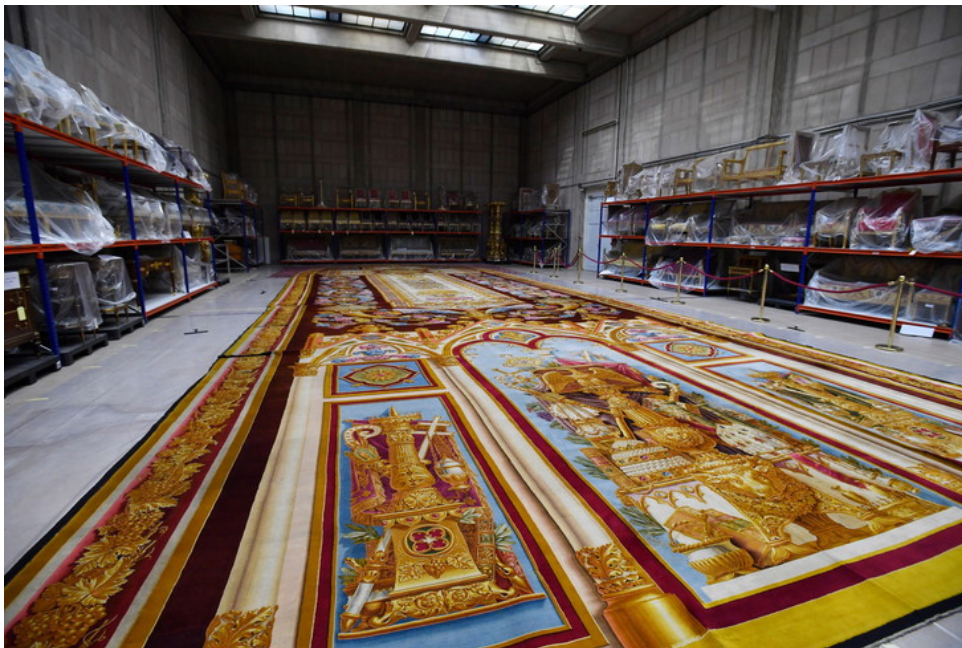


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# Let's give the restoration of Notre-Dame the legislative arsenal it deserves!

Emmanuèle Lutfalla, a partner at Signature Litigation, a law firm specialising in arbitration and litigation, considers that using orders undermines the exemplary nature of the Paris cathedral.



A tapestry of Notre-Dame de Paris, saved from the flames, could be seen during the French Heritage Day, on September 21, at the Mobilier National in Paris.

Almost 6 months after the tragic fire that consumed Notre-Dame, let's take stock of the parliamentary upheavals that led to the adoption of a highly criticised law regarding its restoration. Classified as a historical monument since 1862, Notre-Dame de Paris is owned by the State, which is its own insurer. The State can therefore only rely on its own resources or on donations to repair the damage.

It is obvious that the 5 companies that were taking part in the restoration of Notre-Dame at the time of the fire, even covered by their own insurers, will only be able to bear a tiny part of the costs related to the damage. Wanting to point the finger at a breach is a waste of time. It is in this context that the idea of a national subscription rapidly took shape, immediately announced by the French President.

The key actions of the work site

On April 17, the Prime Minister announced four measures meant to meet the challenge of this extraordinary project, successively by means of a bill legally grounding the national subscription, the implementation of a dedicated organisation to carry out the work, the creation of a committee to control the management of the donations, and the organisation of an international architecture

competition to rebuild the spire. Notwithstanding disagreements within the commission, Law no. 2019-803 was finally promulgated on July 30, 2019.

Our special Notre Dame fire report: the reconstruction era

Should we start by searching for similar cases of national subscription in our history in order to justify its use here?

Traces of one can be seen in 1948 with the adoption of Law no. 48-1392 of September 7, on the erection of a memorial dedicated to the Général Leclerc, that can no doubt be explained by the wish to create national cohesion after the war. More recently, Law no. 83-474 of June 11, 1983 put into place a national subscription in favor of French Polynesia, after six cyclones hit the territory, the intensity of the climate phenomenon and its repetition justifying an exceptional law. But the opening of subscriptions by law are rare.

People are going to be able to start donating to the State for Notre-Dame

Notre-Dame or the Republic's upheavals

In the face of this event that triggered great solidarity, national subscription did indeed take the form of a law, which was the result of a parliamentary debate, which equally makes it solemn. The measures for controlling the destination of the funds can also be spoken highly of, considering the volume of the announced donations. On the contrary, it seems surprising that the only way to respond on time to the scale of the restoration project was to enable the Government to hand down orders having too broad a scope of action, thus leading to confusion.

The text indeed provides that: "to the extent strictly necessary to achieve this goal, these orders may provide for adaptations or exceptions to regulations relating to roads, the environment and city planning, in particular regarding the accounting of planning documents, the issuance of the necessary authorisations and the applicable procedures and deadlines".

Notre-Dame, the restoration bill definitively adopted at the Assemblée

The fight between the two chambers of the French Parliament regarding this topic was tough. The Assemblée Nationale claimed that the use of extraordinary measures for an exceptional monument was necessary, whereas the Sénat considered that this action would create a dangerous precedent. The Assemblée Nationale won in the end. But, at no point did the Government wish to clarify the exact nature and scale of the considered exceptions. This deviation from the regulations, in the name of an exceptional law, actually discredits current laws. And it is all the claimed exemplarity of the Notre-Dame worksite that is being undermined.

Furthermore, the scope of the restorations has existed for a while and is covered by the Government, autonomously, either by the decentralized services of the Ministry of Culture, or by an operator in charge of project management appointed by the State. It is clearly superfluous here to empower the Government to create a new public body of the State responsible for carrying out the restoration work solely for the purpose of involving in its governance, the city of Paris and the diocese.

Finally, one can only see a double perverse effect in this arrangement. In fact, Parliament is relieved of its responsibilities by the orders, which amounts to eliminating all parliamentary debates. But in reality, Section 38 of the French Constitution provides that an order only acquires regulatory force if the Government introduces a ratification bill, which actually delays the debates until it is ratified.

In the end, it is an arsenal with a very strange twist, whose real effectiveness can be doubted.