

# HIGH AUTHORITY

FOR TRANSPARENCY IN PUBLIC LIFE

ACTIVITY  
REPORT

2015

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## SUMMARY

The first activity report of the High Authority for transparency in public life (HATVP) covers a two-year period, from its creation by the laws of 11 October 2013 to the end of 2015.

This report traces back the process leading to the creation of this new institution and the conditions under which it launched its activity. It also highlights and reviews the main accomplishments of the High Authority during its first two years of operation in implementing its new prerogatives. For each mission of the High Authority, the report addresses the difficulties and challenges faced during the past two years, and draws recommendations on the future developments of the High Authority, whether they be legislative or regulatory amendments.

The first part of the report is dedicated to the context of its creation following the adoption of the laws of 11 October 2013, as well as the organization and functioning of the institution.

The second part focuses on the entry into force of the provisions of the laws on transparency in public life, which entailed the reception of several thousand declarations of assets and interests in 2014, and the publication, on the High Authority's website, of the ones provided for in the law.

The third part assesses the implementation of the High Authority's prerogative to control the declarations it receives. The report describes both its mission to audit public officials' declarations of assets and control their statements of interests.

The final part reviews the counsel missions that the High Authority fulfills by answering requests for opinions from its declarants and by developing institutional relations and training for elected and appointed public officials, both in France and abroad.

### 1. A NEW AUTHORITY TO ENHANCE TRANSPARENCY IN PUBLIC LIFE

The High Authority for transparency in public life was created **under particular circumstances**. While the inadequacy of the French system for preventing breaches of probity had been widely discussed within the public debate for years, had been highlighted in several reports to the President of the Republic and had given way to numerous legislative proposals, no substantive changes in the French integrity system had been seriously considered prior to 2013.

The resignation, for tax fraud, of the minister delegate in charge of the budget changed the calendar of legislative reforms. The legislator adopted two laws, an organic act and an ordinary act, which were passed in record time. Indeed, only six months were spent between the announcement of the proposed legislation on transparency in public life and the promulgation of the laws, despite a substantial enrichment of these bills during their passage through Parliament.

Thanks to these laws, the French mechanism for controlling the asset declarations of public officials **was revised** by granting the High Authority the power to request assistance from tax authorities and entrusting this new independent administrative authority with the mission to prevent conflicts of interests. The laws also provide that part of the declarations received by the High Authority has to be made public.

Lastly, rules have been laid down regarding the composition and day-to-day functioning of the High Authority.

The first step of this step-by-step implementation was the appointment of the President of the High Authority, Mr. Jean-Louis Nadal, by decree of the President of the French Republic, with the assent of both Houses of Parliament, and the designation of the eight other members of the board, of which six come from the highest French courts and two are respectively appointed by the Speakers of the National Assembly and of the Senate.

## 2. A SPECIAL FIRST YEAR OF OPERATION

The High Authority progressively launched its activity during its first two years of operation. The new disclosure obligations provided by the laws of 11 October 2013 entered into force rapidly, right from the beginning of 2014.

The legislator's intention was to ensure that all the public officials falling within the scope of the laws would submit an asset declaration as well as a statement of interests in 2014, whether they were new declarants or had already filed declarations to the former Commission for the financial transparency of political life. The declaration submissions took place during three different phases: in February, June and October 2014. The High Authority received nearly 18,000 statements throughout the course of the year.

**A threefold challenge for the High Authority was the result of this rapid entry into force:**

- > **Identifying** the different categories of public officials subject to the High Authority's auditing : this identification work was easy for some well-known declarants such as members of Government or members of Parliament, but became more complex for other categories, notably those who had never submitted any declaration to the previous Commission, for example government advisors or members of independent administrative agencies.
- > **Monitoring** disclosure requirements: once all individuals subject to disclosure requirements were identified, the High Authority had to proceed to the registration and digitization of their declarations. The High Authority also had to send reminders to those who had not filed their declarations and issue injunctions in case of delayed statements.



> **Assisting** individuals subject to declaration procedures: in 2014, many public officials had to file an asset declaration for the first time, and statements of interests were a novelty for all of them. To facilitate the implementation of these obligations, the High Authority elaborated guidelines, developed an e-filing service making it easier for public officials to send their declarations, and set up a dedicated hotline.

**More than 2,000 declarations were made public** by the High Authority in 2014 and 2015. The High Authority published on its website the declarations of assets and interests of two successive governments, as well as the declarations of interests of many elected representatives, including members of Parliament, French members of the European Parliament, mayors of major cities and regional representatives. In addition, the asset disclosures of 735 members of Parliament elected before September 2014 were made available for consultation in certain government buildings (prefectures) by individuals registered on electoral lists.

### 3. DRAW LESSONS FROM THE FIRST AUDITING CYCLE

During its first two years of operation, the High Authority implemented all the prerogatives it had been entrusted with by the legislator in order to concur in the strengthening of probity amongst public officials.

The High Authority first supervised the **fiscal verification procedure for ministers** of two successive governments. The laws on transparency in public life indeed provide that the tax authorities shall conduct a systematic and comprehensive fiscal verification procedure for newly appointed members of Government, under the supervision of the High Authority. This procedure proved to be very effective, but practice has shown that improvements could be made, in order not only to solidify the High Authority's role but also to ensure improved information for the President of the Republic and the Prime minister if necessary.

The High Authority then carried out the **control of asset disclosures** of members of Government and parliamentarians, with the objective, laid down by the legislator, to verify the *"completeness, accuracy and sincerity"* of the declarations. The operating and monitoring modalities have been defined over time, and focus on three key aspects:

> **The exchanges between the High Authority and the tax authorities:** the laws on transparency in public life provide that the High Authority transfers the asset declarations of Government ministers and members of Parliament to the tax administration which, in return, provides all the information it holds to enable an efficient auditing. However, the laws do not precisely determine the information that the High Authority can request from the tax authorities.

> **The process for exchanging with individuals subject to disclosure requirements:** should any differences arise between the declared assets and the information submitted by the fiscal authorities, declarations are examined by means of a contradictory procedure. The High Authority enters in continuous dialog with the declarant through written exchanges and, when necessary, declarants are received by the person in charge of examining their case. The decisions taken by the board of the High Authority are based, as a consequence, on the result of these exchanges.

> **The decisions of the High Authority and their rationale:** the laws of 11 October 2013 entitled the High Authority with the possibility, in case of incomplete statements or untruthful evaluation of assets, to issue an opinion on the declaration or to refer the case to the public prosecutor's office, on the basis of criminal offenses provided for in these laws. The criteria justifying such decisions are to be determined by the High Authority. In case of small omissions and under-evaluations of assets, the High Authority asks declarants to submit amending declarations, so that the published declarations give a comprehensive picture of their assets and liabilities.

While conducting the first auditing cycle of asset declarations, the High Authority identified difficulties and challenges regarding the concrete articulation of its competences with those of the fiscal authorities. These difficulties could be resolved by giving the High Authority the competency to carry out verifications itself.

Lastly, in 2014 and 2015, the High Authority **supervised and controlled the declarations of interest** of several thousand public officials. When examining these declarations and investigating undeclared interests, the High Authority sought to identify situations in which a conflict of interest may arise and to determine, by entering into dialog with the declarants, the decisions to be taken in order to avoid or cease the contentious situations. These exchanges with public officials also enabled the High Authority to refine its interpretation of the notion of "conflict of interest", and to define the criteria that characterize such situations.

#### 4. THE HIGH AUTHORITY, AN ETHICS ADVISOR

In addition to its mission of control, the High Authority has sought, during its first two years of activity, to play a key role in fostering a **culture of integrity** in the public sector.

The High Authority plays a counseling role for public institutions. For example, the High Authority received individual requests from public officials to prevent a situation of conflict of interest, and several institutions requested its advice and practical guidance for the elaboration of internal ethical mechanisms.

The High Authority also advised former members of Government who wanted to start or return to a compensated activity in the private sector after termination of their duties. The laws of October 2013 provide that for three years after the end of their mandates, all former ministers, mayors or president of local executive's administrations must demand an authorization from the High Authority in order to carry out such activities. The High Authority formulated reservations to guard these individuals against the risk of incurring penalties and to ensure that the exercise of their new professional activity does not interfere with the operations of their former Ministry. The High Authority drew attention of local government officials on ethical obligations most of them are not aware of.

To inform and heighten awareness amongst public officials on the new ethical obligations laid down by the laws on transparency in public life, the High Authority developed tools and training courses for elected or appointed public officials. The institution also developed international connections, in order to be identified as a key institution in the area of public integrity by international organizations, to progressively build up a network of national institutions working on these issues and participate in bilateral cooperation projects.

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## LIST OF PROPOSALS

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### → PROPOSAL N°1

Issue a decree clarifying which state-owned companies executive officers fall within the scope of the High Authority.

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### → PROPOSAL N°2

Readjust exemption periods in order, for example, not to require from a public official a new declaration until a year has elapsed, unless there is a substantial change in the elements declared.

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### → PROPOSAL N°3

Issue a circular of the finance Minister reminding that the fiscal verification procedure for members of Government is overseen by the sole High Authority for transparency in public life.

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### → PROPOSAL N°4

Enable the President of the Republic and the Prime minister to be fully informed in the event of an issue concerning the tax situation of a member of Government or any individual who is put forward to serve in the Government.

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### → PROPOSAL N°5

Make it mandatory for public officials to submit their declarations online via the e-filing service set up by the High Authority and, accordingly, simplify and improve the list of information requested.

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### → PROPOSAL N°6

Entrust the High Authority with its own powers of investigation and grant it access to the tax administration's databases in order for the High Authority to carry out its missions efficiently.

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### → PROPOSAL N°7

Extend to two months the timeframe within which the High Authority must issue its opinion on the start of a professional activity in the private sector by a former Minister or local government official.

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### → PROPOSAL N°8

Authorize the High Authority to publish the opinions it issues on revolving doors.

**HATVP** 

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