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ACT

ACT no. 2013-907 of 11 October 2013 on transparency in public life

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The National Assembly and the Senate have deliberated,
The National Assembly has adopted the following Act,
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:

Prevention of conflicts of interest and transparency in public life

Article 1

The members of the Government, persons who hold a local elective public office and persons who are entrusted with a public service assignment shall perform their duties with seriousness, probity and integrity and shall ensure that they prevent or immediately cause any and all conflicts of interest to end.

Section 1:

Abstention obligations

Article 2

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

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

- 1) The members of the boards of an independent administrative authority or of an independent public authority shall abstain from sitting on said boards. Persons who exercise specific powers within these authorities shall be replaced in accordance with the operating rules that apply to said authorities.
- 2) Subject to the exceptions provided for in paragraph two of Article 432-12 of the Criminal Code, persons who hold local executive offices shall be replaced by their delegatee, to whom they shall refrain from issuing instructions
- 3) Persons who are entrusted with a public service assignment and who have been granted a signing authority shall refrain from using such authority

4) Persons who are entrusted with a public service assignment and who are placed under the authority of an immediate superior shall refer the matter to such superior, who, once the matter has been referred or at his/her own initiative, shall entrust, as applicable, the preparation or drafting of the decision to another person who is placed under his/her line management

A decree adopted after consultation with the *Conseil d'Etat* (French Supreme Administrative Court) shall specify the rules of application of this Article, as well as the conditions under which it shall apply to members of the 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 that is worded as follows:

“Art. 4 *quater*. – The bureau of each assembly, after consulting the body that is responsible for parliamentary ethics, shall determine the rules for preventing and handling conflicts of interest. It shall ensure compliance therewith and shall monitor how they are implemented.”

Section 2: Reporting obligations

Article 4

I. — Within two months of being appointed, each of the members of the Government shall personally send the President of the High Authority for Transparency in Public Life provided for in Article 19 of this Act an exhaustive, accurate and sincere declaration of his/her assets covering the entirety of his/her 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, each of the members of the Government shall send the President of the High Authority, as well as the Prime Minister, a declaration that shows the interests held on the date of his/her appointment and during the five years prior to said date. The same obligation shall apply if the duties of a member of the Government change.

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

The reporting obligations provided for in the first two paragraphs shall apply to all members of the Government leaving office for any reason other than death. The declarations shall be sent within two months to the President of the High Authority in person. The asset declaration shall contain a summary of all the income received by the Government member and, as applicable, by the joint community since taking up office.

The Government member may attach comments to each of his/her declarations.

When a Government member has filed an asset declaration within the last six months pursuant to paragraph one of this sub-section I, Article 11 of this Act or Article LO 135-1 of the Electoral Code, no new declaration as described in the first sentence of paragraph one of

this sub-section I shall be required and the declaration provided for in the fourth paragraph of said sub-section I shall be limited to the summary referred to in the last sentence of the same paragraph and the presentation referred to in the last paragraph of sub-section II.

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 sub-section II, whether it is private property, community property or jointly owned property.

The asset declarations that are filed pursuant to paragraph four of sub-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 shall include the following information:

- 1) Professional activities that give rise to remuneration or gratuities that are performed on the date of appointment
- 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 appointment 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 appointment or during the last five years
- 5) Direct stakes in the capital of a corporation, company or partnership on the date of appointment
- 6) Professional activities that are performed on the date of appointment by the spouse, partner by civil union or common law spouse [Provisions declared to be unconstitutional by Constitutional Council decision no. 2013-676 DC of 9 October 2013]
- 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) Elective duties and offices performed and held on the date of appointment

The declaration shall specify the amount of the remunerations, allowances or gratuities received by the member of the Government in respect of the items referred to in points 1) to

5) [Provisions declared to be unconstitutional by Constitutional Council decision no. 2013-676 DC of 9 October 2013] and point 9) of this sub-section III.

IV. — A decree adopted after consultation with the *Conseil d'Etat*, following the opinion of the Data Protection Authority (CNIL), shall set out the format and content of the declarations provided for in sub-sections I to III and shall stipulate the conditions under which they are updated and archived.

V. — If and when its President has not received the asset declarations or declarations of interests within the timeframes provided for in sub-section I, the High Authority for Transparency in Public Life shall serve the person concerned with an injunction to send the High Authority said declarations within one month of service of the injunction.

The same procedure shall apply in the event of an incomplete declaration or when no response was given to a request for explanations made by the High Authority under sub-section II of Article 20.

Article 5

I — The High Authority for Transparency in Public Life shall send the tax administration the asset declaration referred to in paragraph one of sub-section I of Article 4. 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 for the person concerned and, as applicable, the wealth tax notices.

Within three months of receipt of the information referred to in paragraph one of this sub-section I, the High Authority shall make public the asset declaration and the declaration of interests. In addition to said publication, it may make any assessments it deems relevant regarding the exhaustiveness, accuracy and sincerity of either declaration, after giving the person concerned the opportunity to make any comments. Electors may send the High Authority all comments in writing concerning said asset declarations and said declarations of interests.

II. — The procedure provided for in sub-section I of this Article shall apply to the asset declaration that is filed after leaving a government office, pursuant to the fourth paragraph of sub-section I of Article 4.

III. — The following information from the declarations may not be made public:

- 1) The personal address of the person who is required to file the declaration
- 2) The names of the spouse, partner by civil union or common law spouse
- 3) The names of the other members of the 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, 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 [Provisions declared to be unconstitutional by Constitutional Council decision no. 2013-676 DC of 9 October 2013]:

- a) The names of the persons who previously owned the property described in said declaration
- b) For jointly-owned property, the names of the other joint owners
- c) For property to which bare title is held: the names of the usufructuaries
- d) 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 if they were the spouse, partner by civil union or common law spouse [Provisions declared to be unconstitutional by Constitutional Council decision no. 2013-676 DC of 9 October 2013].

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:

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

— 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 sub-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 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.

Article 6

The High Authority for Transparency in Public Life may request any person referred to in Article 4 of this Act to provide it with the returns s/he has filed pursuant to Articles 170 of 175 A 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 of this Article that were filed by the spouse with separate property, partner by civil union or the common law spouse of any person referred to in Article 4.

In the absence of disclosure of the returns referred to in the first two paragraphs of this Article 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 sub-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 Act.

Article 7

The High Authority for Transparency in Public Life shall verify changes in the financial circumstances of the members of the Government, on the basis of their declarations, any comments and explanations they may have made or provided, and other information at the High Authority's disposal.

When the High Authority observes a change in financial circumstances for which it does not have sufficient explanations, after the member of the Government has been given the opportunity to make comments, the High Authority for Transparency in Public Life shall publish a special report in the Official Journal, along with the comments of the person concerned, and shall send the file to the Public Prosecutor's office.

Article 8

The financial instruments held by the members of the Government and the presidents and members of independent administrative authorities and the independent public authorities with competence in economic matters shall be managed under conditions that rule out any right of scrutiny by them during their term of office.

The conditions of application of this Article shall be defined by a decree adopted after consultation with the *Conseil d'Etat*.

Article 9

All members of the Government, as from their appointment, shall undergo an audit of their tax situation, under the conditions provided for in title II of part one of the Book of Tax Procedures, for income tax and, where applicable, wealth tax. Said procedure shall be overseen by the High Authority for Transparency in Public Life.

The conditions of application of this Article shall be defined by a decree adopted after consultation with the *Conseil d'Etat*.

Article 10

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

After giving the person concerned the opportunity to put forward his/her comments within one month, the High Authority may decide to make said injunction public.

II. — This Article does not apply to the Prime Minister.

Article 11

I — The following persons shall also send the President of the High Authority for Transparency in Public Life an asset declaration and a declaration of interests, which shall be drawn up under the conditions provided for in the first four paragraphs of sub-sections I, II and III of Article 4, within two months of taking office:

1) French Members of the European Parliament

2) The holders of an office of president of a regional council, 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. Signing authorities 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 private offices and the staff of the President of the French Republic

5) The staff of the president of the National Assembly and the president of the Senate

6) The members of the independent administrative authorities and independent public authorities

7) Any other person who holds a position or performs duties by Government decision, and who was appointed by the Cabinet

The declarations of interests of the persons referred to in points 4) to 7) shall also be sent to the president of the independent authority or to the authority s/he reports to.

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

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

Any person referred to in points 4) to 7) of said sub-section I shall be subject to the same obligation within two months of the end of his/her office.

No new declaration shall be required of a person who, less than six months previously, filed a declaration pursuant to this Article, Article 4 of this Act or Article LO 135-1 of the Electoral Code.

III. — The obligations provided for in sub-section I shall apply to the chairpersons and directors general/managing directors:

1) Of corporations, companies, partnerships and other legal entities, regardless of their legal status, in which the Government directly holds more than one-half of the share capital

2) Of government-funded industrial and commercial institutions

3) Of corporations, companies, partnerships and other legal entities, regardless of their legal status, in which more than one-half of the share capital is directly or indirectly held, separately or jointly, by the persons referred to in points 1) and 2) and for which the annual turnover in respect of the last completed financial year before the date of appointment of the persons concerned exceeds €10 million

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

5) Of the corporations, companies, partnerships and other legal entities, regardless of their legal status, other than those referred to in points 1) and 3) of this sub-section III, for which the annual turnover in respect of the last completed financial year before the date of appointment of the persons concerned exceeds €750,000, in which the local and regional authorities that are governed by Titles XII and XIII of the Constitution, their groups or any other person referred to in points 1) to 4) of this sub-section III hold, directly or indirectly, more than one-half of the share capital or that are referred to in point 1) of Article L. 1525-1 of the Local Authority Code

The declaration of interests of a person referred to in this sub-section III shall also be sent to the minister who has authority over the person concerned or who supervises the body. The appointment of the persons referred to in this sub-section III shall, as necessary, be contingent on the production of proof of filing the asset declaration that is required when leaving previous offices. It shall be deemed to be invalid if one of the declarations provided for when taking office pursuant to the first paragraph of sub-section I has not been sent to the High Authority for Transparency in Public Life within the two-month timeframe.

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

V. — Sub-section 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, excluding the persons referred to in point 1) of section I.

Article 12

I — The declarations of interests filed pursuant to Article 11 shall be made public, within the limits defined in sub-section III of Article 5, by the High Authority for Transparency in Public Life, in accordance with the rules defined in a decree adopted after consultation with the *Conseil d'Etat*, following the opinion of the Data Protection Authority. Electors may send the High Authority all comments in writing concerning said declarations of interests.

The information contained in declarations of interests that is made public in accordance with this sub-section I and within the limits defined in sub-section III of Article 5 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.

II. — [Provisions declared to be unconstitutional by Constitutional Council decision no. 2013-676 DC of 9 October 2013.]

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 comments in connection therewith is punishable by a €45,000 fine.

Section 3: Financing of political life

Article 13

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

“Art. L. 52-8-1. — No candidate may use, either directly or indirectly, the allowances and benefits in kind made available to their members by parliamentary assemblies in order to cover the expenses linked to the exercise of their office.”

Article 14

Article 9 of Act no. 88-227 of 11 March 1988 on the transparency of political life shall be amended as follows:

1) In the third paragraph, 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 that fall within the scope of Articles 73 or 74 of the Constitution or in New Caledonia”

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

3) After the seventh paragraph, a paragraph shall be inserted that is worded as follows:

“A member of Parliament, who is elected in a constituency that is not part of the territory of one or more local and regional authorities that fall within the scope of Articles 73 or 74 of the Constitution or in New Caledonia, may not join or be associated with a party or political group that only put forward candidates, during the most recent elections to the National Assembly, in local and regional authorities that fall within the scope of said Articles 73 or 74 of the Constitution or in New Caledonia.”

4) The penultimate paragraph shall be amended as follows:

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

b) A sentence shall be added that is worded as follows:

“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 paragraph shall be 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 “one or more political parties”

2) After the first paragraph, a paragraph shall be inserted that is worded as follows:

“As an exception, the contributions paid by the holders of national or local elective offices shall not be taken into account when calculating the limited amount referred to in the first paragraph.”

3) The third paragraph shall be amended as follows:

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

b) A sentence worded as follows shall be added:

“Under conditions laid down by decree, each year the political parties shall disclose to the National Commission for Campaign Accounts and Political Financing the list of persons who agreed annually to make one or more donations or contributions.”

Article 16

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

“Art. 11-5.-Those persons who have made donations to more than one political party in breach of Article 11-4 shall receive a fine of €3,750 and/or a one-year prison sentence.

“When donations are made by the same individual to a single political party in breach of the same Article 11-4, the beneficiary of the donations shall also be liable to the penalties provided for in the first paragraph 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 paragraph shall be supplemented with the words: “and the donations and contributions for its benefit shall not, as from the following year, grant entitlement to the tax reduction provided for in section 3 of Article 200 of the General Tax Code”

2) A paragraph worded as follows shall be added:

“The Commission shall request, as necessary, disclosure of all the accounting documents and all the supporting documents required for the proper performance of its oversight mandate.”

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 shall report any facts s/he suspects are connected to a breach of tax legislation to the unit referred to in Article L. 561-23 of the Monetary and Financial Code, as soon as s/he becomes aware thereof.

Section 4:

The High Authority for Transparency in Public Life

Article 19

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

In the performance of their functions, the members of the High Authority shall not receive or request any instructions from any other authority.

The members of the High Authority shall not personally adopt any public position that may be detrimental to the proper functioning of the High Authority.

II. — The President of the High Authority shall be appointed by decree of the President of the French Republic. In addition to its President, the High Authority shall include:

- 1) Two active or honorary senior *Conseil d'Etat* members who are elected by the general assembly of the *Conseil d'Etat*
- 2) Two active or honorary *Cour de cassation* (French Supreme Court of Appeal) judges who are elected by all sitting judges other than the court hierarchy
- 3) Two active or honorary senior *Cour des comptes* (Government Audit Office) officials who are elected by the council chamber
- 4) An eminent person who has not performed the functions of Government member, held a parliamentary seat or performed the duties listed in sub-section I of Article 11 for at least three years, who shall be appointed by the President of the National Assembly, with the assent of the National Assembly's Standing Committee with Authority on Constitution Acts, that is granted on a three-fifths majority of the votes cast
- 5) An eminent person who has not performed the functions of Government member, held a parliamentary seat or performed duties listed in sub-section I of Article 11 for at least three years, who shall be appointed by the President of the Senate, with the assent of the Senate's Standing Committee with Authority on Constitution Acts, that is granted on a three-fifths majority of the votes cast

The rules for electing or appointing the members referred to in points 1) to 3) of this sub-section II shall ensure equal representation of women and men.

The High Authority may suspend or terminate the office of one of its members if it finds, on a three-quarters majority of the other members, that the member holds incompatible offices, is prevented from performing his/her functions or has breached his/her obligations.

If a member's seat becomes vacant, for any reason whatsoever, a new member shall be elected or appointed, under the conditions provided for in sub-section II, for the remaining term of office. As a departure from sub-section III, if this period is less than one year, the term of office of the new member may be renewed once.

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

As a departure from the first paragraph of this sub-section III, during the first meeting of the High Authority, the following shall be selected by drawing lots:

- 1) From among the institutions referred to in points 1) to 3) of sub-section II, that for which the two elected members shall hold office for two years and that for which the two elected members shall hold office for four years
- 2) From among the members referred to in points 4) and 5) of the same sub-section II, the member who shall hold office for three years

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

No member of the High Authority may participate in a deliberation or perform checks and controls concerning a person or a member of an organisation with regard to which s/he holds or has held, during the three years prior to the deliberation or the checks and controls, a direct or indirect interest.

The members shall comply with the reporting and declaration filing obligations provided for in point 6) of sub-section I of Article 11. Their asset declarations and their declarations of interests shall, moreover, be made available to all the other members of the High Authority. The members of the High Authority are subject to professional secrecy.

V. — The Secretary General of the High Authority shall be appointed by order of the Prime Minister, following a proposal by the President of the High Authority.

The High Authority shall be assisted by rapporteurs appointed 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 appeal court magistrates

2) The First President of the *Cour de cassation* from among the active or honorary magistrates at the *Cour de cassation*, courts and tribunals

3) The First President of the *Cour des comptes* from among the active or honorary members of the *Cour des comptes* and the regional audit chambers

The High Authority may benefit from the secondment of civil servants and hire, as required, staff under contract.

High Authority officers shall be subject to professional secrecy.

VI. — The High Authority shall have the appropriations required to perform its mandates.

The President of the High Authority shall be the authorising officer for the appropriations that are allocated to it.

The Act of 10 August 1922 on the organisation of the control of expenses incurred is not applicable to the High Authority. The accounts of the High Authority shall be submitted to the *Cour des comptes* for auditing.

VII. — A decree adopted after consultation with the *Conseil d'Etat* shall determine the rules for applying this Article. The High Authority shall adopt general rules that define the other organisational and operating rules, as well as the procedural rules for dealings with it.

Article 20

I — The High Authority shall have the following responsibilities:

1) It shall receive the asset declarations and declarations of interests from members of the Government, pursuant to Article 4 of this Act, from members of Parliament and senators, pursuant to Article LO 135-1 of the Electoral Code, and from the persons referred to in Article 11 of this Act, which it shall verify, inspect and, as necessary, publish, under the conditions provided for in 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, as necessary, order them to put an end to such situations under the conditions provided for in Article 10

3) It shall respond to requests for opinions from the persons referred to in point 1) of this sub-section I on the ethical issues they encounter in the exercise of their office or of their functions. Said opinions, as well as the documents on the basis of which they are issued, shall not be made public.

4) Pursuant to Article 23, it shall rule on the compatibility of carrying on an independent profession or a remunerated activity within an organisation or undertaking that operates in a competitive sector in accordance with private law rules, with the governmental duties or local executive duties listed in point 2) of sub-section I of Article 11 that were performed during the three years prior to the start of said activity

5) At the request of the Prime Minister or at his/her own initiative, it shall issue recommendations for the application of this Act, which it shall send to the Prime Minister and to the public authorities that it designates as recipients. It shall draw up recommendations on relations with the representatives of interests and the practice of giving and receiving gifts and benefits during the performance of the duties and mandates referred to in Articles 4 and 11.

Each year, the High Authority shall submit a public report to the President of the French Republic, to the Prime Minister and to the Parliament that reviews the performance of the High Authority's mandates. This report shall not contain any personal data other than that which the High Authority previously published pursuant to Articles 7, 10 and 23. Said report shall be published in the Official Journal.

II. — If 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.

Matters may also be referred to the High Authority, under the same conditions, by non-profit organisations, the purpose of which, according to their articles of association, is to combat corruption, which the High Authority has previously approved in accordance with objective criteria that are defined in its general rules.

The High Authority for Transparency in Public Life may ask the persons referred to in Articles 4, 11 and 23 for all explanations or all documents that are necessary for the performance of its mandates, as provided for in sub-section I of this Article. It may interview or consult any person whose assistance the High Authority deems to be useful.

It may task one or more of its members or rapporteurs with carrying out or instructing its officers to carry out verifications of the contents of the declarations provided for in Article LO 135-1 of the Electoral Code and Articles 4 and 11 of this Act and of the information in its possession.

Article 21

In point 1) of sub-section I of Article 6 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, after the word “decision”, the following words shall be inserted: “the documents drawn up or held by the High Authority for Transparency in Public Life as part of the mandates provided for in Article 20 of Act no. 2013-907 of 11 October 2013 on transparency in public life,”.

Article 22

When the High Authority observes that a person referred to in Articles 4 or 11 does not comply with the obligations provided for in Articles 1, 2, 4 and 11 or finds himself or herself in the situation provided for in the second paragraph of Article 7, the High Authority shall notify the breach of the obligation to:

- 1) The President of the French Republic, when it is the Prime Minister
- 2) The Prime Minister, when it is another member of the Government
- 3) The President of the European Parliament, when it is a French Member of the European Parliament
- 4) The president of the deliberative assembly, when it is a person referred to in point 3) of sub-section I of Article 11
- 5) The appointing authority, when it is a person referred to in point 4) or 5) of said sub-section I
- 6) The president of the independent administrative authority or of the independent public authority, as well as the appointing authority, when it is a person referred to in point 6) of said sub-section I
- 7) The minister who has authority or who supervises the body concerned, when it is a person referred to in point 7) of said sub-section I or sub-section III of Article 11

Article 23

I — In light of the requirements provided for in Article 1, the High Authority shall rule on the compatibility of carrying on an independent profession or a remunerated activity within an organisation or undertaking that operates in a competitive sector in accordance with private law rules, with the governmental duties or local executive duties listed in point 2) of sub-section I of Article 11 that were performed during the three years prior to the start of said activity.

In order to carry out this verification, a matter may be referred to the High Authority:

- 1) Either, by the person concerned, before s/he begins carrying on the contemplated activity
- 2) Or, by its President, within two months of becoming aware of the unauthorised performance of an activity that is carried on under the conditions provided for in the first paragraph of this sub-section I

The High Authority shall issue its opinion within three weeks as from the matter being referred to it. Said timeframe may be extended to one month by decision of the High Authority's President. The High Authority shall give the person concerned the opportunity to make comments, except when it issues an opinion confirming compatibility after the person concerned has referred a matter to it.

If the High Authority does not issue an opinion during this timeframe, an opinion confirming compatibility shall be deemed to have been issued.

II. — Opinions confirming compatibility may include reservations, the effects of which may be binding on the person concerned, for a maximum period that expires three years after the end of the performance of the governmental duties or the local executive duties. When the

High Authority issues an opinion confirming incompatibility, the person concerned cannot carry on the contemplated activity for a period that expires three years after the end of the performance of the governmental duties or the local executive duties.

The High Authority shall notify its decision to the person concerned and, as required, to the organisation or undertaking where said person already performs his/her duties in breach of the first paragraph of sub-section I. The instruments and contracts entered into with a view to the performance of this activity:

1) Shall become ineffective when the matter is referred to the High Authority under the conditions laid down in point 1) of sub-section I

2) Shall be automatically null and void when the matter is referred to the High Authority under the conditions laid down in point 2) of sub-section I

When the matter is referred to it pursuant to said point 2) and it issues an opinion confirming incompatibility, the High Authority shall make said opinion public.

The High Authority may issue an opinion confirming incompatibility when it considers that it has not obtained the requisite information from the person concerned.

III. — Acting under a delegation from the High Authority and under the conditions provided for in its general rules, the President of the High Authority may issue an opinion confirming compatibility, in the event that the contemplated activity is clearly compatible with the prior duties of the person concerned, or an opinion stating that it does not have jurisdiction or that the referral is inadmissible or an opinion which finds that there are no grounds to rule.

IV. — When it becomes aware of the performance, by a person referred to in sub-section I, of an activity that is being carried on in breach of an opinion confirming incompatibility or of an activity that is being carried on in breach of the reservations expressed in an opinion confirming compatibility, and after the person concerned has been given an opportunity to provide explanations, the High Authority shall publish a special report in the Official Journal that includes the opinion issued and the written comments of the person concerned.

The High Authority shall send the Public Prosecutor the special report referred to in the first paragraph of this sub-section IV and the evidence in its possession concerning said breach of its opinion.

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

Article 24

I — Article 6 of Act no. 77-729 of 7 July 1977 on the election of Members of the European Parliament shall be amended as follows:

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

2) After the second paragraph, a paragraph worded as follows shall be inserted:

“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.”

II. — The second paragraph of Article 46 of Act no. 84-16 of 11 January 1984 on statutory provisions for the state civil service, Article 65 of Act no. 84-53 of 26 January 1984 on statutory provisions for the local civil service and Article 53 of Act no. 86-33 of 9 January 1986 on statutory provisions for the hospital civil service shall be deleted.

III. — This Article shall enter into force on 1 January 2014.

Section 6: Protection for whistleblowers

Article 25

I — No person may be excluded from a recruitment procedure or denied access to an internship or a period of vocational training, or be disciplined, dismissed or be subjected to a direct or indirect discriminatory measure, in particular concerning remuneration, treatment, training, redeployment, assignment, qualifications, classification, career advancement, transfer, or contract renewal, for having reported or recounted, in good faith, to his/her employer, to the authority responsible for ethics within the organisation, to a non-profit organisation that combats corruption which is approved in accordance with sub-section II of Article 20 of this Act or of Article 2-23 of the Criminal Procedure Code or to the judicial or administrative authorities, matters relating to a conflict of interest, as defined in Article 2 of this Act, concerning one of the persons referred to in Articles 4 and 11, of which s/he may have been aware in the performance of his/her duties.

All employment contract terminations that result therefrom or all instruments to the contrary shall be automatically null and void.

In the event of a dispute over the application of the first two paragraphs of this sub-section I, provided that the person proves facts making it possible to presume that s/he recounted or reported, in good faith, information in connection with a conflict of interest, the defendant shall be responsible, in light of said facts, for proving that his/her decision is justified by objective considerations that are unrelated to the declaration or report of the person concerned. The judge may order all relevant investigative measures.

II. — All persons who report or recount facts in connection with a conflict of interest, within the meaning of sub-section I of this Article, in bad faith or with the intention of causing harm or with at least partial knowledge of the inaccuracy of the facts made public or disclosed shall receive the penalties provided for in the first paragraph of Article 226-10 of the Criminal Code.

Chapter II: Criminal provisions

Article 26

I — If one of the persons referred to in Articles 4 or 11 of this Act does not file one of the declarations provided for in said Articles, 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 Articles 131-26 and 131-26-1 of the Criminal Code, as well as the prohibition of holding public office, in accordance with Article 131-27 of the same Code.

II. — If one of the persons referred to in Articles 4, 11 or 23 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, s/he shall receive a one-year prison sentence and a €15,000 fine.

III. — The act of publishing, other than under the circumstances provided for by this Act, or of disclosing, in any way whatsoever, all or part of the declarations, information or comments referred to in Articles LO 135-1 and LO 135-3 of the Electoral Code and Articles 4, 6 and 11 of this Act is liable to the penalties referred to in Article 226-1 of the Criminal Code.

Article 27

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

“Art. 131-26-1. – Under the circumstances provided for by the Act and as a departure from the seventh paragraph of Article 131-26, the ineligibility penalty referred to in point 2) of said Article may be handed down for a maximum of ten years against a person who held a position of Government member or a public elective office at the time of the violation.”

II. — In point 9) of Article 324-7 and at the end of part 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 paragraph of Article L. 117 of the Electoral Code, the words “in accordance with the rules provided for by said Article” shall be replaced by the words “as well as the ineligibility provided for in Article 131-26-1 of the same Code, in accordance with the rules provided for in said Articles”.

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

1) In the third paragraph of Article 1741 and 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 paragraph of section 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: “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 supplemented by a paragraph that is worded as follows:

“Besides the additional penalties provided for in Article L. 249-1, the court may also hand down, as an additional penalty, under the circumstances provided for in this Article, the loss of civic, civil and family rights provided for in Article 131-26 of the Criminal Code.”

Article 28

The first paragraph of Article 432-13 of the Criminal Code shall be amended as follows:

- 1) The words “a two-year prison sentence and a €30,000 fine” shall be replaced by the words “a three-year prison sentence and a €200,000 fine, the amount of which may be increased to twice that of the income derived from the offence,”
- 2) After the words “in the capacity of”, the following words shall be inserted: “member of the 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 concerning the application of the fifth paragraph of Article 13 of Constitution, a line worded as follows shall be inserted:

“	President of the High Authority for Transparency in Public Life	Standing Committee with Authority on Constitution Acts	”
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Article 30

I — Articles 1 to 5-1 of Act no. 88-227 of 11 March 1988 on financial transparency in political life shall be repealed, subject to the provisions of paragraph two of sub-section II of this Article.

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

The procedures for review of changes in financial circumstances that are pending before the Commission for Financial Transparency in Political Life in connection with offices or functions that include an obligation to file declarations under Articles 1 and 2 of Act no. 88-227 of 11 March 1988 on financial transparency in political life and that ended before the effective date of this Act, or for which a declaration was to be filed under section II of Article 21 of Act no. 2011-412 of 14 April 2011 that simplified provisions of the Electoral Code and concerning financial transparency in political life, 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 Articles 1 to 3 of the aforementioned Act no. 88-227 of 11 March 1988.

The procedures concerning offices or functions that include an obligation to file declarations under Articles 1 and 2 of said Act no. 88-227 of 11 March 1988, and that are in progress on the effective date of this Act, shall be managed by the High Authority. With regard to said procedures, the High Authority shall have the prerogatives provided for in this Act.

III. — The last paragraph of Articles L. 195 and L. 367 of the Electoral Code shall be deleted and point 4) of Article L. 230 and point 3) of Articles L. 340 and L. 558-11 of said Code shall be repealed.

Article 31

Article L. 139 B of the Book of 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 paragraph of” shall be replaced by the words “or by his/her spouse with separate property, his/her partner by civil union or his/her common law spouse, pursuant to”
- 3) After the word “referred to”, the end of the article shall be worded as follows: “in Articles 4 and 11 of Act no. 2013-907 of 11 October 2013 on transparency in public life, pursuant to Article 6 of said Act.”

Article 32

In the eleventh paragraph of section I of Article 13 of Act no. 78-17 (Data Protection Act) of 6 January 1978, the words “all national elective offices,” shall be deleted.

Article 33

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

Each of the members of the Government shall draw up, at the latest on 1 February 2014, an asset declaration and a declaration of interests, in accordance with the rules provided for in Article 4.

Each of the persons referred to in Article 11 shall draw up an asset declaration and a declaration of interests, in accordance with the rules provided for in said Article 11, at the latest:

- 1) On 1 February 2014, for the persons referred to in points 1), 4) and 5) of sub-section I of said Article 11

- 2) On 1 June 2014, for the persons referred to in points 2) and 3) of said sub-section I
- 3) On 1 October 2014, for the persons referred to in points 6) and 7) of said sub-section I as well as in sub-section III of said Article 11

Article 34

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 that is worded as follows:

“Art. L. 2123-18-1-1. – In accordance with the conditions set by an annual deliberation, the municipal council may make a vehicle available to its members or municipal officers where warranted by performance of their offices or their duties.

“All other benefits in kind shall be the subject of a nominative decision, which shall specify the rules of use thereof.”

2) Section 3 of Chapter III of Title II of Book I of the third part shall be supplemented by an Article L. 3123-19-3 that is worded as follows:

“Art. L. 3123-19-3. – In accordance with the conditions set by an annual deliberation, the *département* council may make a vehicle available to its members or officers of the *département* where warranted by performance of their offices or their duties.

“All other benefits in kind shall be the subject of a nominative deliberation, which shall specify the rules of use thereof.”

3) Section 3 of Chapter V of Title III of Book I of the fourth part shall be supplemented by an Article L. 4135-19-3 that is worded as follows:

“Art. L. 4135-19-3. – In accordance with the conditions set by an annual deliberation, the regional council may make a vehicle available to its members or officers of the region where warranted by performance of their offices or their duties.

“All other benefits in kind shall be the subject of a nominative deliberation, which shall specify the rules of use thereof.”

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

“Art. L. 5211-13-1. – In accordance with the conditions set by an annual deliberation, the decision-making body of a government-funded intercommunal co-operation institution may make a vehicle available to its members or officers of the government-funded institution where warranted by performance of their offices or their duties.

“All other benefits in kind shall be the subject of a nominative deliberation, which shall specify the rules of use thereof.”

Article 35

I — This Act shall be applicable in French Polynesia, in New Caledonia and in Wallis and Futuna, with the exception of sub-section II of Article 24, in that it deletes the second paragraph of Article 65 of Act no. 84-53 of 26 January 1984 on statutory provisions for the local civil service and Article 53 of Act no. 86-33 of 9 January 1986 on statutory provisions for the hospital civil service , and of sub-section 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 the application of this Act, 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.

This Act shall be enacted.

Done in Paris, on 11 October 2013.

(1) Act no. 2013-907. — Preparatory work: National Assembly: Bill no. 1005; Report by Mr Jean-Jacques Urvoas, on behalf of the Constitutional Acts, Legislation and General Administration Committee, no. 1109; Debated on 17 and 19 June 2013 and adopted, after instituting the accelerated procedure, on 25 June 2013 (Adopted Text no. 162). Senate: Bill, adopted by the National Assembly, no. 689 (2012-2013); Report by Mr Jean-Pierre Sueur, on behalf of the Constitutional Acts, Legislation and General Administration Committee, no. 722 (2012-2013); Committee wording proposal no. 724 (2012-2013); Debated on 9 and 15 July 2013 and adopted on 15 July 2013 (Adopted Text no. 193, 2012-2013). National Assembly: Bill, amended by the Senate, no. 1250; Report by Mr Jean-Jacques Urvoas, on behalf of the Mixed Joint Committee, no. 1272. Senate: Report by Mr Jean-Pierre Sueur, on behalf of the Mixed Joint Committee, no. 770 (2012-2013); Committee findings no. 772 (2012-2013). National Assembly: Bill, amended by the Senate, no. 1250; Report by Mr Jean-Jacques Urvoas, on behalf of the Constitutional Acts, Legislation and General Administration Committee, no. 1280; Debated on 22 July 2013 and adopted on 23 July 2013 (Adopted Text no. 192). Senate: Bill, adopted by the National Assembly after a new reading, no. 798 (2012-2013); Report by Mr Jean-Pierre Sueur, on behalf of the Constitutional Acts, Legislation and General Administration Committee, no. 801 (2012-2013); Committee findings no. 803 (2012-2013); Debated and adopted on 25 July 2013 (Adopted Text no. 211, 2012-2013). National Assembly: Bill, amended during a new reading by the Senate, no. 1335; Report by Mr Jean-Jacques Urvoas, on behalf of the Constitutional Acts, Legislation and General Administration Committee, no. 1345; Debated on 11 September 2013 and adopted during the final reading on 17 September 2013 (Adopted Text n° 208). — Constitutional Council: Decision no. 2013-676 DC of 9 October 2013.
