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April 1st, 2011

## LAW

### **Law no. 88-227, of March 11, 1988 on financial transparency in political life.**

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Consolidated version on March 29, 2011

#### **1st TITLE: PROVISIONS CONCERNING THE DECLARATION OF ASSETS OF THE MEMBERS OF THE GOVERNMENT AND THE HOLDERS OF CERTAIN ELECTIVE OFFICES.**

##### **Article 1**

- Modified by the Law no. 95-126, of February 8, 1995 - art. 1

All members of the Government, within the first two months following the nomination, addresses the President of the Commission set in article 3 of the present law a declaration of the situation of assets established in the conditions stipulated in article L.O. 135-1 of the electoral code.

"The same obligation is applicable within the first two months following the termination of duties for a reason other than death.

"However, no other new declaration is required of the member of the Government who has established for less than six months a declaration of its situation of assets pursuant to the article L.O. 135-1 of the electoral code, of the present article or of article 2 of the present law. "

##### **Article 2**

- Modified by Order 2000-916 2000-09-19 art. 5 JORF September 22, 2000

The holder of a mandate of French representative at the European Parliament, of an office of president of the regional council, of a department, of Mayotte or Saint-Pierre-et-Miquelon, of president of the Assembly of Corsica, of president of the executive council of Corsica, of president of an overseas territorial assembly, of president of a general council, of elected president of an executive of an overseas territory, of mayor of a commune of more than 30 000 inhabitants or of elected president of a municipality with a personal tax system with a population greater than 30 000 inhabitants, addresses within the first two months following its entry on duty, to the president of the commission established in article 3 of the present law a declaration of the situation of assets, stipulated in the conditions set in article L.O. 135-1 of the electoral code.

The same obligation is applicable to the regional advisors, to the executive advisors of Corsica, to the general advisors of the departments, of Mayotte and Saint-Pierre-et-Miquelon to the deputy-mayors of communes of more than 100 000 inhabitants, if they are holders of a delegation of the signature of president of the regional council, the president of the executive council, the president of the general council or the mayor, in the conditions imposed by the law.

The delegations of signature shall be notified without delay by the executive of each territorial community to the president of the commission established in article 3.

The same obligation is applicable to each of the persons subject to the provisions of the first two paragraphs of the present article at least two months before the regular date of expiration of its mandate or office or, in case of resignation, revocation or dissolution of the assembly it presides within the first two months following the end of its office.

However, no other new declaration is required of the person who has established for less than six months a declaration of its situation of assets pursuant to the article L.O. 135-1 of the electoral code, of the 1st article of the present law or of the present article.

For the application of the present article, the population taken into account is the one resulting from the last national census known at the moment of the municipal council renewal.

The same obligation is applicable to presidents, directors-general and deputy directors-general of national enterprises and national public establishments of an industrial or commercial nature, as well as to presidents, directors-general and deputy directors-general of low-cost public housing bodies managing more than 2 000 accommodations, and of public limited companies with an annual turnover of more than 750 000 Euro. The list of these offices is established by decree of the Council of State. These declarations have to be submitted to the commission stipulated in article 3 below within the month following the start or the end of the offices. The appointment of the mentioned persons in the present paragraph is, as the case may be, subject to the substantiation of the submission of the due declaration upon termination of the previous offices. It is considered null if, at the expiry of the period of one month, the declaration foreseen at the entry on duty hasn't been submitted.

### **Article 3**

· Modified by the Law no. 96-5, of January 04, 1996 - art. 1

I. - A commission for the financial transparency of the political life is set up, responsible for receiving the declarations of the members of Parliament and the persons mentioned in the 1st and 2nd articles of the present law, composed as follows:

1° Three ex officio members:

- the vice-president of the Council of State, president;

- the first president of the Court of Cassation;

- the first president of the Court of Auditors.

2° Six full members and six alternate members thus designated:

- four section presidents or State advisor, employed or honorary, two of which have the alternate member quality, elected by the general assembly of the Council of State.

- four presidents of chamber or advisors within the Court of Cassation, employed or honorary, two of which have the alternate member quality, elected by the group of judges of the peer seat of the Court;

- four presidents of chamber or chief advisor within the Court of Auditors, employed or honorary, two of which have the alternate member quality, elected by the Council chamber.

The members of the commission are appointed by decree.

The secretary-general of the commission is appointed by decision of the keeper of the seals upon proposal of the ex officio members.

The commission is assisted by the rapporteurs designated by the vice-president of the Council of State among the members, employed or honorary, of the Council of State and the body of advisors of administrative courts and administrative courts of appeal, by the first president of the Court of Cassation among the judges, employed or honorary, of the Court of Cassation and the courts and tribunals, by the first president of the Court of

Auditors among the judges, employed or honorary, of the Court of Auditors and regional chambers of auditors. It may also benefit, for performing their tasks, from the provision of civil servants.

A decree by the Council of State sets the organization and functioning of the commission, as well as the applicable procedures.

II. - The commission for the financial transparency of the political life informs the competent authorities concerning the non compliance of the persons mentioned in the 1st and 2nd articles of the present law with the obligations defined by these articles, after they have been called to provide explanations.

The persons mentioned in the 1st and 2nd articles of the present law communicate to the Commission for the financial transparency of the political life, during the exercise of their mandate or office, all the significant modifications of their assets, every time they consider it useful.

The commission ensures the confidentiality of the received declarations, as well as of the formulated remarks, as the case may be, by the declarer on the evolution of their assets.

The submitted declarations and the formulated remarks have be communicated only upon specific request by the declarer or its beneficiaries or on request of the judicial authorities in case this communication is necessary for the resolution of the litigation or useful for the discovery of the truth.

The commission evaluates the variation of the situation of the assets of the members of Parliament and the persons mentioned in the 1st and 2nd articles of the present law as it results from the declarations and remarks addressed to it. It establishes, every time it is considered useful, and at all events every three years, a report published in the Official Journal of the French Republic.. This report does not contain any nominal indication concerning the situation of the assets,

In the cases where the commission identifies, after the person interested was given the possibility to make its remarks, the evolutions of assets for which it holds no explanations, it forwards the file to the prosecution.

#### **Article 4**

· Modified by the Law n°95-126, of February 8, 1995 - art. 5

Publishing or disclosing, in any way whatsoever, all or part of the declarations or remarks mentioned in the article L.O. 135-1 of the electoral code and to the articles 1 to 3 of the present law aside from the audit aimed report article 3 is blamed for the errors in article 226-1 of the penal code. “

## **Article 5**

- Modified by the Law no. 95-126, of February 8, 1995 - art. 6

I.-modification of the article L195 of the electoral code

II.-modification of the article L230 4° of the electoral code

III.-modification of the article L340 of the electoral code

IV.- Are ineligible, during one year, for the territorial assembly of an overseas territory the president of a territorial assembly and the president elected by an executive who hasn't submitted yet one of the declarations stipulated in article 2 of the present law.

V. - Is ineligible, during one year, as a member of the deliberative body of a municipality with a personal tax system, the president of such a body who hasn't submitted yet one of the declarations stipulated in article 2 of the present law. The compulsory retirement of the interested party is sentenced by the administrative court on request of the territorially competent prefect for the seat of the body.

## **Article 6**

Has modified the following provisions:

- Modified the electoral code - art. L167 (M)

## **TITLE III: PROVISIONS CONCERNING THE POLITICAL PARTIES AND BODIES AND THEIR FINANCING.**

## **Article 7**

The political parties and bodies are formed and perform their activities freely. They have legal personality.

They have the right to litigate.

They have the right to acquire, for free or for a fee, movable or immovable goods: they are able to perform all the deeds compliant to their mission and especially to create and manage the journals and training institutes according to the law provisions in force.

## **Article 8**

- Modified by the Law no. 90-55, of January 15, 1990 - art. 10 JORF January 16, 1990

The amount of the credits contained in the finance bill of the year to be allocated to the financing of political parties and bodies, may, as the Bureau of the National Assembly and the Senate is concerned, be the object of the joint proposals to the Government.

This amount is divided into two equal fractions:

1° The first fraction shall be used to finance parties and bodies depending on their results for the National Assembly elections.

2° The second fraction shall specifically be used to finance parties and bodies represented in Parliament.

## **Article 9**

· Modified by the Order no. 2009-536, of May 14, 2009 - art. 15

The first fraction of the aids established in article 8 is allocated:

- either to the political parties and bodies having presented, on the occasion of the most recent renewal of the National Assembly, candidates that each have obtained at least 1 % of the votes cast in at least fifty constituencies;

- or to the political parties and bodies having presented candidates, on the occasion of the most recent renewal of the National Assembly only in one or more overseas departments, or in Saint-Pierre-et-Miquelon, Saint-Barthélemy, Saint-Martin, Mayotte, New Caledonia, French Polynesia or the islands Wallis and Futuna, and whose candidates have obtained at least 1 % of the votes cast in all the constituencies where they appeared.

The distribution is performed proportionately to the number of votes obtained in the first tour of elections by each of the respective parties and bodies. The votes obtained by the candidates declared ineligible pursuant to article L.O. haven't been taken into account. 128 of the electoral code.

For the distribution stipulated in the previous paragraphs, the candidates running for Member of Parliament (deputy) indicate, where appropriate, in their candidature statement, the political party or body they join. This party or body may be chosen from a list established by decision of the Minister of the Interior published by the Official Journal of the French Republic no later than the fifth Friday prior to the polling day, or outside this list. The list comprises the group of political parties or bodies having submitted to the ministry of the interior, no later than the sixth Friday prior to the polling day, at sixteen hours, a request with the object of benefiting from the first fraction of the aids established in article 8.

The second fraction of these aids is allocated to the political parties and bodies which are beneficiaries of the first fraction, set below proportionally to the number of members of Parliament having declared to the bureau of their assembly, during the month of November, that they were registered or had joined the said party or body.

Each Member of Parliament may indicate only one political party or body for the application of the previous paragraph.

No later than December 31 of the present year, the National Assembly bureau and the Senate bureau communicate to the Prime-Minister the distribution of the member of Parliament among political parties and bodies, as it results from the declarations of the members of Parliament.

The amount of the aids allocated to each party or body is identified in a reported attached to the financial bill of the year.

### **Article 9-1**

- Modified by the LAW no. 2009-526, of May 12, 2009 - art. 80

In case, for a political party or body, the difference between the number of candidates of each sex having declared to join this party or body, on the occasion of the last general renewal of the National Assembly, according to the fifth paragraph of article 9, exceeds 2 % of the total number of these candidates, the amount of the first fraction allocated to it for the application of articles 8 and 9 is diminished by a percentage equal to three quarters of this difference proportional to the total number of these candidates.

This reduction is not applicable to the political parties and bodies having presented exclusively overseas candidates if the difference between the number of candidates of each sex who have joined it is not superior by one.

*[Provisions declared non compliant to the Constitution by decision of the Constitutional Council n°2000-429 DC, of May 30, 2000.]*

### **Article 10**

- Modified by the Law no. 90-55, of January 15, 1990 - art. 12 JORF January 16, 1990

The provisions concerning the financial control of the law of August 10, 1922, regarding the organization of the control of the expenditures incurred, are not applicable to the management of the credits mentioned in the articles 8 and 9.

The beneficiary political parties and bodies are not subject to the Court of Auditors. The provisions of the decree of October 30, 1935, concerning the control of the subsidized private associations, works and enterprises, do not apply to them.

### **Article 11**

- Modified by the Law no. 90-55, of January 15, 1990 - art. 13 JORF January 16, 1990

The political parties and their territorial or specialized organizations designated to this purpose collect funds by an authorized representative namely designated by them, which is either a financing association, or a natural person.

### **Article 11-1**

- Modified by the Law no. 95-65, of January 19, 1995 - art. 14

The approval as a financing association of a political party is given by the National Commission for Campaign Accounts and Political Financing mentioned in article L. 52-14 of the electoral code, subject to the limitation of the social objective of the association to the sole financing of one political party and subject to the compliance of its statutes to the provisions of the following paragraphs of the present article. The approval is published in the Official gazette.

The statutes of an association approved as a financing association of a political party must include:

1° The definition of the territorial constituency inside which the association performs its activities;

2° The commitment to open a unique bank or postal account where all the donations received for the financing of a political party shall be deposited.

#### **Article 11-2**

· Modified by the Law no. 95-65, of January 19, 1995 - art. 15

The political party declares in written to the seat prefecture the name of the chosen natural person, designated as the financial representative. The declaration must be accompanied by the express agreement of the designated person and must specify the territorial constituency inside which the financial representative performs its activities.

The financial representative shall open a unique bank or postal account where all the donations received for the financing of the political party shall be deposited.

#### **Article 11-3**

· Created by the Law no. 90-55, of January 15, 1990 - art. 13 JORF January 16, 1990

The political party may successively resort to two or more intermediates. In this case, the party must end the offices of the financial representative or demand the retirement of the approval from the financial association using the same procedures as for the designation or the request for the approval. The unique bank or postal account is blocked until the party designates a new financial representative or receives the approval of a new financing association. Each association or financial representative, except in case of the latter's death, establishes its management account.

#### **Article 11-4**

· Modified by the Law no. 2005-1719, of December 30, 2005 - art. 5 JORF December 31, 2005

The donations agreed upon by natural persons properly identified to one or more associations recognized as financing associations or to one or more financial representative of the same political party do not have to exceed 7 500 Euro per year.



The legal persons, with the exception of political parties or bodies, cannot contribute to the financing of political parties or bodies, neither by approving donations, in whatever form, to their financing associations or financial representatives, nor by providing them with goods, services or other direct or indirect advantages for prices lower than those generally practiced.

The financing association or the financial representative issues to the donor a receipt whose conditions of establishment and use are set by a decree from the Council of State. This decree also determines the manners in which the delivered receipts for the donations of an amount equal or inferior to 3 000 Euro consented by the natural persons do not mention the name of the beneficiary party or body.

All donations exceeding 150 euro consented to a financing association or financial representative of a political party must be remitted, definitively and without payment, by check, by transfer, direct debiting or credit card.

Financing associations or financial representatives of a political party cannot receive, directly or indirectly, material contributions or aids from a foreign state or an ex officio foreign legal person.

The papers and documents from the financing association or the financial representative, meant for third parties, and having as objective to determine the payment of such donations must indicate, as the case may be, the name of the association and the date of approval or the name of the representative and the date of the declaration to the prefecture, as well as the political party or body recipient of the collected sums.

#### **Article 11-5**

- Modified by the Order no. 2000-916, of September 19, 2000 - art. 3 (V) JORF September 22, 2000 in force on January 1st, 2002

Those having paid or accepted donations in breach of the provisions of the prior article shall be punishable by a fine of 3 750 euro and a year of imprisonment or by just one of these two sentences.

#### **Article 11-6**

- Created by the Law no. 90-55, of January 15, 1990 - art. 13 JORF January 16, 1990

The approval is withdrawn to all associations having not complied with the prescriptions stipulated in the articles 11-1 and 11-4 of the present law.

In this case, or when it is noted that the summary statement mentioned in article 11-1 hasn't been transmitted, the votes received in the territorial jurisdiction of the association for the political party or body having requested its approval are retired, for the following year, from the calculation stated in the first paragraph of article 9.

#### **Article 11-7**

- Modified by the Law 95-65 1998-01-19 art. 17 JORF January 21, 1995

The beneficiary party or body of all or part of the provisions of the articles 8 to 11-4 have the obligation to keep accounts. These accounts have to record the accounts of the political party or body, as well as those of all the systems, companies or organizations in which the party or body holds half of the share capital or of the administrative body or exerts an important power of decisions or management.

The accounts of these parties or bodies are adopted every year. They are certified by two account auditors and submitted during the first semester of the year following the year of exercise at the National Commission for Campaign Accounts and Political Financing created in article L. 52-14 of the electoral code, ensuring their summary publication in the Official Journal of the French Republic. If the Commission determines a failure to meet the obligations stipulated in the present article, the political party or group loses the right, for the following year, of benefiting from the provisions or the articles 8 to 10 of the present law.

NOTE: Law 95-65 1998-01-19 art. 25

#### **Article 11-8**

- Created by the Law no. 90-55, of January 15, 1990 - art. 13 JORF January 16, 1990

All political parties or bodies having obtained the approval of a financing association or having designated a financial representative shall receive donations from the identified persons only by means of this association or representative. In case of breach, the provisions of the last paragraph in article 11-7 shall be applied.

#### **Article 11-9**

- Modified by the Order no. 2009-536, of May 14, 2009 - art. 15

The publications established by the present law also have to be made in the Official Journal of the French Republic, in the Official Journals of New Caledonia, French Polynesia and Wallis and Futuna islands, of Saint-Barthélemy, of Saint-Martin, of Saint-Pierre-et-Miquelon and the Official Gazette of Mayotte.

## **Article 12**

Has modified the following provisions:

- Modified the electoral code - art. L106 (M)

## **Article 13**

Has modified the following provisions:

- Repeal the Law no. 78-17 of January 6, 1978 - art. 32 (Ab)
- Modified the electoral code - art. L28 (V)

## **Article 14**

Has modified the following provisions:

- Modified the Law no. 66-537, of July 24, 1966 - art. 168 (M)

## **Article 15**

Has modified the following provisions:

- Created the Law no. 82-471, of June 07, 1982 - art. 5bis (M)

## **Article 16**

Has modified the following provisions:

- Modified the Law no. 86-1067, of September 30, 1986 - art. 14 (M)

## **TITLE IV: MISCELLANEOUS AND TRANSITIONAL PROVISIONS**

### **Article 17**

The provisions of the 1st and 2nd articles are applicable only to the persons designated or elected after the presidential election following the publication of the present law.

### **Article 18**

Eighteen months after [\*delay\*] the promulgation of the present law, the Government shall submit at the offices of the two assemblies a report on the enactment of the provisions contained by the present law and the organic law n° 88-226 of March 11, 1988 concerning the financial transparency of the political life.

At least one month and no later than two months [\*delay\*] after submitting the report, a public debate shall be organized during the first ordinary session of 1989-1990 [\*date-period\*] on the conditions of application of the laws mentioned in the previous paragraph.

### **Article 19**

· Modified by the Order no. 2000-350, of April 19, 2000 - art. 15

The present law is applicable in New Caledonia, in French Polynesia, the islands Wallis and Futuna and Mayotte.

FRANÇOIS MITTERRAND By the President of the Republic:

Prime Minister,

JACQUES CHIRAC

Minister of State, Minister of the Economy,

Finance and Privatization,

ÉDOUARD BALLADUR

The Keeper of the Seals, the Minister of Justice,

ALBIN CHALANDON

The Minister of Culture and Communication,

FRANÇOIS LÉOTARD

The Minister of Foreign Affairs,

JEAN-BERNARD RAIMOND

The Minister of the Interior,

CHARLES PASQUA

The Minister of the Overseas Departments and Territories,

BERNARD PONS

The Minister attached to the Minister of the Economy,

Finance and Privatization,

Responsible for the Budget,

ALAIN JUPPÉ

The Minister attached to the Minister of Culture  
and Communication,

Responsible for the communication,

ANDRÉ SANTINI

(1) Preparatory work: law n° 88-227.

National Assembly:

Bill n° 1215;

Mr. Mazeaud's report, on behalf of the Law Commission, n° 1217;

Discussion on February 2nd, 3rd and 4th, 1988;

Adoption on February 4th, 1988.

Senate:

Bill, adopted by the National assembly at first reading, n° 228 (1987-1988);

Mr. Jacques Larché's report, on behalf of the Law Commission, n° 230 (1987-1988);

Discussion on February 11 and 17, 1988;

Adoption on February 17, 1988.

National Assembly:

Bill, modified by the Senate at first reading, n° 1 229;

Mr. Mazeaud's report, on behalf of the Law Commission, n° 1240;

Discussion and adoption on February 23, 1988.

Senate:

Bill, adopted with modifications by the National assembly at second reading, n° 233 (1987-

1988);

Mr. Jacques Larché's report, on behalf of the Law Commission, n°235 (1987-1988);

Discussion and adoption on Thursday, February 25, 1988.