

CNCCFP - France's National Commission for Campaign Accounts and Political Financing

Some 20 years ago, following a number of incidents that unsettled public opinion, French legislators moved to ensure greater transparency in the financing of political life. The National Commission for Campaign Accounts and Political Financing (Commission Nationale des Comptes de Campagne et des Financements Politiques or CNCCFP), set up under legislation dated January 15, 1990 was given a central place in the new structure.

GENERAL PRINCIPLES OF LEGISLATION GOVERNING POLITICAL FINANCING

France's Electoral Code provides for control and supervision mechanisms intended to clarify the sources of political financing and limit spending. These concerns are reflected in principles that include:

- the introduction of limits on electoral spending;
- the limitation, followed by the prohibition (in 1995), of donations from corporations and other legal persons (except for political parties), and a ceiling on individuals' donations to candidates (€4,600 a year per person and election) and political parties (€7,500 a year);
- direct public financing for candidates and political parties;
- indirect public financing for candidates and political parties through tax exemptions for donations and party-members' dues;

The resources of the Commission

The Commission's annual budget ranges from €4 million to €5 million, depending on the year. This is voted by Parliament as a component of the appropriation to the Ministry of the Interior. The Commission has a permanent staff of 33 headed by a General Secretary (Secrétaire général) and calls on the support of a large number of temporary appointees to review campaign accounts and carry out other supervisory or investigative tasks.

The CNCCFP – an Independent Administrative Authority

By the ordonnance of December 8, 2003, the CNCCFP acquired legal recognition as an Independent Administrative Authority. As a State agency, it is independent from the government of the moment.

The Commission recruits its agents by contract. Its decisions have legal force and are subject to appeal before a court or other competent body.

- the establishment of a commission overseeing campaign accounts and political parties' compliance with accounting requirements: the CNCCFP.

Commission membership reinforcing independence

The Commission has nine members who, except for the President, are responsible for presenting cases at its meetings. Three of these are active or honorary members of the Conseil d'Etat, the highest authority in French administrative law; three are active or honorary members of the Cour de Cassation, the highest court in the French judiciary; and three are active or honorary members of the Cour des Comptes (Court of Accounts). They are named by government decree on the respective proposals of the Vice President of the Conseil d'Etat, the First President of the Cour de Cassation and the First President of the Cour des Comptes.

The Commission elects one of its members President, who appoints a Vice President. The nine members are appointed for five years and cannot be removed during that period.



The missions of the Commission

The Commission has two main missions. One is to review the campaign accounts of candidates in elections by direct universal suffrage in constituencies with at least 9,000 inhabitants, and set the reimbursement due by the State; the other is to verify the compliance of political parties with regulations governing their financing. The Commission must also provide for the publication of the accounts of candidates and parties.

REVIEW OF CAMPAIGN ACCOUNTS

These reviews concern the presidential election (since 2007), elections to the European parliament, and French parliamentary, regional, cantonal*, municipal*, provincial and territorial (in French overseas territories) and senatorial elections.

Founding legislation

Legislation dated March 11, 1988 defined the first rules applicable to the supervision of campaign financing. Following this, Acts dated January 15, 1990 and January 19, 1995 defined the legal framework of supervision now in force. The provisions of these Acts are incorporated in the Electoral Code.

The legislation (loi organique) dated April 5, 2006 concerning the election of the President of the Republic conferred on the Commission competence to supervise the accounts of candidates for the presidency.

Candidates' obligations

Candidates are required to comply with a certain number of substantive formalities. They must, in particular:

- appoint a financial proxy (an individual or financing association) and declare this agent to the Préfecture at the beginning of the election campaign. The proxy is required to open a single bank account providing a full record of all payments and receipts;
- not exceed the spending limits applicable to the election concerned;
- have their accounts certified by a qualified auditor unless they do not have any reportable payments or receipts;
- lodge with the Commission a campaign account that is either in balance or in surplus
- provide full documentation of receipts and payments..

Decisions of the Commission

After examining campaign accounts, the Commission deliberates and reaches a collegial decision. It may:

- approve the campaign accounts;

- approve the accounts after amendment, in particular in cases where the candidate's spending includes items that are not of an electoral nature;
- reject accounts in the case of failure to comply with a substantive formality required by law (failure to have accounts audited, donations received from a corporation or other juridical person, debit balance on account, spending limit exceeded, etc.).

The Commission can also take official note of the candidate's failure to lodge an account or to lodge it within the required time.

Consequences of Commission decisions

Rejection of accounts, failure to lodge accounts or failure to lodge them by the deadline deprives candidates of any entitlement they may have had to reimbursement and entails, except in the case of a presidential election, the automatic submission of the case to the court competent for the election, which may be the Conseil Constitutionnel, the Conseil d'État or the Administrative Tribunal. The court may then declare candidates at fault ineligible for public office for a year to three, for one or all elections in this time, and order their removal from office if they have been elected.

A decision to require amendment of accounts may lead to the reduction of the expenses reimbursed.

Candidates may appeal against decisions through an application for reconsideration to the Commission or by taking action before the Administrative Tribunal of Paris (once the court competent for the election has reached a judgement if the case was brought before it by the Commission in initial proceedings).

In the case of presidential elections, candidates may submit an appeal against a Commission decision to the Conseil Constitutionnel, which may then confirm, amend or over-rule it within a month from notification of the decision. The penalty of ineligibility is not applicable if a candidate's accounts for a presidential election are rejected.

(*) in constituencies with more than 9,000 inhabitants.

Reimbursement of candidates' campaign expenses

To qualify for reimbursement, candidates must satisfy certain conditions:

- they must fulfill their obligations (see “Candidates’ obligations” above);
- their accounts must not have been rejected;
- they must have incurred reimbursable expenses of an electoral nature;
- they must have won at least 5% of votes cast, except in the case of a presidential election (at least 3% in European parliamentary elections and local government elections in French Polynesia).

Once these conditions are met, the amount reimbursed to the candidate is equal to the smallest of the following three:

- the amount of reimbursable expenses recognized by the Commission;
- the personal contribution of the candidate after any adjustments the Commission may have required;
- the maximum provided for by law, this being half the limit set for spending in the constituency concerned.

In the case of a presidential election, the amount reimbursable is at most equal to:

- one-twentieth of the limit on electoral spending applicable to candidates in the first round of the election for candidates winning less than 5% of votes cast;
- 47.5% the limit on spending applicable to candidates in the first round of the election for candidates winning at least 5% of votes cast;
- 47.5% the limit on spending applicable to candidates in the second round.

Whatever the election concerned, the Commission provides for the publication of simplified campaign accounts in the Journal Officiel, indicating any amendments applied.

Campaign accounts examined in 2008

(nationwide elections)

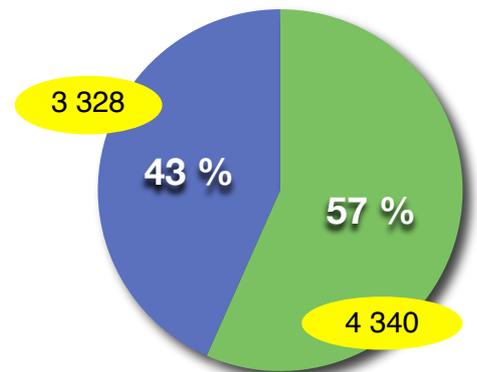
In 2008, there were municipal elections with 4,126 candidates heading lists in communes with over 9,000 inhabitants, and cantonal elections in half of the French cantons, with 5,784 candidates presented in cantons with over 9,000 inhabitants. For the total of 9,910 candidates, 9,588 accounts were lodged, giving rise to the decisions listed below.

	Cantonal elections	Municipal elections	Total
Approved	4 297	2284	6581
Approved after amendment	1145	1570	2715
Rejected	138	154	292
Total	5580	4008	9588
Reimbursements (number)	4 340	3 328	7 668
Reimbursements (amount)	€19.6M	€53.2M	€72.8 M

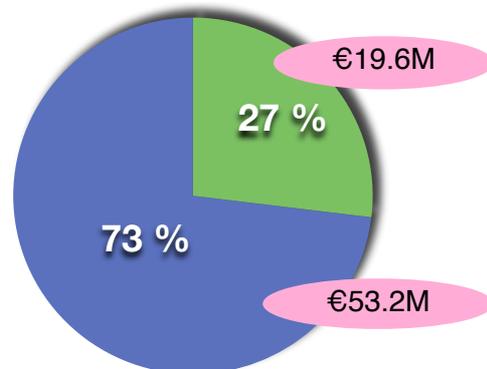
2008 nationwide elections

- Cantonal elections
- Municipal elections

Reimbursements number



Reimbursements amount



After each nationwide election, the Commission publishes a report, available on its website at www.cnccfp.fr, setting out the results of its action and the comments it considers useful.



VERIFICATION OF POLITICAL PARTIES' COMPLIANCE WITH ACCOUNTING OBLIGATIONS

The notion of political party

Article 4 of the French constitution of 1958 provides that "political parties and groupings contribute to the exercise of suffrage. They are formed and exercise their activities freely." This confers complete freedom as regards their establishment and operation.

In France, the first legislation taking political parties into account as regards their financing came in 1988, but this provided no definition of what they are.

The case law of the Conseil d'État and the Conseil Constitutionnel nonetheless provides criteria allowing a definition of "political party" within the meaning of the legislation.

Political parties are groupings that:

- benefit from public aid;
- or have appointed a financial proxy (an individual who has been declared at the Préfecture or a financing association approved by the Commission);
- and lodge accounts with the Commission each year.

Only political groups satisfying these criteria have the right to receive donations from individuals and to finance an election campaign or another political party.

Obligations of political parties

Parties and other political formations must keep accounts in accordance with specific accounting standards; close accounts each year; have accounts examined by two auditors (charged with verifying that accounts have been properly established and that no donations have been received from corporations or other juridical persons); and lodge these with the Commission no later than June 30 in the year following the close of the financial year.

Financing of political parties

There are two kinds of financing:

- private financing made up of payments from other political groups, dues received from members and elected representatives, and donations from individuals;
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- direct public financing, made up of two equal parts. The first is proportional to the number of votes obtained in the first round of elections to the National Assembly and subject to the condition that candidates obtain at least 1% of votes cast in at least 50 constituencies in Metropolitan France (mainland France and Corsica) or 1% of all votes cast in the overseas constituencies where it presented candidates. The second part is allocated to political parties and groupings already benefiting from the first part, and is proportional to the number of members of the National Assembly and Senate who declare that they support the party.

The Commission:

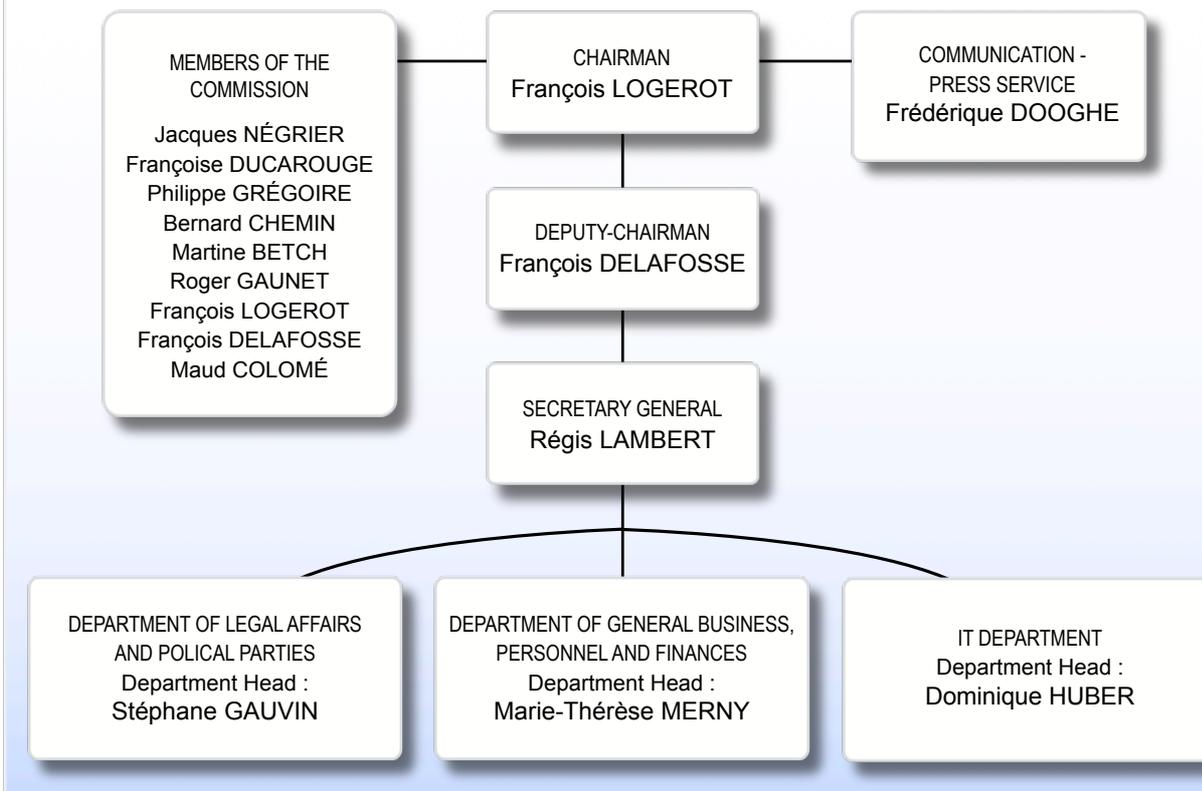
- verifies parties' compliance with accounting and financial obligations, and each year provides the government with a list of those that fail to comply, which cannot then receive public financing in the following year;
- ensures publication of summaries of party accounts in the Journal Officiel;
- grants or withdraws approval of political parties financing associations;
- administers the system of donation receipts and examines receipt stubs for any breaches of the Act of 1988;
- monitors the compliance of financial proxies (individuals and financing associations) and where a penalty is appropriate, refuses to provide them with donation receipt forms;
- informs the public prosecutor (*procureur de la République*) of anything that might be a cause for criminal proceedings.

Political parties that lodged accounts in 2009 :

Of the 295 groups subject to the requirement to lodge audited accounts, of which 54 were eligible for public financing:

- 215 made compliant filings. Of these, accounts were certified without qualification in 211 cases, and with qualifications in 4 cases.
- 18 made non-compliant filings.
- 62 failed to lodge accounts.

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