

# TRANSPARENCY, ANTI-CORRUPTION AND ECONOMIC MODERNISATION BILL

## INTRODUCTION

March 2016



## Foreword



### Transparency

The bill approved today by the French Government represents an essential stage in the drive to strengthen the values underpinning our democratic, economic and social compact – values that make ethics the lodestar for both public life and economic activity.

As a continuation of what I have been endeavouring to accomplish for years, it is designed to build on the progress brought about by the 1993 Sapin Act. The bill's purpose is to make France a great, contemporary, transparent democracy with effective means to counter corruption – a major reason why citizens distrust government and business alike. By unfairly tilting the competitive playing field, corruption also penalises companies.

This is the unifying theme of everything we do in our Ministry, from the fight against tax evasion and aggressive tax planning to our unwavering refusal to get involved in tax proceedings affecting specific individuals or companies. A key requirement for any democracy is transparency. And unflinching commitment to it is the responsibility of every political leader.

The constitutional bylaw and act on the transparency of public life of 11 October 2013 and the act of 6 December 2013 against tax evasion and economic and financial crime, both passed during François Hollande's term of office, have placed significantly higher ethical demands on public officials. By introducing new public notice and control procedures, those laws have helped strengthen the bonds between citizens, elected officials and government departments.

Our new bill should be seen as an extension of that same reform drive for transparency and ethics.

Its purpose is to align French legislation with the highest European and international standards on transparency in public decision-making and the fight against corruption, above all the corruption of foreign public officials.

The bill has emerged from the work carried out by such bodies as the think tank in France led by Mr Jean-Louis Nadal, the President of the High Authority for Transparency in Public Life (HATVP), and the Organisation for Economic Co-operation and Development (OECD), a body with international scope. Moreover, it responds to a wide array of concerns expressed by non-governmental organisations, and has been enriched by extensive discussion with business leaders over the past several months.

A directory of interest group representatives, a national corruption detection and prevention agency and funding for the legal protection of whistle-blowers are among the bill's many provisions for helping to create a climate of trust and an environment supportive of business.

The bill also contains measures for modernising the French economy that reflect a will to continue with and extend the reform process under way so that France can adapt to the sweeping changes affecting the world around it.

Enhancing transparency means working to increase the respect for our institutions, to enforce the law, to foster greater understanding between citizens and government and business representatives. It also means breaking out of the vicious circle of distrust and promoting a democracy less ridden with strife.

**Michel Sapin,**  
Minister for Finance  
and Public Accounts

## A brief review of the Act of 29 January 1993 on the prevention of corruption and the transparency of economic life and public procurement, known as the Sapin Act

*“I tend to distinguish between money that creates something and money that corrupts. Creation requires transparency, competition and clarity. Corruption thrives on opacity, mystery and wheeling and dealing.”*

Michel Sapin,  
Minister for the Economy and Finance,  
13 October 1992

### The Act of 29 January 1993 led to progress in five areas:

#### 1. *Greater transparency in campaign financing and the funding of political parties*

The Act brought greater transparency to the financing of election campaigns and political parties. Today, the National Commission on Campaign Financing publishes an annual report, parties are required to provide a complete list of the organisations that have made contributions, along with the amounts contributed, and a ceiling has been set on campaign spending by MPs.

#### 2. *Advertising*

The Act established rules on relations between advertisers, the media and intermediaries. In this way, it ended overcharging and opaque billing practices by advertisers, as well as conflicts of interest arising from arrangements between advertising agencies and the media.

#### 3. *Commercial zoning*

The Act improved France's commercial zoning rules, which regulate store openings by mass merchandisers.

#### 4. *Public service delegation*

The Act gave legal status to the concept of public service delegation and regulated the corresponding practice by making prior public notice and competitive bidding mandatory and by introducing stringent procedures.

A 20-year assessment of the Act's implementation in this area highlighted the positive impact of competition:

- The procedures reduced the prices paid by contracting agencies, and therefore the taxpayers, to the delegatee
- Delegations now have an average duration of approximately eleven years
- Contract disputes are a rarity; there are applications for review of only 4% of all contracts upon expiry

#### 5. *Public procurement*

The Act has achieved the following:

- The obligation to comply with public notice and competitive bidding requirements in awarding procurement contracts has been extended to include "works contracts, design contracts and prime contractor agreements made in connection with providing a public service or meeting the needs thereof" (e.g. social housing)
- An interministerial taskforce to investigate public service delegation contracts and agreements

*“Mr President, Distinguished Members of Parliament, the transparency imperative that is central to this bill is a moral and ethical one. It is also an economic imperative. Transparency means greater competition and greater efficiency. The new bill submitted to you today therefore reflects the best interests of the sectors concerned.”*

Michel Sapin,  
Minister for the Economy and Finance,  
13 October 1992

## A summary of the bill

The bill is focused on **transparency, the fight against corruption and economic modernisation**. It has emerged from a whole range of studies and national reports, chief among them the one submitted by Mr Jean-Louis Nadal, the President of the High Authority for Transparency in Public Life. The aim is to align French legislation with the highest European and international standards and, in so doing, to enhance France's image abroad.

The bill is designed:

- **To introduce greater transparency into the public policy decision-making process and the workings of the economy**, for example by creating a digital directory of interest group representatives and affording whistle-blowers greater protection
- **To counter corruption, particularly in international business, more effectively** with both preventive and repressive measures

**The bill is set to establish a national corruption detection and prevention agency** and the obligation for large companies to put in place a corruption prevention system.

It will also make it a specific offence to influence a foreign public official and will remove the procedural obstacles to legal action for corruption of foreign public officials, for example by allowing non-governmental organisations to file suit.

Furthermore, the bill contains **measures for modernising the economy while adequately protecting investors and citizens with savings**. Its provisions will achieve the following in particular:

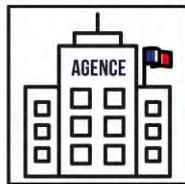
- Enhance financial stability and the protection of citizens with savings by expanding the powers of the financial regulatory authorities
- Establish a prudential regime for retirement insurance policies while maintaining the current level of protection for the insured
- Prohibit advertising by online platforms that offer high-risk financial instruments

- Support the expansion of new means of payment by creating a level competitive playing-field for all categories of payment service providers
- Add a social and solidarity economy component to the sustainable development savings account distributed by banks and managed by Caisse des Dépôts et Consignations (the body administering France's savings deposits and retirements funds)
- Diversify sources of business financing and promote business initiative and the paths to growth taken by companies
- Introduce measures to streamline and update business law

**TRANSPARENCY, ANTI-CORRUPTION  
AND ECONOMIC MODERNISATION BILL**

#Sapin2

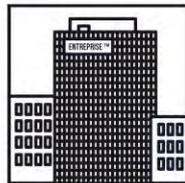
**MAIN PROVISIONS**



**CREATE A NATIONAL  
CORRUPTION PREVENTION  
AND DETECTION AGENCY.**



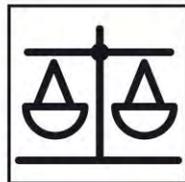
**PROHIBIT ADVERTISING BY ONLINE TRADING PLATFORMS  
OFFERING HIGHLY SPECULATIVE,  
HIGH-RISK FINANCIAL INSTRUMENTS.**



**IMPOSE A DUTY OF DUE DILIGENCE  
ON LARGE COMPANIES.**



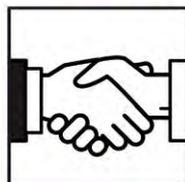
**FACILITATE PROSECUTION  
FOR THE ACT OF CORRUPTING  
A FOREIGN PUBLIC OFFICIAL.**



**STRENGTHEN THE ARSENAL  
FOR SANCTIONING VIOLATIONS OF INTEGRITY.**



**PROTECT WHISTLE-BLOWERS  
REPORTING VIOLATIONS OF INTEGRITY.**



**REGULATE AND REQUIRE TRANSPARENCY  
OF LOBBIES.**

↓ 0,340	↓ 0,87%	2
↓ 0,412	↓ 0,50%	3
↑ 1,251	↑ 0,08%	1
↑ 0,805	↑ 5,32%	9
↓ 33,20	↓ 5,63%	8

**ADAPT REPRESSION  
FOR ACTS OF MARKET ABUSE  
BY LEGAL ENTITIES AND INDIVIDUALS.**

*“Lastly, making the process by which laws and regulations are drafted even clearer requires more effective control of pressure groups. That challenge we will begin to tackle this year. The citizens will know in the future who has reached out to public policy-makers, and at what level, with the intention of improving, correcting or modifying a reform and what arguments were put forward. To take this drive for exemplary, transparent public life as far as possible, the Prime Minister has asked Michel Sapin to prepare a bill on transparency in the economy.”*

New Year greetings from President Hollande  
to the State bodies and the bureaux of both houses of Parliament  
20 January 2015

**[economie.gouv.fr/  
transparence-lutte-contre-corrupcion-modernisation](http://economie.gouv.fr/transparence-lutte-contre-corrupcion-modernisation)**

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