CONSTITUTIONAL BYLAW

Constitutional Bylaw no. 2013-906 of 11 October 2013 on transparency in public life

NOR: PRMX1309686L
ELI: http://www.legifrance.gouv.fr/eli/loi_organique/2013/10/11/PRMX1309686L/jo/texte

The National Assembly and the Senate have deliberated,
The National Assembly has adopted the following Constitutional Bylaw,
The Constitutional Council has declared said Constitutional Bylaw to be compliant with the Constitution,
The President of the French Republic hereby promulgates the following Constitutional Bylaw:

Article 1

I. — Article LO 135-1 of the Electoral Code (consolidated version):

I.- Within two months of being appointed, members of the National Assembly shall personally send the President of the High Authority for Transparency in Public Life an exhaustive, accurate, sincere and sworn asset declaration covering the entirety of their private property, as well as, where applicable, community property and joint property. Said property shall be valued at the date that triggers the reporting obligation, as is the case for registration duties on changes of ownership without consideration. Under the same conditions, members of the National Assembly shall send the President of the High Authority, as well as the bureau of the National Assembly, a declaration that shows the interests held on the date of their election and during the five years prior to said date, as well as the list of professional and non-profit activities, including those performed free of charge, that they plan to continue. Members of the National Assembly may attach comments to each of their declarations.

Any material change in the assets or interests held shall give rise, within two months, to a declaration that is filed under the same conditions, as shall any event that is liable to alter the list of activities continued.

An asset declaration that complies with the aforementioned provisions shall be filed with the High Authority for Transparency in Public Life seven months at the earliest and six months at the latest prior to the expiry of the term of office as member of the National Assembly or, if the National Assembly is dissolved or the member’s term of office ends for any reason other than death, within two months of the end thereof. Said declaration shall include a summary of all the income received by the member and, as applicable, by the joint community since the start of the current parliamentary mandate. Members may attach comments on changes in their financial circumstances to their declaration.

When a member has filed an asset declaration within the last six months pursuant to this Article or Articles 4 and 11 of Act no. 2013-907 of 11 October 2013 on transparency in public life, no new declaration as described in the first sentence of the first paragraph of this section I shall be required and the declaration provided for in the third paragraph of said section I shall be limited to the summary referred to in the second sentence of the same paragraph and the presentation referred to in the last paragraph of section II.
If a member fails to declare a substantive part of his/her assets or his/her interests or provides an untruthful evaluation of his/her assets, s/he shall receive a three-year prison sentence and a €45,000 fine. Additional penalties may be handed down in the form of loss of civic rights, in accordance with the rules provided for in Articles 131-26 and 131-26-1 of the Criminal Code, as well as the prohibition of holding public office, in accordance with the rules provided for in Article 131-27 of the same Code.

Without prejudice to Article LO 136-2, all breaches of the obligations provided for in the third paragraph shall be sanctioned by a €15,000 fine.

II.- The asset declaration shall include the following information:

1) Developed and undeveloped real property
2) Securities
3) Life insurance policies
4) Bank current and savings accounts, savings books and other savings products
5) Items of movable property with a value in excess of an amount set by regulations
6) Motorised land vehicles, boats and aircraft
7) Goodwill, official appointments and offices
8) Movable property, real property and accounts held outside France
9) Other assets
10) Liabilities

Where necessary, the asset declaration shall specify, for each item referred to in points 1) to 10) of this section II, whether it is private property, community property or jointly owned property.

The asset declarations that are filed pursuant to paragraph three of section I shall include, in addition to the items referred to in the said points 1) to 10), a presentation of any major events having had an effect on the asset base since the previous declaration.

III.- The declaration of interests and activities shall include the following information:

1) Professional activities that give rise to remuneration or gratuities that are performed on the date of election
2) Professional activities that have given rise to remuneration or gratuities that were performed during the last five years
3) Activities in the capacity of consultant that are performed on the date of election and that were performed during the last five years
4) Involvement in the managing bodies of a public or private organisation or of a corporation, company or partnership on the date of election or during the last five years
5) Direct stakes in the capital of a corporation, company or partnership on the date of election
6) Professional activities that are performed on the date of election by the spouse, partner by civil union or common law spouse
7) Volunteer work that could give rise to a conflict of interest
8) [Provisions declared to be unconstitutional by Constitutional Council decision no. 2013-676 DC of 9 October 2013]
9) The other elective duties and offices performed and held on the date of election
10) The names of the parliamentary staff and the other professional activities declared by them
11) The professional or non-profit activities, even those which are not remunerated, that the member plans to continue while s/he holds office

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

IV.- A decree adopted after consultation with the Conseil d'Etat (French Supreme Administrative Court), following the opinion of the Data Protection Authority (CNIL), shall set out the format and content of the declarations provided for in this Article and shall stipulate the conditions under which they are updated and archived.

II. — Article LO 135-2 of the same Code (consolidated version):

I.- The declarations of interests and activities filed by members of the National Assembly under Article LO 135-1, as well as, where applicable, the comments they have made, shall be made public, within the limits defined in section III of this Article, by the High Authority for Transparency in Public Life. Electors may send the High Authority all comments in writing concerning said declarations of interests and activities.

The High Authority for Transparency in Public Life shall send the tax administration the asset declarations filed by members pursuant to said Article LO 135-1. Within thirty days of receipt, the tax administration shall provide the High Authority with all information to enable the latter to assess the exhaustiveness, accuracy and sincerity of the asset declaration, in particular the income tax notices and, as applicable, the wealth tax notices.

Within three months of receipt of the information referred to in paragraph two of this section I, the asset declarations may, before being made public within the limits defined in section III of this Article, be accompanied by any assessment that the High Authority deems relevant concerning their exhaustiveness, accuracy and sincerity, after giving the member concerned the opportunity to make any comments.

The asset declarations shall, for the sole purposes of consultation, be made available to electors who are registered to vote on the electoral registers:

1) At the prefecture of the département in which the member’s constituency is located
2) At the office of the High Commissioner, for members who are elected in New Caledonia or in French Polynesia
3) At the prefecture, for members who are elected in other overseas authorities that are governed by Article 74 of the Constitution
4) At the Paris prefecture, for members elected by French nationals who reside outside France

Said electors may send the High Authority all comments in writing concerning the declarations they have consulted.

Unless the filing party has made his/her asset declaration public himself/herself, publishing or disclosing, in any way whatsoever, all or part of asset declarations, or the comments or assessments provided for in the second to penultimate paragraphs of this section I, is punishable by a €45,000 fine.
II.- The procedure provided for in the last nine paragraphs of section I of this Article shall apply to the asset declaration that is filed at the end of the term of office pursuant to the third paragraph of section I of Article LO 135-1.

III.- The following information may not be made public: the personal addresses of the person who is required to file the declaration, the names of the spouse, partner by civil union or common law spouse and other members of his/her family.

For the asset declaration, the following real property information cannot be made public: details of the property’s location, other than the name of the département; the names of the persons who previously owned the property described in the declaration; for jointly-owned property, the names of the other joint owners; for property to which bare title is held: the names of the usufructuaries; for property in usufruct: the names of the bare title holders.

For the declaration of interests and activities, the following real property information cannot be made public: details of the property’s location, other than the name of the département. For the spouse, partner by civil union or common law spouse:

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

The following information on movable property cannot be made public: the names of the persons who previously held the movable property described in the asset declaration; the names of the persons who previously held the movable property described in the declaration of interests and activities if they were the spouse, partner by civil union or common law spouse.

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

As applicable:

1) The evaluation that was made public of the community property held shall correspond to one-half of the market value of said property
2) The evaluation that was made public of 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 section III can only be disclosed at the express request of the filing party or of his/her beneficiaries or as ordered by the judicial authorities when disclosure thereof is required to resolve a dispute or in order to establish the truth.

IV.- The information contained in declarations of interests and activities that is made public in accordance with and within the limits laid down in this Article may be reused under the conditions provided for in Articles 10 to 13 of Act no. 78-753 of 17 July 1978 on various measures to improve relations between government departments and the general public and various administrative, social and tax provisions.

V.- A decree adopted after consultation with the Conseil d’Etat, following the opinion of the Data Protection Authority, shall specify the rules of application of this Article.
III. — Article LO 135-3 of the same Code (consolidated version):

The High Authority for Transparency in Public Life may request a member of the National Assembly to provide it with the returns s/he has filed pursuant to Articles 170 of the General Tax Code and, as applicable, pursuant to Article 885 W of the same Code.

The High Authority may, if it deems it necessary, request the returns referred to in the first paragraph that were filed by the spouse with separate property, partner by civil union or the common law spouse of the member concerned.

In the absence of disclosure of the returns referred to in the first two paragraphs within two months, the High Authority may request a copy of said returns from the tax administration, which shall send them within thirty days.

The High Authority may ask the tax administration to exercise the right to discovery provided for in section I of chapter II of title II of part one of the Book of Tax Procedures, with a view to obtaining all information that is relevant for the performance of its oversight mandate. Said information shall be provided to the High Authority within sixty days of its request.

The High Authority may, for the same purposes, ask the tax administration to implement international administrative assistance procedures.

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

IV. — After Article LO 135-3 of the same Code, Articles LO 135-4 to LO 135-6 shall be inserted, worded as follows:

“Art. LO 135-4.-I. — When a declaration filed pursuant to Article LO 135-1 is incomplete or no response was given to a request for explanations from the High Authority, the High Authority shall send the member an injunction ordering him/her to provide the completed declaration or the explanations requested to the High Authority without delay.

“II. — If a member of the National Assembly does not comply with the injunctions of the High Authority for Transparency in Public Life or does not disclose to said High Authority the information and documents that are necessary for the performance of its mandate within one month of notice of the injunction or of the request for disclosure, s/he shall receive a one-year prison sentence and a €15,000 fine.

“Art. LO 135-5. — The High Authority for Transparency in Public Life shall assess changes in the financial circumstances of members of the National Assembly, as results from their declarations and any comments they have sent to it or other information at its disposal.

“Once a member of the National Assembly has been given the opportunity to submit his/her comments, in all cases where it identifies a breach of one of the obligations provided for in Articles LO 135-1 and LO 135-4 or changes in financial circumstances for which it does not have sufficient explanations, the High Authority shall send the file to the Public Prosecutor’s office.

“Art. LO 135-6. — If it identifies a breach of the obligations provided for in Articles LO 135-1 and LO 135-4, the High Authority for Transparency in Public Life shall refer to the matter to the bureau of the National Assembly.”
V. — At the start of Article LO 136-2 of the same Code, the words: “The Commission for Financial Transparency in Political Life” shall be replaced by the words: “The High Authority for Transparency in Public Life”.

VI. — This Article shall enter into force as from the date of publication in the Official Journal of the decree that appoints the President of the High Authority for Transparency in Public Life.

All members of the National Assembly and all senators shall, by 1 February 2014 at the latest, file an asset declaration and a declaration of interests and activities in accordance with the rules provided for in Articles LO 135-1 and LO 135-2 of the Electoral Code.

VII. — The procedures for reviewing changes in financial circumstances that are pending before the Commission for Financial Transparency in Political Life, in connection with parliamentary mandates that include an obligation to file declarations under Article LO 135-1 of the Electoral Code, as worded prior to the entry into force of Article 1 of this Constitutional Bylaw and that ended before said effective date, shall be continued by the High Authority for Transparency in Public Life. With regard to said procedures, the High Authority shall have the prerogatives provided for in Article LO 135-3 of the same Code, as worded prior to the entry into force of Article 1 of this Constitutional Bylaw.

The procedures concerning parliamentary mandates that include an obligation to file declarations under Article LO 135-1 of the Electoral Code, as worded prior to the entry into force of Article 1 of this Constitutional Bylaw, and that continue after said effective date, shall be managed by the High Authority. With regard to said procedures, the High Authority shall have the prerogatives provided for in this Constitutional Bylaw.

Article 2

I. — Article LO 140 of the Electoral Code shall be supplemented by a paragraph that is worded as follows:

“The mandate of member of the National Assembly is also incompatible with the performance of judicial duties other than those provided for by the Constitution and with the performance of duties as an arbitrator, mediator or conciliator.”

II. — Article LO 144 of the same Code shall be supplemented by a paragraph that is worded as follows:

“The performance of this duty cannot give rise to the payment of any remuneration, gratuity or allowance.”

III. — Article LO 145 of the same Code shall be amended as follows:

1) The first paragraph shall be amended as follows:

a) At the start, the following numbering shall be added: “I. —”

b) The words “and as member of the board of directors” shall be deleted

2) The second paragraph shall be replaced by three paragraphs worded as follows:

“Unless the member of the National Assembly is appointed in this capacity, the duties of member of the board of directors performed in government-owned companies and national government-funded institutions, as well as the duties performed within an independent
administrative authority or an independent public authority, shall be incompatible with the mandate of member of the National Assembly.

“The position of president of an independent administrative authority or of an independent public authority shall be incompatible with the mandate of member of the National Assembly.

“II. — A member of the National Assembly who is appointed in said capacity to an outside institution or body cannot receive any remuneration, gratuities or allowances in said capacity.”

IV. — Article LO 146 of the same Code shall be amended as follows:

1) In the first paragraph, the word “assistant” shall be replaced by the word “deputy”
2) In point 2), the word “exclusively” shall be replaced by the word “primarily”
3) In point 3), the word “primarily” shall be deleted and the words “on behalf of or under the control” shall be replaced by the words “specifically intended for or that must be the subject of a discretionary authorisation granted by”
4) At the end of point 5), the references “points 1), 2), 3) and 4) above” shall be replaced by the references “points 1) to 4)”;
5) After point 5), a point 6) shall be inserted that is worded as follows:

“6) Company and bodies that exert effective control over a company, an undertaking or an institution referred to in points 1) to 4).”

V. — [Provisions declared to be unconstitutional by Constitutional Council decision no. 2013-675 DC of 9 October 2013.]

VI. — In Article LO 149 of the same Code, the words “of which s/he was not habitually the advisor prior to his/her election,” shall be deleted.

VII. — Article LO 151-1 of the same Code shall be amended as follows:

1) The second sentence shall be deleted
2) A paragraph worded as follows shall be added:

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

VIII. — Article LO 151-2 of the same Code shall be amended as follows:

1) The first paragraph shall be deleted
2) The first sentence of the second paragraph shall be worded as follows:

“The bureau of the National Assembly shall examine whether the professional or non-profit activities described by the members in the declaration of interests and activities, pursuant to point 11) of section III of Article LO 135-1, are compatible with a parliamentary office.”

IX. — In Article LO 151-3 of the same Code, the words “or who has not filed the declaration provided for in Article LO 151-2” shall be deleted.

X. — Sections I to VII of this Article shall enter into force, for members of the National Assembly, as from the next general renewal of said Assembly and, for senators, the next renewal of the group of seats that includes that held by the senator.
XI. — [Provisions declared to be unconstitutional by Constitutional Council decision no. 2013-675 DC of 9 October 2013.]

**Article 3**

Ordinance no. 58-1067 of 7 November 1958 containing a Constitutional Bylaw on the Constitutional Council shall be amended as follows:

1) The last paragraph of Article 4 shall be replaced by two paragraphs worded as follows:

“The performance of duties as member of the Constitutional Council is incompatible with holding any public office and any other professional activity or employment.

“Members of the Constitutional Council may, however, undertake scientific, literary or artistic work.”

2) The second paragraph of Article 6 shall be deleted.

**Article 4**

The second sentence of Article LO 153 of the Electoral Code shall be supplemented by the words “and may not receive any allowance in the capacity of parliamentarian”.

**Article 5**

Point 1) of section I of Articles LO 489, LO 516 and LO 544 of the same Code shall be repealed.

**Article 6**

I. — Article 4 of aforementioned Ordinance no. 58-1067 of 7 November 1958 shall be supplemented by a paragraph that is worded as follows:

“The duties of member of the Constitutional Council are incompatible with practicing as a lawyer”.

II. — [Provisions declared to be unconstitutional by Constitutional Council decision no. 2013-675 DC of 9 October 2013.]
Article 7

I. — Ordinance no. 58-1099 of 17 November 1958 that created a Constitutional Bylaw for the application of Article 23 of the Constitution shall be amended as follows:

1) The second sentence of the first paragraph of Article 1 shall be supplemented by the words “and may not receive any allowance in the capacity of parliamentarian”.

2) After the word “placed”, the end of Article 4 shall be worded as follows: “shall automatically be granted, throughout the term of his/her office, a leave of absence or be subject to equivalent arrangements provided for by his/her status that do not allow him/her to accrue career advancement rights and pension entitlement.”

II. — Article 5 of the same Ordinance shall be amended as follows:

1) In the second paragraph, the word “six” shall be replaced by the word “three”

2) A paragraph worded as follows shall be added:

“Said allowance may not be received by the person concerned if s/he failed to declare to the High Authority for Transparency in Public Life, in respect of Act no. 2013-907 of 11 October 2013 on transparency in public life, all or part of his/her assets or interests.”

III. — Article 6 of the same Ordinance shall be repealed.

IV. — Article 7 of the same Ordinance shall be repealed.

V. — Point 2 of section I of this Article shall enter into force on 1 October 2014.

Article 8

After the thirty-first line of the table appended to Constitution Bylaw no. 2010-837 of 23 July 2010 concerning the application of the fifth paragraph of Article 13 of the Constitution, a line worded as follows shall be inserted:

| “High Authority for Transparency in Public Life” | President |

Article 9

Before the last paragraph of section I of Article 3 of Act no. 62-1292 of 6 November 1962 on the election of the President of the French Republic by universal suffrage, two paragraphs worded as follows shall be inserted:

“The asset declarations filed by candidates, under the conditions provided for in the fourth paragraph of this section I, shall be sent to the High Authority for Transparency in Public Life, which shall make them public at least fifteen days before the first round of voting, within the limits defined in section III of Article LO 135-2 of the Electoral Code.

[Provisions declared to be unconstitutional by Constitutional Council decision no. 2013-675 DC of 9 October 2013.]
“The asset declaration that is filed at the end of the term of office under the conditions provided for in the fourth paragraph of this section I shall be sent to the High Authority for Transparency in Public Life. [Provisions declared to be unconstitutional by Constitutional Council decision no. 2013-675 DC of 9 October 2013.]

Article 10

Article 11
Article 54 of Constitutional Bylaw no. 2001-692 of 1 August 2001 on budget acts shall be supplemented by a point 9) that is worded as follows:

“9) The list of the subsidies paid following a proposal by the Parliament through appropriations allocated in the budget acts for the year concerned. Said list shall set out, for each département, overseas authority and for New Caledonia:

a) All of the subsidies for various local interest work that are paid on the basis of programmes overseen by the Ministry of the Interior

b) All of the subsidies paid to non-profit organisations

It shall state, for each subsidy, the name of the beneficiary, the amount paid, the nature of the project financed, the programme concerned and the name of the member of Parliament, the political group or the presidency of the assembly who proposed the subsidy.”

Article 12
Articles 1 and 2 of this Constitutional Bylaw shall apply in French Polynesia, Wallis and Futuna, and New Caledonia.

Article 13
Constitutional Bylaw no. 99-209 of 19 March 1999 on New Caledonia shall be amended as follows:

1) After the word “subject”, the end of the second paragraph of Article 64, Article 114 and the last paragraph of Article 161 shall be worded as follows: “, under the same conditions, to the reporting obligations that are applicable to the persons referred to, respectively, in points 2)
and 3) of section I of Article 11 of Act no. 2013-907 of 11 October 2013 on transparency in public life.”

2) Point 1) of section I of Article 195 shall be repealed.

**Article 14**

Constitutional Bylaw no. 2004-192 of 27 February 2004 that created autonomous status for French Polynesia shall be amended as follows:

1) Point 1) of section I of Article 109 shall be repealed

2) Article 160 shall be worded as follows:

“Art. 160.-The President and the other members of the government of French Polynesia shall be subject, under the same conditions, to the reporting obligations that are applicable to the persons referred to, respectively, in points 2) and 3) of section I of Article 11 of Act no. 2013-907 of 11 October 2013 on transparency in public life.

“The President and the other representatives at the French Polynesian assembly shall be subject, under the same conditions, to the reporting obligations that are applicable to the persons referred to, respectively, in points 2) and 3) of section I of Article 11 of Act no. 2013-907 of 11 October 2013 on transparency in public life.”

**Article 15**

After the word “are”, the end of the last paragraph of Articles LO 6221-1, LO 6321-1 and LO 6431-1 of the Local Authority Code shall be worded as follows: “subject, under the same conditions, to the reporting obligations that are applicable to the persons referred to, respectively, in points 2) and 3) of section I of Article 11 of Act no. 2013-907 of 11 October 2013 on transparency in public life.”

**Article 16**

For the application of this Constitutional Bylaw, references to tax legislation and regulations shall be understood, in the overseas authorities and in New Caledonia, to be to the legislation and regulations that are applicable locally.

The locally competent tax administration in the overseas authorities and in New Caledonia may be contacted by the High Authority for Transparency in Public Life under the same conditions as the competent tax administration at national level.

Each of the persons concerned by Articles 13 to 15 of this Constitutional Bylaw shall draw up an asset declaration and a declaration of interests in accordance with the rules provided for in Articles 4 and 11 of Act no. 2013-907 of 11 October 2013 on transparency in public life, by 1 June 2014 at the latest.

This Constitutional Bylaw shall be enacted.

Done in Paris, on 11 October 2013.