



High Authority
for transparency
in public life

Activity report 2022

Summary



Interview with Didier Migaud

Chairman, High Authority
for Transparency in Public Life

— The year 2022 was busy with political and electoral deadlines. How did the High Authority prepare for it and what effects did it have on its activity?

Didier Migaud: The major electoral events of 2022 have had a strong impact on our activity. The High Authority, whose purpose is to contribute to guaranteeing the integrity of public action, evolved to advise and control the public officials directly or indirectly concerned by the presidential and legislative elections. Our institution received more than 10,000 declarations of assets and interests during the year, including those of the Members of Parliament elected in June 2022. The mission of ethical control on revolving-door movements, very closely linked to the major political events, increased considerably, with the activity almost doubling compared to the previous year.

This situation was a real challenge for us. I believe we were able to raise it because these political deadlines had been anticipated. Beforehand, the High Authority carried out numerous awareness-raising actions with all stakeholders and set up a specific organisation to be able to process all the files within very tight deadlines. The college and the services were strongly mobilized. Anticipation, awareness-raising and mobilization have enabled us to adapt our support and controls to the particular challenges of these deadlines.

— The year 2022 was also marked by a number of events that gave rise to new thoughts in the public debate on the need to strengthen how influence is carried out with public decision-makers. How does the High Authority position itself in its role with lobbyists?

D.M.: The Sapin II law came into force five years ago and made our institution the regulatory authority for lobbying. This law, by creating the directory of lobbyists, was a real step forward. It has made it possible to significantly improve the French system of the fight against corruption, while recognizing and legitimizing the activity of lobbying in our country. However, the results of the regulation of lobbying appear mixed. In particular, the system is

weakened by an overly complex legislative and regulatory framework, partly diverted from its initial spirit, which is deplored by many actors in the sector, as well as by parliamentarians, who have worked and spoken on the subject.

The directory of lobbyists has also been extended to certain local executive functions and to new public officials on 1 July 2022. Although it is still too early to draw an assessment, we know that continuous and reinforced support for lobbyists is and will be necessary to accompany this evolution. In general, the question of influence on public decision-making has become an important part of the public debate. The issues raised, whether it be the influence of consulting firms on public policies or the influence of foreign States, in France or with European institutions, invite us to renew our conception of lobbying. These debates show a very strong interest in the conditions in which public decisions are made. We are taking our full part in them.

— The High Authority is regularly cited as an example at the European level, whether it be for control of revolving-door movements or the supervision of lobbying, and several initiatives are in progress. How do you view these projects?

D.M.: The European Commission and a majority of European parliamentarians are today in favour of the creation of an independent ethical body common to the institutions of the European Union. The diversity of supervisory mechanisms within each institution and the regular controversies about possible conflicts of interest harm the credibility of the European institutions and citizens' trust in their public decision-makers. The creation of a common body would help guarantee the integrity of public action at the European level. The High Authority is regularly taken as an example in this context, in view of the missions it carries out. It is a paradox, but France is a country recognized for the quality of its mechanisms and institutions for preventing breaches of integrity, while at the same time having a high level of mistrust among citizens towards public decision-makers.

In order to promote a debate on these issues at the European level, the High Authority launched the "European Network for Public Ethics" in June 2022 and chairs it. This network brings together the national public ethics institutions of 11 European Union Member States. Its objective is to promote public ethics and integrity by becoming an interlocutor recognized on these issues. Its role is to adopt common positions on the major reforms envisaged, such as the draft anti-corruption package put forward by the Commission.

— The High Authority will be ten years old in 2023. What are the areas for improvement in terms of integrity and transparency for the next ten years according to you?

D. M.: In nearly ten years, the High Authority has strengthened its position and its role in French public life. It has experienced a positive dynamic by seeing its field of competence regularly extended by the legislator, a sign of confidence and recognition of the work accomplished. Today, the institution can be considered as a trusted third party between public decision-makers and citizens.

However, there is still a strong feeling of mistrust. In order to respond to it, awareness-raising and education must also be brought to citizens, to remind them of the importance of existing systems and their effectiveness. Public officials also have a role to play in this area. Controls should not be seen as a constraint. They are a tool available to public officials to demonstrate their integrity to citizens, voters and users of public services, and thus contribute to restoring trust in public institutions. The proportion of breaches found by the High Authority during all its controls is very low. Citizens should be aware of this, even if there is room for improvement. Public policy in the fight against corruption should be better identified. Parliament should also be able to debate each year the resources devoted to this policy and the results obtained.

Finally, the High Authority faces new challenges in the light of the reflections and dynamics in the field of public ethics, both at national and European level. The proposals contained in this report, covering the whole field of our missions, aim to respond to them in a pragmatic manner. The College of the High Authority, its staff and I are committed to working day after day in the service of trust between citizens and their representatives, a necessary and essential condition for a peaceful democracy.



ROLE AND MISSIONS OF THE HIGH AUTHORITY

The High Authority for Transparency in Public Life is an independent administrative authority, which role is **to guarantee public integrity**.

The institution **accompanies and controls public officials and lobbyists daily**, in order to provide citizens with the assurance that public decisions are made in the general interest.

The missions of the High Authority are structured around four main areas:

- The control of the **declarations** of assets and interests
- The prevention of **conflicts of interest**
- The control of **revolving-door movements** between the public and private sectors
- The regulation of **lobbying**

Website
3.1
millions
of page views

Budget
9.2
M€

Permanent
staff
67
agents

(as of decembre 2022)

College
13
members

The president and members of the College in 2022



SUPPORTING, ADVISING AND RAISING AWARENESS TO SPREAD A CULTURE OF INTEGRITY

SUPPORTING DECLARANTS IN MEETING THEIR OBLIGATIONS

WHAT ARE THE MEANS?



10 agents dedicated to supporting and advising declarants (public officials and civil servants, lobbyists)

HOW?



Individual support by phone or e-mail, for any questions relating to the filing of declarations or to the procedures for referring a matter to the High Authority

Documentary resources and **information sessions** for declarants

ETHICS ADVICE



TO WHOM?

Advice
for public officials

→ **24**
formal opinions
issued in 2022
225 since 2014

Advice
for administrations

→ **500**
informal exchanges
with administrations
and Ethics officers
in 2022

DISSEMINATING THE HIGH AUTHORITY'S EXPERTISE AND MISSIONS



HOW?

– **Publications**¹
and **external interventions**

– Development
of **educational tools**
and **dissemination
of the doctrine**²

29 interventions
in 2022

(training with public
officials and administrations,
participation in conferences
and roundtables)

PROMOTING THE FRENCH INTEGRITY MODEL



WHAT KIND OF INTERNATIONAL ACTION?

An action turned towards
the European Union:

– Initiative and presidency
of the **European Network
for Public Ethics**

– Secretariat of
the **European Lobbying
Registrars' Network**

A **multilateral activity**
within organizations
and international networks
and **bilateral relations**

11 foreign delegations
received in 2022

1. All publications on hatvp.fr/actualites-et-publications/ and in english on hatvp.fr/en/news/

2. For example, the publication of the *vade-mecum* on the extension of the directory of lobbyists

2 CONTROLLING THE ASSETS AND INTERESTS OF PUBLIC OFFICIALS TO PRESERVE THE INTEGRITY OF PUBLIC ACTION

WHO IS CONCERNED?



18,000

public officials and civil servants, elected and non-elected



WHAT DEADLINES?

Declarations filed **within two months of the beginning or end of the functions** and which remain available for the time of the entire term of office when they are published

WHAT TYPE OF CONTROLS?



Based on a **mandatory reporting mechanism** for individuals holding certain offices or positions:

- **Check the completeness, accuracy and sincerity** of the information provided
- **Detect situations of illicit enrichment and prevent or put an end to conflicts of interest**



HOW?

Controlling the content of assets and interests declarations using **extensive investigative powers** and, in the cases provided for by law, **publishing these declarations**, in particular on the website of the High Authority



FOR WHICH PURPOSE?

To act as a **trusted third party** by providing citizens with guarantees of **integrity** regarding their public decision-makers and to ensure that public decisions are made in the sole **public interest**

5,245

public officials and civil servants filed declarations of assets or interests



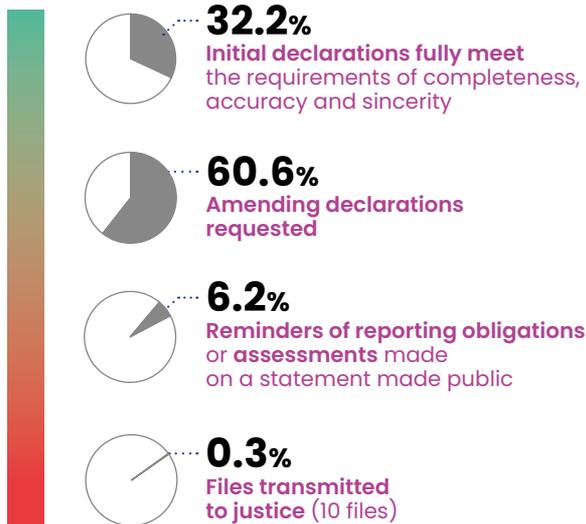
10,659

declarations received

4,170

declarations checked³

FOLLOW-UP OF THE CONTROLS



DECLARATIONS OF INTERESTS

7 controls out of 10 have led the High Authority to ask for measures to prevent conflicts of interest

In view of the political and electoral situation, the year 2022 was a year of intense declaratory activity.

The control activity focused mainly on the declarations of Members of Parliament and Government. The control and support provided by the High Authority have made it possible to significantly improve the quality of declarations. Several members of the Government were required to recuse themselves following a decree to prevent the risk of conflict of interest or illegal taking of interest.

Of all the declarations checked, the proportion of those that were subject to a public assessment by the High Authority on the breaches found or that gave rise to an information of the public prosecutor because of potential criminal offences remained stable, as did the number of declarations which control concluded that they complied with the requirements of completeness, accuracy and sincerity.

In 2022, the High Authority also made public on its website, without prior control in accordance with the law, the declarations of assets and interests and activities of the candidates for the presidential election.

3. The most essential declarations, at the beginning and at the end of the mandate, are all checked.



CONTROLLING REVOLVING-DOOR MOVEMENTS BETWEEN PUBLIC AND PRIVATE SECTORS TO PREVENT ETHICAL AND CRIMINAL RISKS

WHO IS CONCERNED?



15,000

civil servants and relevant public officials performing the most exposed jobs and functions



WHAT DEADLINES?

Fifteen-day processing time for pre-appointment controls

Two-month processing time for control of multiple jobholding plans for business creation or acquisition and for revolving-door movements



WHAT TYPES OF CONTROLS?

– **Pre- appointment to public office control** if an activity in the private sector during the three years preceding the appointment has been exercised

– **Control of professional transition to the private sector**

– **Control of multiple jobholding plans for business creation or acquisition**



HOW?

Mandatory prior referral to the High Authority for the most exposed public jobs and functions

Prior referral to the hierarchical authority, then to the **Ethics officer in case of serious doubt** about the compatibility of the project, for other public officials, the High Authority may be seized as a last resort if this doubt is not lifted



FOR WHAT PURPOSE?

Preventing the ethical and criminal risks associated with revolving-door movements between the public and private sectors

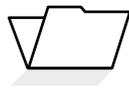
Ensuring the impartiality and independence of the administration's action

581

opinions issued on projects of professional transition between public and private sectors

4

files referred to justice



TYPE OF OPINIONS (all controls considered)



27.2%

Opinions of compatibility



69%

Opinions of compatibility with reservations



3.8%

Opinions of incompatibility



REVOLVING-DOOR MOVEMENTS

nearly **80%** of compatibility opinions with reservations

6.3% of incompatibility opinions

The year 2022 was marked by an exceptional number of referrals, almost twice as many as in 2021, due to a busy political year. However, the High Authority managed to process all of them within the allotted time and often well below the legal deadlines, in particular the referrals concerning the professional transition to the private sector of former members of the Government and the appointments of advisers to the President of the Republic or members of ministerial cabinets who had previously worked in the private sector.

The High Authority mainly issues compatibility opinions, two-thirds of which are accompanied by reservations intended to prevent risks of a criminal or ethical nature. This proportion, which is on the rise, illustrates the High Authority's constant search for a balance between different interests to be reconciled:

- to allow transitions between the public and private sectors in order to attract competent and diverse profiles to carry out public functions and to enrich the careers of public servants;
- to defend the impartiality of public action and the independence of the administration;
- to protect public officials and employees from criminal and ethical risks that may result from their professional projects.

Incompatibility opinions - adopted when no precautionary measures can prevent the risks identified - mainly concern revolving-door movements to the private sector, which are exposed to the risk of illegal taking of interest and are more likely to compromise the independence and impartiality of the administration.

4 REGULATING LOBBYING TO STRENGTHEN TRANSPARENCY IN PUBLIC DECISION-MAKING

2,584 entities listed in the register of lobbyists **as of December 31, 2022** (+8% compared to 2021)

WHO IS CONCERNED?



Legal or natural persons carrying out an activity of lobbying towards a public official **with a view of influencing a public decision**



WHAT DEADLINES?

Three months from the end of the accounting period



WHAT ARE THE OBLIGATIONS?

To register on a digital directory accessible on the website of the High Authority

To declare annually the activities of lobbying and the resources devoted to them



WHAT TYPES OF CONTROL?

Regular checks by the High Authority of the declarative and ethical obligations of the lobbyists



FOR WHAT PURPOSES?

– To strengthen transparency on public decision making

– To measure the impact of lobbying

– To establish a common ethical framework for ethical lobbying activities

11,105

activities reported on the directory for the year 2021

119

controls closed

FOLLOW-UP OF THE CONTROLS



61%
of the 67 controls of non-registered entities resulted in a registration on the directory



100%
of the 52 controls of declarative obligations resulted in regularization of the declaration

76

formal notices to comply with declarative obligations

8

cases referred to the court

The results of the 2021 reporting exercise, for the lobbyists required to report their activities and resources before March 31, 2022, showed a better appropriation of the system by the declarants and a more diverse and sustained lobbying activity than in 2020.

With regard to the control activity of the High Authority, the year 2022 was marked by a very sharp increase in the number of formal notices, a logical consequence of the numerous notifications of failure to comply sent in 2021. For the first time, the High Authority referred eight cases of lobbyists to the public prosecutor's office for failure to declare.

2022 is also the year in which the framework for lobbying will be extended, in particular to local authorities, which came into force on 1 July. The High Authority produced several documentary resources designed to facilitate its appropriation by lobbyists, including a *vade mecum* devoted to the identification of new public officials with whom a communication could be qualified as an action of lobbying. The High Authority has also intervened on the subject with associations of elected officials and associations of lobbyists.

PROPOSALS BY THE HIGH AUTHORITY

Ten years after its creation, the High Authority has become an established part of the French institutional landscape and can now assess the effectiveness of its action.

The system of transparency in public life must evolve now in order to strengthen the guarantees given to citizens of the independence of the administration with respect to private interests and the integrity of public officials.

Far from harming the effectiveness of public action, the following proposals, most of which have already been made in previous activity reports, would be likely to restore citizens' trust in their representatives and to protect public decisions.



STRENGTHEN THE PREROGATIVES OF CONTROL OF THE HIGH AUTHORITY

- **Allow the High Authority to exercise a direct right of communication** with banking or financial institutions, companies insurance or reinsurance companies, government agencies, local authorities and any person in charge of a public service mission for all of its control missions
- **Provide the High Authority with its own power to impose administrative sanctions** in case of failure to comply with the obligation to file a declaration of interests or a declaration of assets by a public official or a declaration of activities by an lobbyist, the penalty being proportionate to the seriousness of the breach and to the situation of the person prosecuted



DEVELOP THE LEGAL FRAMEWORK FOR DECLARATIONS OF ASSETS AND INTERESTS

- **Subject the mayors of the districts of Paris, Lyon and Marseille to an obligation to declare** their assets and interests to the High Authority
- Introduce an obligation for members of the Government, through the **adoption of a circular** by the Prime Minister, **to send a questionnaire on the prevention of conflicts of interest to the High Authority**, within one week of their appointment



IMPROVE THE CONTROL OF REVOLVING-DOOR MOVEMENT BETWEEN THE PUBLIC AND PRIVATE SECTORS

- **Extend the scope of public officials subject to control by the High Authority** when they move to the private sector, under Article 23 of the Law of October 11, 2013, to holders of local executive functions referred to in 3° of I of Article 11 of the law, that is:
 - vice-presidents and councillors holding a delegation of signature or function of the regional and departmental councils and of public establishments of inter-municipal cooperation with their own tax base of more than 100,000 inhabitants;
 - deputy mayors of municipalities with more than 100,000 inhabitants who have been delegated the power to sign or to act
- **Create controls on revolving-door movements to the private sector** for employees, regardless of their status, of certain State EPICs such as UGAP or Solideo, of special public establishments such as the Caisse des dépôts et consignations and public establishments attached to local authorities, such as public housing offices, when they leave for the private sector
- **Specify the sanctions applicable by the hierarchical authority** in the event of failure to refer a matter to the High Authority or to comply with its opinions



MODIFY LOBBYING REGULATION TO MAKE IT MORE EFFECTIVE

- **Simplify the thresholds triggering a registration obligation**, by assessing the minimum threshold of ten actions at the level of the legal entity and not per individual
- **Extend the activity reporting** requirement to communication entries initiated by public officials
- **Allow consolidated reporting** for corporate groups
- **Specify in the texts the criteria for public decisions** entering into the field of the regulation of lobbying, according to their importance, nature or effects

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