



# STANDING ORDERS

## ***Proceedings in the Constitutional Council relating to Disputes as to the Election of Deputies and Senators<sup>1</sup>***

### **Order 1**

The election of one or more Members of Parliament may be contested before the Constitutional Council, which, subject to application of section LO 136-1 of the Electoral Code by the National Campaign Accounts and Political Financing Commission, may hear only such applications as are made by persons specified in section 33(2) of the Ordinance of 7 November 1958 enacting the Institutional Act on the Constitutional Council.

The application shall be made within ten days either to the Secretariat-General of the Constitutional Council or to the Prefect of the département or to the State Representative of the territory or territorial entity where the electoral operations were conducted.

The period of time allowed by the foregoing paragraph shall run from the day following that on which the results of the election are declared. The last paragraph of section 642 of the new Code of Civil Procedure shall apply to this period.

The application shall have no suspensory effect, and no stamp duties or registration charges shall be payable.

Where an application is made to it pursuant to section LO 136-1 of the Electoral Code, the Constitutional Council, without prejudice to measures of investigation pursuant to section LO 187 of that Code, shall receive from the National Campaign Accounts and Political Financing Commission the documents in the proceedings that have taken place before it or copies thereof if it has decided to refer them to the prosecution service.

### **Order 2**

Applications and referrals made pursuant to section LO 136-1 of the Electoral Code shall be registered by the Secretariat-General of the Constitutional Council in the order in which they are received.

Where applications are transmitted direct by the Prefect or by the State Representative of a territory or territorial entity, the registration at the Secretariat-General of the Constitutional Council shall specify the date on which they were received at the offices of Prefect or the State Representative of the territory or territorial entity.

### **Order 3**

Applications on which proceedings are based shall state the name, forename(s), address and status of the applicant(s) and the name of the successful

1. Orders amplifying the Standing Orders laid down by Chapter VI of Title II of the Ordinance 58-1067 of 7 November 1958, adopted by the Constitutional Council (*Journal officiel*, 31.5.1959) pursuant to section 56 of the Ordinance; as amended by decisions of the Constitutional Council on 5.3.1986, 24.11.1987, 9.7.1991 and 28.6.1995.

candidate(s) whose election is contested, together with a statement of the facts and arguments pleaded. They shall be signed by the applicants.

The applicant may designate a person of his choice to represent or assist him in other procedural acts. He shall do so explicitly and in writing.

**Order 4**

The applicant shall append to the application all supporting documentary evidence.

In exceptional cases, the Constitutional Council or the section examining the application pursuant to order 8 may allow an applicant additional time to present part of such documentary evidence.

**Order 5**

Where supplementary pleadings are subsequently presented, they may not present new arguments but only develop arguments already presented.

**Order 6**

As soon as the application or the telegram announcing it has been received, the Secretary-General shall notify the House concerned. The National Assembly shall also be notified of referrals made by the National Campaign Accounts and Political Financing Commission pursuant to section LO 136-1 of the Electoral Code which relate to a Deputy's eligibility.

The Secretary-General shall notify the National Campaign Accounts and Political Financing Commission for information purposes of all applications contesting the regularity of the election of one or more Deputies in a given constituency.

He shall also supply that Commission for information purposes with pleadings exchanged between the parties where the Constitutional Council has a referral before it alleging that the Deputy or Deputies whose election is contested exceeded the maximum amount of campaign expenditure permitted pursuant to section L 52-11 of the Electoral Code.

**Order 6-1**

Where the third paragraph of order 6 applies, the Constitutional Council shall receive from the National Campaign Accounts and Political Financing Commission, for information purposes, the decisions given as to the regularity of the campaign accounts of all the candidates or lists standing in the relevant constituency, even if no use has been made of section LO 136-1 of the Electoral Code.

**Order 7**

The performance of all procedural acts, the deposit of all documents and of all new items shall be recorded in the register at the Secretariat-General.

**Order 8**

The President of the Constitutional Council shall instruct one of the sections provided for by section 36 of the Ordinance of 7 November 1958 to examine the application. He shall designate a rapporteur, who may be selected from among the assistant rapporteurs.

**Order 9**

The section shall order notice of the application to be given to the member or members of Parliament elected at the same ballot in the relevant constituency and, if need be, to their replacements. Such members may, in manner provided in the second paragraph of order 3, designate a person of their choice to represent and assist them, jointly or individually, in the various procedural acts. The section shall appoint the period in which they shall be allowed to take cognisance of the

application and of the documents in the case and to present their written observations. In exceptional circumstances it may, on request, allow additional time.

Where section LO 136-1 of the Electoral Code is applied, any person against whom the second paragraph of section LO 128 of that Code may be applied shall be notified of the referral to the National Campaign Accounts and Political Financing Commission. All persons concerned shall be invited by the section to present all the arguments in their defence in writing in accordance with the first paragraph of this section.

The section shall invite the applicant to take cognisance of the observations and shall appoint a period for reply. It may order any other communication which it considers useful.

The section may delegate powers to the Secretary-General to perform all the preliminary acts provided for by this order.

**Order 10**

Wherever the procedure so requires, and in particular in the cases to which order 9 applies, documents may be consulted by persons to whom orders 3 and 9 apply at the Constitutional Council but may not be removed.

**Order 11**

The section may, without awaiting the presentation of defence arguments, request from administrative authorities all such reports as it considers useful in the treatment of the case and all documents relating to the election, notably the reports on electoral operations and documents appended thereto.

**Order 12**

The section may propose that the Council dismiss applications without prior adversary hearings where they are inadmissible or make only such complaints as can manifestly not influence the outcome of the election.

**Order 13**

When the case is ripe for judgment, the section shall hear the rapporteur. The rapporteur's report shall set out all material points of fact and law and shall contain a draft decision. If the rapporteur considers that further inquiries or other preliminary measures are required, he shall give reasons.

**Order 14**

The section shall deliberate on the rapporteur's proposals and bring them before the full Council for final judgment. If it considers it useful, it may either itself order further inquiries or other preliminary measures or bring the matter before the full Council for that purpose; the Council shall then decide the issue and, if appropriate, proceed forthwith to judgment.

**Order 15**

Where an investigation is ordered by the section or the Council pursuant to section 42 of the Ordinance of 7 November 1958, the decision shall specify:

- the facts to be proved;
- the name of the rapporteur empowered to receive witnesses' statement under oath;
- the list of witnesses to be heard, unless the section or the Council decides to leave this to the rapporteur's discretion.

Sections 205 and 211 of the new Code of Civil Procedure shall apply to the oath provided for by this order.

Witnesses shall be heard in the absence of the persons referred to in orders 3 and 9. The report of the hearings prepared by the rapporteur shall be transmitted to

those persons. They shall have three days to present their written observations, either to the Secretariat-General of the Council, the Prefect or the State Representative in a territory or territorial entity, or to the rapporteur in person.

**Order 16**

Where measures of investigation are ordered pursuant to section 43 of the Ordinance of 7 November 1958 by decision of the section or of the Council, the decision shall specify the name of the member of the Council or the assistant rapporteur deputed to conduct them, the nature of the measures to be taken and the place or places where they are to be conducted.

**Order 17**

The decision to enter a case on the Council's agenda shall be taken by the President of the Constitutional Council.

The deliberations of the Constitutional Council shall not be in public. However, the persons referred to in orders 3 and 9 may ask to be heard.

The Secretary-General and the rapporteur for the case shall attend the Council's deliberations. The rapporteur shall put the decision resulting from the Council's deliberations into proper form.

**Order 18**

Decisions of the Constitutional Council shall contain citations to applicable legislation, recitals stating the grounds on which they are based and the decision proper. They shall record the members who took part in the sitting at which they were adopted. They shall be signed by the President, the Secretary-General and the rapporteur and shall be notified by the Secretary-General to the National Assembly or the Senate, as the case may be. Decisions shall be published in the *Journal officiel de la République Française*. They shall be addressed for information purposes to the relevant minister.

Where the Constitutional Council has a case before it on the basis of section LO 136-1 of the Electoral Code, the decision shall be notified to the Chairman of the National Campaign Accounts and Political Financing Commission.

Persons directly concerned shall be notified without delay of decisions recording their ineligibility or annulling their election on the basis of the second paragraph of section LO 128 or section LO 186-1 of the Electoral Code.

**Order 19**

The application, the pleadings and documents or copies or photocopies thereof appended thereto shall be kept in the record office of the Constitutional Council. The same shall apply to referrals made pursuant to section LO 136-1 of the Electoral Code and to the observations prompted by them.

However, campaign accounts, annexes to them and documents in proceedings before the National Campaign Accounts and Political Financing Commission shall be returned to that Commission.

Moreover, at the end of their period of regular use, documents referred to in the first paragraph of this order shall be transferred to the Archives Administration in accordance with Act No 79-18 of 3 January 1979.

**Order 20**

There shall, in accordance with Article 62 of the Constitution, be no appeal against decisions of the Constitutional Council.

**Order 21**

Where the Constitutional Council ascertains that one of its decisions is vitiated by a material mistake, it may rectify it of its own motion.

**Order 22**

Any interested party may bring before the Constitutional Council a request for rectification of a material mistake in one of its decisions.

Such request shall be made within twenty days of notification of the decision to be rectified.

Where a decision was published in the *Journal officiel* before the date on which this order was published in the *Journal officiel*, the twenty-day period shall run from that date.