

# Act no. 2013-907 dated 11 October 2013 on transparency in public life

*JORF (Official Journal of the French Republic) no.0238 dated 12 October 2013*

The National Assembly and the Senate have deliberated,  
The National Assembly has adopted,  
Having regard to Constitutional Council decision no. 2013-676 DC dated 9 October 2013,  
The President of the French Republic hereby promulgates the following Act:

## **Chapter I: The prevention of conflicts of interest and transparency in public life**

### **Article 1:**

*Amended by Act no. 2016-1691 dated 9 December 2016 - Art. 29*

The members of Government, persons who hold a local elective public office and persons entrusted with a public service assignment shall perform their duties with dignity, probity and integrity and shall ensure that they prevent or immediately put an end to any and all conflicts of interest. The members of independent administrative authorities and independent public authorities shall also carry out their duties impartially.

### **Section 1: Abstention obligations**

#### **Article 2:**

*Amended by Act no. 2016-1691 dated 9 December 2016 - Art. 29*

Within the meaning of this Act, a conflict of interest is any situation that causes interference between a public interest and public or private interests, which is likely to influence or appear to influence the independent, impartial and objective performance of a duty.

Where they consider that they find themselves in such a situation:

- 1) The members of the boards of independent administrative authorities or of independent public authorities shall refrain from sitting, or, where necessary, from deliberating on said boards. The persons who exercise specific powers within these authorities shall be replaced in accordance with the operating rules applicable to said authorities;
- 2) Subject to the exceptions provided for in paragraph two of Article 432-12 of the French Criminal Code, the persons who hold local executive offices shall be replaced by their delegatee, to whom they shall refrain from giving instructions;
- 3) Persons entrusted with a public service mission who have been granted a signing authority shall refrain from using such an authority;
- 4) Persons entrusted with a public service mission and placed under the authority of an immediate superior shall refer the matter to said superior; the latter, following referral or at his/her own initiative, shall submit, where appropriate, the preparation and drafting of the

decision to another person under his/her line authority.

A decree adopted by the Conseil d'Etat (French Supreme Administrative Court) specifies the rules for implementation of this Article, as well as the conditions in which it shall apply to members of Government.

### **Article 3**

After Article 4 *ter* of Ordinance no. 58-1100 of 17 November 1958 on the operation of parliamentary assemblies, an Article 4 *quater* shall be inserted and worded as follows:

“Art. 4 *quater*. - The bureau of each assembly, after consulting with the body responsible for parliamentary ethics, shall determine the rules as regards the prevention and handling of conflicts of interest. It shall ensure their observance and shall monitor their implementation.”

## **Section 2: Reporting obligations**

### **Article 4**

I. — Within two months of their appointment, each member of Government shall personally send an exhaustive, accurate and sincere declaration of his/her assets including all of his/her private property, as well as, where applicable, community property and joint property to the President of the High Authority for Transparency in Public Life provided for in Article 19 of this Act. These assets shall be valued at the date on which the reporting obligation became operative as is the case regarding inheritance and gift tax.

Under the same conditions, each member of Government shall send the President of the High Authority, and the Prime Minister, a declaration showing the interests held on the date of his/her appointment and for five years prior to said date. The same obligation shall apply when the duties of a member of Government change.

During the performance of his/her duties, a member of Government whose assets or interests are subject to substantive change in practice shall file a declaration with the High Authority within one month. Where there is a substantive change in the interests held, a declaration shall also be filed with the Prime Minister.

The reporting obligations provided for by the two first subparagraphs shall apply to every member of Government for two months following their departure from office for any reason other than death. Declarations are sent to the President of the High Authority personally. The declaration of assets shall include a summary of all income received by the member of Government and, where applicable, by the community since said member of Government took office.

The member of Government may include observations within each of his/her declarations.

Where the member of Government has filed a declaration of assets within the last six months pursuant to the first subparagraph of paragraph I, of article 11 of this Act or to article LO 135-

1 of the French Electoral Code, no new declaration referred to in the first sentence of the first subparagraph of the same paragraph I shall be required and the declaration provided for by the fourth subparagraph of said paragraph I shall be limited to the summary referred to in the last sentence of the same subparagraph and to the presentation referred to in the last subparagraph of paragraph II.

II. — The declaration of assets shall include the following information:

- 1) Developed and undeveloped real property;
- 2) Securities;
- 3) Life insurance policies;
- 4) Current and savings bank accounts, savings books and other savings products;
- 5) Items of movable property with a value exceeding an amount set by regulations;
- 6) Motorised land vehicles, boats and aircraft;
- 7) Goodwill, custom, official appointments and offices;
- 8) Movable property, real property and accounts held abroad;
- 9) Other property;
- 10) Liabilities.

Where applicable, the declaration of assets shall specify, for every item referred to in 1) to 10) of this paragraph II, whether the property is private property, community property or joint property.

The declarations of assets which are submitted pursuant to the fourth subparagraph of paragraph I include, in addition to the items referred to under the same 1) to 10), a description of major events which have affected the composition of assets since the last declaration.

II. — The declaration of interests shall include the following items:

- 1) Professional activities which give rise to remuneration or gratuities and which are performed on the date of appointment;
- 2) Professional activities which give rise to remuneration or gratuities and which were performed over the last five years;
- 3) Consulting activities which are performed on the date of appointment and over the last five years;

4) Involvement in the managing bodies of a public or private organisation or of a company on the date of appointment or over the last five years;

5) Direct stakes in the capital of a company on the date of appointment;

6) Professional activities performed on the date of appointment by the spouse, civil union partner or common law spouse [*Provisions declared unconstitutional by Constitutional Council decision no. 2013-676 DC of 9 October 2013*];

7) Volunteer work likely to give rise to a conflict of interest;

8) [*Provisions declared unconstitutional by Constitutional Council decision no. 2013-676 DC of 9 October 2013*]

9) Elective duties and offices performed and held on the date of appointment.

The declaration shall specify the amount of remunerations, allowances or gratuities received by the member of Government, under the information referred to in 1) to 5) [*Provisions declared unconstitutional by Constitutional Council decision no. 2013-676 DC of 9 October 2013*] and 9) of this paragraph III.

IV. — A decree of the Conseil d'Etat, adopted following the opinion of the Data Protection Authority (CNIL), shall specify the format and content of the declarations provided for by paragraphs I to III and shall stipulate the conditions under which they are updated and archived.

V. — Where its President has not received the declaration of assets in the timeframes set out by paragraph I, the High Authority for Transparency in Public Life shall send an injunction to the concerned party enjoining him/her to submit said declaration within one month from service of said injunction.

The same procedure shall apply where a declaration is incomplete or where no response has been provided to a request for explanations sent by the High Authority pursuant to paragraph II of Article 20.

## **Article 5**

*Amended by Ordinance no. 2016-307 dated 17 March 2016– Art. 4*

I. — The High Authority for Transparency in Public Life shall transfer the declaration of assets referred to in the first subparagraph of paragraph I of article 4 to the tax administration. Within thirty days of said transferral, the latter shall provide the High Authority with all information enabling it to assess the exhaustiveness, accuracy and sincerity of the declaration of assets, particularly the income tax notices for the person concerned and, where applicable, the solidarity on wealth tax notices.

Within a period of three months following receipt of the information referred to in the first

subparagraph of this paragraph I, the High Authority shall make the declaration of assets and the declaration of interests public. It may include in this publication any assessments it deems relevant regarding the exhaustiveness, accuracy and the sincerity of one or the other declaration, after having provided the person concerned with the opportunity to make his/her observations. Electors may address any written observations regarding these declarations of assets and these declarations of interests to the High Authority.

II. — The procedure provided for by paragraph I of this article shall apply to the declaration of assets submitted following departure from government office, pursuant to the fourth subparagraph of paragraph I of Article 4.

III. — The following information included in the declarations cannot be made public:

- 1) The personal address of the person subject to the declaration;
- 2) The names of the spouse, civil union partner or common law spouse of the person concerned;
- 3) The names of other family members.

As regards the declaration of assets, the following real property cannot be made public: indications, other than the name of the *département*, regarding the location of property; the names of persons who were previously in possession of the property referred to in the declaration; for joint property, the names of the other joint owners; for property to which bare title is held: the names of usufructuaries; for property in usufruct: the names of the bare title holders.

As regards the declaration of interest, the following real property cannot be made public: indications, other than the name of the *département*, regarding the location of property. As regards the spouse, civil union partner or common law spouse of the person concerned [*Provisions declared unconstitutional by Constitutional Council decision no. 2013-676 DC of 9 October 2013*]:

- a) The names of persons who previously owned the property referred to in said declaration;
- b) For property which is jointly owned, the names of the other joint owners;
- c) For property to which bare title is held, the names of usufructuaries;
- d) For property in usufruct, the names of bare title holders.

As regards movable property, the following information cannot be made public: the names of persons who previously owned the movable property referred to in the declaration of assets; the names of persons who previously owned the movable property referred to in the declaration of interests where such person is the spouse, civil union partner or common law spouse of the person concerned by such declaration [*Provisions declared unconstitutional by Constitutional Council decision no. 2013-676 DC of 9 October 2013*].

As regards financial instruments, the following information cannot be made public: the addresses of financial institutions and the numbers of the accounts held.

Where applicable:

— the evaluation which was made public on the value of community property held shall correspond to one-half of the market value of said property;

— the evaluation which was made public on the value of jointly-owned property shall correspond to the portion of the joint ownership rights held by the filing party.

The information referred to in this paragraph III may only be disclosed at the express request of the filing party or of his/her beneficiaries or at the request of judicial authorities where their disclosure is necessary for the resolution of a dispute or useful to establish the truth.

IV. — The information contained in the declarations of interests that are made public in accordance with and within the limits set out by this article may be reused under the conditions provided for by Articles L. 321-1, L. 321-2, L. 322-1 and L. 322-2 of the Code of relations between the public and the administration.

V. — A decree of the Conseil d'Etat, adopted following the opinion of the Data Protection Authority (CNIL), shall specify the rules for application of this article.

## **Article 6**

The High Authority for Transparency in Public Life may request that any person referred to in article 4 of this Act provide the High Authority with the declarations that he/she has filed pursuant to Articles 170 to 175 A of the General Tax Code and, where applicable, pursuant to Article 885W of the same Code.

It may, where it deems it necessary, request the declarations referred to in the first paragraph of this Article, filed by the spouse with separate property, civil union partner or common law spouse of any and all persons referred to in Article 4.

In the absence of disclosure within two months of the declarations referred to in the two first paragraphs of this Article, the High Authority may request a copy of these same declarations from the tax administration, which shall transfer such declarations to the High Authority within thirty days.

The High Authority may request that the tax administration exercise its right of discovery provided for by section I of Chapter II of Title II of part one of the Book of Tax Procedures, with a view to obtaining all information relevant to the performance of its monitoring role. This information shall be disclosed to the High Authority within sixty days following the request.

To the same end, the High Authority may request that the tax administration implement

international administrative assistance procedures.

Tax administration officers shall be released from their professional secrecy obligation with regards to High Authority members and rapporteurs, concerning the inspections and audits they perform for the application of this Act.

#### **Article 7**

The High Authority for Transparency in Public Life shall monitor variations in the assets of members of Government, on the basis of their declarations, of any observations and explanations they may have made or provided, and all other information at the High Authority's disposal.

Where the High Authority observes a change in assets for which it does not have sufficient explanation, and after the member of Government has been given the opportunity to make observations, the High Authority for Transparency in Public Life shall publish a special report in the Journal Officiel (French Official Journal), accompanied by the observations made by the person concerned, and shall transfer the file to the Public Prosecutor's office.

#### **Article 8**

*Amended by Act no. 2016-1691 dated 9 December 2016 – Art. 29*

The financial instruments held by members of Government and presidents and members of independent administrative authorities and independent public authorities acting in the economic sector shall be managed under conditions which exclude any right to scrutiny on their part during their term of office. These persons shall justify any measures taken before the High Authority for Transparency in Public Life.

The conditions for application of this article are determined by decree of the Conseil d'Etat.

#### **Article 9**

*Amended by Act no. 2016-1691 dated 9 December 2016 – Art. 33*

All members of Government, as of their appointment, shall be subject to audit of their tax situation, under the conditions provided by Title II of part one of the Book of Tax Procedures, as regards income tax and, where applicable, solidarity tax on wealth. This audit is placed under the authority of the High Authority for Transparency in Public Life which, where it observes that a member of Government is not in compliance with its tax obligations, shall inform:

- 1) The President of the Republic, where the person concerned is the Prime Minister;
- 2) The President of the Republic and the Prime Minister, where the person concerned is another member of Government.

The conditions for application of this article are determined by decree of the Conseil d'Etat.

## Article 10

I. — Where it observes that a member of Government is in a situation of conflict of interest, the High Authority for Transparency in Public Life shall order such member to put an end to such situation.

After having given the person concerned the opportunity to put forward its observations within a period of one month, the High Authority may decide to make such an injunction public.

II. — This article does not apply to the Prime minister.

## Article 11

*Amended by Act no. 2016-483 dated 20 April 2016 – Art. 11; Act no. 2016-1691 dated 9 December 2016 – Art. 29; Act no. 2017-55 dated 20 January 2017 – Art. 50; Act no. 2017-261 dated 1<sup>st</sup> March 2017 – Art. 2.*

I. — The following persons shall also send the President of the High Authority for Transparency in Public Life a declaration of assets and a declaration of interests, drawn up under the conditions provided for by the four first subparagraphs of paragraph I and in paragraphs II and III of Article 4, within two months of their taking office:

1) French Members of the European Parliament;

2) Persons who hold an office of president of a regional council, of president of the Corsican Assembly, president of the Executive Council of Corsica, president of the French Guianan Assembly, president of the Martinique Assembly, president of the Executive Council of Martinique, president of an overseas territorial assembly, president of a *département* council, president of the Lyon Metropolitan Council, elected president of an executive body of an overseas authority, mayor of a municipality of more than 20,000 inhabitants or elected president of a government-funded intercommunal co-operation institution with separate tax status, the population of which exceeds 20,000 inhabitants or for which the operating revenue according to the last administrative account exceeds €5 million, as well as the presidents of other government-funded intercommunal co-operation institutions for which the operating revenue according to the last administrative account exceeds €5 million;

3) Regional councillors, members of the French Guianan Assembly, members of the Martinique Assembly, members of the executive council of Martinique, members of the executive council of Corsica, members of *département* councils, deputy mayors of municipalities with more than 100,000 inhabitants and the vice-presidents of government-funded intercommunal co-operation institutions with separate tax status of more than 100,000 inhabitants and of the Lyon Metropolitan Council when they hold a signing authority granted, respectively, by the president of the regional council, president of the executive council, president of the *département* council, mayor, president of the government-funded intercommunal co-operation institution or the president of the Lyon Metropolitan Council under the conditions laid down by law. Delegations of signatures or of functions shall be



notified without delay by the executive body of each local and regional authority or government-funded intercommunal co-operation institution to the president of the High Authority for Transparency in Public Life;

4) The members of ministerial cabinets and the members of staff of the President of the Republic;

5) The members of staff of the President of the National Assembly and of the President of the Senate;

6) Members of colleges and, where applicable, commission members endowed with powers to impose penalties, as well as director-generals and secretary-generals of the following bodies and their deputies: the Agence française de lutte contre le dopage (French Anti-Doping Agency), the Autorité de la concurrence (French Competition Authority), the Autorité de contrôle des nuisances aéroportuaires (Airport Nuisance Control Authority), the Autorité de contrôle prudentiel et de résolution (the Prudential Supervision and Resolution Authority), the Autorité de régulation de la distribution de la presse (Press regulation and distribution Authority), the Autorité des marchés financiers (French Financial Markets Authority), the Autorité de régulation des activités ferroviaires et routières (French Regulatory Authority for Railways and Roads), the Autorité de régulation des communications électroniques et des postes (Electronic Communications and Postal services Regulatory Authority), the Autorité de régulation des jeux en ligne (Regulatory Authority for Online Games), the Autorité de sûreté nucléaire (Nuclear Safety Authority), the Comité consultatif national d'éthique pour les sciences de la vie et de la santé (National Consultative Ethics Committee for Health and Life Sciences), the Commission nationale d'aménagement cinématographique (National Commission on Cinema facilities), the Commission nationale d'aménagement commercial (National Commission on commercial facilities), the Commission nationale des comptes de campagne et des financements politiques (National Commission for Campaign Accounts and Political Financing), the Commission nationale consultative des droits de l'homme (National Consultative Commission on Human Rights), the Commission nationale de contrôle des techniques de renseignement (National Commission for the Control of Intelligence Techniques), the Commission nationale du débat public (French National Public Debate Commission), the Commission nationale de l'informatique et des libertés (Data Protection Authority), the Commission du secret de la défense nationale (Consultative commission on national defence secrecy), the Comité d'indemnisation des victimes des essais nucléaires (Nuclear test victims committee), the Commission d'accès aux documents administratifs (Commission on access to administrative documents), the Commission des participations et des transferts (French Privatisations board), the Commission de régulation de l'énergie (Electricity Regulation Commission), the Conseil supérieur de l'audiovisuel (Higher Council for the audiovisual sector), the Contrôleur général des lieux de privation de liberté (the General Inspector for Confinement Centres), the Défenseur des droits (Defender of Rights), the Haute Autorité pour la diffusion des œuvres et la protection des droits sur internet (High Authority of Diffusion on the Art Works and Protection of Rights on the Internet), the Haute Autorité de santé (National Health Authority), the Haute Autorité pour la transparence de la vie publique (High Authority for Transparency in Public Life), the Haut Conseil du commissariat aux comptes (French High Council of Auditors), le Haut Conseil de l'évaluation de la recherche et de l'enseignement supérieur (High Council for Evaluation of Research and Higher Education),

and the Médiateur national de l'énergie (National energy mediator);

6) *bis* The mediators referred to in Section I of Chapter III of Title I of Book II of the Code of Cinema and the Moving Image, in Article 144 of Act no. 2014-344 dated 17 March 2014 on consumption and in Article L. 214-6 of the Intellectual Property Code;

7) Any other person holding an office or performing duties by Government decision for which said person was appointed by the Council of Ministers.

8) Directors, deputy-directors and heads of office of local and regional authorities referred to in 2). The decisions of appointment are notified without delay by the president of the executive body of each local and regional authority or government-funded intercommunal co-operation institution to the president of the High Authority for Transparency in Public Life.

The declarations of interests of the persons referred to in 4) to 8) shall also be sent to the president of the independent authority or to the authority he/she reports to.

Any substantive change in the assets or in the interests held shall require that a new declaration be filed in the same form within two months.

II. — Any person referred to in 1) to 3) of paragraph I of this Article shall send a new declaration of assets to the president of the High Authority for Transparency in Public Life, two months at the earliest and one month at the latest, before the end of his/her term of office or duties or, if the assembly concerned is dissolved or the term of office or duties ends for a reason other than death, within two months of the end of the term of office or duties.

Any person referred to in 4) to 8) of the same paragraph I shall be subject to the same obligation within two months of the end of their duties.

Where a declaration of assets has been filed within the last six months pursuant to this Article, to Article 4 of this Act or to Article LO 135-1 of the French Electoral Code, no new declaration referred to in the first subparagraph of paragraph I of this Article shall be required and the declaration provided for by the first subparagraph of this paragraph II shall be limited to the summary referred to in the last sentence of the fourth subparagraph of paragraph I of Article 4 and to the presentation referred to in the last subparagraph of paragraph II of the same Article 4.

III. — The obligations and exemptions provided for by this Article shall apply to presidents and general directors:

1) Of companies and other legal entities, whatever their legal form, in which more than one half of the share capital is directly owned by the French State;

2) Of Government-funded industrial and commercial institutions;

3) Of companies and other legal entities, whatever their legal form, in which more than one half of the share capital is owned, directly or indirectly, separately or jointly, by the persons

referred to in 1) and 2) and for which the annual turnover for the last completed financial year, before the appointment of the persons concerned, is over €10 million;

4) Of public housing offices referred to in Article L. 421-1 of the Construction and Housing Code which manage a property portfolio including more than 2,000 housing units on 31 December of the year preceding that in which the persons concerned were appointed;

5) Of companies and other legal entities, whatever their legal form, other than those referred to in 1) and 3) of this paragraph III, for which the annual turnover for the last completed year, prior to the appointment of the persons concerned, exceeds €750,000, and in which the local and regional authorities which are governed by titles XII and XIII of the Constitution, their groups or any other person referred to in 1) to 4) of this paragraph III, hold, directly or indirectly, more than one half of the share capital or who are referred to in 1) of Article L.1525-1 of the Local Authority Code.

The declaration of interests of a person referred to in this paragraph III shall also be sent to the minister who holds authority over the person concerned or who supervises the body.

The appointment of persons referred to in this paragraph III shall be, where necessary, contingent upon the proof of submission of the declaration of assets required when leaving previous offices. Such appointment shall be considered invalid where, at the end of the two-month period, one of the declarations required upon taking office which are provided for by the first subparagraph of paragraph I was not sent to the High Authority for Transparency in Public Life.

III *bis.*- The obligations and exemptions provided for by this Article shall apply to presidents of delegatee sports federations referred to in Article L.131-14 of the Sport and Professional Leagues Code which they create pursuant to Article L. 132-1 of the same Code, as well as to presidents of the French Olympic and Sporting Committee and the French Paralympic and Sporting Committee.

IV. — A decree of the Conseil d'Etat, adopted following the opinion of the Data Protection Authority, shall set out the model and the content of the declarations provided for in this Article and shall stipulate the conditions under which they are updated and archived.

V. — Paragraph V of Article 4 and Articles 6 and 7 shall apply to the persons referred to in this Article. Article 10 shall apply to the persons referred to in this Article, at the exclusion of the persons referred to in 1) of paragraph I.

As regards the persons referred to in 4), 7) and 8) of paragraph I of this Article, the High Authority shall provide its opinion, delivered pursuant to 2) of paragraph I of Article 20, to the Public Service Ethics Commission referred to in Article 25 *octies* of Act no. 83-634 dated 13 July 1983 on the rights and obligations of civil servants.

## **Article 12**

*Amended by Ordinance no. 2016-307 dated 17 March 2016– Art. 4*

I. — The declarations of interest which are submitted pursuant to Article 11 shall be made public, within the limits defined under paragraph III of Article 5, by the High Authority for Transparency in Public Life, in accordance with the terms determined by decree of the Conseil d'Etat, adopted following the opinion of the Data Protection Authority. Electors may send any written observations regarding these declarations of interest to the High Authority.

The information contained in declarations of interest which are made public in accordance with this paragraph I and within the limits set out by paragraph III of Article 5 may be reused under the conditions provided for by Articles L. 321-1, L. 321-2, L. 322-1 and L. 322-2 of the Code of relations between the public and the administration.

II. — [*Provisions declared unconstitutional by Constitutional Council decision no. 2013-676 DC dated 9 October 2013*]

Unless the filing party has himself/herself made his/her declaration of assets public, the act of publishing or disclosing, in any way whatsoever, all or part of the declaration of assets or of observations regarding said declaration is punishable by a €45,000 fine.

### **Section 3: Financing of political life**

#### **Article 13**

After Article L. 58-2 of the Electoral code, an Article L.52-8-1 shall be inserted and worded as follows:

“Art. L. 52-8-1.- No candidate may, directly or indirectly, use the allowances and benefits in kind provided by parliamentary assemblies to their members to cover the costs related to the exercise of their office.”

#### **Article 14**

Article 9 of Act no. 88-227 dated 11 March 1988 on transparency in public life is amended as follows:

1) In the third subparagraph, the words: “one or more overseas *départements*, or in Saint Pierre and Miquelon, Saint Barthélemy, Saint Martin, Mayotte, New Caledonia, French Polynesia or on Wallis and Futuna” shall be replaced by the words: “one or more local or regional authorities which fall within the scope of Articles 73 or 74 of the Constitution or in New Caledonia”;

2) In the seventh subparagraph, the word: “parliamentarian” shall be replaced by the words: “member of Parliament”;

3) After the seventh subparagraph, a subparagraph worded as follows shall be inserted:

“A member of Parliament, elected within a constituency which is not included in the territory

or one or more local or regional authorities falling under Articles 73 or 74 of the Constitution or in New Caledonia, may not be registered with or attached to a party or political group which has only put forward candidates, during the most recent renewal of the National Assembly, in one or more local or regional authorities falling under the same Articles 73 or 74 or in New Caledonia.”;

4) The penultimate subparagraph is amended as follows:

a) The word: “parliamentarians” shall be replaced, twice, by the words: “members of Parliament”;

b) A sentence worded as follows shall be added:

“These declarations shall be published in the Official Journal.”

### **Article 15**

Article 11-4 of the same Act shall be amended as follows:

1) The first subparagraph is amended as follows:

a) After the word: “granted”, the following words shall be inserted: “and the contributions paid in the capacity of member of one or more political parties”;

b) The words: “duly identified individuals” shall be replaced by the words: “a duly identified individual” and the words: “same political party” shall be replaced by the words: “or of multiple political parties”;

2) After the first subparagraph, a subparagraph worded as follows shall be inserted:

“By exception, the contributions paid by holders of national or local elective offices shall not be taken into account for the calculation of the threshold referred to in the first subparagraph.”;

3) The third subparagraph is amended as follows:

a) After the word: “establishment”, the end of the first sentence shall be worded as follows: “of use and of transferral to the National Commission for Campaign Accounts and Political Financing.”;

b) A sentence worded as follows shall be added:

“Under the conditions set out by decree, political parties shall, on a yearly basis, disclose to the National Commission for Campaign Accounts and Political Financing the list of persons having agreed annually to make one or more donation or contribution.”

### **Article 16**

Article 11-5 of the same Act shall be amended as follows:

“Art. 11-5.-Those persons who have made donations to more than one political party in breach of Article 11-4 shall be liable to a €3,750 fine and one year of imprisonment or by one of these penalties only.

“When donations are made by the same individual to one sole political party in breach of the same Article 11-4, the beneficiary of the donations shall also be subject to the penalties provided for by the first subparagraph of this Article.”

### **Article 17**

I. — Article 11-7 of the same Act shall be amended as follows:

1) The last sentence of the second subparagraph shall be completed by the words: “and the donations and contributions made to its benefit may not, as of the following year, grant entitlement to the tax reduction provided for by section 3 of Article 200 of the General Tax Code”;

2) A subparagraph worded as follows shall be inserted:

“The Commission shall request, where necessary, disclosure of all accounting documents and all the supporting documents required for the proper performance of its monitoring role.”

II. — In Article 11-8 of the same Act, the word: “last” shall be replaced by the word “second”.

### **Article 18**

The President of the National Commission for Campaign Accounts and Political Financing has a duty to report any facts he/she suspects to be in relation with an infringement on tax law to the service referred to in Article L. 561-23 of the Monetary and Financial Code as soon as they are known.

#### **Section 3 *bis*: Of transparency in relations between interest representatives and public authorities**

##### **Article 18-1**

*Created by Act no. 2016-1691 dated 9 December 2016 – Art. 25*

*[Shall enter into force on the first day of the sixth month following the publication of the decree of the Conseil d’Etat provided for by Article 18-8 and, at the latest, on 1<sup>st</sup> July 2017]*

A digital register shall ensure that citizens are informed of the relations between interest representatives and public authorities.

This register is made public by the High Authority for Transparency in Public Life. This publication shall be made in an open format which is freely useable and exploitable by an

automated processing system, under the conditions provided for by Title II of Book III of the Code of relations between the public and the administration.

This register shall specify, for each interest representative, which information has been disclosed pursuant to Article 18-3 of this Act. Said register is shared by the High Authority, for the implementation of the rules provided for by sub-section 2, and by the National Assembly and the Senate for the implementation of the rules determined on the basis of sub-section 1 of this section.

#### **Article 18-2**

*Created by Act no. 2016-1691 dated 9 December 2016 – Art. 25*

*[Shall enter into force on the first day of the sixth month following the publication of the decree of the Conseil d'Etat provided for by Article 18-8 and, at the latest, on 1<sup>st</sup> July 2017]*

Shall be considered interest representatives, within the meaning of this section, any legal entities governed by private law, public enterprises or publicly-owned groups which perform an industrial or commercial activity, the bodies referred to in chapter I of Title I of Book VII of the Commercial Code and in Title II of the Craft Trades Code, in which the main or regular activity of the director, employee or member is to influence public decisions, particularly regarding the content of a legal or regulatory act by making contact with:

- 1) A member of Government, or a member of a ministerial cabinet;
- 2) A member of the National Assembly, a senator, a member of the President of the National Assembly's staff or that of the President of the Senate, of a member of Parliament, of a senator or of a parliamentary group, as well as with staff from offices of the parliamentary assemblies;
- 3) A member of the President of the Republic's staff;
- 4) The general director, the secretary-general, or their deputy, or a member of the board or of commissions endowed with powers to impose penalties within independent administrative authorities or within independent public authorities referred to in 6) of paragraph I of Article 11 of this Act;
- 5) A person holding a position or an office referred to in 7) of the same paragraph I;
- 6) A person holding an office or a mandate referred to in 2), 3) or 8) of said paragraph I; *[Enters into force on 1<sup>st</sup> July 2018.]*
- 7) A public official holding a position referred to by the decree of the Conseil d'Etat provided for in paragraph I of Article 25 *quinquies* of Act no. 83-634 dated 13 July 1983 on the rights and duties of civil servants. *[Enters into force on 1<sup>st</sup> July 2018.]*

Shall also be considered an interest representative, within the meaning of this section, any individuals who are not employed by a legal entity referred to in the first subparagraph of this Article and who pursue a professional activity on an individual basis which meets the

conditions set out by the same first subparagraph.

The following shall not be considered interest representatives within the meaning of this section:

- a) Elected representatives, during their term of office;
- b) Political parties and groups, within the context of their duties provided for by Article 4 of the Constitution;
- c) Civil servants trade unions and, in the context of the negotiation provided for by Article L.1 of the Labour Code, employee trade unions and employers' professional organisations;
- d) Cultural associations, in the context of their relations with the Minister and ministerial services for Religious Affairs;
- e) Associations representing elected officials for the performance of the duties provided for in their statutes.



### **Article 18-3**

*Created by Act no. 2016-1691 dated 9 December 2016 – Art. 25*

*[Shall enter into force on the first day of the sixth month following the publication of the decree of the Conseil d'Etat provided for by Article 18-8 and, at the latest, on 1<sup>st</sup> July 2017]*

All interest representatives shall send, by teleservice, the following information to the High Authority for Transparency in Public Life:

- 1) Its identity, if it is an individual, or that of its management and of individuals engaged in interest representation activities within it, if it is a legal entity;
- 2) The scope of its interest representation activities;
- 3) Any actions falling under the scope of interest representation carried out with regards to the persons referred to from 1) to 7) of Article 18-2, by specifying the amount of expenses related to these actions during the preceding year;
- 4) The number of persons that he/she employs for the fulfilment of its interest representation mission and, where applicable, its turnover for the preceding year;
- 5) The professional organisations or trade unions or associations related to the represented interests to which he/she belongs.

Any person who, on the behalf of third parties, exercises an activity of interest representation within the meaning of the same Article 18-2 shall also disclose the identity of these third parties to the High Authority for Transparency in Public Life.

A decree of the Conseil d'Etat, adopted following an opinion of the High Authority for Transparency in Public life shall specify:

- a) The frequency and terms of disclosure provided for by this Article as well as the conditions for publication of the relevant information;
- b) The procedures for declaring the activities carried out by the interest representative.

### **Sub-Section 1: Determination and implementation of rules applicable to parliamentary assemblies**

### **Article 18-4**

*Created by Act no. 2016-1691 dated 9 December 2016 – Art. 25*

*[Enters into Force on 1<sup>st</sup> July 2017]*

The rules applicable to interest representatives within each parliamentary assembly shall be determined and implemented in accordance with the conditions set out by Article 4 *quinquies* of Ordinance no. 58-1100 of 17 November 1958 on the operation of parliamentary assemblies.

## **Sub-Section 2: Rules applicable to governmental, administrative and local authorities**

### **Article 18-5**

*Created by Act no. 2016-1691 dated 9 December 2016 – Art. 25*

*[Shall enter into force on the first day of the sixth month following the publication of the decree of the Conseil d'Etat provided for by Article 18-8 and, at the latest, on 1<sup>st</sup> July 2017]*

Interest representatives shall perform their activities with probity and integrity. They shall:

- 1) Disclose their identity, the body for which they work and the interests or entities which they represent as part of their relations with the persons referred to in 1) and 3) to 7) of Article 18-2;
- 2) Refrain from offering or providing any gifts, donations or advantages of significant value to these persons;
- 3) Refrain from influencing any of these persons to breach the ethical rules which apply to them;
- 4) Refrain from approaching these persons with a view to obtaining information or decisions through fraudulent means;
- 5) Refrain from obtaining or attempting to obtain information or decisions by deliberately providing false information to these persons or by using methods in order to mislead them;
- 6) Refrain from organising conferences, demonstrations or meetings, in which the terms for public speaking by the persons referred to in 1) and 3) to 7) of Article 18-2 are linked to the payment of a remuneration whatever the form;
- 7) Refrain from using, for commercial or publicity purposes, the information provided by the persons referred to in 1) and 3) to 7) of Article 18-2;
- 8) Refrain from selling copies of documents emanating from the Government, an independent administrative or public authority to such third parties or from using the letterhead and the logo of these public authorities or administrative bodies;
- 9) Take care to comply with the rules provided for in 1) to 8) of this Article in their relations with individuals in the immediate circle of the persons performing the duties referred to in 1) and 3) to 7) of Article 18-2.

These provisions may be specified within a Code of Professional Conduct for interest representatives defined by a decree of the Conseil d'Etat, adopted following a public opinion of the High Authority for Transparency in Public life.

### **Article 18-6**

*Created by Act no. 2016-1691 dated 9 December 2016 – Art. 25*

*[Shall enter into force on the first day of the sixth month following the publication of the*

*decree of the Conseil d'Etat provided for by Article 18-8 and, at the latest, on 1<sup>st</sup> July 2017]*

The High Authority for Transparency in Public Life shall ensure that interest representatives act in compliance with Articles 18-3 and 18-5.

The High Authority may request that interest representatives provide it with any information or document, on paper, necessary to carry out its mission, without a breach of professional secret being held against it.

It may also carry out checks on-site on the business premises of interest representatives, upon authorisation of a liberty and custody judge of the Paris Court of First Instance, under the conditions determined by decree of the Conseil d'Etat.

The High Authority shall maintain the confidentiality of all information and documents to which it has access in the performance of its mission, excluding the information and documents for which publication is provided for in this section.

The following may refer matters to the High Authority:

- 1) Persons referred to in 1) to 7) of Article 18-2 for the classification which shall be given, within the meaning of the same Article 18-2, to the activity of an individual or legal entity referred to in the first and ninth subparagraphs of said Article 18-2;
- 2) Persons who are under its authority as regards compliance with ethical obligations pursuant to Article 18-5.

The High Authority or its president, by means of delegation, shall deliver its opinion within two months of the referral. This period may be extended for an additional two months by decision of the president of the High Authority, after providing notice to the person who referred the matter.

It may also have matters referred to it by one of its accredited associations under the conditions provided for by Article 20.

#### **Article 18-7**

*Created by Act no. 2016-1691 dated 9 December 2016 – Art. 25*

*[Shall enter into force on the first day of the twelfth month following the publication of the decree of the Conseil d'Etat provided for by Article 18-8 and, at the latest, on 1<sup>st</sup> January 2018]*

Where the High Authority for Transparency in Public Life observes a breach of the rules provided for by Articles 18-3 and 18-5, on its own initiative or as a result of a report, it shall:

- 1) Send the interest representative concerned formal notice, which it may make public, to comply with the obligations to which it is subject, after having provided him/her with the opportunity to submit its comments;
- 2) Notify the person falling under the scope of 1) and 3) to 7) of Article 18-2 who has

responded favourably to the solicitation carried out by an interest representative referred to in 1) of this Article and, where necessary, shall send him/her observations, without making them public.

#### **Article 18-8**

*Created by Act no. 2016-1691 dated 9 December 2016 – Art. 25*

A decree of the Conseil d'Etat, adopted following the opinion of the Data Protection Authority and of the High Authority for Transparency in Public Life, shall specify the rules for application of this sub-section.

### **Sub-Section 3: Criminal penalties**

#### **Article 18-9**

*Created by Act no. 2016-1691 dated 9 December 2016 – Art. 25*

*[Shall enter into force on the first day of the twelfth month following the publication of the decree of the Conseil d'Etat provided for by Article 18-8 and, at the latest, on 1<sup>st</sup> January 2018]*

The fact that an interest representative does not disclose, on its initiative or at the request of the High Authority for Transparency in Public Life, the information which it is obliged to disclose to the latter pursuant to Article 18-3 is punishable by one year of imprisonment and a €15,000 fine.

#### **Article 18-10**

*Created by Act no. 2016-1691 dated 9 December 2016 – Art. 25*

*[Shall enter into force on the first day of the twelfth month following the publication of the decree of the Conseil d'Etat provided for by Article 18-8 and, at the latest, on 1<sup>st</sup> January 2018]*

The fact that an interest representative to which the High Authority for Transparency in Public Life has already sent, pursuant to Article 18-7, formal notice to comply with the ethical obligations provided for by Article 18-5, once again ignores, within the three following years, the same obligation is punishable by one year of imprisonment and a €15,000 fine.

*[Provisions declared unconstitutional by Constitutional Council decision no. 2016-741 DC dated 8 December 2016]*

### **Section 4: The High Authority for Transparency in Public Life**

#### **Article 19**

*Amended by Act no. 2017-55 dated 20 January 2017 – Art. 48 and 50*

I. — The High Authority for Transparency in Public Life is an independent administrative authority.

II. — The President of the High Authority is appointed by decree of the President of the Republic.

In addition to its President, the High Authority shall include:

- 1) Two active or honorary members of the Conseil d'Etat, elected by the general assembly of the Conseil d'Etat;
- 2) Two active or honorary Cour de Cassation (French Supreme Court) judges elected by all sitting judges other than the court hierarchy;
- 3) Two active or honorary senior officials of the Cour des Comptes (French Court of Auditors), elected by the council chamber;
- 4) A qualified person who has not performed the duties of member of Government, held a parliamentary seat or performed the duties listed in paragraph I of Article 11 for at least three years, and who is appointed by the President of the National Assembly, with the assent of the National Assembly Standing Committee responsible for Constitution Acts, granted on a three-fifths majority of the votes cast;
- 5) A qualified person who has not performed the duties of member of Government, held a parliamentary seat or performed the duties listed in paragraph I of Article 11 for at least three years, and who is appointed by the President of the Senate, with the assent of the Senate Standing Committee responsible for Constitution Acts, granted on a three-fifths majority of the votes cast.

The procedures for election or appointment of members referred to in 1) to 3) of this paragraph II shall ensure equal representation of men and women.

III. — The members of the High Authority shall be appointed for a non-renewable term of six years.

IV. — The office of members of the High Authority is incompatible with all other duties or any other office of which the holders are subject to the reporting obligations provided for by Articles 4 and 11 of this Act.

The members shall comply with the obligations to submit the declarations provided for by 6) of paragraph I of Article 11. Their declarations of assets and their declarations of interests are made public, within the limits defined in paragraph III of Article 5, by the High Authority for Transparency in Public Life, in accordance with the terms set out by the last subparagraph of paragraph I and in paragraph IV of the same Article 5.

V. — The High Authority shall be assisted by rapporteurs appointed, after the opinion of the President of the High Authority, by:

- 1) The Vice President of the Conseil d'Etat from among the active or honorary members of the Conseil d'Etat and the corps of administrative court and administrative court of appeal magistrates;
- 2) The First President of the Cour de cassation from among the active or honorary magistrates

of the Cour de cassation, courts and tribunals;

3) The First President of the Cour des Comptes from among the active or honorary magistrates of the Cour des Comptes and regional audit chambers.

High Authority officers shall be subject to professional secret.

VII. — A decree of the Conseil d'Etat shall specify rules for application of this Article.

The High Authority's internal rules shall specify the procedural rules which shall apply before it.

### **Article 20**

*Amended by Act no. 2016-483 dated 20 April 2016 – Art. 11; Act no. 2016-1691 dated 9 December 2016 – Art. 25 and 26; Act no. 2017-55 dated 20 January 2017 – Art. 48 and 50*

II. — The High Authority shall perform the following tasks:

1) It shall receive the declarations of assets and declarations of interest of members of Government, pursuant to Article 4 of this Act, of members of the National Assembly and senators, pursuant to Article LO 135-1 of the Electoral Code, and of persons referred to by Article 11 of this Act and shall ensure that they are checked, verified and, where necessary, published, under the conditions provided for by Section 2 of this Chapter;

2) It shall issue an opinion on situations that could constitute a conflict of interest, within the meaning of Article 2, in which the persons referred to in Articles 4 and 11 may find themselves and, where necessary, shall order them to put an end to such situations under the conditions provided for in Article 10;

3) It shall respond to the requests for opinions made by persons referred to in 1) of this paragraph I on matters relating to ethics that they may encounter in the exercise of their office or the performance of their duties. These opinions, as well as the documents on the basis of which they are delivered, shall not be made public;

4) It shall rule, pursuant to Article 23, on the compatibility of the performance of an independent profession or remunerated activity within a body or company which operates in a competitive sector in accordance with private law rules, with governmental duties or the duties of a member of an independent administrative authority or independent public authority or local executive duties listed in 2) of paragraph I of Article 11 performed during the last three years prior to commencing such activity;

5) At the request of the Prime Minister or on its own initiative, it shall issue recommendations for the application of this Act, which it shall send to the Prime Minister and to the relevant public authorities which it has identified. For this purpose, it shall specify recommendations regarding the relations with interest representatives, within the meaning of Article 18-2, and the practice of giving and receiving donations and payments during the performance of duties and mandates referred to in Articles 4 and 11.

6) It shall respond to the requests for opinion made by persons referred to in 1) and 3) to 7) of Article 18-2 on matters related to their relations with interest representatives and the register of interest representatives provided for by Article 18-1. *[Shall enter into force on the first day of the sixth month following the publication of the decree of the Conseil d'Etat provided for by Article 18-8.]*

The annual activity report drafted by the High Authority shall not contain any personal information other than that which has already been published pursuant Articles 7, 10 and 23.

II. — Where it is found that a person referred to in Articles 4 and 11 is not complying with his/her obligations, as provided for in Articles 1, 2, 4, 11 and 23, the High Authority for Transparency in Public Life may review the matter ex officio or have the matter referred to it by the Prime Minister, the president of the National Assembly or the president of the Senate.

It may also have matters referred to it, under the same conditions, by associations whose purpose is to fight corruption, as specified by their statutes, and which the High Authority has previously approved in accordance with objective criteria which are specified within its internal rules.

The High Authority for Transparency in Public Life may request that the persons referred to in Articles 4, 11 and 23 provide any and all explanations or documents required for the exercise of its missions provided for by paragraph I of this Article. It may interview or consult with any person whose assistance it deems useful.

It may entrust one or more of its members or rapporteurs with the task to verify, or to order that its officers verify the content of the declarations provided for by Article LO 135-1 of the Electoral Code and in Articles 4 and 11 of this Act and the information in its possession.

The High Authority for Transparency in Public Life and the Public Service Ethics Commission, referred to in Article 25 *octies* of Act no. 83-634 dated 13 July 1983 on the rights and obligations of civil servants, may exchange any information necessary for the fulfilment of their respective duties, including information covered by professional secret.

## **Article 21**

In 1) of paragraph I of Article 6 of Act no. 78-753 dated 17 July 1978 on various measures to improve relations between the administration and the general public and various administrative, social and tax provisions, after the word: “decision”, shall be inserted the words: “the documents drafted or held by the High Authority for Transparency in Public Life in the context of the missions provided for by Article 20 of Act no. 2013-907 dated 11 October 2013 on Transparency in Public Life,”.

## **Article 22**

*Amended by Act no. 2016-483 dated 20 January 2016 – Art. 11*

Where the High Authority observes that a person referred to in Articles 4 or 11 is not complying with the obligations provided for by Articles 1, 2, 4 and 11 or finds themselves in the situation provided for by the second subparagraph of Article 7, it shall inform the following of such a breach:

- 1) The President of the Republic, where the person concerned is the Prime Minister;
- 2) The Prime Minister, where the person concerned is another member of Government.
- 3) The President of the European Parliament, where the person concerned is a French member of the European Parliament;
- 4) The president of the deliberative assembly, where the person concerned is a person referred to in 3) of paragraph I of Article 11;
- 5) The appointing authority, where the person concerned is a person referred to in 4), 5) or 8) of the same paragraph I;
- 6) The president of the independent administrative authority or independent public authority, and the appointing authority where the person concerned is a person referred to in 6) of said paragraph I;
- 7) The minister who has authority or who supervises the body concerned, where the person concerned is a person referred to in 7) of the same paragraph I or in paragraph III of Article 11.

## **Article 23**

*Amended by Act no. 2016-483 dated 20 April 2016 – Art. 11; Act no. 2016-1691 dated 9 December 2016 – Art. 27; Act no. 2017-55 dated 20 January 2017 – Art. 48 and 50*

I. — With regards to the requirements provided for by Article 1, the High Authority shall rule on the compatibility of the performance of an independent profession or remunerated activity within a company, a public body or public interest group of which the activity is of an industrial and commercial nature with governmental duties or the duties of a member of an independent administrative authority or independent public authority or with local executive duties, listed in 2) of paragraph I of Article 11, performed during the last three years prior to commencing such activity. Where these duties are performed by a civil servant, the High Authority alone shall be competent to ensure such a verification; it shall notify the Public Service Ethics Commission referred to in Article 25 *octies* of abovementioned Act no. 83-634 dated 13 July 1983 of such a referral and, where necessary, shall provide said Commission with its opinion.

In order to ensure such a verification, the High Authority shall be referred to for matters:



1) Either by the person concerned, prior to beginning the performance of the planned activity;

2) Or by its president, within two months of becoming aware of the unauthorised performance of an activity, under the conditions provided for by the first subparagraph or this paragraph I.

The High Authority shall deliver its opinion within two months of the referral. It shall provide the person concerned with the opportunity to submit its observations, except when it delivers an opinion on the compatibility of the referral made by the person concerned.

The absence of an opinion delivered by the High Authority within this timeframe shall be considered to be an opinion confirming compatibility.

II. — Opinions confirming compatibility may contain reservations of which the effects may affect the person concerned for a maximal period of three years following the end of the performance of governmental duties, of duties of a member of an independent administrative or independent public authority or of local executive duties.

Where the High Authority delivers an opinion of incompatibility, the person concerned may not perform the planned activity for a period of three years following the end of the performance of governmental duties, of duties of a member of an independent administrative or independent public authority or of local executive duties.

The High Authority shall notify its decision to the person concerned and, where appropriate, to the body or company within which said person already performs duties in breach of the first subparagraph of paragraph I. The High Authority shall notify, where necessary, an opinion of incompatibility or an opinion of compatibility with reservations to the professional body which governs the activity for which the opinion was delivered. The acts and contracts entered into for the exercise of this activity shall:

1) Cease to produce effects where a matter was referred to the High Authority under the conditions provided for by 1) of paragraph I;

2) Be void where a matter was referred to the High Authority under the conditions provided for by 2) of paragraph I.

When a matter is referred to it pursuant to 1) and 2) of paragraph I and that it delivers an opinion of incompatibility or an opinion of compatibility containing reservations, the High Authority may, after having obtained the observations of the person concerned, make it public. The opinion made public shall not contain any information of a nature to breach the right to privacy of the person concerned, medical confidentiality, commercial and industrial confidentiality, or any other confidentiality obligation referred to in 2) of Article L. 311-5 of the Code of relations between the public and the administration.

It may deliver an opinion of incompatibility where it deems that it has not received the necessary information from the person concerned.

III. — By delegation by the High Authority and under the conditions provided for by its internal rules, the President of the High Authority may deliver an opinion of compatibility, in the event that the activity planned is manifestly compatible with the prior duties of the person concerned, or an opinion stating that it lacks jurisdiction or that the referral is inadmissible or declaring that there is no need to rule on the matter.

IV. — Where it becomes aware of the exercise, by a person referred to in paragraph I, of any activity carried out in breach of an opinion of incompatibility or of an activity carried out in breach of the reservations included in an opinion of compatibility, and after the person has been given the opportunity to provide explanations, the High Authority shall publish a special report in the Journal Officiel which shall include the opinion delivered and the written observations made by the person concerned.

It shall send the special report, referred to in the first subparagraph of this paragraph IV, and the documents in its possession in relation with the breach of its opinion to the French Public Prosecutor.

## **Section 5: Position of civil servants who hold a parliamentary mandate**

### **Article 24**

I. — Article 6 of Act no. 77-729 dated 7 July 1977 on the election of members of the European Parliament is amended as follows:

1) After the word “European”, the end of the second subparagraph shall be deleted;

1) After the second subparagraph, a subparagraph worded as follows shall be inserted:

“When he/she holds a public-sector position other than those referred to in 1) and 2) of Article LO 142 of the Electoral Code, he/she shall automatically be granted, for the duration of his/her mandate, a leave of absence or be subject to equivalent arrangements provided for by his/her status which do not allow him/her to accrue career advancement rights and pension entitlement.”

II. — The second subparagraph of Article 46 of Act no. 84-16 dated 11 January 1984 on statutory provisions relating to the civil service of the State, of Article 65 of Act no. 84-53 dated 26 January 1984 on statutory provisions relating to the territorial civil service and of Article 53 of Act no. 86-33 dated 9 January 1986 on statutory provisions relating to the hospital public service shall be deleted.

III. — This Article shall enter into force on 1<sup>st</sup> January 2014.

## **Section 6: Whistle-blower protection**

### **Article 25**

*Repealed by Act no. 2016-1691 dated 9 December 2016 – Art. 15*

## Chapter II: Criminal provisions

### Article 26

I. — The fact that a person referred to in Articles 4 or 11 of this Act does not submit one of the declarations provided for by these same Articles, or neglects to declare a substantial portion of his/her assets or interests or provide an untruthful valuation of his/her assets is punishable by three years of imprisonment and a €45,000 fine.

Additional penalties under the form of the loss of civic rights, under the conditions provided for by Articles 131-26 and 131-26-1 of the Criminal Code, and the prohibition on exercising public functions, under the conditions provided for by Article 131-27 of the same Code, may be issued.

II. — The fact that a person referred to in Articles 4, 11 or 23 does not abide by the injunctions issued by the High Authority for Transparency in Public Life, or does not disclose the information and documents required for the performance of its duties is punishable by one year of imprisonment and a €15,000 fine.

III. — The act of publishing, outside of the conditions provided for within this Act, or disclosing, in any way whatsoever, all or part of the declarations, information or observations referred to in Articles LO 135-1 and LO 135-3 of the Electoral Code and in Articles 4, 6 and 11 of this Act is punishable by the penalties referred to in Articles 226-1 of the Criminal Code.

### Article 27

I. — After Article L. 131-26 of the Criminal Code, an Article 131-26-1 shall be inserted and worded as follows:

“Art. 131-26-1. - Under the circumstances provided for by the Act and by way of derogation from the seventh subparagraph of Article 131-26, the ineligibility penalty referred to in 2) of the same Article may be issued for a term of maximum ten years against a person who performs the duties of a member of Government or who holds a public elective office at the time of the events.”

II. — In 9) of Article 324-7 and at the end of 1) of Article 432-17 of the same Code, the reference: “by Article 131-26” shall be replaced by the references: “in Articles 131-26 and 131-26-1”.

III. — At the end of the first subparagraph of Article L. 117 of the Electoral Code, the words: “under the conditions provided for by this Article” shall be replaced by the words: “as well as the ineligibility provided for by Article 131-26-1 of the same Code, under the conditions provided for by these Articles”.

IV. — The General Tax Code shall be amended as follows:

1) In the third subparagraph of Article 1741 and in Article 1774, the reference: “by Article 131-26” shall be replaced by the references: “in Articles 131-26 and 131-26-1”;

2) In the second sentence of the first subparagraph of paragraph I of Article 1837, the words: “Article 131-26 of the Criminal Code for a maximum of five years” shall be replaced by the references: “the Articles 131-26 and 131-26-1 of the Criminal Code”.

V. — Articles L. 241-3 and L. 242-6 of the Commercial Code shall be completed by a subparagraph worded as follows:

“In addition to the supplementary penalties provided for in Article L.249-1, the Court may also order, as a supplementary penalty, under the conditions provided for in this Article, the loss of civic, civil and family rights provided for by Article 131-26 of the Criminal Code.”

## Article 28

The first subparagraph of Article 432-13 of the Criminal Code is amended as follows:

- 1) The words: “two years of imprisonment and a €30,000 fine” shall be replaced by the words: “three years of imprisonment and a €200,000 fine, the amount of which may be increased to double of the proceeds derived from the offence,”;
- 2) After the words: “in the capacity of”, the following words shall be inserted: “member of Government, holder of a local executive office,”.

## Chapter III: Final provisions

### Article 29

After the thirty-second line of the table appended to Act no. 2010-838 of 23 July 2010 on the application of the fifth subparagraph of Article 13 of the Constitution, a line worded as follows shall be inserted:

President of the High Authority for Transparency in Public Life	Standing Committee responsible for Constitutional Acts
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### Article 30

I. — Articles 1 to 5-1 of Act no. 88-227 dated 11 March 1988 on transparency in public life shall be repealed, subject to the provisions of the second subparagraph of paragraph II of this Article.

II. — The archives and all documents which the Commission for Financial Transparency in Political Life possesses shall be transferred to the High Authority for Transparency in Public Life for the performance of its functions.

The procedures for examining asset variations which are ongoing before the Commission for Financial Transparency in Political Life and which are related to mandates or offices which were subject to the obligation to submit declarations pursuant to Articles 1 and 2 of Act no. 88-227 dated 11 March 1988 on Financial Transparency in Political Life and which have come to an end before the effective date of this Act, or for which a declaration was to be filed pursuant to paragraph II of Article 21 of Act no. 2011-412 dated 14 April 2011 on the simplification of provisions of the Electoral Code and on Financial Transparency in Political Life shall be pursued by the High Authority for Transparency in Public Life. For these procedures, the High Authority shall hold the prerogatives provided for by Articles 1 to 3 of the aforementioned Act no. 88-227 dated 11 March 1988.

The procedures relating to mandates or offices which were subject to the obligation to submit declarations pursuant to Articles 1 and 2 of the same Act no. 88-227 dated 11 March 1988

and which continued after the effective date of this Act, shall be conducted by the High Authority for Transparency in Public Life. As regards these procedures, it shall hold the prerogatives provided for by this Act.

III. — The last subparagraph of Articles L. 195 and L. 367 of the Electoral Code shall be removed and 4) of Article L. 230 and 3) of Articles L. 340 and L. 558-11 of the same Code shall be repealed.

### **Article 31**

Article L. 139 B of the Book on Tax Procedures shall be amended as follows:

1) The words: “Commission for Financial Transparency in Political Life” shall be replaced by the words: “High Authority for Transparency in Public Life”;

2) The words: “, in accordance with the second subparagraph of” shall be replaced by the words: “or by his/her spouse with separate property, civil union partner or common law spouse, pursuant to”;

3) After the words: “referred to”, the end of the Article shall be amended as follows “in Articles 4 and 11 of Act no. 2013-907 dated 11 October 2013 on transparency in public life, pursuant to Article 6 of this same Act.”

### **Article 32**

In the eleventh subparagraph of paragraph I of Article 13 of Act no. 78-17 dated 6 January 1978 on data protection, the words “all national elective offices,” shall be removed.

### **Article 33**

With the exception of Article 1 of Sections 1, 3, 5 and 6 of Chapter I and of Articles 27, 28, 29, 32 and 34, this Act shall enter into force on the date of publication in the Journal Officiel of the decree appointing the President of the High Authority for Transparency in Public Life.

Each member of Government shall draw up, by the 1st February 2014 at the latest, a declaration of assets and a declaration of interests, under the conditions provided for by Article 4.

Each of the persons referred to by Article 11 shall draw up a declaration of assets and a declaration of interests, under the conditions provided for by the same Article 11, at the latest:

1) By the 1st February 2014, for persons referred to in 1), 4) and 5) of paragraph I of said Article 11;

2) By the 1st June 2014, for persons referred to in 2) and 3) of the same paragraph I;

3) By the 1st October 2014, for persons referred to in 6) and 7) of said paragraph I as well as in paragraph III of the same Article 11.

### Article 34

IV. —The Local Authority Code shall be amended as follows:

1) After Article L. 2123-18-1, an Article L. 2123-18-1-1 shall be inserted and worded as follows:

“Art. L. 2123-18-1-1. - Under the conditions set by an annual deliberation, the municipal council may make a vehicle available to its members or communal officers where the performance of their mandate or office warrants it.

“Any other advantage in kind shall be subject to a nominative decision which shall specify the conditions for their use.”;

2) Section 3 of Chapter III of Title II of Book I of Part three shall be completed by an Article L. 3123-19-3 worded as follows:

“Art. L. 3123-19-3. - Under the conditions set by an annual deliberation, the *département* council may make a vehicle available to its members or *département* officers where the performance of their mandate or office warrants it.

“Any other advantage in kind shall be subject to a nominative decision which shall specify the conditions for their use.”;

3) Section 3 of Chapter V of Title II of Book I of Part four shall be completed by an Article L. 4135-19-3 worded as follows:

“Art. L. 4135-19-3. - Under the conditions set by an annual deliberation, the regional council may make a vehicle available to its members or regional officers where the performance of their mandate or office warrants it.

“Any other advantage in kind shall be subject to a nominative decision which shall specify the conditions for their use.”;

4) After Article L. 5211-13, an Article L. 5211-13-1 shall be inserted and worded as follows:

“Art. L. 5211-13-1. - Under the conditions set by an annual deliberation, the governing body of a government-funded intercommunal co-operation institution may make a vehicle available to its members or government-funded institution officers where the performance of their mandate or office warrants it.

“Any other advantage in kind shall be subject to a nominative decision which shall specify the conditions for their use.”;

## Article 35

I. — This Act shall apply in French Polynesia, in New Caledonia and in Wallis and Futuna, with the exception of II of Article 24, in as much as it removes the second subparagraph of article 65 of Act no. 84-53 dated 26 January 1984 on statutory provisions relating to the territorial civil service and of Article 53 of Act no. 86-33 dated 9 January 1986 on statutory provisions relating to the hospital public service, and of paragraph IV of Article 27.

II. — Articles L. 2123-18-1-1 and L. 5211-13-1 of the Local Authority Code shall apply in French Polynesia.

III. — For this application of this Act, references to tax legislation and regulations shall be understood, in the overseas authorities and in New Caledonia, as referring to the legislation and regulations which apply locally.

The Act shall be implemented as a national law.



## Articles LO. 135-1 to LO. 135-6 of the Electoral Code

### Article LO 135-1

*Amended by Organic Law no. 2013-906 dated 11 October 2013 - Art. 1*

I. — Within two months of his/her entry into office, the member of the National Assembly shall personally send an exhaustive, accurate, sincere and sworn declaration of his/her assets including all of his/her private property, as well as, where applicable, community property and joint property to the President of the High Authority for Transparency in Public Life. These assets shall be evaluated at the date on which the reporting obligation became operative as is the case regarding gift tax. Under the same conditions, each member of the National Assembly shall send the President of the High Authority, as well as the bureau of the National Assembly, a declaration showing the interests held on the date of his/her entry into office and within the five years prior to said date, as well as the list of professional activities or activities in the public interest, including those which are not remunerated, that he/she plans to retain. The member of the National Assembly may include observations within each of his/her declarations.

Any substantive change in the assets or interests held by the person concerned shall require that a new declaration be filed under the same format within two months, as well as any factor of a nature to change the list of activities retained by said person.

A declaration of assets which complies with the provisions set out above shall be submitted to the High Authority for Transparency in Public Life seven months at the earliest and six months at the latest before the end of his/her term of office or, if the National Assembly is dissolved or the term of office ends for a reason other than death, within two months of the end of his/her duties. Said declaration shall include a summary of all income received by the member of the National Assembly and, where applicable, by the community since said member of the National Assembly took office. The member of the National Assembly may include his/her observations regarding the development of his/her assets in his/her declaration.

Where the member of the National Assembly has filed a declaration of assets within the last six months pursuant to this Article or to Articles 4 and 11 of Act no. 2013-907 dated 11 October 2013 on Transparency in Public Life, no new declaration referred to in the first sentence of the first subparagraph of this paragraph I shall be required and the declaration provided for by the third subparagraph of said paragraph I shall be limited to the summary referred to in the second sentence of the same subparagraph and to the presentation referred to in the last subparagraph of paragraph II.

The fact that a member of the National Assembly neglects to declare a substantial portion of his/her assets or interests or provides an untruthful valuation of his/her assets is punishable by three years of imprisonment and a €45,000 fine. Additional penalties may be ordered under the form of the loss of civic rights, under the conditions provided for by Articles 131-26 and 131-26-1 of the Criminal Code, as well as the prohibition from exercising public functions, under the conditions provided for by Article 131-27 of the same Code.

Without prejudice to Article LO 136-2, any breach of the obligations provided for in the third subparagraph shall be punished by a €15,000 fine.

II. — The declaration of assets shall include the following items:

- 1) Developed and undeveloped real property;
- 2) Securities;
- 3) Life insurance policies;
- 4) Current and savings bank accounts, savings books and other savings products;
- 5) Items of movable property with a value exceeding an amount set by regulations;
- 6) Motorised land vehicles, boats and aircraft;
- 7) Goodwill, custom, official appointments and offices;
- 8) Movable property, real property and accounts held abroad;
- 9) Other property;
- 10) Liabilities.

Where applicable, the declaration of assets shall specify, for every item referred to in 1) to 10) of this paragraph II, whether the property is private property, community property or joint property.

The declarations of assets which are submitted pursuant to the third subparagraph of paragraph I include, in addition to the information referred to under the same 1) to 10), a presentation of major events having affected the composition of assets since the last declaration.

II. — The declaration of interests shall include the following items:

- 1) Professional activities which give rise to remuneration or gratuities that are performed on the date of appointment;
- 2) Professional activities which give rise to remuneration or gratuities and which were performed over the last five years;
- 3) Consulting activities which are performed on the date of appointment and which were performed over the last five years;
- 4) Involvement in the managing bodies of a public or private organisation or of a company on the date of appointment or over the last five years;

- 5) Direct stakes in the capital of a company on the date of appointment;
- 6) Professional activities performed on the date of appointment by the spouse, civil union partner or common law spouse;
- 7) Volunteer work likely to give rise to a conflict of interest;
- 8) [*Provisions declared unconstitutional by Constitutional Council decision no. 2013-675 DC of 9 October 2013*];
- 9) Elective duties and mandates performed and held on the date of appointment.
- 10) The names of parliamentary members of staff as well as other professional activities declared by them;
- 11) The professional activities or activities in the public interest, even those which are not remunerated, that the member of the National Assembly plans to retain during his/her term of office.

The declaration shall specify the amount of remunerations, allowances or gratuities received by the member of the National Assembly, under the items referred to in 1) to 5), 9) and 11) of this paragraph III.

IV. — A decree of the Conseil d'Etat, following the opinion of the Data Protection Authority, shall set out the model and the content of the declarations provided for in this Article and shall stipulate the conditions under which they are updated and archived.

#### **Article LO 135-2**

*Amended by Organic Law no. 2013-906 dated 11 October 2013 - Art. 1*

*Amended by Ordinance no. 2016-307 dated 17 March 2016– Art. 4*

I. — The declarations of interests and activities which are submitted by the member of the National Assembly pursuant to Article LO 135-1 as well as, where applicable, the observations which he/she has made shall be made public, within the limits defined under paragraph III of this Article, by the High Authority for Transparency in Public Life. Electors may send any written observations regarding these declarations of interests and activities to the High Authority.

The declarations of assets submitted by the member of the National Assembly pursuant to the same Article LO 135-1 shall be transferred to the tax administration by the High Authority for Transparency in Public Life. Within thirty days of said transferral, the latter shall provide the High Authority with all information enabling it to assess the exhaustiveness, accuracy and sincerity of the declaration of assets, in particular income tax notices for the person concerned and, where applicable, solidarity on wealth tax notices.

Within three months of the receipt of the items referred to in the second subparagraph of this paragraph I, any assessments deemed useful with regards to the exhaustiveness, accuracy and sincerity of the declarations of assets may be appended to said declaration by the High Authority, before such declaration is made public within the limits set out by paragraph III of this Article, and after having given the member of the National Assembly the opportunity to make his/her observations.

Declarations of assets shall be put at the disposal of electors registered on the electoral roll, for information purposes only:

- 1) At the *département* prefecture in which the member of the National Assembly was elected;
- 2) At the high commission, for members of the National Assembly elected in New Caledonia or French Polynesia;
- 3) At the prefecture, for members of the National Assembly who were elected in other overseas Authorities which are governed by Article 74 of the Constitution;
- 4) At the prefecture of Paris, for members of the National Assembly who were elected by French citizens established outside of France.

These electors may send any written observations regarding the declarations which they have viewed to the High Authority.

Unless the filing party has himself/herself made his/her declaration of assets public, the act of publishing or disclosing, in any way whatsoever, all or part of the declaration of assets or of observations or assessments provided for by the second to the penultimate subparagraphs of this paragraph I is punishable by a €45,000 fine.

II. — The procedure provided for by the nine last subparagraphs of paragraph I of this Article shall apply to the declaration of assets submitted following departure from government office, pursuant to the third subparagraph of paragraph I of Article LO 135-1.

- 2) The following information may not be made public: the personal addresses of persons subject to such declaration, the names of his/her spouse, civil union partner or common law spouse or other members of his/her family;

As regards the declaration of assets, the following real property cannot be made public: indications, other than the name of the *département*, regarding the location of property; the names of persons who previously owned the property referred to in the declarations; for joint property, the names of the other joint owners; for property to which bare title is held, the names of usufructuaries; for property in usufruct, the names of the bare title holders.

As regards the declaration of interests and activities, the following real property cannot be made public: indications, other than the name of the *département*, regarding the location of property. As regards the spouse, civil union partner or common law spouse:

- 1) The names of persons who previously owned the property referred to in said declaration;
- 2) For property which is jointly owned, the names of the other joint owners;
- 3) For property to which bare title is held, the names of usufructuaries;
- 4) For property in usufruct, the names of bare title holders.

As regards movable property, the following information cannot be made public: the names of persons who previously owned the movable property referred to in the declaration of assets; the names of persons who previously owned the movable property referred to in the declaration of interests and activities where such person is the spouse, civil union partner or common law spouse of the person concerned by such declaration.

As regards financial instruments, the following information cannot be made public: the addresses of financial institutions and the numbers of the accounts held.

Where applicable:

- 1) The evaluation that was made public on the value of community property held shall correspond to one-half of the market value of said property;
- 2) The evaluation that was made public on the value of jointly-owned property shall correspond to the portion of the joint ownership rights held by the filing party.

The information referred to in this paragraph III may only be disclosed at the express request of the filing party or of his/her beneficiaries or at the request of the legal authorities where disclosure to them is necessary for the resolution of a dispute or useful to establish the truth.

IV. — The information contained in declarations of interests and of activities which are made public in accordance with and within the limits set out by this Article may be reused under the conditions provided for by Articles L. 321-1, L. 321-2, L. 322-1 and L. 322-2 of the Code of relations between the public and the administration.

V. — A decree of the Conseil d'Etat, adopted following the opinion of the Data Protection Authority (CNIL) shall specify the rules for application of this Article.

### **Article LO 135-3**

*Amended by Organic Law no. 2013-906 dated 11 October 2013 - Art. 1*

The High Authority for Transparency in Public Life may request that a member of the National Assembly provide it with the declarations that it has filed pursuant to Articles 170 to 175 A of the General Tax Code and, where applicable, pursuant to Article 885W of the same Code.

It may also, where it deems it necessary, request the declarations referred to in the first subparagraph, filed by the spouse with separate property, civil union partner or common law spouse of the member of Parliament concerned.

In the absence of disclosure within two months of the declarations referred to in the two first subparagraphs of this Article, the High Authority may request that the tax administration provide it with a copy of these same declarations, and who shall transfer such declarations to the High Authority within thirty days.

The High Authority may request that the tax administration exercise its right of discovery provided for by section I of Chapter II of Title II of part one of the Book of Tax Procedures, with a view to obtaining all information relevant to the performance of its monitoring role. This information shall be disclosed to the High Authority within sixty days following the request.

To the same end, the High Authority may request that the tax administration implement the international administrative assistance procedures.

Tax administration officers shall be released from their professional secrecy obligation with regards to the High Authority members and rapporteurs, concerning the inspections and audits they perform for the application of this Chapter.

#### **Article LO 135-4**

*Created by Organic Law no. 2013-906 dated 11 October 2013 - Art. 1*

I.- Where a declaration submitted pursuant to Article LO 135-1 is incomplete or where no response has been given to a request for explanations made by the High Authority, the latter shall send the Member of the National Assembly an injunction to send the completed declaration or explanations requested to it without delay.

II.- The fact that a member of the National Assembly does not abide by the injunctions issued by the High Authority for Transparency in Public Life, or does not disclose the information and documents required for the performance of its duties within one month from the date on which the injunction or disclosure request is notified to said member of the National Assembly is punishable by one year of imprisonment and a €15,000 fine.

#### **Article LO 135-5**

*Created by Organic Law no. 2013-906 dated 11 October 2013 - Art. 1*

The High Authority for Transparency in Public Life shall monitor variations in the assets of the members of the National Assembly, on the basis of their declarations, any observations and explanations they may have made or provided, and other information at the High Authority's disposal.

In all cases in which the High Authority has observed, after having given the member of the National Assembly the opportunity to make his/her observations, a breach of one of the obligations provided for by Articles LO 135-1 and LO 135-4 or evolutions in the assets of the member of the National Assembly for which he/she is unable to provide sufficient explanations, the High Authority shall transfer the file to the French Public Prosecutor's Office.

## **Article LO 135-6**

*Created by Organic Law no. 2013-906 dated 11 October 2013 - Art. 1*

Where it observes a breach of the obligations provided for by Articles LO 135-1 and LO 135-4, the High Authority for Transparency in Public Life shall refer the matter to the bureau of the National Assembly.