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PRESS RELEASE

[Legal decision]

Provisional enforcement of an ineligibility sentence: the Conseil d'État confirms the automatic resignation of Marine Le Pen from her position as departmental councillor

The Conseil d'État rejected the priority question on constitutionality (QPC) raised by Marine Le Pen in her appeal against the prefectural order dismissing her from her position as departmental councillor for Pas-de-Calais as part of the ineligibility sentence imposed on her by the criminal court. In a decision dated 28 March 2025, the Conseil Constitutionnel had already declared that similar provisions applicable to municipal councillors complied with the French Constitution.

On 31 March 2025, Marine Le Pen, a member of parliament and departmental councillor for Pas-de-Calais, was sentenced by the judicial court of Paris five years' ineligibility with provisional enforcement, i.e. with immediate effect. Pursuant to the French Electoral Code, the Prefect of Pas-de-Calais, in an order dated 10 April 2025, declared that Ms Le Pen had automatically resigned from her position as departmental councillor.

Ms Le Pen then appealed to the Conseil d'État to overturn the Lille Administrative Court's ruling, which had rejected her appeal against the prefectural order, and refused to refer a priority question on constitutionality (QPC) to the Conseil Constitutionnel. This QPC challenged the constitutionality of the French Electoral Code rules applied to Ms Le Pen, as consistently interpreted by the case law of the Conseil d'État, according to which a local elected representative sentenced to ineligibility with provisional enforcement must be automatically dismissed by the prefect. The plaintiff argued that these provisions did not comply with the principle of equality before the law due to the difference in the treatment of departmental councillors and members of parliament, whose mandates were only revoked in the event of a definitive conviction resulting in a disqualification from office.

However, on 28 March, the Constitutional Council ruled on the difference in treatment between members of parliament and municipal councillors. It stated that the legislative provisions applicable to municipal councillors, as interpreted by the Conseil d'État, were constitutional, noting that these elected representatives were not in the same situation as members of parliament, given the prerogatives that the latter derive from the Constitution, namely participation in exercising national sovereignty, voting on legislation and overseeing the Government's actions.

As it had already ruled concerning regional councillors (decisions of 25 June 2025, Mr Bay and Mr De Saint-Just), the Conseil d'État noted that the provisions of the French Electoral Code applicable to departmental councillors and their situation were similar to those of municipal councillors. Therefore, it considered that there was no reason to refer the QPC challenging the constitutionality of the rules applicable to departmental councillors to the Conseil Constitutionnel.

The Conseil d'État also ruled that the provisions of the French Electoral Code on the automatic resignation of departmental councillors convicted by a criminal court and sentenced to provisional disqualification from office comply with European and international law.

For these reasons, the Conseil d'État rejected Marine Le Pen's appeal.

Decision No. 505770 of 10 November 2025