

Brexit, Trump, Le Pen? How France's Institutions Will Make It Difficult for Le Pen to Win the Election and Govern

Author(s): Viviane Gravey

*In the wake of populist successes in the UK and the US, **Viviane Gravey** examines the prospects for a Front National victory in the upcoming 2017 French presidential election. She argues that, while the institutional structure of French politics would limit the room for manoeuvre of Marine Le Pen, it is ultimately the responsibility of other political actors to provide convincing alternative leadership, rather than solely rely on the checking power of institutions.*

After the double shocks of Brexit and Trump's election, people are wondering when and where the next electoral shock will come. Will it be on 4 December, with the rerun of the Austrian presidential election and the Italian constitutional referendum? Will it come later, in early 2017 with the French presidential election, or in late 2017 with the German General Election? As we ponder where this populist wave will strike next, one key element is often left out of the discussion: the role of political institutions, of constitutional arrangements. Behind the catch-all label of 'Western democracies' lies a great diversity of institutional rules, which may limit the success of populist candidates.

This article investigates the role of institutions in stemming (or reinforcing) this populist wave by focusing on France and Marine Le Pen. The leader of the French Front National was propelled further in the media last week – first to discuss Trump's election on France 2 on Wednesday, second by being invited on the BBC's Andrew Marr Show on Sunday. But is her election in May 2017 inevitable? And what power would she wield as French President?

French elections are run on a two-round system: the first round of 2017 Presidential election will be on 23 April, with the second round on 7 May (if no candidate receives an absolute majority in the first round, which is unlikely to happen). Only the two candidates with most votes advance to the second round. This system allows for a plurality of views to be aired in the first half of the campaign – in the 2002 Presidential election 16 candidates ran in the first round – and gives voters the opportunity to gather behind their favoured (or least worse of the two) candidate in the second round. There are thus two major differences compared to US presidential elections: a window of 14 days to reconsider; and small parties influencing not the vote share differences between the 'big two', but who qualifies for the second round.

The 2002 French election is a case in point. French PM Lionel Jospin's failure to reach the second round in 2002 was in part explained by left-wing voters choosing to support smaller left-wing parties in the first round. But Jean-Marie Le Pen's failure in the subsequent second round against incumbent French President Jacques Chirac was born

out of a mass demonstration against him, and a rise in voter turnout. In the UK and in the US, Brexit and Trump's election have led to demonstrations – pro-EU, anti-Trump. The French electoral system allows for these demonstrations to take place before the final vote and to galvanise opposition to populist parties.

Let us imagine that these demonstrations are not enough, that tactical voting in the first and second round fails and that Marine Le Pen is elected president in May 2017. What then? The French semi-presidential political system has a strong president (1) as long as the president can work with a government of the same side and (2) under the limits on his/her power set out by the French Constitution and enforced by the French Constitutional Court, the *Conseil constitutionnel*.

A month after the presidential election, French voters will cast ballots in parliamentary elections for the *Assemblée nationale*. These are also run in two rounds, and this electoral system has not been kind to the Front National in the past. In 2012, the Front National received 13.6 per cent in the first round (a drop from 17.9 per cent for Marine Le Pen in the first round of the presidential election), but obtained only 2 MPs in the second round.

In contrast to the presidential election, more than two parties can stand in the second round: you can stand as long as you gained more than 12.5 per cent of the popular vote. In many 'triangular' second rounds with the Left, Right and Extreme Right, either the Left or Right have stepped aside to allow a clear path to victory against the Extreme Right. In some ways, the Front National's difficulties in parliamentary elections echoes UKIP's woes in the 2015 UK General Election.

For the Front National to win a majority and be able to form a government, it would need to win an additional 287 MPs – a very unlikely outcome. No parties have ever agreed to enter into a coalition with the Front National to form a government. The most likely outcome of a Marine Le Pen win in the presidential election would be a *cohabitation* between a president from one party and a government from another. This has happened three times since the foundation of the Fifth Republic: in 1986-1988, 1992-1995 and 1997-2001. In this situation, the president's powers are limited to his/her constitutional prerogatives in the realms of defence and foreign affairs, with very limited influence on day-to-day politics.

Would Le Pen be powerless then, even if president? Not necessarily. As we see in the UK, you have MPs and ministers who voted for 'Remain' who are still working to deliver Brexit. With a Le Pen presidency, it may be tempting for a French Government to embrace some of her policies, or at least a watered-down version of them.

Even in this situation, only 60 members of the *Assemblée nationale* or of the *Sénat* are needed to refer a law, before it enters into force, to the *Conseil constitutionnel*. Its 12 members will have to judge whether it respects the constitution. This is key, as not only does the 1958 French Constitution have clear statements on the separation of powers, but the *Conseil constitutionnel* considers its preamble to have equal constitutional value.

This preamble refers to the 1789 Declaration of the Rights of Man and of the Citizen, the preamble to the 1946 French Constitution (which includes gender equality, asylum rights, rights to unionise...) and even the 2004 Environmental Charter (with the precautionary and polluter pays principle) – which will make it extremely difficult for a Le Pen presidency to contravene human rights; and, conversely, easy for opposition parliamentarians to seriously hamper the implementation of her policies.

In conclusion: institutions matter! The global populist wave will impact different countries differently, in part due to their varying institutional and constitutional make-ups. France may well elect Marine Le Pen, but its two-round system makes it much more difficult. Its semi-presidential system, with a strong constitutional watchdog, would clip her wings once in power. But institutions cannot sustainably stem the rise of populism on their own: not only could Le Pen, if president, use her constitutional powers to increase her political power (eg by dissolving the assembly), but a popular party such as Front National repeatedly kept out of power could undermine people's trust in their institutions. Thus, while institutions offer a safety valve, it is up to civil society, and to the other political parties, to offer compelling alternatives to citizens and make sure that populism does not override them.

Author Information:

Viviane Gravey

Queen's University Belfast

Dr Viviane Gravey is Lecturer in European Politics at Queen's University Belfast and co-author of *Environmental Europe?* She is Chair of the UACES Student Forum and Co-Editor of *Crossroads Europe*.

Publication License:

Creative Commons (Attribution-NonCommercial-NoDerivatives 4.0 International)

Additional Information:

Please note that this article represents the views of the author(s) and not those of the UACES Student Forum or UACES.