issue a biotope protection order to prevent the disappearance from the area of legally protected species, covering any species of wild fauna or flora included in the lists established by ministerial order. The biotopes involved include ponds, marshes, swamps, hedges, woods, moors, dunes, grassland and all other natural formations little used by humans, insofar as these biotopes or formations are essential to the feeding, breeding or resting sites or to the survival of protected species (Environmental Code, Art. R. 411-15), regardless of ownership. Biotope protection orders may be issued for public or private property. The area is identified in the protection order text and a map is provided. Since the target area is a specific biotope, such areas are usually small and cover less than 50 hectares.

As of 1 January 2007, 672 biotope orders have been issued for a wide range of habitats in mainland France and in overseas territories, covering 124,500 hectares. Despite its relative success, this type of tool has a number of drawbacks that may hamper its effectiveness. Its use, for example, is not subject to a public inquiry and issuance of the order is only subject to a general publication requirement. In the case of private property, specific notice does not need to be given to the landowner. Nor does it entail any compensation, since it does not constitute an easement. There is no obligation to append biotope protection orders to local land use plans since they do not constitute public interest easements, whereas measures applicable to nature reserves, core areas of national parks and classified and registered sites must be included in land use plans (Land Use Planning Code, Art. R.126-1 Annex). Thus a building permit covering a protected biotope cannot be overruled on the basis of the protection order, as the principle of independence of legislative tools in France makes it impossible to invoke

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41 See Bélier, 2007.
42 Lists developed pursuant to Article 4 of the Nature Protection Law of 10 July 1976, Environmental Code, Articles L. 411.1 to L. 411.3, and Article R. 411.1
43 Martinez, 2008, p. 45.
44 Martinez, 2008, p. 45.
45 Local land use plans must include an annex covering all public interest easements (Environmental Code, Art. R. 126-1).
46 Under the principle of independence of legislative tools, environment and land use planning fall into two separate categories. Land use planning provisions cannot be invoked in the case of environmental litigation, and vice versa.
a biotope protection order to challenge other legislative instruments relating to land use planning or quarries. This may result in undermining the conservation objectives of a biotope protection order.

2.4.3 Regulation of activities

Box 9: Example of a Prefect’s biotope protection order

Excerpt from Order of 3 May 1986 concerning the preservation of a salmon biotope in the Gartempe river, as amended by the Order of 31 August 2000.

Article 2: In order to preserve the Gartempe riverbeds necessary for the breeding and feeding of Salmo salar, the following activities are forbidden in the low-flow channel of the protected sector:
- extraction of aggregates;
- new sewage disposal failing to comply with the quality standards defined for this section of the Gartempe;
- discarding or disposal of any chemicals, as well as rubble, rubbish, and garbage;
- hydraulic works, with the exception of those pursuant to the provisions of Article 4.

Article 3: Industrial and agricultural activities, aquaculture or leisure activities may be carried out freely, subject to compliance with regulations and local traditional practice, as well as the obligation not to modify the protected sector.

Bank and riverbed restoration and maintenance operations related thereto are allowed.

Article 4: Operations designed to protect the banks against water erosion and floods, as well as bed-crossing works for pipes, may be authorized upon recommendation from the Departmental Commission of Sites.

Article 5: The provisions of Articles 1, 2, 3 and 4 apply to the low-flow channel of land areas adjacent to watercourses.

Article 6: Infringement of the provisions of this Decree will be liable to the penalties provided for in Article R 38 of the Code of Criminal Law.

Source: Regional Environment Directorate, Limousin.

Two types of actions may be taken within the framework of biotope protection orders:
- The Prefect may regulate activities by taking measures designed to preserve biotopes on all or part of the territory of a department, excluding the maritime public domain, which falls under the competence of the minister in charge of marine fisheries;
- The Prefect may prohibit actions that are likely to damage indiscriminately the biological balance of natural areas. Article R. 411-17 of the Environmental Code gives the example of soil smouldering, and the destruction of hedges and banks.

Unlike instruments creating nature reserves and national parks, biotope protection orders do not normally establish management measures, as the main purpose of this tool is to ensure strict environmental conservation. Nevertheless, administrative courts have acknowledged that these orders admit a number of exceptions for site maintenance and development, as well as for scientific purposes.47

2.5 Classified and registered sites

2.5.1 Definition and objectives

Natural monuments and sites of general public interest from a historical, artistic, scientific, legendary or aesthetic point of view may be subject to conservation and protection measures (Environmental Code, Art. L. 341-1) in order to prevent the degradation or loss of their features.

2.5.2 Establishment and amendment

Such sites and monuments are not necessarily small in size. They may extend over vast areas on the condition that they form a unit (in terms of flora, geographic location, and so on) and thus contribute to the protection of the landscape. They may be located in rural or urban areas, and on public or private property. These sites may benefit from two types of protection defined in the longest-standing legal instrument relating to protected areas. Such areas may become ‘registered sites’ or ‘classified sites’. These two processes involve different levels of regulation.

In the case of registered monuments and sites, the government does not have the authority to ban potentially harmful work or activities (unless it proceeds to ‘classify’ the monument or site). The owner must only report to government authorities, within four months, any work other than normal upkeep.

In the case of classified natural monuments and sites, the underlying principle is that they may not be destroyed or modified in structure or appearance without special authorization (Environmental Code, Art. L. 341-10). Such monuments and sites are also covered by protection measures while awaiting listing: once the decision is made to classify a site, the owner is given notice and is not allowed to modify the site or its grounds for a period of 12 months.

There are 2,656 classified sites and 4,794 registered sites.

2.6 Coastline and Lakeshore Protection Agency sites

2.6.1 Establishment

The Coastline and Lakeshore Protection Agency has the authority to purchase coastal land in order to protect it. It can conduct various types of actions, ranging from amicable purchase to expropriation, or it may exercise pre-emption rights in zones where the pre-emptive purchase of sensitive natural areas is authorized. It may also acquire land through donations or bequests, which are exempt from transfer taxes. Assets thus acquired become part of its legal domain. It may assume charge of managing government property and parts of the maritime public domain.

2.6.2 Institutional arrangements

The Agency does not manage land itself. It entrusts management, through contractual agreements, to NGOs or local authorities. These agreements include provisions related to the protection of such areas.

There are currently 575 Coastline Protection Agency sites, covering 125,000 hectares.

2.7 Private protected areas

2.7.1 The end of voluntary nature reserves

Prior to the Law of 27 February 2002 on community-level participation, voluntary reserves could be created. They could be set up on the initiative of a private citizen or a local authority that deemed their land, or their private domain, to have environmental value. The case file was processed by the Prefect, who authorized the creation of a voluntary reserve for a six-year period, with the agreement of the owner, by means of a Prefectoral Order establishing protection provisions. Voluntary reserves were established for a fixed term, and the process was managed by national public authorities.

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48 Law of 21 April 1906, replaced by the Law of 2 May 1930 relating to the protection of natural monuments and sites of artistic, historic, scientific, legendary or picturesque interest.
Regional nature reserves replace voluntary reserves that have not requested withdrawal of their status by 23 February 2003. Former voluntary reserves will thus become regional nature reserves.

Private citizens may undertake initiatives for the establishment of regional nature reserves. However, the establishment provisions and legal status of regional nature reserves differ from those of the former voluntary reserves. Direct management by the landowner is not automatic. Management can be entrusted to other entities through an agreement. Voluntary nature reserves were the only voluntary protection tool available to private citizens. To date, no other similar category enabling voluntary conservation has been created.

If a private citizen wishes to protect their property, an agreement can be reached with a CEN. CENs have ‘association’ status, that is, they are non-profit organizations. This is, however, a private law tool. It differs, as such, from the former voluntary reserves.

### 2.7.2 Areas managed by natural areas conservation societies

CENs are NGOs. The first CEN was established in 1976. While each CEN works independently, they are part of a national federation that represents them at the national level, provides technical support and ensures consistency of their activities. There are 29 such societies (21 regional and 8 departmental) in mainland France and on Reunion Island. In 2009 they were active in more than 2,054 sites.

Despite the important role they play in nature conservation, CENs were not officially recognized by the Environmental Code. This situation is now changing, since the Grenelle I Law provides for specific recognition of CENs’ role (Art. 24). The Grenelle II Law of 12 July 2010 creates a new section in the Environmental Code providing for the recognition of regional natural areas conservation societies (Environmental Code, Art. L. 414-11).

CENs may enter into agreements with public or private entities in order to manage statutory or non-statutory natural areas, such as nature reserves or private land respectively. They have been established to protect and manage natural areas, whether such areas belong to them or not. This common purpose is stated in the statutes of each CEN. However, a charter has been adopted in 2003 as a guidance tool for their work. It defines their objectives and provides general guidelines for the overall mission of the CENs.

CENs can own or rent the land, or enter into management agreements with private landowners or local governments. A third of the sites managed by CENs benefit from various protection regimes, such as nature reserves, sensitive natural areas and Coastline Protection Agency areas.

Statutory protected areas, such as nature reserves or sensitive natural areas, are governed by the relevant legislation. Nature reserves, for example, must develop management plans as provided in the Environmental Code. In the case of non-statutory areas, such as private land managed by a CEN, there is no specific legislation, but in fact CENs develop management plans for most such sites. Currently, 70 per cent of CEN-managed areas have a management plan.

### 2.8 Adjacent areas

The effectiveness of protected areas also depends on the management of adjacent or buffer zones, where activities can disrupt and impact, directly or indirectly, the protected area itself. On this subject,

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49 Planning Law 2009-967 of 3 August 2009 on the implementation of the Grenelle Environment Forum’s decisions.
French law remains tentative. National parks have peripheral areas (aires d’adhésion), a kind of buffer zone that helps to protect the core area. National and regional nature reserves may be surrounded by protection zones, following public consultation (Environmental Code, Art. L. 332-16). In these protection zones, measures may be taken to restrict or ban “any action deemed likely to damage the nature reserve or modify its features” (Environmental Code, Art. L. 332-17).

Map 4: CEN and Coastline Protection Agency sites

The EU Habitats Directive requires a specific assessment system for projects and plans that are not directly related to or necessary for the management of a Natura 2000 site but are likely to have a significant impact on the site (Art. 6.3). According to the European Commission, an assessment is required for projects and plans carried out inside as well as outside the protection area.  

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50 Prieur, 2002.  
51 European Commission, 2000, pp. 35–36.
2.9 Financing protected areas

There is no general policy regarding the financing of protected areas in France. They are mostly funded from central and local government budgets. Donations, bequests and taxes also contribute to their financing. A number of specific legal financial provisions apply to some types of protected areas.

2.9.1 National parks

The Environmental Code states: “The resources of an organization in charge of a national park include primarily state contributions and, as the case may be, contributions from other public authorities, public and private subsidies and, as appropriate, fees or service charges” (Environmental Code, Art. L. 331-11, further elaborated by Environmental Code, Art. R. 331-40). Examples include state subsidies, patronage or sponsorship, income related to contracts and agreements, proceeds from the sale of publications, donations, and bequests.

2.9.2 Marine protected areas

The Marine Protected Areas Agency is funded primarily by “state contributions, and, as appropriate, contributions from marine protected area management bodies and other public authorities, public or private subsidies and, as appropriate, by service charges or fees and tax income” (Environmental Code, Art. L. 334-2 II, further elaborated by Environmental Code, Art. R. 334-20). Examples include state subsidies, patronage or sponsorship, income related to contracts and agreements, proceeds from the sale of publications, donations, and bequests.

Service charges or fees are amounts paid to a public entity by users of public infrastructure or public services. Fees should be in keeping with the value of the service and equipment or infrastructure used. While tax also pays for a service, the amount does not necessarily correspond to the service value and it is collected from all users, actual and potential.

2.9.3 Coastline Protection Agency areas

The Coastline Protection Agency funds its protection and land purchase activities through an annual state allocation, subsidies, allocations by regional or local governments, proceeds from the sale of real estate or other property, donations, bequests, and income from maritime passenger tax (Environmental Code, Art. R. 322-38).

On the maritime passenger tax, the Environmental Code states: “Maritime transport companies shall levy a head tax on each passenger cruising to a [protected area]. The tax is collected for the benefit of the public entity in charge of the management of the natural protected area concerned or, in the absence of such an entity, for the benefit of the relevant municipality where the area is located; the tax is allocated for the preservation of the area” (Art. L. 321-12).

In the case of other protected areas, there are no legal or regulatory provisions related to financing. Thus, financing for nature reserves must be organized by the area management body. To this end, nature reserve managers seek subsidies from public authorities (central government, regional and local governments, particularly at the regional level for regional nature reserves) or other parties.

Access to all protected areas is open and free of charge, except for access restrictions that apply to certain areas, such as strict protected areas within national parks.
2.10  Criminal law and its application to protected areas

In certain protected areas, offences are subject to criminal law, as in the case of national parks, national and regional nature reserves, protected biotopes, natural marine parks, sites protected under the national monuments law, and Coastline Protection Agency areas. These areas are policed by a special police force established under the Environmental Code.52

2.10.1  Enforcement officers

In protected areas, the investigation and establishment of offences may be carried out by:

- officers or agents of the national police; or
- agents sworn and commissioned specifically for policing certain types of protected areas, such as coast guards or agents of the Marine Protected Areas Agency.

2.10.2  Types of offences

In France, criminal offences are divided into various categories, depending on their seriousness and the penalties applicable. Felonies (crimes) are punishable by life imprisonment. Misdemeanours (délits) are punishable by a maximum sentence of 10 years’ imprisonment, fines, community service and other penalties. Minor offences (contraventions) are punishable by fines from 38 euros to 1,500 euros according to their seriousness, and up to 3,000 euros in the case of a second offence (Criminal Code, Art. L. 131-1 ff.).

Pursuant to the principle of separation of powers, criminal offences may fall within the jurisdiction of the judiciary or an administrative court. Criminal courts rule on infringements of the social order taking the form of violations of statutory provisions, which constitute penal offences (in this case, offences related to the environmental code). Administrative courts rule on infringements related to the public domain.

Examples of offences within the jurisdiction of the judiciary are as follows:

- Misdemeanours include:
  - In national parks: infringement of provisions forbidding or subjecting to special authorization any works or construction in park core areas (Environmental Code, Art. L. 331-26); punishable by a two-year prison sentence and a fine of 30,000 euros;
  - In nature reserves: destruction or modification of the condition or features of the reserve; owner’s failure to notify a purchaser about the classification of a reserved area (Environmental Code, Art. L. 332-25); punishable by a six-month prison sentence and a fine of 9,000 euros.

- Minor offences include:
  - In national parks: non-compliance with regulatory measures specified in the establishment decree or charter, or by the director of the park under their powers; punishable by a fine;
  - In nature reserves, in addition to the relevant penalties, the court may order site restoration operations, delivery of taken animals or plants to the reserve management, and seizure of the tools used to commit the offence (Environmental Code, Art. R. 332-80).

Certain offences fall within the jurisdiction of the administrative courts, such as damage to the integrity and conservation of the public domain included within the boundaries of a national park, or damage of such a nature as would compromise the use thereof (Environmental Code, Art. L. 331-19-1). The

52 In other areas, such as regional nature parks, offences are not subject to criminal law. These areas are not subject to special policing.
same offence applies in the case of a marine park (Environmental Code, Art. L. 334-7) and nature reserve (Environmental Code, Art. L. 322-22-1), and constitutes a damage to public domain offence (contravention de grande voirie), a new concept introduced for protected areas by the Law of 2006. Persons so sentenced are obliged to repair the damage caused and are subject to the payment of fines up to 1,500 euros.

3 Protection required by international and European Community tools and transboundary protected areas

France is bound to comply with its commitments under European Community law, in particular the Habitats and Birds Directives (Natura 2000 sites), as well as under various international environmental treaties to which it is a party, such as the Ramsar Convention or the UNESCO World Heritage Convention. Statutory protected area categories are used to comply with these obligations.

3.1 Natura 2000 sites

3.1.1 Introduction

European Community law has had a strong impact on French environmental law, as the former aims to harmonize legislation between the 27 Member States of the EU. Competences regarding environmental matters are shared between State Members and the EU. Pursuant to the subsidiarity principle, the EU is not to take action unless it is more effective than action taken at national, regional or local level.


Pursuant to the Habitats Directive, Member States must “maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora of Community interest” (Art. 2.2), listed in Annexes I and II to the Directive. In order to comply with the Directive’s provisions, ‘special areas of conservation’ are designated by Member States, with a protective legal regime.

These areas are part of the European ecological network, Natura 2000, which aims to preserve biodiversity throughout the territory of the European Community. The network is supplemented by ‘special protection areas’, established in order to protect a number of bird species pursuant to the Birds Directive. The Natura 2000 network covers all European Community states and nine biogeographic regions with distinct climate, geology and flora.

The purpose of this network is to “enable the natural habitat types and the species’ habitats concerned to be maintained or, where appropriate, restored at a favourable conservation status in their natural range” (Habitats Directive, Art. 3.1), while taking into account economic, social and cultural requirements, as well as the regional and local context.

53 Community law includes treaties and rules derived from general principles of law. These derived rules are regulations and directives. Regulations are general and self-executing in all their constituting elements; directives define results to be achieved but do not dictate the legal means to achieve such results.

54 See Makowiak, 2005.
Natura 2000 is not aimed at establishing sanctuaries. In some cases, Natura 2000 sites will target strict protection of certain species, while in other cases the goal will be to define and implement a balance between economic, social and cultural needs (especially those of agriculture).

France is divided into four biogeographic regions (Atlantic, Mediterranean, Alpine, Continental). To date, 1,706 Natura 2000 sites have been established in mainland France, covering about 12 per cent of the national territory. Despite the importance of the biodiversity of French overseas territories, the Natura 2000 framework does not apply to them.

### 3.1.2 Designation of Natura 2000 sites

The Birds Directive does not provide for any designation procedure for special protection areas. However, pursuant to the European Court of Justice rulings, such designation must follow scientific, objective and reliable criteria and exclude all economic considerations. Designation decisions are taken at the national level; the European Commission does not intervene.

The provisions of the Habitats Directive are more precise with respect to the designation of special areas of conservation. States must prepare a list of proposed sites on the basis of relevant scientific criteria. Assessment criteria are defined in Annex III. Social or economic data cannot be taken into consideration in order to exclude certain sites. The list is then submitted to the European Commission. The Commission, in agreement with Member States, officially designates sites of Community importance on the basis of a biogeographic subdivision. Thereafter, Member States have a six-year period to officially designate at the national level the sites selected as being of Community importance.

In France, Natura 2000 areas are not intended to become a new class of protected area and do not replace already established protected areas such as nature reserves, national parks, marine nature parks, protected biotopes or classified sites. They may be located in existing protected areas or on unprotected land.

They reinforce or initiate the protection of natural habitats, and wild fauna and flora of European interest. Natura 2000 protection sites may overlap with already established protected areas. However, most Natura 2000 sites, particularly agricultural sites, do not overlap with protected areas. In each case, the legal protection regime defines the applicable protection measures for habitat and species.

### 3.1.3 Legal framework for Natura 2000 sites

The legal framework for Natura 2000 sites is derived from Article 6 of the Habitats Directive, which requires Member States to:

- establish the necessary conservation measures (involving, as required, appropriate management plans, site-specific or included in other plans) and take the appropriate regulatory, administrative or contractual actions; and
- take appropriate measures to prevent deterioration of natural habitats and disturbance having an impact on targeted species.

Conservation measures related to Natura 2000 sites may take various forms. States are free to choose different measures but, pursuant to Article 2.2 of the Habitats Directive, they should “maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora of Community interest.”
France has chosen a contractual approach with the establishment of a document of objectives (document d’objectifs, or DOCOB) for each Natura 2000 site, pursuant to Article 414-2.I of the Environmental Code. This document is equivalent to the management plan mentioned in the EU Habitats Directive (Art. 6.1). The DOCOB provides:

- management guidelines;
- measures designed to conserve or restore, to a state of preservation favourable to their long-term sustainability, the natural habitats and the populations of fauna and flora species which prompted designation, as well as suitable preventive measures to avoid deterioration of said natural habitats (Environmental Code, Art. L. 414-1.V);
- implementation modalities;
- financial support measures.

As a tool to facilitate dialogue, the DOCOB is drafted by a steering committee in which local representation is predominant. The committee includes representatives of the local governments and inter-municipal associations concerned, as well as representatives of landowners, and commercial and other users of the Natura 2000 site (Environmental Code, Art. L. 414-2-II). Central government representatives are also members of the steering committee, but merely in a consulting capacity. The steering committee may include representatives of environmental protection NGOs, sectoral trade organizations and public works concession holders. Even though the DOCOB is developed by local authorities, it is approved by the state’s representative (Prefect).

The DOCOB has three main purposes. Firstly, it describes the area, conducts an environmental, social, economic and legal survey, and lists the relevant issues and threats for each of the site’s habitats and species. Secondly, on the basis of this survey, it defines the site’s sustainable development goals, which will enable habitat conservation or restoration, taking into consideration the social and economic context. Finally, a list of “all types” of measures to be implemented to achieve these objectives is proposed.

Implementation tools for Natura 2000 sites are as follows:

- Contracts are one of the most commonly used implementation tools in France. Holders of land rights within a Natura 2000 site may enter into ‘Natura 2000 Contracts’ with public authorities. These commitments must comply with the guidelines and measures specified in the DOCOB. Some of these commitments may entail financial compensation. Contracts are drafted on the basis of specifications included in each DOCOB.
- The Natura 2000 charter is a more flexible tool which also allows holders of land rights to assist in the achievement of DOCOB objectives, but without financial compensation.
- Agri-environmental measures are specific to agricultural areas designated as Natura 2000 sites. Financial support is granted to farmers or landowners in exchange for the implementation of management and protection measures, such as watercourse or hedge protection.

### 3.2 Protected areas under international conventions and programmes

Protected areas listed under international conventions and programmes are not covered by any specific domestic legal framework or specific regulations. They benefit from ‘à la carte’ legal protection under existing categories of French protected areas. For example, a national nature reserve may be
established in order to ensure compliance with an international treaty (Environmental Code, Art. L. 332-2.1), or sectoral legal instruments (fisheries, forestry) may be used. In some cases, rather than statutory protection, management measures are applied without a protected area category designation. Sites are listed under international treaties on the basis of a submission by the state concerned. In France, the ministry in charge of nature protection 55 submits listing proposals for the Ramsar List or the World Heritage Convention. Once the site listed, France undertakes to ensure effective protection, which very often involves the establishment of a protective legal framework for the area.

Map 5: Ramsar sites and biosphere reserves

Source: Protected Areas Database, MNHN (SPN), 2008

France has numerous World Heritage sites: 30 cultural properties, two natural properties and one mixed property. It has also established 10 biosphere reserves under the UNESCO Man and the

55 Pursuant to a circular of 24 December 2009, the Ministry of Ecology should give priority to sites eligible for inclusion in the Ramsar List, and to sites already protected under the national legal framework.
Biosphere (MAB) Programme, some of which lie within the boundaries of regional nature parks or national parks. For example, the Cevennes National Park has been designated a biosphere reserve. In addition, 36 Ramsar sites have been designated on mainland France and in overseas territories. Many Ramsar sites correspond to nature reserves; the largest Ramsar site is the national nature reserve of the French Southern Lands in the Indian Ocean (Terres Australes Françaises, which includes the islands of Amsterdam, Crozet, Kerguelen and Saint Paul.)

### 3.3 Transboundary protected areas

The Environmental Code does not cover transboundary protected areas and provides no specific legal framework for such areas, except for the provisions governing national parks.

Thus, a national park authority “may undertake shared activities with the management body of a bordering protected area in the framework of national and community policies and, as appropriate, create management tools facilitating the fulfillment of their common goals” (Environmental Code, Art. L. 331-9). Subject to prior approval by the minister in charge of environmental protection, the national park authority may also sign international twinning agreements with foreign entities in charge of protected areas management.

Regional nature parks may also establish cooperative projects, on the basis of Article L. 1115-1 of the Local and Regional Government Code: “Local and regional governments and their agencies may, in compliance with France’s international commitments, contract agreements with foreign, local or regional authorities in order to undertake cooperation or development assistance actions.” This article provides for cooperation agreements including, but not limited to, transboundary agreements.

The Scarpe-Escaut Regional Nature Park is taking advantage of the fourth revision of its charter to establish a joint transboundary charter with the Plaines de l’Escaut Nature Park in Belgium, and to pave the way, 12 years from now, for a Transboundary Hainaut Nature Park. This is France’s first experience in creating a joint charter.

The Joint Management Agency of the Scarpe-Escaut Nature Park (France) and the Management Commission of the Plaines de l’Escaut Nature Park (Belgium) have agreed to draw up an agreement defining their shared commitments in this transboundary charter. The charter is currently in the approval process. It is based on a transboundary survey and defines some 30 actions relating to environmental, economic and social objectives. However, no common management agency is planned for the time being. The draft charter can be found at [http://pro.parc-naturel-scarpe-escaut.fr/fr/charte/index.aspx](http://pro.parc-naturel-scarpe-escaut.fr/fr/charte/index.aspx).

Although the Environmental Code contains no specific provisions in this regard, France has established a transboundary biosphere reserve, the Vosges du Nord-Pfalzerwald Reserve, created in 1998. The reserve does not, however, have a joint management agency.

### 4 Sectoral tools and nature protection

Protected areas established under environmental law are not the only tools available; sectoral legislation also contributes to environmental protection. Two sectoral laws in particular contain specific provisions related to the protection of natural areas. Land use planning law may be used to protect certain areas from urban development, and forestry law may be used to protect forest areas and ecosystems of environmental value.
4.1 Forestry law

4.1.1 Protected forests

Forestry law includes, on the grounds of public interest, a special protection process for forest areas, “the conservation of which is acknowledged to be necessary to retain soil cover on mountain areas, as protection against avalanches, erosion and invasion by water and sand; and woods and forests, regardless of their ownership, located on the periphery of large urban areas and in zones where their preservation is called for, either on ecological grounds or for the benefit of the public” (Forestry Code, Art. L. 411-1).

The main effects of this type of designation are to “prohibit any modification of intended use or any type of land use likely to adversely impact conservation or protection of the woodland” and to establish a special forestry regime, particularly in terms of the development and pastoral activities (Forestry Code, Art. L. 412-1 and L. 412-2).

4.1.2 State biological reserves

State biological reserves may be set up in state forests. They result from an agreement between the National Forestry Office (Office national des forêts, or ONF) and the ministry in charge of the environment. They are normally created by an order of the ministry of agriculture. This is not a category of protected area with a legal or regulatory status. The ONF is in charge of the management of such areas, the purpose of which is to protect natural habitats, species or resources.

Two categories of reserves may be created: ‘strict biological reserves’ where no activities are allowed (forestry operations are prohibited and public access is restricted), and ‘managed biological reserves’ that are managed in order to ensure environmental and species conservation.

4.2 Land use planning law and regulations

4.2.1 Sensitive natural areas

This is not only a protection instrument but also a fiscal instrument (through the departmental tax on sensitive natural areas) and a land acquisition instrument (through pre-emption rights).

4.2.1.1 Protection instrument

Sensitive natural areas allow departments to “preserve the quality of sites, landscapes, natural areas and natural floodplains, and to ensure the preservation of natural habitats” (Land Use Planning Code, Art. L. 142-1). Such areas must be equipped in order to be open to the public, although access to the public may be prohibited if the area is ecologically fragile. Any type of occupancy likely to adversely impact the area is prohibited.

This is a decentralized process enabling the department to take protective action. The creation of a sensitive natural area depends on the initiative of the department.

Concerning management of these areas, departments tend increasingly not to undertake management themselves but to entrust it to NGOs through management agreements, particularly to CENs.
4.2.1.2 Fiscal instrument

The law authorizes departmental councils to institute a tax for sensitive natural areas. The tax applies to building construction, renovation or extension, and to certain types of works. It may amount to as much as 2 per cent of the property’s value. Exceptions are made for agricultural and public buildings, as well as for classified monuments.

This tax enables the department to implement its protected areas policy. It is used exclusively to fund certain types of operations and may not be reallocated to other uses (Land Use Planning Code, Art. L. 142-2). Permitted uses include:

- land purchase (through expropriation, agreement or pre-emption);
- management of protected wooded areas;
- assistance to the Coastline Protection Agency for land purchase purposes;
- management and upkeep of natural areas belonging to public institutions or private owners who have agreed to open the areas to the public; and
- development and management of pathways along non-state-owned waterways.

4.2.1.3 Land acquisition instrument

The department council may create pre-emption zones that meet the objectives for sensitive natural areas, with the approval of the municipalities if they have local land use planning instruments,56 or with the approval of the Prefect in the event of refusal by the municipalities or in the case of municipalities that have no local land use planning instruments.

In areas so designated, the department will have a priority right to purchase any undeveloped land offered for sale by its owner. It has a period of two months to state its intentions and to decide whether to exercise its right of pre-emption. If the department does not intervene, other institutions involved in protected areas may step in, such as the Coastline Protection Agency, the management bodies of regional nature parks, national parks and nature reserves, or municipalities.

4.2.2 Protected wooded areas

Local land use plans may designate areas such as woods, forests or parks as ‘wooded areas’ to be preserved, protected or established (Land Use Planning Code, Art. L. 130-1). It is also possible to protect isolated trees, hedges or hedge systems and border plantings. These wooded areas provide a specific character to the rural landscape, help protect the flora and fauna, prevent erosion and protect certain types of crops. The purpose of designation is the protection of these areas.

Following designation, the cutting or felling of trees located in these areas is subject to prior formal approval by the mayor. Clearing is prohibited unless land is required for mining operations of key importance to national or regional economic interests. Any type of land use or change in intended land use that potentially compromises protection is prohibited (for example, construction, industrial facilities, camping grounds, trailer parks, quarries).

4.2.3 Natural and forest areas

Another type of protection can be established through local land use planning tools. Local land use plans can establish natural and forest areas, known as ‘N zones’. “Parts of the municipality, developed

56 Local land use plans are the land use planning instruments at the municipal level.
or not, are eligible for designation as natural and forest areas, to be protected on the basis of the quality and value of the sites, natural habitats and landscapes, especially from an aesthetic, historical or ecological point of view; or on the basis of forestry operations; or on the basis of their status as natural areas” (Land Use Planning Code, Art. R. 123-8). However, construction is not completely prohibited and “may be authorized in areas that are limited in size and capacity, on the condition that it does not adversely impact the conservation of agricultural and forestry land or the preservation of sites, natural habitats and landscapes.”

4.2.4 Protection areas for architectural, urban and landscape heritage

Protection areas for architectural, urban and landscape heritage may be created for “historical monuments and in neighbourhoods, sites and areas to be protected or enhanced for aesthetic, historical or cultural reasons” (Heritage Code, Art. L. 642-1 ff.). Buildings located in these areas must follow specific guidelines and advertising is forbidden.

5 Regional nature parks: at the crossroads of protection and land use planning

As a tool for protection as well as development, regional nature parks constitute a particular and very specific type of protected area. They are conceived as a flexible and non-binding instrument.57

5.1 Definition and objectives

Regional nature parks are intended to cover “territories containing vulnerable ecosystems, or a rich and threatened natural and cultural heritage, under a development plan based on the preservation and enhancement of their heritage” (Environmental Code, Art. R. 333-1).

Forty-six regional nature parks have been created since they were instituted in 1967.58 As of 2010, regional nature parks cover seven million hectares, or 13 per cent of mainland France. Of the 46 parks, 17 cover 50,000 to 100,000 hectares, 15 cover 100,000 to 200,000 hectares, 8 cover 200,000 to 300,000 hectares, and 6 cover more than 300,000 hectares.59 “They provide a particularly appropriate framework for activities undertaken by public institutions to promote the preservation of landscapes and of natural and cultural heritage” (Environmental Code, Art. L. 333-1).

A number of criteria must be met in order to designate an area as a regional nature park. In terms of the natural, cultural and landscape heritage, interest in establishing the park must be ascertained at the regional level, as “an outstanding entity” for the region or regions involved, as well as at the national level. Establishment is only feasible if an appropriate institutional arrangement is in place, with adequate capacity to ensure the management of the park and carry out the project in a coherent manner. In addition, feasibility cannot be ensured without an institution having adequate and consistent management and administration capacities.

Characteristic features of a regional nature park include:

- Consistency: the park covers an area with a common heritage and is articulated around a development concept. Park boundaries do not necessarily coincide with administrative boundaries (regions or)

58 Forty-four regional nature parks are situated in mainland France and 2 are overseas.
departments). “The area shall be delimited in a manner that is consistent with and pertinent to the nature of the heritage” (Environmental Code, Art. R. 333-4).

- Voluntary commitment: the region takes the initiative for the creation of a park but the local authorities concerned are free to decide to join in a common development project and adhere to the park charter.
- Concerted action: the park is the result of the common will of the local authorities. The charter is drafted by the region in collaboration with all local authorities involved and in consultation with relevant stakeholders. The charter specifies the respective commitments of the national government and regional or local authorities.

Map 6: Regional nature parks

Les 46 Parcs naturels régionaux

Source: Federation of Regional Nature Parks
http://www.parcs-naturels-regionaux.tm.fr/fr/decouvrir/parcs.asp
• Adaptation: each park has its own charter, based on a survey of the area, which defines goals for the park’s protection, enhancement and development. The charter must be renewed every 12 years.

• Sustainable development: “Regional nature parks contribute to environmental protection, land use planning, economic and social development, and public education and training” (Environmental Code, Art. L. 333-1).

A municipality that adheres to one regional nature park charter cannot adhere to another that might be established partly on its territory, nor to a national park if the municipality is located in the park core area or is eligible to adhere to the national park charter. In such cases, it is required to choose between integration in the regional nature park or the national park.

Each regional nature park benefits from the common brand, ‘Parcs naturels régionaux’ (regional nature parks), that can be used to promote its activities as well as the knowledge and products developed on the park territory. The brand features a common element for all regional nature parks (a green oval with an eight-pointed star) and a specific symbol for each park.

In contrast with protected areas in the stricter sense (national parks, nature reserves, protected biotopes), regional nature parks are not subject to specific regulations for the protection of natural heritage. National legislation applicable to the territory of the relevant municipalities applies and compliance with that legislation is mandatory for regional nature parks. Local or regional regulations, such as land use planning regulations, must be consistent with the charter guidelines and provisions (Environmental Code, Art. R. 333-13). The charter does not in itself impose legal obligations, in contrast with national park charters. Rather, it directs and guides the actions of local authorities and private landowners.

5.2 Establishment, amendment, abolition

5.2.1 Establishment

The first step involves the development of a draft charter jointly by the region and the relevant local authorities, in consultation with stakeholders. This draft charter is submitted to a public inquiry, and then approved by the local authorities. The regional nature park is subsequently formally established by a decree issued after consultation with the Conseil d’Etat (Environmental Code, Art. L. 331-1).

5.2.2 Abolishment

The charter and the regional nature park designation remain in effect for 12 years, which may be extended by a further two years. If a renewal process is not initiated, a regional nature park will lose its designation at the conclusion of this period. However, a park may also be abolished before this deadline, especially “if the operation or development of a park is not in compliance with the charter, or if the park fails to meet the criteria motivating its establishment” (Environmental Code, Art. R. 333-11).

5.2.3 Renewal

After the original duration of 12 years, and an additional two years, a renewal procedure may be initiated. In some cases, the process is started before the completion of the original 12-year period, in order to provide sufficient time to complete the necessary procedures. The renewal procedure is identical to the creation procedure.
5.3 Institutional arrangements: the joint management board, ensuring consistency of actions within the park’s territory

In regional nature parks, the joint management board ensures “consistency and coordination of the protection, development, management and outreach actions taken by its partners”. The joint management board is a local public entity comprising regional or local governments or their groupings, as well as chambers of commerce, industry, agriculture and trade, and other public entities, because of works or services useful for each of these legal categories (General Code for Public Properties, Art. L. 5721-1).

The joint management board has a significant role, as it has to be consulted with respect to the development of land use planning tools (land use planning consistency schemes, local land use plans) as well as departmental and regional planning tools likely to have an impact on the environment (regional wind energy schemes, departmental quarry schemes, water planning schemes) (Environmental Code, Art. R. 333-15). It is also in charge of impact assessment or notification when development or infrastructure works are planned on the park’s territory.

5.4 The regional nature park charter: a local governance tool

“The concept of regional nature parks is not based on constraints, but rather on incentives.” 60 The regional nature park charter has three main purposes:

- defining protection, enhancement and development guidelines;
- defining activities that are the responsibility of the joint management board; and
- defining central and regional or local government commitments aiming at achieving these objectives.

5.4.1 Consistency: a requisite for the legality of action taken in regional nature parks

The question of the legal nature of the charter leaves lawyers perplexed: is it a document with or without legal effect? Is it a contract or a simple commitment? Even if only the latter, central and regional or local governments are bound to comply with the commitments they entered into when adhering to the charter.

The administrative court’s interpretation of the legal effect of the charter illustrates the charter’s ambivalent nature: it is a guideline which may also have an indirect standard-setting effect.

According to the administrative courts, “the park charter is meant to guide the actions of public authorities aiming at environmental protection, regional development, economic and social development, public education, and awareness on the park’s territory; and to ensure the consistency of these actions with the objectives defined by the charter; therefore, it is up to the various public authorities involved to take the appropriate measures and carry out the actions required to achieve the charter’s objectives; they should also exercise the powers granted them by law, insomuch as they include discretion, in such a way as to ensure consistency, which is a condition of their legality.” 61

60 Billet, 2006.
61 Conseil d’Etat decision No. 289274 of 10 July 2006.
As a result, the joint management board, acting as a representative of the regional nature park, may initiate judicial proceedings against projects or decisions likely to adversely impact the objectives set by the charter.62

5.4.2 Consistency requirement between land use planning tools and the charter

Land use planning tools (local land use plans, land use consistency schemes) must be compatible with the charter's guidelines (Environmental Code, Art. L. 333-1). For example, if a regional nature park's charter identifies areas requiring protection, municipal land use plan must take this into account and identify such areas as 'N zones' (see section 4.2.3, above).

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**Box 10: Example of a regional nature park charter**

**Millevaches Regional Nature Park, Limousin**

The following provisions are part of the Charter of the Millevaches Regional Nature Park (Limousin Region), pursuant to the Environmental Code (Art. L. 333-1 to L. 333-4) and the Rural Code (Art. R. 244-1 to R. 244-16).

**The purposes of the Regional Nature Park (Art. R. 244-1, Decree 94-765 of 1 September 1994) are:**

- to protect heritage, particularly through the appropriate management of natural habitats and landscapes;
- to contribute to regional land use planning;
- to contribute to economic, social and cultural development, and the quality of life;
- to ensure public access, education and information;
- to carry out pilot or exemplary actions in the aforementioned areas, and to participate in research programmes.

**The Charter consists of a file which includes the following documents:**

- A territorial survey, including a heritage inventory; a survey of its condition and of associated threats; a socio-cultural and economic survey; information on the state of inter-municipal cooperation;
- A report that establishes preservation, enhancement and development guidelines for the duration of the classification status, and actions to be taken throughout the area;
- A park map, including a graphic document defining the various zones where the guidelines and measures set forth in the report will apply. An appended note contains target maps, which specify the action zones corresponding to each theme;
- Appendices: list of municipalities, statutes of the park's management body, the logo, the charter's implementation agreement with the central government.

The Charter is the contract that formalizes the protection, enhancement and development plan for the park. It reflects the goals of and means defined by the regional and local authorities involved: the Limousin region; the departments of Correze, Creuse and Haute-Vienne; the municipalities; and inter-municipal associations.

**The Charter:**

- expresses the commitment of the relevant stakeholders, guides their actions and informs their decisions;
- is the permanent guiding tool for the park management board;
- commits the state through the regional nature park designation; this commitment is described in the Charter's implementation agreement with the central government;
- enables the region, at the request of local authorities, to seek renewal of the designation of Millevaches as a regional nature park; and
- constitutes a reference tool to guide the action of public or private stakeholders involved in land use planning, development and protection.

**Source:** Syndicat mixte de Millevaches en Limousin, 2003, p. 9.

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6 Ecological connectivity and ecological corridors

6.1 The incorporation of ecological connectivity in land use planning tools

Until recently, ecological connectivity was absent from the protected areas legal framework, except for Habitats Directive provisions related to the Natura 2000 network. French protected areas are still isolated from a biological point of view and also from a legal point of view, as there are no legal provisions requiring or supporting their interconnection.

Prior to the Grenelle environmental process, ecological connectivity was addressed only in the framework of land use planning policy. The 1999 law on land use planning and sustainable development first recognized ecological connectivity through the concept of “ecological networks”. This law created the Collective Services Plan for Natural and Rural Areas, adopted in 2002, which aims to identify “ecological networks, continuity and extension of protected areas” that are suitable to implement.

Local planning tools, such as regional land use planning documents, regional strategies for biodiversity protection, or urban planning and development documents, also provide ways and means for the integration of ecological connectivity.

As explained above (see section 4.2.3), at the local level, land use plans may protect woodland or designate ‘N zones’. They may also take into account ecological corridors through the designation of Nco (corridor) zones.

6.2 Looking to the future: green and blue belts, new tools for ecological connectivity

An innovation resulting from the Grenelle environmental process, green and blue belts respond to the need for ecological connectivity within French territory.

“In order to halt the loss of [...] biodiversity, and to restore and sustain its evolutionary capacities, the state aims to create by 2012 a green and blue belt system. This land use planning tool will enable territorial connectivity.” Green and blue belts are land use planning tools. The term ‘belt’ or ‘grid’ (trame verte et bleue) does not constitute a legal category; it covers under the term ‘green belt’ all terrestrial natural structures (protected natural areas, vegetation) and under ‘blue belt’ all aquatic natural structures (rivers, wetlands, channels). This terminology helps to visualize the concept of interconnected points of a network.

The Grenelle II environmental law of 12 July 2010 creates green and blue belts, and adds new articles to the Environmental Code to this effect (Environmental Code, Art. L. 371-1 to L. 371-6). The purpose

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63 See Bonnin, 2008a; Bonnin, 2008b.
64 To enhance consistency of the Natura 2000 network, states shall endeavour to protect intermediate zones (thus avoiding fragmentation), land elements which, because of their linear and continuous structure (for example, rivers) or their function as stepping stones (ponds) play a key role in migration, geographical dispersal and genetic exchange of wild species (Habitats Directive, Art. 10).
65 Cans and Clap, 2008.
66 Bonnin, 2008b.
67 Decree No. 2002-560 of 18 april 2002 approving collective services schemes.
68 Bonnin, 2008b.
69 See Lausche, 2010, Box III(1)-9 for an example of the Saint Martin d’Uriage municipality.
70 Article 23, Planning Law 2009-967 of 3 August 2009 on the implementation of the Grenelle Environment Forum results (Grenelle I).
of these belts is to “halt the loss of biodiversity by contributing to the preservation, management and restoration of ecological connectivity between natural habitats, taking into account human activities, notably agriculture, in rural areas.” Natural areas of significance for biodiversity preservation, including protected areas, are part of the green belts.

Pursuant to the Grenelle II law, a framework document will be developed at the national level in order to define key guidelines for the preservation and restoration of ecological connectivity. These guidelines are to be adhered to at the regional level, and implemented through regional ecological consistency plans. These, in turn, shall be taken into consideration in all land use planning instruments at the local and regional levels.

7 Conclusion

This overview of the various legal categories of French protected areas does not claim to be exhaustive. The Environmental Code also includes other categories with highly specific protection objectives, such as hunting and wildlife reserves, strategic water management areas, and ecological protection areas.

This case study provides an overview of the French system of protected areas. It demonstrates that:

• France has an appropriate set of tools to respond to IUCN criteria regarding protected areas.

• In addition to statutory protected areas, areas that are not eligible for protection under existing legal categories (for example, an area that does not meet the criteria for designation as a national nature reserve) may be protected and sustainably managed through land use and territorial planning tools. Regional nature parks play a major role in this regard.

• Regional and local authorities play a key role in nature protection, as increasing powers have been devolved to them with respect to environmental matters.

• Ecological connectivity, which is a critical component of any protected areas system, is being strengthened. While it did not rank high in the agenda of public authorities until the Grenelle Environmental Forum, the creation of the green and blue belts system should translate the connectivity concept into legal terms and lead to its effective implementation in the coming years, but this recognition comes belatedly when weighed against habitat fragmentation that has already occurred.

The diversity of protected area categories, with respect to the initiating institutions (central and local governments) as well as management, protection and even sustainable development modalities, is an important asset for the French protected areas system. This diversity allows appropriate solutions to be found for protected area management and protection, pursuant to specific objectives defined by the public authorities. Despite this diversity and the existence of a de facto system of French protected areas, the lack of a national strategy for protected areas is regrettable.

Consideration of sustainable development goals constitutes a significant development for French protected areas. The 2006 reform of national parks represents a turning point for the integration of social and economic aspects into this category, which traditionally focused on the preservation of natural areas. While national park core areas remain focused on strict conservation, peripheral areas will now aim for exemplary sustainable development.
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Constitutional Charter for the Environment, 1 March 2005 (Charte de l’environnement)

Codes

Code of Criminal Law (Code penal)
http://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006070719&dateTexte=20100913

Environmental Code (Code de l’environnement)
Legislative part

Regulation part
http://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006074220&dateTexte=20100913

Forest Code (Code Forestier)
Legislative part

Regulation part
http://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006074236&dateTexte=20100913

General Code for Public Property (Code général de la propriété des personnes publiques)
http://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006070299&dateTexte=20100913

Heritage Code (Code du patrimoine)
http://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006074236&dateTexte=20100913

Land-Use Planning Code (Code de l’urbanisme)
http://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006074075&dateTexte=20100913

Local and Regional Government Code (Code général des collectivités territoriales)
http://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006070633&dateTexte=20100913

Rural Code (Code rural et de la pêche maritime)
Laws

Law of 21 April 1906, replaced by Law of 2 May 1930 relating to the protection of natural monuments and sites of artistic, historic, scientific, legendary or picturesque interest (Loi du 21 avril 1906 remplacé par la loi du 2 mai 1930 Relative à la protection des monuments naturels et des sites de caractères artistique, historique, scientifique, légendaire ou pittoresque)

Law No. 60-708 of 22 July 1960 establishing national parks (Loi n°60-708 du 22 juillet 1960 relative à la création des parcs nationaux)

Law No. 76-629 of 10 July 1976 on nature protection establishing nature reserves (Loi n°76-629 du 10 juillet 1976 relative à la protection de la protection de la nature)


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http://www.legifrance.gouv.fr/jopdf/common/jo_pdf.jsp?numJO=0&dateJO=19630709&numTexte=&pageDebut=06150&pageFin

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http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000390348&fastPos=1&fastReqId=962713473&categorieLien=cid&oldAction=rechTexte


http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000390348&fastPos=1&fastReqId=962713473&categorieLien=cid&oldAction=rechTexte

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http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000644200&fastPos=1&fastReqId=1925732326&categorieLien=cid&oldAction=rechTexte


http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000426669&fastPos=1&fastReqId=1553687103&categorieLien=cid&oldAction=rechTexte
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EU Directives


Conventions

Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention), 2 February 1971

Convention concerning the Protection of the World Cultural and Nature Heritage, 16 November 1972

Annex 1

French overseas territories

Source: Ministry of Overseas Territories
http://www.outre-mer.gouv.fr/7-decouvrir-l-outre-mer-.html
### The French protected areas system

<table>
<thead>
<tr>
<th>Categories</th>
<th>Number</th>
<th>Surface areas (hectares)</th>
<th>Correlation with IUCN categories</th>
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<tr>
<td>Statutory protected areas</td>
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<tr>
<td>National park</td>
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<td>4,914,700</td>
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<td>Core areas: II</td>
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<td>Peripheral areas: V</td>
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<td>Marine nature park</td>
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<td>National nature reserve</td>
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<td>2,566,200 (including 2 million ha in the Southern Territories)</td>
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<td>Regional nature reserve</td>
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<td>27,550</td>
<td>IV or III</td>
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<tr>
<td>Corsican nature reserve</td>
<td>6</td>
<td>83,500</td>
<td>IV</td>
</tr>
<tr>
<td>Biotope protection order</td>
<td>672</td>
<td>324,500 (mainland and overseas)</td>
<td>IV</td>
</tr>
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<td>Classified site</td>
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<td>Registered site</td>
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<td>Coastal Protection Agency site</td>
<td>635</td>
<td>123,000</td>
<td>IV</td>
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<tr>
<td>Natural Areas Conservation Society area</td>
<td>2,054</td>
<td>116,000</td>
<td>V and VI</td>
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<tr>
<td>Other protected areas</td>
<td></td>
<td></td>
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<tr>
<td>Regional nature park</td>
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<td>7,389,300</td>
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<td>Sensitive natural area</td>
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</table>

*Source: Martinez, 2008 (updated as of February 2010).*
### Marine protected areas in mainland France and overseas territories

<table>
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<th>Category</th>
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<td>Nature reserve of the French Southern Territories</td>
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<td>Marine nature park</td>
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<td>Natura 2000 site</td>
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<td>National and Corsican nature reserve</td>
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<td>Strict reserve (New Caledonia)</td>
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<td>Special marine reserve (New Caledonia)</td>
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<tr>
<td>Joint management entity (Côte Bleue Park)</td>
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<td>Special reserve (New Caledonia)</td>
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<td>Maritime domain of the Coastline Protection Agency</td>
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<tr>
<td>National park</td>
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<tr>
<td>Biotope protection order</td>
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<td>13</td>
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<td>Antarctic specially protected areas</td>
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<td>2</td>
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*Source: Website of the Marine Protected Areas Agency (updated as of October 2007).*