

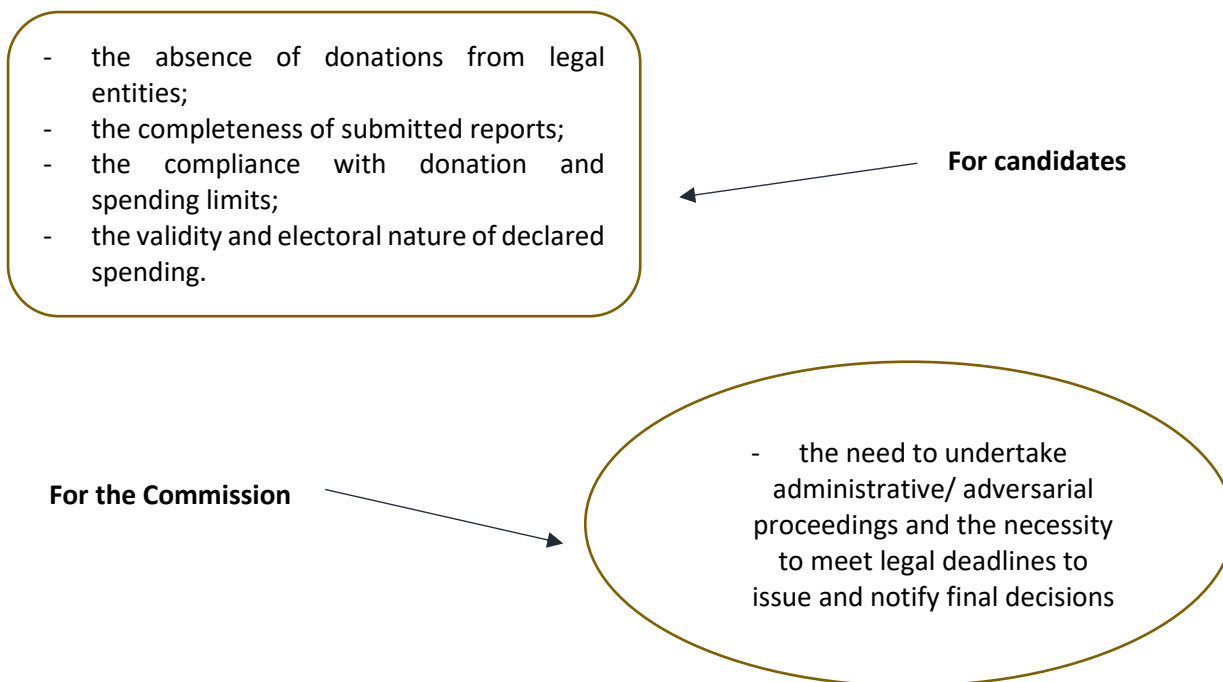
# Methodology for checking campaign finance accounts in France

The French Commission – the CNCCFP – has put in place a three-tiered review process:



- the review of the financial reports by external rapporteurs hired for that purpose on a temporary basis;
- the review of financial reports by the Commission’s legal department "chargés de mission" taking into account the conclusions of the rapporteurs (focus of this vade mecum);
- the review of the legal department’s conclusions on campaign finance accounts by the 9 Commissioners and the issuance of a collegial decision on each account submitted.

The control of campaign finance accounts is based on several guiding principles:



This methodology document explains the different steps followed by the Commission’s legal department to review and check campaign finance accounts.

## 1/ First step: control of formal requirements

Formal requirement	Additional information/ Explanation
Submission of the campaign finance account within the legal deadline	For overseas territories and elections of MPs representing French living abroad, submission deadlines differ. Late submission can be explained/ justified by a case of force majeure

Campaign finance account signed by the candidate	Signature means that the candidate is responsible for all information declared in her/his campaign finance account. Candidates who have obtained less than 1% of votes and did not receive any donations are exempt from reporting requirements.
Appointment of a financial proxy/ agent	The financial proxy cannot be the candidate nor a candidate on the party list for list systems
Opening of a dedicated bank account by the financial agent	The proof of the opening must be joined to the campaign finance account – impossibility to use a “dormant account” used for previous elections.
Certification of the campaign finance account by a chartered accountant and checking of supporting documentation	BUT, no need for a chartered accountant: <ul style="list-style-type: none"> <li>- if there are no income and no expenditure</li> <li>- for candidates having obtained between 1% and 5% of votes and spent less than EUR4,000.</li> </ul>
Balanced campaign finance account or presenting a surplus	If there is a deficit, the account will be most likely rejected


**2/ Second step: verification of the presence of all supporting documentation and accounting documents**

The legal department analysts must ensure that the following documents are provided together with the campaign finance account:

- all bank statements related to the dedicated bank account opened by the financial agent and all accounting documents prepared by the chartered accountant;
- all supporting documents with regard to income received (e.g. loan documents, copies of the checks of donors, statements produced by political parties regarding contributions made to a campaign) and spending incurred (e.g. invoices, quotes, specimen of electoral materials, description of transportation costs);
- all annexes to the campaign finance account duly filled out

Annex 1	List of donors with their names and addresses. The amount of each donation must be reported and the total amount of cash donations must be indicated. <a href="http://www.cnccfp.fr/docs/campagne/formulaires_2021/CNCCFP-Annexe_1-ed.2021-IA.pdf">http://www.cnccfp.fr/docs/campagne/formulaires_2021/CNCCFP-Annexe_1-ed.2021-IA.pdf</a>
Annex 2	List of all contributions made by political parties to a campaign <a href="http://www.cnccfp.fr/docs/campagne/formulaires_2021/CNCCFP-Annexe_2-ed.2021-IA.pdf">http://www.cnccfp.fr/docs/campagne/formulaires_2021/CNCCFP-Annexe_2-ed.2021-IA.pdf</a>
Annex 3	Detail of self-financing, e.g. personal funds, loans taken from a bank/ financial institution, an individual, or a political party. For loans, information related to the lender (nationality, residence), loan repayment schedule and interest rate

	<a href="http://www.cnccfp.fr/docs/campagne/formulaires_2021/CNCCFP-Annexe_3-ed.2021-IA.pdf">http://www.cnccfp.fr/docs/campagne/formulaires_2021/CNCCFP-Annexe_3-ed.2021-IA.pdf</a>
Annex 4	List of in-kind contributions by contributor (e.g. candidate, individual, political party) and by category of spending  <a href="http://www.cnccfp.fr/docs/campagne/formulaires_2021/CNCCFP-Annexe_4-ed.2021-IA.pdf">http://www.cnccfp.fr/docs/campagne/formulaires_2021/CNCCFP-Annexe_4-ed.2021-IA.pdf</a>
Annex 5	Attestation of the financial agent stating the absence of income and expenditure  <a href="http://www.cnccfp.fr/docs/campagne/formulaires_2021/CNCCFP-Annexe_5-ed.2021-IA.pdf">http://www.cnccfp.fr/docs/campagne/formulaires_2021/CNCCFP-Annexe_5-ed.2021-IA.pdf</a>
Annex 6	Statement to fill out by incumbents or elected officials holding a parliamentary mandate (national or European) on the non-use of resources provided by the Assembly  <a href="http://www.cnccfp.fr/docs/campagne/formulaires_2021/CNCCFP-Annexe_6-ed.2021-IA.pdf">http://www.cnccfp.fr/docs/campagne/formulaires_2021/CNCCFP-Annexe_6-ed.2021-IA.pdf</a>
Annex 7	Composition of the campaign staff  <a href="http://www.cnccfp.fr/docs/campagne/formulaires_2021/CNCCFP-Annexe_7-ed.2021-IA.pdf">http://www.cnccfp.fr/docs/campagne/formulaires_2021/CNCCFP-Annexe_7-ed.2021-IA.pdf</a>
Annex 8	Journal/ ledger of the financial agent  <a href="http://www.cnccfp.fr/docs/campagne/formulaires_2021/CNCCFP-Annexe_8-ed.2021-IA.pdf">http://www.cnccfp.fr/docs/campagne/formulaires_2021/CNCCFP-Annexe_8-ed.2021-IA.pdf</a>

 At this stage, the legal department analysts must ensure that the amounts declared in the campaign accounts and the figures entered in the IT system by the rapporteurs match.

### **3/ Third step: analysis of declared income and expenditure**

The underlying principle of the in-depth control of declared income and spending conducted by the Commission is to ensure the completeness of the submitted reports. The Commission has carried out for the past years some monitoring of campaign activities (especially for national elections and presidential elections) during the election campaign through social media monitoring and press review to expand the sources of information it may rely on when reviewing the campaign finance accounts.

Once the first series of preliminary checks is done, the legal department analysts have to ensure the correspondence between the financial information included in the campaign finance accounts and the information as reflected in the supporting documents and to check each source of reported income and each declared spending against bank statements.

#### **INCOME**

1/ Checking each **source of income** reported against the bank statements: each monetary income collected and reported should be traceable and correspond to a single financial transaction on the bank statement(s);

- Checking the date of the transactions;
- Ensuring that the amounts match;
- Checking that the origin of the income declared (name of the donor/ lender/ party contribution/ party member/ source of the party income) aligns with the information mentioned on the bank statement(s) and/or on the institutional registers/ registries.

2/ Checking each in-kind contribution reported against the supporting documents→ each in-kind contribution should have its equivalence in spending.



All sources of financing – except for in-kind contributions and petty expenses paid for directly by the candidate – must go through the dedicated bank account



Type on income	What to pay attention?
Donations from individuals	<ul style="list-style-type: none"> <li>- Cash donations are allowed up to EUR 150 but cannot cumulatively exceed 20 per cent of the authorized spending limit when the applicable spending limit is greater than EUR 15,000;</li> <li>- French citizens and foreign individuals residing in France are allowed to donate up to EUR 4,600 per election to one or more candidates;</li> <li>- Donations from domestic and foreign legal entities are prohibited</li> </ul>
Self-financing	<ul style="list-style-type: none"> <li>- Origin of the personal funds declared in the campaign finance accounts;</li> <li>- Validity of the loans declared (repayment schedule, interest rate, identity and nationality of the lender). For loans taken from political parties, checking that the declared interest rate mirrors the interest rate mentioned in the initial loan taken by the party;</li> </ul>
Contributions from political parties	<ul style="list-style-type: none"> <li>- Only political parties duly registered with the CNCCFP can contribute to the financing of an election campaign – other parties are assimilated to legal entities and contributions made by them are illegal.</li> </ul>
In-kind contributions	<ul style="list-style-type: none"> <li>- Checking the valuation of in-kind contributions against documents provided by the candidates and/or market price;</li> <li>- Checking that in-kind contributions are counted against the donation limit.</li> </ul>

### SPENDING

The legal department analysts check whether declared spending was incurred for electoral purposes using 4 criteria:

Criterion	Detail
Timeframe	Spending must have been incurred during the election campaign period. However, if an expense incurred before the start of the campaign is used during the campaign, part of it must be declared in the account as in-kind contributions/ expenses
Location	Expenses must have been incurred within the limits of the constituency, except for specific spending, e.g. administrative undertakings or meetings held jointly with other candidates
Purpose	Only costs associated with getting votes can be accounted for in the campaign finance accounts (personal use of campaign funds is not allowed)
Person	Expenses must be incurred by the candidate or with the explicit agreement of the latter.

The legal department analysts control that all categories of spending are duly reported and that amounts of the different categories of expenses, whether paid or in-kind expenditure, add up. In order to assess the validity, accuracy and electoral nature of the spending declared, assess whether any spending has been over/under reported and ensure the declared expenses are within the spending limit, the lawyers:

- Compare each declared expenditure amount with the amount shown paid in the bank statement;
- Check the accuracy of the amount declared against the specimen provided (invoices, quotes);
- Confirm that expenses declared have actually been paid (e.g. no outstanding or unpaid debts) by cross-referencing with bank statements;
- control the invoices to ensure the validity of the declared expenditure (e.g. VAT, information related to vendors/suppliers; checking that the quantity of items ordered or the scope of services provided reflect reality and that the price per item/service appears reasonable);
- control the absence of illegal expenditure (vote buying, potential abuse of administrative resources, paid political advertising, unauthorized display of electoral materials)



All expenses – except for in-kind spending and petty expenses paid for directly by the candidate – must go through the dedicated bank account



- Spending limits differ from one election to another and whether there is one or two rounds of election.
- Transportation costs are not counted against the spending limit in certain overseas territories or for the parliamentary campaign of deputies and senators representing French citizens living abroad;
- An exception to the principle of unity of the bank account is that candidates are allowed to incur petty expenses for specific categories of spending (e.g. transportation, phone, chartered accountant, financial fees, car rentals). Expenses paid directly by candidates cannot exceed 10% of the declared expenses and 3% of the set spending limit for a given constituency;
- Some expenses can have been incurred jointly by several candidates fielded by the same political party. In that case, it is important to control that those expenses have been split between the candidates according to an agreed allocation mechanism/ formula and based on objective criteria;

#### **4/ Fourth step: the undertaking of administrative/ adversarial proceedings and drafting of a project of decision talking into account the conclusions of the rapporteur and the findings of the review of the campaign finance accounts**

One fundamental principle underlying the control process of campaign finance accounts is the possibility for the Commission to request candidates to provide additional information and for the candidates to answer any Commission's inquiries or questions regarding potential wrongdoings. The Commission resorts to administrative/ adversarial proceedings « *procédure contradictoire* » to be provided with further information/ additional documents/ explanations in case the checking of reports has led to the observation of inconsistencies, discrepancies or potential breaches of campaign finance regulations.

The rapporteurs and the legal department analysts must inform the candidate of any potential irregularity/ violation that could impact the basis of reimbursement s/he could be entitled to or could lead to the rejection of the campaign finance account.

The legal department analysts must propose a draft decision mentioning whether the account should be approved, approved with adjustments or rejected. The draft decision must contain the references to the relevant provisions in the Electoral Code and the legal arguments/ grounds on which the decision is based. In case the candidate is eligible for the reimbursement of her/his electoral expenses, the draft decision must spell out the amount of reimbursement.