



Office for Democratic Institutions and Human Rights

FRANCE

PRESIDENTIAL ELECTION

10 April 2022

PARLIAMENTARY ELECTIONS

12 June 2022

ODIHR NEEDS ASSESSMENT MISSION REPORT

7-11 February 2022



Warsaw
7 March 2022

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April - June 2022
ODIHR Needs Assessment Mission Report

I. INTRODUCTION

In anticipation of an invitation to observe the 2022 presidential and parliamentary elections and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) undertook a Needs Assessment Mission (NAM) to France from 7 to 11 February.¹ The NAM included Alexey Gromov, ODIHR Senior Election Adviser, and Kakha Inaishvili, ODIHR Election Adviser.

The purpose of the mission was to assess the pre-election environment and the preparations for the elections. Based on this assessment, the NAM should recommend whether to deploy an ODIHR election-related activity for the forthcoming elections, and, if so, what type of activity best meets the identified needs. Meetings were held with officials from state institutions, as well as representatives of political parties, media, civil society and the international community. A list of meetings is annexed to this report.

ODIHR would like to thank the Ministry for Europe and Foreign Affairs (MEFA) for their assistance in organizing the visit. ODIHR would also like to thank all of its interlocutors for taking the time to meet with the NAM and to share their views.

II. EXECUTIVE SUMMARY

The presidential election will be held on 10 April, while elections of 577 deputies of the National Assembly are scheduled for 12 June 2022. The president and the deputies are elected for five-year terms. Most ODIHR NAM interlocutors highlighted the political importance of the upcoming elections, and perceived the presidential race as playing a dominant role in shaping the competition and campaign for the parliamentary elections.

Since the 2017 elections, a number of amendments have been introduced in the legal framework for presidential and parliamentary elections. Among others, amendments relate to the voting rights of persons with intellectual disabilities, voting methods, campaign finance reporting, safeguards against manipulation of information, and the establishment of the permanent Single Electoral Register. Some of these amendments addressed prior ODIHR recommendations; however, other recommendations, including on international and citizen election observation, criminalized defamation and proxy voting, remain unaddressed. Overall, ODIHR NAM interlocutors expressed confidence in the electoral legislation.

The administration of elections is decentralized, and different institutions and authorities at the national and local levels share responsibility in managing the process. The Ministry of Interior (MoI) is charged with technical preparations of the elections. The Ministry for Europe and Foreign Affairs is responsible for organizing elections for citizens abroad. Prefectures coordinate the work of municipalities to manage the polling stations boards that are formed from among elected officials and voters. The general oversight for the presidential election is vested with the Constitutional

¹ On 11 February, ODIHR received an official invitation to observe the 2022 presidential and parliamentary elections.

Council, while for parliamentary elections the responsibility lies mainly with the prefectures. All ODIHR NAM interlocutors conveyed a high level of trust in the integrity of election administration, including on election day, and professionalism of election officials.

The right to vote is granted to citizens who are 18 years of age by election day. The permanent Single Electoral Register includes some 48 million voters, including some 1.4 million registered abroad, and provides for the automatic exchange of information between relevant agencies. Each voter has the possibility to check and correct personal data in the register. Preliminary voter lists and the lists signed by those voters who took part in elections are made public. All ODIHR NAM interlocutors expressed confidence in voter registration; however, many noted a need for authorities to make further efforts to facilitate the registration of voters, who are not currently registered or whose information is outdated, to further improve the accuracy and inclusiveness of voter lists.

Citizens with active suffrage rights are eligible to stand for presidential and parliamentary elections, except those under partial or full guardianship. To be registered by the Constitutional Council, a presidential candidate should receive at least 500 support signatures from elected officials. For parliamentary elections, candidates and their alternates are registered by prefectures. Overall, ODIHR NAM interlocutors were satisfied with the registration process, but some noted that publication of the lists of elected officials that sign in support of a candidate made lead to the elected officials being reluctant to support certain presidential candidates and therefore limit the range of political options. Despite the noticeable progress with respect to representation of women in government and elected offices, they remain underrepresented in the National Assembly and in the Senate.

All ODIHR NAM interlocutors expressed confidence about the ability to campaign freely notwithstanding the challenges posed by the COVID-19 pandemic. At the same time, some interlocutors expressed concerns about disinformation and discriminatory campaign rhetoric, including against female candidates, especially on social networks. In this regard, digital platforms are now subject to transparency obligations when they disseminate content for a fee.

Election campaigns may be financed from public and private funds, including loans. The law sets limits for campaign donations and expenditures and provides disclosure requirements. The National Commission for Control of Electoral Accounts and Political Finance in charge of political and campaign finance oversight. Most ODIHR NAM interlocutors regarded the system of party and campaign finance as contributing to a level-playing field during elections, and some noted a need to tighten the rules for financing of campaigning by third parties and improve transparency of funding sources.

The media environment is diverse with a wide variety of commercial and public outlets. Paid political ads are prohibited in all media, including online, during the campaign. All ODIHR NAM interlocutors noted that self-regulation among the journalists and effective state control ensure that all candidates enjoy meaningful free-of-charge access to the media during elections. At the same time, several ODIHR NAM interlocutors raised concern over the growing concentration of media ownership, especially online, as well as increased hostility against journalists and public media.

The legal framework provides short deadlines for initiating and handling electoral disputes and specifies different avenues for seeking legal redress, including with regards to candidate and voter registration, media and campaign-related complaints as well as to election results. All ODIHR NAM interlocutors expressed trust in the effectiveness of the election dispute resolution mechanism.

All ODIHR NAM interlocutors expressed full confidence in transparency and integrity of electoral process. However, the majority of interlocutors welcomed a potential ODIHR observation activity for both elections, recognising that further improvements could be made and external assessment could contribute to further electoral reforms. The legal framework has recently undergone changes in many aspects of the process, and while several previous ODIHR recommendations have been addressed, some areas would benefit from closer attention, including issues related to voter registration, voting methods, campaigning online, campaign finance and the participation of women. On this basis, the ODIHR NAM recommends the deployment of Election Assessment Missions for upcoming 2022 presidential and parliamentary elections.

III. FINDINGS

A. BACKGROUND AND POLITICAL CONTEXT

France is a presidential republic, with a bicameral parliament comprised of a directly elected lower house, the National Assembly, and an indirectly elected upper house, the Senate. The president is a head of state, and the government is accountable to the parliament. The presidential election is scheduled for 10 April 2022 with a possible run-off on 24 April. Elections to the National Assembly (hereinafter parliamentary elections) will take place on 12 June with a possible run-off on 19 June.² Most ODIHR NAM interlocutors highlighted the political importance of the upcoming elections, and perceived the presidential race as playing a dominant role in shaping the competition and campaign for the parliamentary elections.

The last presidential and parliamentary elections were held in 2017. As a result of the 2017 parliamentary elections and subsequent cross-party shifts, incumbent President Emmanuel Macron's party *La République En Marche!* has 268 deputies in the National Assembly (MPs), and is supported by the Democratic Movement (57 MPs) and the *Agir Ensemble* Group (22 MPs). On the opposition side, the Republicans became the second strongest holding now 101 MPs, followed by the Socialist Party (28 MPs), the Union of Democrats and Independents group (19 MPs), Liberties and Territories group (18 MPs), *La France insoumise* group (17 MPs), the Democratic and Republican Left group (15 MPs) and 23 non-affiliated MPs. Seven seats were vacant at the time of the ODIHR NAM visit.

According to the Constitution, women and men have equal access to elected offices and posts.³ Women are well represented on ministerial positions, holding half of the posts in the current government. Although the number of women deputies increased from 155 to 228 following the 2017 elections, they remain underrepresented (39.5 per cent) in the National Assembly and in the Senate (34.8 per cent). There are four women among nine members of the Constitutional Council. Despite the noticeable progress, the UN Committee on the Elimination of Discrimination against Women (CEDAW Committee) has previously recommended the use of temporary special measures to address the urgent needs of women belonging to disadvantaged groups, including in political life.⁴

² For citizens living outside the territory of France, the first round of legislative elections will be held on 4 and 5 June 2022.

³ Article 1 of the Constitution states that statutes shall promote equal access by women and men to elected offices.

⁴ See [UN CEDAW Committee Concluding observations](#) on the combined seventh and eighth periodic reports of France (25 July 2016), CEDAW/C/FRA/CO/7-8, paragraphs 16-17 and 28-29.

ODIHR has previously observed four elections in France.⁵ Most recently, ODIHR deployed an Election Expert Team to the 2017 presidential election, which focused on campaign finance and media coverage of the election. Among various issues, the ODIHR recommended to improve certain elements of the electoral legal framework, to enhance transparency and accountability of the campaign financing system, to strengthen the mandate of the finance audit agency, to decriminalize defamation and to enhance the transparency of media-related dispute resolution.

B. LEGAL FRAMEWORK

The legal framework for presidential and parliamentary elections is complex and includes the 1958 Constitution (last amended in 2008), the Electoral Code (last amended in 2021), the 1962 Law on Presidential Election (last amended in 2021) and the 1958 Law on the Constitutional Council. Specific aspects of the elections are further regulated by the laws on freedom of press, public meetings, financial transparency of political life, as well as the Audio-visual Code and the Penal Code.⁶ France is a party to major international instruments related to democratic elections.

Since 2017, a number of amendments have been adopted on several occasions affecting presidential and parliamentary elections, including most recently in 2021. These amendments, among others, recognised the right to vote for persons with disabilities under guardianship, provided for postal voting for voters serving a prison sentence and those at detention facilities, established the permanent Single Electoral Register, introduced provisions against manipulation of information during elections, modified procedures for proxy voting, obliged presidential candidates to ensure accessibility to their campaigns for persons with disabilities, specified the timeline for calling the presidential election, required electronic submission of campaign finance reports, expanded the list of elected officials authorized to sign in support of a presidential candidate and increased state subsidies for covering campaign expenses.

While some of these changes address prior ODIHR recommendations, including electronic filing of campaign finance reports, introduction of postal voting for imprisoned voters and recognizing the right to vote of people under guardianship, other previous recommendations, including those concerning criminal liability for defamation, provisions related to international or citizen election observation and proxy voting, remain unaddressed.⁷ Notwithstanding that, many ODIHR NAM interlocutors expressed satisfaction with the electoral legal framework, and several interlocutors acknowledged that the reform process was open and consultative.

C. ELECTORAL SYSTEMS

The president is elected for a five-year term and can serve a maximum of two consecutive terms. To be elected in the first round, a candidate must receive more than 50 per cent of valid votes cast. Should no candidate win the majority in the first round, a run-off will be held between the top two candidates two weeks later. The candidate who receives the most votes in the second round is elected president.

⁵ See previous [ODIHR election-related reports on France](#).

⁶ Secondary legislation includes regulations, decrees, court decisions and deliberations, and instructions on different aspects of the electoral process, such as candidate and voter registration, campaign activities and financing, and media coverage.

⁷ In paragraph 25 of the 1999 OSCE Istanbul Document, OSCE participating States committed themselves “to follow up promptly the ODIHR’s election assessment and recommendations”. See ODIHR Electoral Recommendations Database at [Paragraph25.odihr.pl](#).

The 577 members of the National Assembly are elected for five-year term through majoritarian system from single-member constituencies. To be elected in the first round, a candidate should obtain an absolute majority of votes cast and a number of votes equal to at least a quarter of the registered voters. If no candidate reaches this threshold, a run-off election is held among candidates who received a total number of votes equal to at least 12.5 per cent of number of registered voters. The candidate who receives the most votes in the second round is elected.

The Senate is elected indirectly. Out of 348 Senators, 334 are elected by electoral colleges formed in each department and composed of MPs and members of the relevant department, regional and local councils, and the remaining 12 are elected by the Assembly of French Citizens Resident Abroad.⁸ Departments apply either the first-past-the-post system with two rounds of voting (168 Senators) or proportional representation system (180 Senators). All Senators are elected for a six-year term. Elections are held every three years for a half of the Senators.

D. ELECTION ADMINISTRATION

The administration of elections is decentralized, and different institutions and authorities share responsibility in managing the process. The Ministry of Interior (MoI) is charged with technical preparations of the elections. It issues instructions on legal and organizational matters to the prefectures (representation of the state at the department level). Prefectures coordinate the work of municipalities that manage some 70,000 polling stations across the country, appoint the members of the polling station boards, and are responsible for their training. The MoI is also responsible for developing and distributing all election-related materials, including ballots. Polling station boards are formed by the local municipalities, chaired by elected municipal level officials and candidates have the right to appoint members to the boards.⁹

The responsibility for general oversight of the presidential election is vested with the Constitutional Council that reviews, advises on, and validates election-related legislation, and adjudicates election-related complaints.¹⁰ The Council is also responsible for registration of presidential candidates and announces final presidential election results. In addition, the Constitutional Council oversees the orderly conduct of election day operations for the presidential election through the deployment of some 2,000 magistrates. The Council has less responsibility in parliamentary elections, serving a judicial role, while the prefectures establish local control commissions to supervise election day operations.

The MEFA is responsible for logistical organization of voting abroad. Out-of-country voting for the presidential election will be conducted at 982 polling stations and for the parliamentary elections - at 720 polling stations established at embassies and consulates in 162 locations. The organization of elections for voters living in the country's overseas territories will be carried out by the respective prefectures and municipalities, overseen by the MoI. Both ministries informed the ODIHR NAM about their information campaigns on procedures, candidates, and polling station locations abroad, including through mainstream and online media and social networks.

⁸ Departments are the administrative division below the national level.

⁹ Polling boards are composed of a minimum of four members, including a chair, a secretary appointed by the polling board and at least two other members. The polling boards are chaired by either a mayor, deputy mayors or municipal councillors, while members can be appointed by a candidate, pair of candidates or a list of candidates, and, if needed, additional assessors may be appointed by the mayor from among the municipal councilors.

¹⁰ The Constitutional Council is composed of nine members who serve for non-renewable nine-year terms. The President of the Republic and the Presidents of the National Assembly and the Senate each appoint three members of the Council.

The law establishes a number of measures to facilitate the voting rights of persons with disabilities. Municipalities must enable access to voting locations and provide at least one wheelchair-accessible voting booth at each polling station. Similarly, ballot boxes must also be adapted to special needs of such voters. Polling station board chairpersons must ensure that their polling stations are equipped with necessary assistive tools to facilitate independent voting by persons with disabilities. National Commission on Culture and Disability serves a consultative role for the government efforts to facilitate access of persons with disabilities to elections.

However, some ODIHR NAM interlocutors noted that in practice, accessibility requirements are not always met, and oftentimes, polling staff lack knowledge of how to assist voters with special needs.¹¹ Some ODIHR NAM interlocutors noted that persons with disabilities would benefit from more comprehensive efforts to adapt campaign and voter information, including about voter registration, in various formats.

In order to facilitate the safe conduct of polling during the COVID-19 pandemic, each polling station will have a supply of personal protective equipment and quick tests for polling staff, which upon request will also be available for voters. In addition, each polling station staff member should ensure sufficient social distance by controlling the voter flow.

All ODIHR NAM interlocutors conveyed a high level of trust in the integrity of election administration, including on election day, and professionalism of election officials.

E. VOTER REGISTRATION

Citizens aged 18 years or older by election day have the right to vote. Positively, following the 2019 legal amendments, the right to vote of persons with disabilities under guardianship has been recognized.¹² The Penal Code identifies a number of infringements, misdemeanour offences, and crimes that can lead to the loss of electoral rights for a period of up to 10 years, depending on the severity of crime.

Voter registration for each election is compulsory and all other voters must apply for registration either in person at their municipalities or online.¹³ The deadline for online and in-person registration is 2 and 4 March, respectively.¹⁴ When citizens reach voting age, they are automatically registered for the following elections as are those who gain French citizenship after 2019.

As of January 2019, France has established a permanent Single Electoral Register (REU) maintained by the National Institute of Statistics and Economic Studies (INSEE).¹⁵ The INSEE

¹¹ Voters with special needs may be assisted in the polling station by another voter of their choice. In such cases, a special remark is made in the voter list to this effect. However, the ODIHR NAM was informed that that in practice, medical personnel accompanying such voters were often not allowed to assist the voters.

¹² The repealed Article L5 of the Electoral Code provided that a judge could deprive a person under full guardianship of the right to vote. Article L200 of the Electoral Code, however, still does not allow people under full or partial guardianship to stand for elections.

¹³ Special categories of voters, such as *gens du voyage* (travellers), sailors, military and people without a domicile are able to register, either in person, online or by mail, using the address of their respective social welfare centre or similar institution. For more information, see the dedicated [webpage of the MoI](#).

¹⁴ Previously, voters had to register by 31 December, to be eligible to vote in any election in the following year. Deadline does not apply for those being transferred to/from their duty station and those who either acquired or re-gained their right to vote after the registration deadline.

¹⁵ The REU was provided for by the 2016 Law on renovating the procedures for registration on the electoral lists and was introduced starting from 1 January 2019.

updates the REU with information received from various municipal or governmental agencies.¹⁶ The exchange of information between relevant agencies is fully automatized, including data on deceased voters, those who lost the nationality or regained their right to vote after serving a criminal sentence.

Municipalities have the discretion to remove an eligible voter from a voter list if a voter has moved to another locality; however, these decisions are subject to verification by special commissions (hereinafter Verification Commissions).¹⁷ Requests for registration regarding change of domicile are processed throughout the year. Several ODIHR NAM interlocutors noted that a significant number of voters (mostly first-time voters) remain registered at their old addresses and have not updated their current addresses. Similarly, following the recognition of the right to vote of people under guardianship, a significant number of such voters remain unregistered.¹⁸

The voter lists are extracted from the REU and printed a week before election day following approval by the respective Verification Commission. Voters not included in a voter list may be added until election day by a court decision. As of 30 January, there are 48,601,674 registered voters, including 1,423,567 voters registered abroad.¹⁹ Any voter, candidate, party or political group can request a copy of the voter lists at the local level on the condition that personal data will not be used for commercial purposes. Voter lists are also made public in municipalities before election day as are, within one week after voting, the lists signed by voters who voted. All ODIHR NAM interlocutors expressed confidence in the voter registration system; however, many noted a need for authorities to make further efforts to facilitate registration of voters, who are not currently registered or whose information is outdated, to improve the accuracy and inclusiveness of voter lists.

F. VOTING METHODS

For both elections, in-country and abroad, voters can cast ballots in-person at polling stations and by proxy. Proxy voting remains available for voters who are unable to cast their ballot in person at the place of their residence, including for health, disability or employment reasons. A voter is not required to submit any proof of absence and may designate (offline or online) any voter registered in country as a proxy as well as withdraw such authorisation any time.²⁰ ODIHR has previously recommended reviewing the practice of proxy voting given the potential challenges to the secrecy and equality of the vote. Most ODIHR NAM interlocutors did not express any objections and regarded the longstanding practice of proxy voting as a convenient tool for voter participation.

Voters held in pre-trial detention facilities and those serving prison sentences that do not result in disenfranchisement are eligible to vote by proxy and, following the 2021 legal amendments, also by mail. For parliamentary elections, an Internet voting option is available for voters registered on the consular voter lists. Relevant agencies informed the ODIHR NAM that verification, certification and piloting procedures had been launched in 2021, and the authorities plan to have

¹⁶ Equivalent information related to the consular voter lists is exchanged through a centralised information system managed by the MEFA. INSEE is also responsible for introduction of all changes in the REU resulting from the requests for proxy voting or requests for inclusion on election day.

¹⁷ Verification Commission is a three-member panel consisting of representatives of the judiciary, corresponding local administration and of the state.

¹⁸ According to some ODIHR NAM interlocutors, of the 300,000 voters with special needs, only some 3,000 are registered and hence will be able to vote.

¹⁹ Voters registered in the consular voter lists are automatically removed from the voter lists at municipal level.

²⁰ Out-of-country voters who wish to vote by proxy have to submit a certificate (attest to their honour) that they are not able to vote in person in the polling station. There is no legal deadline for submitting a request to vote by proxy.

an independent audit of the system before the election. Internet voting during national elections for voters residing in the country has been discontinued.²¹

G. CANDIDATE REGISTRATION

Citizens with active suffrage right are eligible to stand for presidential and parliamentary elections. The law continues to restrict the right to stand for voters under partial or full guardianship. The CRPD Committee has noted concerns regarding the barriers in legislation for people under guardianship and recommended to repeal Article L200 of the Electoral Code preventing people under substituted decision-making from being elected in national and local elections.²²

To stand as a presidential candidate, a voter has to fulfil the obligations concerning active military service, submit to the Constitutional Council a declaration of assets, interests and activities, written consent, and a certificate of criminal records.²³ These declarations are also sent to the High Authority for the Transparency of Public Life and made public on its website at least 15 days before the first round of the presidential election and until announcement of the results. For registration, each candidate should have at least 500 supporting signatures (*parrainage*).²⁴ Some 42,000 elected officials are entitled to sign in support of a presidential candidate, and each official may support only one candidate. The collection of support signatures started on 27 January, and all completed forms with signatures must arrive to the Constitutional Council by post by 4 March. Withdrawals of support are not permitted. The Constitutional Council reviews supporting signature forms, verifies their validity and publishes the number of supporting signatures by candidate twice a week.²⁵ The final list of presidential candidates is to be announced by the Constitutional Council on 7 March, together with the list of the eligible officials supporting each candidate.

For parliamentary elections, prospective candidates may stand only in one constituency and do not have to be registered to vote where they stand. Candidates should nominate an alternate who would serve as a replacement in certain cases.²⁶ Prefectures register the candidates and alternates who should prove their inclusion in a voter list and designate a financial representative. Candidate registration for the first round will be from 16 to 20 May. Candidates have to reregister for the second round and the deadline is 18:00 on the Tuesday following the first round.

Overall, all ODIHR NAM interlocutors did not express significant concerns with regard to the candidate registration process, highlighting easy procedures for parliamentary elections resulting in an inclusive process. However, according to some ODIHR NAM interlocutors, the obligation to publish the list of supporters for each candidate contributes to stronger reluctance among eligible officials to support certain candidates, thus considerably limiting the variety of political options.

²¹ Internet voting for citizens abroad in parliamentary elections was first introduced in 2012, while in country electronic voting was first used in 2007 presidential election. In 2017, the government suspended the use of Internet voting for voters in country citing concerns of foreign cyber threats as well as certain technical issues. Internet voting is retained for certain sub-national elections.

²² See [CRPD Committee Concluding observations on the initial report of France](#) (4 October 2021), CRPD/C/FRA/CO/1, paragraphs 58 and 59.

²³ The requirement to present declarations on interests and activities was introduced following the adoption of 2017 Law on Confidence in Political Life with the aim to prevent any conflicts of interest that would affect the ability to exercise one's functions with complete objectivity.

²⁴ The law requires that the officials supporting a candidate come from no fewer than 30 municipalities, departments or overseas territories, with no more than 10 per cent of signatures coming from any one locality.

²⁵ See respective [webpage of the Constitutional Council](#).

²⁶ In case of death of the deputy, or when a deputy is appointed to the Constitutional Council or a government position. In case of resignation, a by-election is held in the respective constituency. It is not possible to stand as both a candidate and as an alternate.

H. ELECTION CAMPAIGN

The official election campaign starts on 28 March for the first round of the presidential election and, in the event of a second round, the day after the first round.²⁷ There is a campaign silence period in force 24 hours prior to both elections, which also extends to online content. By law, no election related opinion polls can be published either a day before or on election day.²⁸ The Constitution guarantees freedoms of association, peaceful assembly and expression. In the last three years, legislation was introduced or amended impacting the freedoms of association and peaceful assembly.²⁹

The Electoral Code extensively regulates campaigning, including the format and permitted location of printed materials. All contestants are required to submit samples of campaign materials to the National Commission for Control of the Electoral Campaign (NCCEC). This temporary body is established for each election and examines the conformity of campaign materials with legal requirements. The NCCEC also supervises election campaigns with regards to equal treatment of candidates and potential misuse of administrative resources.³⁰ The NCCEC handles campaign-related complaints, though it does not apply sanctions but forwards issues of concern to the respective prefecture or other relevant agency to follow-up. Some ODIHR NAM interlocutors expressed concerns about disinformation and harsh or discriminatory campaign rhetoric, including against female candidates, especially on social networks.

In December 2018, the parliament adopted the Law on Manipulation of Information with the aim to curb the dissemination of false information ("fake news") during election campaigns, in particular by social networks and media outlets influenced by foreign states.³¹ The government has created an interagency service for vigilance and protection against foreign digital interference (Viginum). Digital platforms (*Facebook, Twitter, etc.*) are now subject to transparency obligations when they disseminate content for a fee by publishing the name of the author and the amount paid. The law also provides for legal injunction, and measures to swiftly stop the circulation of "fake news".³²

²⁷ In fact, the election campaign is much longer, with candidates announcing their intention to participate in elections and presenting their programmes months before the start of the official campaign.

²⁸ A Commission for Opinion Polls regulates and controls publication of opinion polls with the aim to ensure that the published results of such polls are objective and reliable. The Commission consists of judges of Supreme Administrative Court, Court of Auditors and academia, nominated by both chambers of the parliament.

²⁹ Of note, on 24 August 2021, France adopted a law on [Strengthening the Respect for the Principles of the Republic](#), which eases the government's ability to dissolve associations, which disrespect the values of the Republic, and contains mechanisms to better control endowments funds. Following the 'yellow jackets' protests in late 2018, UN Rapporteurs [raised concerns](#) about the severe restrictions of protesters' rights. A Law on Reinforcing and Guaranteeing the Upholding of Public Order during Demonstrations was adopted on 12 March 2019 following [review](#) by the Constitutional Council.

³⁰ The five members of the NCCEC represent the Council of State, the Court of Cassation and the Court of Auditors.

³¹ In 2019, the OSCE Representative on Freedom of the Media published [a legal review](#) (in French) which "explores the possibility of introducing a new legal statute for Internet platforms, [...]proposes enhancing media literacy and supporting the self-regulation efforts of the media community [...], in particular through certification and fact-checking".

³² In this case, a judge, within 48 hours, will make an assessment based on three criteria: whether the "fake news" i) are manifest, ii) are disseminated deliberately on a massive scale, and iii) lead to a disturbance of the peace or compromise the outcome of an election. The judge has to also assess, whether such false information is disseminated "artificially or automatically". In its [decision of 20 December 2018](#), the Constitutional Council specified that the judge could only stop the dissemination of information if the inaccurate or misleading nature of the information was evident, and the risk of altering the fairness of the vote was clear.

Following the 2021 legal amendments, presidential candidates must ensure that their campaign materials and events are accessible to persons with disabilities, taking into account the different forms of disability and the diversity of communication media. In this respect, candidates may consult the National Consultative Council of Disabled Persons that may issue respective recommendations.

For the 2022 elections, a special COVID-19 Liaison Committee was created by the Prime Minister under the supervision of the NCCEC with an objective to develop a health protocol regarding holding of campaign activities. This Committee is to meet regularly to discuss topics concerning the health situation and its possible effects on the conduct of the campaign. The Constitutional Council has recently ruled that COVID-19 sanitary rules do not apply to campaign events.

Some political party representatives informed the ODIHR NAM that the campaign topics would include, among others, energy prices, migration, employment, education and environmental protection. Political parties plan to use both conventional and online tools to reach to the voters. In this respect, the National Commission for Information Technology and Civil Liberties (CNIL) tasked with protection of personal data of citizens informed the ODIHR NAM that it set up an “election observatory” to monitor political communication practices and ensure that the use of personal data during the campaigns is carried out in compliance with the EU General Data Protection Regulation.³³ The CNIL also plans to issue guidelines for the candidates regarding rules on data collection and use.

I. CAMPAIGN FINANCE

Campaign finance is primarily regulated by the Electoral Code and the Law on Presidential Election. The National Commission for Control of Electoral Accounts and Political Finance (CNCCFP) is vested with the responsibility for supervising campaign finances for all elections.

Election campaigns may be financed from public and private funds, including loans. Candidates may not receive contributions from foreign sources. Legal entities, except for political parties and groups, may not provide monetary contributions to candidates.

The legislation establishes limits on campaign contributions and expenditures for the presidential and parliamentary elections. For the first round of the presidential election, the campaign expenditure ceiling for each candidate is EUR 16.8 million, while the limit for each of the two candidates standing for the second round is EUR 22.5 million. The campaign expenditure ceiling for parliamentary elections is set at EUR 38,000 per candidate supplemented by EUR 0.15 per inhabitant living in the constituency where the candidate is running.

Individuals can donate up to EUR 4,600 to one or more candidates during the same elections.³⁴ Cash donations may not exceed EUR 150, but cannot cumulatively exceed 20 per cent of the authorized spending limit. Anonymous donations are possible below EUR 150, otherwise donations must be paid by check, bank transfer or credit card.

Direct public funding for the presidential campaign is distributed largely on a reimbursement basis, although each registered presidential candidate receives an advance of EUR 200,000 toward campaign expenses. Reimbursement is predicated on the candidate complying with all

³³ See [CNIL webpage](#) for detailed measures initiated for the 2022 elections.

³⁴ Political parties may receive up to EUR 7,500 annually (as a part of party funding) from each individual.

obligations.³⁵ The reimbursement ceiling for first round candidates receiving less than 5 per cent of the votes cast is 4.75 per cent of the spending limit (EUR 798,000 maximum). Those candidates exceeding the 5 per cent threshold are entitled to be reimbursed up to 47.5 per cent of the spending limit (EUR 7,980,000 maximum).

For parliamentary elections, only candidates who obtained at least 5 per cent of the votes cast in the first round are entitled for reimbursement of up to a half of the spending limit. In addition, direct public funding is made available to political parties that received at least 1 per cent of the votes in at least 50 constituencies in the previous parliamentary elections. The amount of funding per party depends on the number of votes received and number of parliamentary seats obtained.

As indirect public funding, the state covers costs associated with the campaign such as debates and programmes on radio and television (TV), direct mail and printing and displaying of campaign posters.³⁶ Another indirect source of public funding is the 66 per cent income tax relief accorded to donors on their donations to candidates and parties.

The CNCCFP determines the amount of expenses to be reimbursed to eligible candidates. There is no oversight during the campaign and up until the financial reports are submitted. Candidates must submit campaign finance reports detailing income and expenditures within two months after election day, and the CNCCFP has six months to verify, approve, reject, or require revision of these reports. Following the 2021 legal amendments, campaign finance reporting is made only electronically.³⁷

The legislation provides for substantial sanctions for campaign finance and reporting violations, including penal sanctions, the rejection of reimbursement of campaign expenses and dismissal from elected office.

Most ODIHR NAM interlocutors expressed confidence that the system of party and campaign finance contributes to a level-playing field during elections. At the same time, some interlocutors noted a need to tighten the legal framework for campaign financing by third parties as well as a lack of transparency of funding sources for voters, especially before elections.

J. MEDIA

The media environment in France is pluralistic and offers a diverse range of views. TV is the main source of political information, followed by Internet, radio and print media. Print media are not subject to regulation, except for the prohibition on paid political ads, which extends to all media during the six months prior to an election.³⁸ Several ODIHR NAM interlocutors raised concerns over the growing concentration of media ownership, including online media, and the lack of ownership transparency as well as increased hostility against journalists and public media.

Freedom of speech is guaranteed by the 1789 Declaration of the Rights of Man and of the Citizen, and the 1881 Press Law. Journalists enjoy a high degree of freedom and benefit from effective self-regulation. Contrary to international standards, defamation remains a criminal offense envisaging

³⁵ These include opening a dedicated bank account, appointment of a financial agent, adherence to electoral rules, accounts signed by a chartered accountant and the timely submission of an accurate and complete campaign account approved by the CNCCFP.

³⁶ Privately paid advertisements on TV and radio are prohibited by law.

³⁷ Digital template developed by the CNCCFP now offers candidates the possibility to pre-check the accuracy and completeness of the information and documents they file.

³⁸ Televised political ads are banned; only a limited number of “statements” by each candidate, subject to strict rules on time and editing, can be broadcast on TV and only during the official campaign period.

finances and imprisonment sentences, but some ODIHR NAM interlocutors confirmed that imprisonment was never applied in practice.

Coverage of the campaign by audio-visual and online media is regulated by the amended 1986 Law on Freedom of Communication which also provides for political pluralism during and between elections. The independent Audio-visual and Digital Communication Regulatory Authority (ARCOM),³⁹ has the mandate to ensure full plurality of views available in media, issue specific regulations for coverage of each election, oversee media compliance with the rules, review complaints and impose sanctions on public and private broadcasters in cases of relevant violations.⁴⁰ Following the 2021 amendments, ARCOM is also mandated to issue recommendations to the online platform operators how to combat the manipulation of information and dissemination of false content.⁴¹

For this presidential election, the election period has been divided into three phases.⁴² During the first period, from 1 January until 7 March (the publication of list of registered candidates), the media are required to cover all prospective contestants in an equitable manner. In the second period, from 8 to 28 March (the day before the start of the official campaign), the media has to give equitable coverage to registered candidates. Finally, during the official campaign period, all candidates are granted equal time for their direct speeches and coverage of their campaign events on all broadcasters.⁴³

Most ODIHR NAM interlocutors expressed satisfaction with the general access to media and campaign coverage during elections as well as appreciated the clarity of relevant legal provisions on these issues. While some interlocutors noted a certain advantage for the incumbent president when his official activities are covered in mainstream media, they also acknowledged that all other prospective candidates have enough media space to express their opinion.

K. COMPLAINTS AND APPEALS

The legal framework specifies different avenues for the resolution of electoral disputes. The Constitutional Council has broad powers in matters of electoral disputes during the presidential and parliamentary elections and considers complaints regarding registration of candidates, validity of election results, decisions of the CNCCFP and violations of voting operations.⁴⁴ Decisions of a

³⁹ As of 1 January 2022, the ARCOM was created merging former Higher Authority for Audio-visual Communication and Supreme Authority for the Distribution and Protection of Intellectual Property on the Internet.

⁴⁰ ARCOM can impose the following sanctions: warning, suspension of a programme or advertising slots for a period of one month or longer, a maximum one-year reduction of the licence, financial penalty, and licence cancellation. Any dispute relating to the distribution of a radio, TV or on-demand audio-visual media service, including the technical and financial conditions, may be referred to the ARCOM.

⁴¹ The Law on Freedom of Communication stipulates that ARCOM may suspend the broadcasting of any electronic communication, if between the three months preceding the presidential or parliamentary elections and election day, it finds that the relevant service has been the subject of an agreement concluded with a legal entity controlled by a foreign State or placed under the influence of that State or deliberately broadcasts false information potentially altering the integrity of voting.

⁴² See the relevant ARCOM [Recommendation](#). ARCOM has not yet defined the rules for the parliamentary elections.

⁴³ During the first period, ARCOM takes into account, the “representativeness of the candidates” (i.e. results of previous elections, support of elected officials and political parties, indications of polls) and their “ability to express the intention of being a candidate”. During the second period, ARCOM takes into account the “representativeness of the candidates” and their “contribution to the electoral debate”.

⁴⁴ Any registered voter or candidate can request the Constitutional Council to invalidate the results in their respective constituency within 10 days after the announcement of results of parliamentary elections and within three days after the election day for presidential election.

prefecture related to the registration of parliamentary candidates can be challenged to an Administrative Court within five days and further appealed to Constitutional Council.

Decision of a mayor about voter registration may be appealed to the Verification Commission that should issue a decision within five days.⁴⁵ The Commission's decision can be appealed with the court of first instance within seven days following the publication of the voter lists, and further on with the Court of Cassation within 10 days. All ODIHR NAM interlocutors expressed trust in the effectiveness of election dispute resolution mechanism.

IV. CONCLUSIONS AND RECOMMENDATION

All ODIHR NAM interlocutors expressed full confidence in transparency and integrity of electoral process. However, the majority of interlocutors welcomed a potential ODIHR observation activity for both elections, recognising that further improvements could be made and an external assessment could contribute to further electoral reforms. The legal framework has recently undergone changes in many aspects of the process and while several previous ODIHR recommendations have been addressed, some areas would benefit from closer attention, including issues related to voter registration, voting methods, campaigning online, campaign finance and the participation of women. On this basis, the ODIHR NAM recommends the deployment of Election Assessment Missions for the upcoming 2022 presidential and parliamentary elections.

⁴⁵ Failure to appeal the mayor's decision to the Verification Commission renders appeal to the court as inadmissible.

ANNEX: LIST OF MEETINGS

Ministry of Europe and Foreign Affairs

Alexandre Vulic, Deputy Director, Strategic, Security and Disarmament Affairs
Mikaël Griffon, Head, Department for Arms Control and OSCE
Caroline Monvoisin, Director, Online voting project, Directorate of French abroad and Consular Administration
Cédric Peltier, Project manager, Directorate of French abroad and Consular Administration
Margarita Antanaite, Exchange Diplomat, Department for Arms Control and OSCE
Maxime Benallaoua, Advisor to the Ambassador in charge of Digital Affairs
Pascal Delumeau, Desk Officer, Delegation for International Civil Servants
Elisabeth Dotter, Desk Officer, Department of United Nations and International Organisations
Maïwenn Ratinet, Desk Officer, Department for Arms Control and OSCE

Ministry of Interior

Sébastien Audebert, Head, Office of Elections and Political Studies
Arnaud Mercier, Deputy Head, Office of Elections and Political Studies
Louise-Anne Baudrier, Advisor, European and International Affairs Department

Constitutional Council

Jean Maïa, Secretary General

National Institute for Statistics and Economic Studies

Lionel Espinasse, Deputy Head, Demography Department

National Commission for Control of Electoral Accounts and Political Finance

Jean-Philippe Vachia, President
Frédérique Dooghe, Communication and External Relations
Emmanuel Tailly, Project Officer, Legal Department

Audio-visual and Digital Communication Regulatory Authority (ARCOM)

Anne Grand d'Esnon, President, Pluralism and Programme Ethics Working Group
Gil Moureaux, Deputy Director, Directorate for European and International Affairs
Nicolas Cizel, Head, Pluralism, Rights and Freedoms Department
Raphaël Honoré, Project Manager, Directorate for European and International Affairs
Dominique Louveau, Project Manager, Pluralism, Rights and Freedoms Department

Prefecture of Paris

Magali Charbonneau, Director of the Cabinet of the Prefect of the Ile-de-France Region, Prefect of Paris
Aissatou Diene, Head, Office for Elections, Patronage and Economic Regulation
Alain Peu, Head, Service for the Coordination of Parisian Affairs

National Commission for Information Technology and Civil Liberties

Mathias Moulin, Deputy Secretary General
Marie Heuzé, Lead Lawyer, Compliance Department

Commission for Opinion Polls

Stéphane Hoyneck, State Councillor, Secretary of the Commission

SGDNS

Claire Benoit, Head, Coordination and Strategy Department, Vigilance and Protection Service Against Foreign Digital Interference

Emilie Padellec, Advisor for International and European Affairs, General Secretariat for Defence and National Security

Philippe Pacom, Advisor, Cyber Anticipation Unit, National Agency for Information Systems Security

Political Parties

Eric Kerrouche, Senator, Socialist Party

Eva Gaillat, Socialist Party

Sandra Regol, The Greens

Sereine Mauborgne, MP, La République En Marche!

Anne Kacki, Majdouline Najeme, Diane Taravel, La République En Marche!

Media

Cyril Guinet, Director, Regulations, Ethics, Pluralism of Airtime and Programmes, France Television

Antoine Bernard, Director, Advocacy and Strategic Litigation, Reporters without Borders

Thibaut Bruttin, Deputy Director General, Reporters without Borders

Civil Society

Patrice Tripoteau, Deputy General Director, APF France Handicap

Farbod Khansari, National Advisor for European and International Policies, APF France Handicap

Flore Blondel, Co-president, A-voté!

Dorian Dreuil, Co-president, A-voté!

Florent Barre, Launcher & Co-founder, Qomon

Nadège Buquet, Executive Director, Transparency International France

Sarah El Yafi, Advocacy Officer, Transparency International France

Mayors' Association of France

Eric Verlhac, General Director

Geneviève Cerf-Cassau, Head, Department for Administration and Communal Management

Meta

Fosco Riani, Regional Programme Manager

Elisa Borry-Estrade, Public Affairs Manager

Diplomatic Missions Resident in France⁴⁶

Representatives of diplomatic missions of Germany, Latvia, Lithuania, Montenegro, Poland, the Russian Federation, Switzerland and the United States of America

⁴⁶ The ODIHR NAM extended an invitation to representations of all OSCE participating States resident in France.