

## **Comparison of the head of state and the head of government as well as their mutual relationship in French and German constitutional law**

The French and German constitutions possess a considerable flexibility concerning the head of state, and, by extension, the head of government. They reach or may *de facto* reach in many aspects similar situations. This allows the incumbent of the presidency to have a very different influence on the leadership of the country, depending on his election and the way his party has organised itself. As long as the party leader heads his party, he is in principle the deciding political personality, and his decisions, met according to the law and to the party rules, are mandatory for other members. That the head of state effectively rules the country is the tradition in France. That the head of government rules the country is the tradition in Germany. The French and German presidential candidates, who then become Presidents, can also choose to restrain themselves of the daily politics and serve in the first place a representative role, as well as occasionally acting as a referee. A president who acts as a referee must leave the purely political judgements to the Government and execute its decisions as long as no legal doubts occur. A referee president is the tradition in Germany. Since the interim president and second round presidential candidate Alain Poher, no other significant candidate has ever proposed an arbitral presidency in France. The French and German constitutional flexibility, respectively inspired by the lived experiences on both sides of the Rhine, offers options, without the application of one doing prejudice to the other.

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