



DECREE IMPLEMENTING ACT 62-1292 OF 6 NOVEMBER 1962 RELATING TO THE ELECTION OF THE PRESIDENT OF THE REPUBLIC BY UNIVERSAL SUFFRAGE

Decree 2001-213 of 8 March 2001

(As amended by Decree 2002-243 of 21 February 2002)

Section 1 | All French nationals registered on one of the electoral rolls of the Metropolis, the Overseas Departments, French Polynesia, the Wallis and Futuna Islands, New Caledonia, Mayotte or Saint-Pierre-et-Miquelon shall take part in the election of the President of the Republic.

TITLE I **DECLARATIONS AND CANDIDATURES**

Section 2 | Nominations for the election of the President of the Republic shall be presented to the Constitutional Council following the publication of the Decree announcing the election and must reach it no later than midnight on the nineteenth day preceding the first ballot.

However, nominations may be presented within the same time-limit:

1. – In the overseas departments, French Polynesia, the Wallis and Futuna Islands, New Caledonia, Mayotte and Saint-Pierre-et-Miquelon, to the Representative of the State;

2. – By elected members of the Higher Council of French Citizens Residing Abroad, to the Head of the Diplomatic or Consular Representation responsible for the consular district where the author of the nomination resides.

The Representative of the State or the Head of the Diplomatic or Consular Representation shall ensure that the Constitutional Council is notified of nominations by the most rapid means possible after they have received them.

Section 3 | Nominations shall be made on forms printed by the administration in accordance with the model adopted by the Constitutional Council.

When the election takes place under the conditions provided for in the third paragraph of Article 7 of the Constitution, forms shall be sent by the administrative authority to the citizens entitled by law to nominate a candidate from the date set by decree, which must be at least fifteen days earlier than the publication of the decree summoning the voters.

If the post of President of the Republic is declared vacant by the Constitutional Council or the President is declared definitively incapable of acting, forms shall be sent by the administrative authority to the citizens entitled by law to nominate a candidate from the date of publication of the declaration by the Constitutional Council that there is a vacancy or that the incapacity is definitive.

- Section 4** The nomination shall be written in capital letters and shall bear the handwritten signature of its author. It shall specify the elective office under which, pursuant to the second subparagraph of section 3(I) of the Act of 6 November 1962, it is made. Where it is made by a Mayor or Deputy Mayor, it must bear the stamp of the town hall.
- Section 5** The Constitutional Council shall perform such verifications as it considers useful.
- Section 6** The citizens referred to by the second subparagraph of section 3(I) of the Act of 6 November 1962 may nominate no more than one candidate.
Under no circumstances may a nomination be withdrawn after it has been sent or deposited.
The name and status of the citizens nominating a candidate entered on the list provided for by section 7 shall be published in the *Journal officiel*.
- Section 7** The Constitutional Council shall approve the list of candidates after checking that the nominations are in order and that the candidates have accepted the nomination.
The list shall be published in the *Journal officiel* no later than the sixteenth day preceding the first ballot. Notification shall be sent as rapidly as possible to the Representatives of the State in the departments, French Polynesia, the Wallis and Futuna Islands, New Caledonia, Mayotte and Saint-Pierre-et-Miquelon and to the Heads of Diplomatic and Consular Representations.
- Section 8** Any person who has been nominated shall have the right to object to the list of candidates.
Objections must reach the Constitutional Council before the end of the day following that on which the list of candidates was published the *Journal officiel*.
The Constitutional Council shall take its decision without delay.
- Section 9** Where no candidate obtains an absolute majority of the votes cast at the first ballot, withdrawals if any shall be communicated to the Constitutional Council by the candidates no later than midnight on the Thursday following the first ballot. The Government shall be informed by the Constitutional Council of the names of the two candidates who are alone entitled to stand at the second ballot; they shall be announced immediately in the *Journal officiel*. Notification shall be sent as rapidly as possible to the Representatives of the State in the departments, French Polynesia, the Wallis and Futuna Islands, New Caledonia, Mayotte and Saint-Pierre-et-Miquelon and to the Heads of Diplomatic and Consular Representations.

TITLE II ELECTION CAMPAIGN

- Section 10** The campaign for the election of the President of the Republic shall be open from the day of the publication of the list of candidates in the *Journal officiel*. It shall end at midnight on the Friday preceding the poll.

Where a second ballot is required, the campaign shall be opened from the day of the announcement in the *Journal officiel* of the names of the two candidates entitled to stand. It shall end at midnight on the Friday preceding the poll.

Section 11

The Constitutional Council shall be informed without delay by the Representative of the State in the departments, French Polynesia, the Wallis and Futuna Islands, New Caledonia, Mayotte and Saint-Pierre-et-Miquelon of the deposit by an agent provided for by the first subparagraph of section L52-4 of the Electoral Code of the declaration completed by him under either the first paragraph of section L52-5 or the first paragraph of section 52-6 of that Code.

The Constitutional Council shall likewise be informed of any change of agent pursuant to the second paragraph of section L52-7 of the Electoral Code.

Section 12

The agent provided for by the first subparagraph of section L52-4 of the Electoral Code shall give each donor, whatever the amount of the authorised gift, a detached receipt from a numbered counterfoil book, published by the Constitutional Council. The receipt shall be produced in support of any declaration giving an entitlement to a reduction of income tax under section 200 of the General Tax Code.

The stub and the receipt shall state the amount and date of the payment and the donor's identity and the address of his domicile for tax purposes or place of taxation. The receipt shall be signed by the donor.

The receipt shall reproduce the name and address of the agent provided for by the first paragraph of section L52-4 of the Electoral Code where the amount of the gift exceeds €3 000.

The stubs of the receipts used shall be annexed to the campaign accounts submitted for review by the Constitutional Council. They shall be accompanied by a statement from the single postal bank account opened by the agent provided for by the first paragraph of section L52-4 of the Electoral Code, attesting to the reality of receipt of the corresponding funds. The unused receipts and the corresponding stubs shall be returned to the Constitutional Council with the campaign accounts.

The Constitutional Council may challenge the validity of the receipt issued by the agent provided for by the first paragraph of section L52-4 of the Electoral Code and recorded by him if, when auditing the campaign account, it notes an irregularity in terms of this section or sections L52-4 to L52-12 and L52-16 of the Electoral Code as applied to presidential elections by section 3(II) of the Act of 6 November 1962.

The sale of merchandise connected with the campaign shall be presented, in an annex to the campaign account, by a member of the order of chartered accountants and approved auditors in an operating account recording the charges, products and operating results. The yield from collections of cash gifts at public meetings shall be detailed by date and by meeting in a specific annex to the campaign account.

For the purposes of this section, the National Campaign Accounts and Political Funding Committee shall assist the Constitutional Council.

Section 13

In accordance with the institutional provisions of section 3(IV) of the Act of 6 November 1962, all the candidates shall enjoy the benefit of the same facilities for the presidential election campaign from the state.

A National Election Campaign Committee shall ensure compliance with the foregoing provisions. It shall perform the functions provided for in the following sections. It shall, if necessary, approach the competent authorities to ensure that all measures likely to ensure equality between the candidates and the observation of the rules laid down by this title are taken. It shall automatically notify the Constitutional Council of irregularities brought to its attention that may affect the candidates' campaign accounts.

The Committee shall consist of five members:

- the Vice-President of the Council of State, in the chair;
- the First President of the Court of Cassation;
- the First President of the Audit Court;
- two active or honorary members of the Council of State, the Court of Cassation or the Audit Court, designated by the three *ex officio* members.

Where one of the *ex officio* members is prevented from acting, he shall be replaced by the persons who normally deputise for him in his body; the other two members of the Committee shall be replaced if necessary by alternates designated in the same manner as themselves.

The Committee may secure the services of rapporteurs selected from among the members of the Council of State, the Court of Cassation or the Audit Court.

It shall be assisted by four officials:

- a representative of the Minister of the Interior;
- a representative of the Minister responsible for the Overseas Departments and Territories;
- a representative of the Minister responsible for the Post Office;
- a representative of the Minister responsible for Communication.

These officials may, if they are prevented from acting, be replaced by officials designated in the same manner as themselves.

The National Committee shall be set up on the day following publication of the Decree setting the date when the administrative authority is to send the forms provided for by section 3 to the citizens entitled to nominate a candidate. In the case envisaged by the last paragraph of Section 3, the National Control Committee shall be installed the day after the day of the publication of the Decree summoning the voters.

Section 14

Public meetings and the press campaign shall be governed by sections L47 and L48 of the Electoral Code.

Section 15

From the date of publication of the list of the candidates in the *Journal officiel* and until the ballot which yields an election result, the principle of equality between the candidates shall be respected in all news programmes broadcast by the national programme companies and by broadcasting services operating under licence or concession with regard to the reproduction of or comments on oral and written statements by the candidates and the presentation of them.

Each candidate shall enjoy the same duration of television coverage and of programmes broadcasted in the schedules of the national programme companies at both ballots. This duration shall be determined by decision of the *Conseil supérieur de l'audiovisuel* after consulting all the candidates. It shall be no less than fifteen minutes per candidate at the first ballot. At the second ballot, it shall be no less than one hour, unless the two candidates agree to reduce this duration.

The television broadcasting time shall be used personally by the candidates. People designated by each candidate can take part in his or her emissions.

The *Conseil supérieur de l'audiovisuel* shall monitor compliance with this section and with the rules and recommendations that it issues pursuant to section 16 of the Act of 30 September 1986.

Section 16

Special sites shall be reserved for the campaign posters of each candidate as provided by sections L51, L52 and R28 of the Electoral Code. Hoardings shall be allotted in the order of the list of the candidates drawn up by the Constitutional Council.

Section 17

Each candidate may, during the electoral campaign preceding each ballot, have affixed on the sites provided for by section 16 only a poster announcing his manifesto statements and another announcing his electoral meetings and, if he so wishes, the programme times set aside for him in the national companies' schedules. These posters must fulfil the conditions laid down in sections R26 and R27 of the Electoral Code.

The text of the poster announcing his manifesto statements must be uniform for the entire Republic. It must be submitted to the National Election Campaign Control Committee no later than 8 p.m. on the second Sunday preceding the first ballot, and the second Saturday preceding the second ballot.

The National Control Committee shall send this text forthwith to the Representatives of the State in the departments, French Polynesia, the Wallis and Futuna Islands, New Caledonia, Mayotte and Saint-Pierre-et-Miquelon. The candidate or his representatives shall arrange for the posters to be printed. After they have been checking for conformity by the Representatives of the State in the departments, French Polynesia, the Wallis and Futuna Islands, New Caledonia, Mayotte and Saint-Pierre-et-Miquelon, they shall be posted up by the local subcommittees provided for by section 19.

The posters announcing electoral meetings shall be printed and posted up by the candidate or his representatives.

Section 18

Each candidate may send voters, before each ballot, only a text of his manifesto statements on a double sheet in accordance with the specifications determined by section R29 of the Electoral Code.

This text shall be uniform for the entire Republic. It shall be submitted to the National Election Campaign Control Committee in the time allowed by the second paragraph of section 17 for the submission of the text of the posters.

The National Control Committee shall send it forthwith to the Representatives of the State in the departments, French Polynesia, the Wallis and Futuna Islands, New Caledonia, Mayotte and Saint-Pierre-et-Miquelon. The candidate or his representatives shall arrange for the statements to be printed. After they have been checking for conformity by the Representatives of the State in the departments, French Polynesia, the Wallis and Futuna Islands, New Caledonia, Mayotte and Saint-Pierre-et-Miquelon, they shall be sent to voters by the local subcommittees provided for by section 19.

Section 19

In each department, French Polynesia, the Wallis and Futuna Islands, New Caledonia, Mayotte and Saint-Pierre-et-Miquelon, there shall be a local control

subcommittee, placed under the authority of the National Election Campaign Control Committee. The membership, functions and operation of these subcommittees shall be governed by sections R32 to R35 of the Electoral Code; they may secure the services of rapporteurs designated by the chairman and selected from among serving or honorary judges of the administrative or ordinary courts or civil servants.

The local subcommittee shall arrange for the posters announcing the candidates' manifesto statements to be posted up on the sites provided for by section 16 and in the order determined therein.

The national subcommittee may instruct the chairman of the local subcommittee to undertake any investigation into the questions covered by the remit of the national committee.

Section 20

The following shall be settled direct by the state:

- the cost of paper, printing and supply of ballot papers and of the texts of the manifestos referred to in section 18;
- the cost of paper, printing and posting up of the posters referred to in section 17;
- expenditure incurred in the course of operations conducted by the committee and subcommittees established by Sections 13 and 19 and their administrative costs.

Section 21

The charges for printing and postage shall be determined by order of the Representatives of the State in the departments, French Polynesia, the Wallis and Futuna islands, New Caledonia, Mayotte and Saint-Pierre-et-Miquelon, in accordance with the rules laid down by section R39 of the Electoral Code.

TITLE III

ELECTORAL OPERATIONS

Section 22

The times at which polling commences and ends shall be determined by the decree announcing the election.

Without prejudice to Section 3(II) of the Act of 6 November 1962, electoral operations shall be organised in accordance with the rules laid down by sections R40 and R42 to R96 of the Electoral Code.

A copy of the official reports shall be transmitted without delay to the Representatives of the State in the departments, French Polynesia, the Wallis and Futuna Islands, New Caledonia, Mayotte and Saint-Pierre-et-Miquelon for transmission to the Counting Commission provided for by section 25.

Section 23

The administration shall arrange for ballot papers, following a uniform model for all candidates and comprising only their name and first name, to be printed and made available to the local control subcommittees.

Section 24

The following shall be disregarded in the result of the count:

- printed ballot papers differing from those provided by the administration;
- ballot papers drawn up on behalf of a candidate who is not found on the official list adopted by the Constitutional Council and published in the *Journal officiel* before each ballot pursuant to sections 7 and 9.

- Section 25* In each department, French Polynesia, the Wallis and Futuna Islands, New Caledonia, Mayotte and Saint-Pierre-et-Miquelon, a counting commission, sitting in the administrative capital, shall add up the results of the communes or administrative districts, as from the closure of polling and as and when the official reports reach it.
- This committee shall include three magistrates designated by the First President of the Court of Appeal, one of whom shall be its chairman.
- Section 26* A representative of each candidate may witness the operations of the committee and request that his complaints, if any, be recorded in the official report.
- Section 27* The chairman of the committee shall maintain contact with the delegate designated by the Constitutional Council to monitor electoral operations on the spot, pursuant to Section 3(III) of the Act of 6 November 1962.
- He shall provide all information and communicate all documents that the delegate considers useful for the performance of his function.
- Section 28* The committee shall settle all questions arising from the counting of the ballot papers, with the exception of complaints, if any, and shall make any requisite corrections, without prejudice to the review power of the Constitutional Council.
- In each department, French Polynesia, the Wallis and Futuna Islands, New Caledonia, Mayotte and Saint-Pierre-et-Miquelon, the counting of the votes must be completed no later than midnight on the Monday following the ballot. Results shall be recorded in official reports drawn up in duplicate and signed by all the members of the committee. The first copy shall be transmitted without delay to the Constitutional Council; the official reports of voting in the communes or administrative districts which record complaints made by voters shall be attached with their annexes. The second copy shall be filed in departmental files.
- Section 29* The general counting of votes shall be conducted under the control of the Constitutional Council, at its headquarters. An official report shall be drawn up.
- If no absolute majority is attained at the first ballot, the Constitutional Council shall announce the number of votes obtained by each candidate no later than 8 p.m. on Wednesday.
- The Constitutional Council shall declare the results of the election within ten days following the ballot at which one of the candidates attained an absolute majority of the votes cast.

TITLE IV

DISPUTES

- Section 30* Any voter may dispute the regularity of electoral operations by having his complaint recorded in the official report.
- The Representatives of the State in the departments, French Polynesia, the Wallis and Futuna Islands, New Caledonia, Mayotte and Saint-Pierre-et-Miquelon shall, within forty-eight hours following the closure of polling, submit direct to the Constitutional Council the electoral operations at constituencies where the conditions and forms laid down by statute or regulation were not observed.

Any candidate may also, within the same forty-eight hour period, submit electoral operations direct to the Constitutional Council.

Section 31

Decisions of the Constitutional Council ruling definitively on candidates' campaign accounts shall be published in the *Journal officiel* and notified to the Minister for the Interior.

TITLE V

SPECIAL PROVISIONS FOR THE OVERSEAS TERRITORIES

Chapter I

Provisions applicable to French Polynesia, the Wallis and Futuna Islands, New Caledonia, Saint-Pierre-et-Miquelon and Mayotte

Section 32

For the purposes of this Decree and of the part of the Electoral Code consisting of provisions within the jurisdiction of the authority empowered to make regulations to which it refers, the following provisions of that Code shall apply:

- 1° In French Polynesia, section R 202;
- 2° In the Wallis and Futuna Islands, sections R 203 and R 213-1;
- 3° In New Caledonia, sections R 201 and R 213;
- 4° In Saint-Pierre-et-Miquelon, section R 172-1;
- 5° In Mayotte, sections R 176-1, R 176-2 and R 176-6.

Section 33

For the purposes of the first paragraph of section 12, the reference to section 200 of the General Tax Code is replaced by a reference to the corresponding provisions that are applicable locally.

Section 34

For the purposes of section 15, where no television service is provided by the public broadcasting company, only radio electoral campaign broadcasts shall be retransmitted.

Moreover, television and other programmes shall not be retransmitted where, by reason of differing time-zones or of the time needed to transfer the recordings, it is impossible to retransmit them overseas before the end of the period allowed for the election campaign. Nor shall programmes be retransmitted where, although it is possible to broadcast them in good time, the effect by virtue of the foregoing provisions would be to breach equality between candidates.

Section 35

The second copy of the documents provided for by section 28 shall be deposited in the archives in the same manner as other State archives.

Chapter II

Special provisions applicable to French Polynesia, the Wallis and Futuna Islands and New Caledonia

Section 36

For the purposes of section 12, which refers to sections L 52-4 to L 52-12 of the Electoral Code, section L 392 of that Code shall apply.

For the purposes of the third paragraph of that section, the reference to “€3 000” is replaced by a reference to “363 600 F CFP”.

Section 37 For the purposes of section 16, outside the capitals of the communes or, in the Wallis and Futuna Islands, the territorial constituencies, special locations shall be reserved for each candidate's election posters by the Heads of Administrative Subdivisions or, in the Wallis and Futuna Islands, by the Higher Administrator, there being one hoarding of the same surface area for each candidate beside each polling station.

Section 38 The representative of the State shall take all requisite measures to ensure that the Counting Commission is in possession of the formal reports and annexed documents from the polling stations in good time.

Where the formal reports do not reach the Commission in good time, by reason of the remoteness of a polling station, communication difficulties or any other factor, the Commission may announce its findings on the basis of telegrams, faxes or e-mails from the Mayor or the delegate of the representative of the state confirming the results for the polling stations for the communes and the results for the polling stations for their constituencies and setting out objections that have been registered, specifying the objector or objectors and the ground or grounds.

As soon as it has completed its proceedings the Counting Commission shall send the complete results to the Constitutional Council by the fastest possible means enjoying absolute priority, and shall specify the objections (if any) entered by voters and registered in the formal report.

Chapter III

Special provisions applicable to the overseas departments, Saint-Pierre-et-Miquelon and Mayotte

Section 39 In case of need, the results for the overseas departments, Saint-Pierre-et-Miquelon and Mayotte may be transmitted in the manner provided for by section 38.

Section 40 The Prime Minister, the Minister for the Economy, Finance and Industry, the Keeper of the Seals, Minister of Justice, the Minister of the Interior, the Minister of Foreign Affairs, the Minister of Culture and Communication and the State Secretary for the Overseas Departments and Territories shall be responsible, each in his own area, for implementing this Decree, which shall be published in the *Journal officiel de la République française*.