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The Commission nationale des comptes de campagne et des financements politiques

At the end of the nineteen eighties, the Legislature sought to make the mode of political financing more transparent. One organism is at the heart of the system that it established: the Commission nationale des comptes de campagnes et des financements politiques (the National Commission on Campaign Accounts and Political Financing or CNCCFP), created by a law dated 15 January, 1990.

THE GENERAL PRINCIPLES DEFINED BY THE LEGISLATURE REGARDING POLITICAL FINANCING

The provisions of the Electoral Code seek to introduce a mechanism to control political financing with a view to making resources transparent and limiting electoral spending. Hence the creation of the following principles:

- **Mandatory submission of campaign accounts**
- **Capping of electoral spending**
- **Appointment of a financial consultant**
- **Interdiction of donations by legal bodies, excluding political parties, while donations from individuals limited to €4,600 per year per person (for political parties, the limit is €7,500 per year per person)**
- **Public financing of electoral campaigns**
- **Direct public financing of political parties, limit is €7,500 per year per person)**
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- **Direct public financing of political parties, and indirect financing with tax benefits granted to donors and individual contributors (for parties) limit is €7,500 per year per person)**
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The CNCCFP: an independent administrative body sanctioned by the Legislature. Since the Decree of 8 December 2003, the Commission has become an independent administrative body.

It appoints agents on contract and its decisions are now subject to litigation, with legal effects that may be subject to a judge's supervision

Its independence is reinforced by its structure

The Commission comprises 9 members (who, with the exception of the Chairman, presents the matters of the day in session): 3 members or honorary members of the Conseil d'Etat (Council of State), 3 members or honorary members of the Final Court of Appeal and 3 members or honorary members of the Revenue Court, appointed by decree after recommendation, based on the jurisdiction they represent:

- **Vice-Chairman of the Council of State**
- **First Chairman of the Final Court of Appeal**
- **First Chairman of Revenue Court**

From among its members the Commission appoints a Chairman, who then names the Vice-Chairman.

The means at the Commission's disposal

Its budget fluctuates between €3 and €5 millions depending on the year. Its services, directed by a Secretary General, regroup 33 permanent agents supported by a large number of recorders temporarily appointed to verify campaign accounts

The 9 members are appointed for 5 years and cannot be replaced during that period.

The missions of the Commission

The Commission is charged with two major missions: first, to monitor the campaign accounts of election Candidates for direct universal suffrage within constituencies of at least 9,000 inhabitants, and to determine the lump sum reimbursable by the State. And second, to verify that political parties respect the regulation relative to financing and the obligation to publicise accounts.

Monitoring campaign accounts

This verification process concerns presidential elections (as of 2007) as well as European, legislative regional, cantonal, municipal, provincial and territorial (Overseas Departments) elections.

The founding texts

The Law of 11 March 1998 established rules applicable to the verification of electoral campaign finances for the first time. After which, the Laws of 15 January 1990 and of 19 January 1995 created the system of laws pertaining to verification that remains in effect today. These provisions have been incorporated into the Electoral Code.

The organic law of 5 April 2006 relative to the election of the President of the Republic authorises the Commission to monitor the accounts of Presidential election candidates.

Formalities for the candidates

The Candidate must comply with a certain number of important formalities:

- **Appoint a financial consultant (an individual or company), who must be registered with the relevant prefecture immediately on the launch of the electoral campaign. The financial consultant must open a lone bank account in which financial transactions are to be recorded (revenue and expenses)**
- **Respect established limits for electoral spending pertinent to the election**
- **Ensure the auditing of accounts by chartered accountant unless no revenue or expense has been recorded**
- **Submit a bank statement showing a balanced account or surplus**
- **Submit all records of revenue and expenses**

The Commission's decisions

Once campaign accounts have been analysed, the Commission may come to one of several decisions:

- **Approve campaign accounts**
- **Grant approval, subject to adjustments, notably when expenses undertaken by the Candidate are not related to the electoral process**
- **Reject the accounts due to non-conformity with legislative regulations (no audit by chartered accountant, account in deficit, limit exceeded, etc.)**

The Commission may also penalise a Candidate for the non-submission or late submission of accounts.

Consequences of decisions

Rejected accounts, accounts that have not been submitted or have been submitted late will cancel the Candidate's right to reimbursement for campaign expenses, and, Presidential elections excluded, will result in the Commission automatically bringing the matter before the Election's judge (Constitutional Council, the Council of State or the Administrative Court), who may pronounce the Candidate ineligible.

Decisions concerning adjustments may reduce the total reimbursement due to the Candidate.

The Candidate may contest the Commission's decision through an automatic right of appeal before the Commission itself or through a judicial appeal before the Council of State.

Candidates of Presidential elections may contest the Commission's decisions requesting remedy of full jurisdiction in the Constitutional Court within one month of receiving notification of the decision. The sanction on ineligibility is not applicable to a Candidate whose account has been rejected.

Reimbursement of Candidates' campaign expenses

In order to be reimbursed, a Candidate must meet a certain number of criteria:

- Must have respected obligations (see above, The Candidate's Obligations)
- His/her account must not have been rejected
- Expenses for which reimbursement is demanded must be relevant to the electoral process
- Must have obtained at least 5% of votes cast, with the exception of Presidential elections (at least 3% for European elections and territorial elections for French Polynesia).

Once these criteria have been met, then the amount reimbursed by the State cannot exceed one of the three limits set out below:

- The amount of electoral expenses reimbursable as stipulated by the Commission
- The amount contributed by the Candidate personally, with any adjustments taken into account
- The maximum amount allowed by law, equal to half of the upper limit defined by each constituency

In the special case of a Presidential election, the maximum amount is equal to:

- One twentieth of the upper limit of electoral expenses applicable to Candidates during the first round of voting, for those who have received less than 5% of votes cast
- Half of the upper limit of electoral expenses applicable to Candidates during the first round of voting, for those who have received at least 5% of votes cast
- Half of the upper limit of electoral expenses applicable to Candidates during the second round of voting

Furthermore, the Commission also ensures that a summary of Candidates' accounts, including any adjustments necessary, is published in the Journal Officiel.

The other half is attributed to political parties and groupings that have already benefited from the first half in proportion to the number of Ministers and Senators who declared their allegiance to a political party each year

The Commission

- Verifies that parties respect their accounting and financial obligations and submits each year to the Government a list of candidates who do not, who then become ineligible for public aid for the following year
- Ensures that a summary of parties' accounts is published yearly in the Journal Officiel
- Sanctions or vetoes financing companies selected by parties
- Issues the Gift/Donations Inscription Sheet and verifies that the relevant conditions are not violated relative to the Law of 1988
- Verifies that specific obligations are adhered to by the financial consultants (individuals or financing companies) and if necessary, refuses to deliver the Gift/Donations Inscription Sheet
- Brings any matters presenting penal violations before the Public Prosecutor

Verifying the obligations of political parties

The definition of a political party

Article 4 of the Constitution of 1958 states that political parties and groupings contest votes in expressions of universal suffrage. They are formed, and act, freely.” This text confers total freedom of formation and management.

In 1988, for the first time the Legislature addressed the issue of finance with regard to political parties, without defining the concept of a political party.

In order to finance an electoral campaign or another political party, the jurisprudence of the Council of State and of the Constitutional Council provides a double definition of a party relative to that legislation.

A political party is a grouping that:

- Benefits from public aid
- Or has appointed a financial consultant (an individual registered at the Prefecture or a financing company approved by the Commission) that submits its accounts to the Commission each year

The obligations of political parties

The political party or grouping must respect criteria pertaining to the structure of accounts, which must be closed off each year, audited by two chartered accountants (who must verify their consistency and the absence of financial contributions by legal bodies) and submitted to the Commission by 30 June, at the latest, of the year following the financial year under review.

The financing of political parties

There are two types of financing:

- Private finance comprising the contributions of other political bodies, members and elected officials, and donations from individuals
- Direct public financing divided in half; one half serves to fund political parties and groupings based on their performance in Assemblée Nationale elections (Candidates must each have obtained at least 1% of votes cast in at least 50 constituencies in mainland France or at least 1% of votes cast in the constituencies of Overseas Territories).

The Commission in figures

Decisions in 2004

European elections

169 accounts

48.5% Approved

7.7% Rejected

Cantonal elections

8159 accounts

75.6% Approved

2.7% Rejected

Regional elections

226 accounts

43.5% Approved

4% Rejected

Territorial elections (French Polynesia)

13 accounts

15.5% Rejected

Provincial elections (New Caledonia)

31 accounts

42% Approved

3.2% Rejected

The number of campaign accounts verified during the last general elections:

2002:

Legislative elections: 8 444

2004:

Cantonal elections: 8 159

Regional elections: 226

European elections: 169

Territorial elections (French Polynesia): 13

Provincial elections (New Caledonia): 31

The number of Political parties that submitted accounts in 2006

261 political parties were required to submit accounts for 2006

(subject to the Commission's definitive validation)

Every year, the Commission sends out nearly 600,000 Gift/Donations Inscription Sheets and receives both completed and blank sheets in return



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