

La France à la loupe

The presidential election

Under the Fifth Republic and since the constitutional amendment of 6 November 1962 approved by the referendum of 28 October 1962, the President of the Republic is elected by direct universal suffrage. Presidential elections take place every five years, since the Constitutional Act no. 2000-964 of 2 October 2000 ([loi constitutionnelle n° 2000-964 du 2 octobre 2000](#)).

Presidential elections are held every five years and **the next election is set to take place on 22 April and on 6 May 2007.**

The French use a two-ballot majority poll for presidential elections:

- To be elected on the first ballot, an absolute majority of votes cast must be obtained. Only two candidates may stand on the second ballot if the person elected is to obtain the majority of votes cast, and as provided for in the Constitution (Article 7). They are the two candidates who obtained the greatest number of votes on the first ballot;

- On the second ballot, the candidate who obtained the majority of the votes cast is elected. The second ballot is held on the second Sunday following the first ballot.

Since the institutional Act of 11 March 1988 on the financial transparency of political life, the candidates must submit a statement giving details of all their property to the Constitutional Council and commit to submitting another statement at the end of their term of office. Only the elected candidate's statement is published by the Constitutional Council following the election. After having checked whether all the admissibility requirements are fulfilled, the Constitutional Council establishes a list of candidates.

THE ELECTION CAMPAIGN SCHEDULE

The texts set a specific but flexible deadline for the presidential election. **It must be held no less than 20 days and no more than 35 days before the expiry of the term of the President in office.** The official election campaign begins the day the list of candidates is published in the *Journal Officiel*, at least 15 days before the first ballot of elections, and stops the Friday before the first ballot at midnight. It resumes the day the names of the two candidates chosen on the first ballot are published and ends the Friday before the second ballot at midnight. The official campaign lasts a total of about 30 days.

ELECTION CAMPAIGN FINANCING

The election campaign is financed in two ways:

- **With public financing**, organised by the institutional Act no. 62-1292 of 6 November 1962, amended on 5 April 2006 ([loi organique n° 62-1292 du 6 novembre 1962, modifiée le 5 avril 2006](#)) and by institutional Acts concerning political party funding of 1988, 1990 and 1995;
- **With private financing** mainly from political parties but also from private individuals.

Each candidate must keep campaign accounts that very specifically relate the origin of their income and the nature of their spending. Candidates may not personally manage their accounts and must name a financial middleman (trustee). Accounts must be submitted to the Constitutional Council in the two months following the second ballot so it can be checked that they are in order.

Spending is capped at €13.7 million for candidates on the first ballot and €18.3 million for those on the second ballot. Campaign expenses are reimbursed. They account for 5% of the limit on spending for all candidates and since 2001, 50% of the limit for those who obtained over 5% of votes on the first ballot. This reimbursement may not be greater than the spending the candidates report.

Donations from private individuals are limited to €4,574 and all donations equal to or over €152.50 must be made by cheque. In 1995, donations from private businesses were banned.

Financial and criminal penalties are provided for if this law is violated. Therefore candidates who exceed the limit on spending must pay the Treasury the amount by which they do so. This, however, does not make them illegible to stand in the election.

WHO CAN BECOME PRESIDENT OF THE REPUBLIC?

Candidates must:

- have French nationality;
- be registered voters and at least 23 years of age
- have fulfilled the obligations regarding texts on army recruitment (before the end of military service, candidates only needed to have enlisted, without necessarily having completed their military service);
- exercise moral dignity, without having a specific definition of this notion.

Three procedures must likewise be carried out:

- Candidates must gather the signatures of 500 elected representatives, in at least 30 different Departments or Overseas Territories, without more than a tenth of them being able to be elected from the same Department or Overseas Territories.

This procedure is referred to as the “presentation of the candidates”. It aims to remove less serious candidates from the presidential race and encourages candidates with genuine national appeal.

- Candidates must also submit a **sworn statement with details of all their property**, (two months at the earliest and a month at the latest before the expiry of term of office of the current President) so as to ensure greater transparency in political life. This statement concerns the candidate’s personal assets.

- The constitution of **campaign accounts** which should be sent to the Constitutional Council in the two months following the election.

Once the procedures are carried out, the list of candidates is established by the Constitutional Council. The *Journal Officiel* then publishes it at least 15 days before the first ballot.

WHAT ARE THE POWERS OF THE PRESIDENT OF THE REPUBLIC?

He or she sees, by his or her **arbitration, that the Constitution is observed**, and ensures the smooth functioning of the public authorities and the **continuity of the State** (Article 5 of the Constitution). Moreover, he or she is also the **commander-in-chief of the armed forces** with, in practice, a predominant role in all defence issues, especially since the time France developed a nuclear deterrent (Article 15). The Constitution (Article 14) and institutional practice confer upon him or her a major role in diplomacy. Therefore, the President has access to what is now referred to as a *domaine réservé* (reserved area), an important notion particularly in times of cohabitation.

There are two categories of presidential powers: **shared powers**, requiring the permission of Government, such as for example the signature of ordinances and decrees deliberated upon in the Council of Ministers or the promulgation of laws; and **own powers**, exempt from this procedure, such as resorting to a referendum, the dissolution of the National Assembly and the implementation of Article 16 of the Constitution which confers upon him or her emergency powers to safeguard democracy and re-establish the functioning of public authorities at the earliest opportunity.

WEBSITES

➤ President of the French Republic

- The President's function

http://www.elysee.fr/elysee/elysee.fr/francais/le_president/son_role/pouvoirs_et_attributions/pouvoirs_et_attributions.20005.html

- Inauguration ceremony of the President of the Republic

http://www.elysee.fr/elysee/elysee.fr/francais/les_institutions/l_investiture_du_president/la_ceremonie_d_investiture/l_investiture_du_president.21258.html

➤ Public life:

- The President of the Republic – FAQs

<http://www.vie-publique.fr/decouverte-institutions/institutions/fonctionnement/president-republique/comment/>

- The responsibility of the President of the Republic

<http://www.vie-publique.fr/decouverte-institutions/institutions/approfondissements/responsabilite-du-president-republique.html>

LEGISLATION

- Extracts from the Constitution of the Fifth Republic relating to the President of the Republic, how he or she is elected, his or her powers on the French President's website

http://www.elysee.fr/elysee/elysee.fr/francais/le_president/son_role/pouvoirs_et_attributions/pouvoirs_et_attributions.20005.html

- Decision of 4 May 2006 on the presentation of campaign accounts for presidential elections

<http://www.legifrance.gouv.fr/WAspad/UnTexteDeJorf?numjo=CCCX0609316S>

BIBLIOGRAPHIE

- **Le Président de la République** (The President of the Republic) by Maryvonne Bonnard in *Institutions et vie politique sous la Vème République* (Institutions and political life under the Fifth Republic) – *La Documentation française* – 2003 – *Collection Les notices* - pp 24- 30