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to the United Nations
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Executive summary

Note by the Secretariat

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II. Executive summary

France

1. Introduction: overview of the legal and institutional framework of France in the context of implementation of the United Nations Convention against Corruption

France signed the United Nations Convention against Corruption on 9 December 2003, ratified it on 4 July 2005 and deposited its instrument of ratification on 11 July 2005.

France was reviewed in the first year of the first review cycle and the respective executive summary was published on 9 January 2012 ([CAC/COSP/IRG/I/1/1/Add.3](#)).

The national legal framework for countering corruption includes provisions from the Criminal Code, the Code of Criminal Procedure, the Monetary and Financial Code, Act No. 2016-1691 of 9 December 2016 on transparency, the fight against corruption and the modernization of economic activity (Transparency, Anti-Corruption and Economic Modernization Act), Organic Act No. 2013-906 and Act No. 2013-907 of 11 October 2013 on transparency in the public sector, Decree No. 2017-329 of 14 March 2017 on the French Anti-Corruption Agency, Organic Act No. 2017-1338 and Act No. 2017-1339 of 15 September 2017 on trust in the public sector, as well as Act No. 83-634 of 13 July 1983 on the rights and obligations of civil servants. Ratified international treaties constitute an integral part of the French domestic legal system and take precedence over any contravening domestic legal provisions (art. 55 of the Constitution).

The French authorities cooperate at the international level through different mechanisms and networks, including the Financial Action Task Force, the Egmont Group of Financial Intelligence Units, the International Criminal Police Organization (INTERPOL), the Network of Corruption Prevention Authorities of the Council of Europe and the Network for Integrity.

All information provided in the present executive summary reflects the situation in France at the time of the country visit in May 2018.

2. Chapter II: preventive measures

2.1. Observations on the implementation of the articles under review

Preventive anti-corruption policies and practices; preventive anti-corruption body or bodies (arts. 5 and 6)

France has several bodies and agencies concerned with preventing and combating corruption, including the French Anti-Corruption Agency (AFA), which was created in March 2017, the High Authority for Transparency in the Public Sector, and the Court of Auditors.

AFA is the main body entrusted with preparing the country's multi-year national anti-corruption strategy (art. 1 of Decree 2017-329 on the French Anti-Corruption Agency). AFA has statutory monitoring powers to verify the quality and effectiveness of the anti-corruption mechanisms implemented by private and public actors falling within the scope of articles 3 and 17 of the Transparency, Anti-Corruption and Economic Modernization Act.

As part of its advisory role, AFA formulates recommendations, which are published in the Official Gazette and are periodically updated, to assist legal persons under public and private law in preventing and detecting any acts of corruption. It publishes practical guidelines on the anti-corruption reference framework, organizes training and awareness-raising activities on the detection and prevention of corruption, and centralizes and disseminates information on the fight against corruption.

AFA is a service with national competence placed under the Minister of Justice and the Minister of the Budget. It does not have an autonomous budget and is headed by

a senior judge for a non-renewable six-year term (art. 2 of the Transparency, Anti-Corruption and Economic Modernization Act). The judge heading the Agency may not receive or seek instructions from any administrative or governmental authority in the exercise of his or her supervisory duties.

A public service ethics commission under the authority of the Prime Minister also assesses compliance with the relevant ethical principles and may issue recommendations to Ministries, departments and agencies (art. 31 of the Transparency, Anti-Corruption and Economic Modernization Act).¹

The High Authority for Transparency in the Public Sector (HATVP) is an independent administrative authority charged with ensuring the integrity of public officials. It monitors the declarations of assets and interests of those officials and participates in the detection and prevention of conflicts of interest, in particular through the monitoring of the professional transition of persons occupying the positions most vulnerable to corruption. It also provides ethics advice to public officials and maintains a digital public register of interest representatives who have participated in the standard-setting process. In 2017 it created a research prize that is awarded biennially to a scientific publication on the topic of transparency, public ethics and corruption. It is to report to the judicial authority any infringements it may find in the exercise of its functions, including breaches of reporting obligations or offences relating to violations of probity. It also carries out international activities to publicize its work and share its good practices.

France has informed the Secretary-General of the United Nations that AFA is the designated authority to assist other States parties in developing and implementing measures to prevent corruption.

Public sector; codes of conduct for public officials; measures relating to the judiciary and prosecution services (arts. 7, 8 and 11)

Civil servants are recruited by competitive examination, and permanent posts in the State apparatus must be held by civil servants, with some exceptions (arts. 3 and 16 of Act No. 83-634 on the rights and obligations of civil servants (Civil Servants Act)). The terms and conditions for each competitive examination are set out in a ministerial order submitted by the Directorate General for Administration and the Public Service. Additionally, contractual agents may be recruited under statutory provisions relating to the civil service (arts. 4 and 6 of Act No. 84-16 of 11 January 1984 on statutory provisions relating to the national civil service).

Salary is determined by the grade and step of the official's post (art. 20 of the Civil Servants Act), with a variable component determined by the official's family situation and duties performed.

The recruitment of public officials must respect the constitutional principle of equal access to public employment on the basis of merit and talent, as set forth in article 6 of the Declaration of the Rights of Man and of the Citizen of 1789. France subjects the positions most exposed to the risk of corruption to specific declarative obligations that are set out in the Civil Servants Act (art. 25 et seq.), in particular the obligation to submit a declaration of interests and a declaration of assets and the obligation to use a blind trust.

Not all public officials subject to the obligation to submit a declaration of interests are covered by Act No. 2013-907 of 2013, on transparency in the public sector.

Presidential candidates must submit to the Constitutional Council a declaration of interests and activities in addition to their declaration of assets (art. 1 of the Organic Act on Trust in the Public Sector). HATVP publishes these declarations on its website at least 15 days before the first round of elections. The President of the Republic can request HATVP and the tax authorities to review ministerial candidates prior to their

¹ The Act of 6 August 2019 on the transformation of the civil service entrusts part of the missions of the Public Service Ethics Commission to the High Authority for Transparency in Public Life.

appointment and, on the basis of the information available to them, declare that the potential nominees face no potential conflict of interest and have fulfilled their reporting and tax obligations. According to France, declarations are systematically referred to HATVP in practice.

Moreover, the appointment of the public officials listed in section III of article 11 of the Transparency in the Public Sector Act (No. 2013-907) is considered void if the official does not file a declaration of interests within two months of appointment.

Constitutional Court decision No. 2013-675 DC of 9 October 2013 deemed unconstitutional the provisions relating to the declaration of interests pertaining to the “professional activities” of children, parents and other family members of a public official on the grounds of a disproportionate invasion of the latter’s privacy.

The legal framework for enhancing transparency in the funding of candidatures for elected public office and the funding of political parties includes Act No. 88-227 on financial transparency in political activities, Act No. 90-55 on limitations on election expenses and clarification of the financing of political activities, and Act No. 95-65 on the financing of political activities. Expenditures are capped and candidates are required to maintain campaign accounts. The National Commission for Campaign Accounts audits the campaign accounts of candidates in national, local and European elections, as well as the financing of political parties. When the Commission suspects the existence of a criminal offence, the case is transferred to the public prosecutor.

Article 2 of the Transparency in the Public Sector Act (No. 2013-907) and article 25 bis of Act No. 83-634 on the rights and obligations of civil servants contain the notion of conflict of interest. To avoid situations of conflict of interest, the 15,800 public officials who send a declaration of assets to HATVP must also complete a declaration of interests. The declaration of interests covers professional and consultancy activities as well as decision-making functions in decision-making bodies in the previous five years, financial investments in the capital of a company, a spouse’s professional activities, volunteer positions that might give rise to a conflict of interest, and elected positions and offices. Declarations of interests by members of the National Assembly and the Senate must also include information on their parliamentary assistants and on the activities they intend to continue engaging in during their term in office. For nearly 9,000 public officials, the declaration of interests is examined by the administration prior to appointment. When the administration does not consider itself able to assess whether a civil servant is in a situation of conflict of interest, it may refer the matter to HATVP. HATVP reviews the declarations of interests and recommends action or issues an injunction if it determines that there is a conflict of interest. Non-compliance with the obligation to submit a declaration of interests is a criminal offence punishable by imprisonment (three years) and a fine (45,000 euros). HATVP transmits an alert to the territorially competent judicial authority when it detects such an offence.

The standards of conduct are determined by the ethical obligations of civil servants (chap. IV of Act No. 83-634 of 13 July 1983 on the rights and obligations of civil servants) and by the codes of conduct adopted by the various public entities, in accordance with AFA recommendations, which incorporate the best international standards enshrined in conventions of the European Union, the Council of Europe, the Organization for Economic Cooperation and Development and the United Nations.

Specific codes of ethics exist for certain professions, such as for the national police and the national gendarmerie (included in the regulatory part of the Internal Security Code). Disciplinary sanctions are provided for in article 29 of the Civil Servants Act. Certain ministries (the Ministry for Europe and Foreign Affairs, the Ministry of the Economy and Finance, the Ministry of the Interior and the Ministry of Education) have adopted codes of ethics, as have the National Assembly, the Court of Auditors and decentralized authorities.

The procedure for reporting a violation of a standard of conduct in the public service includes, first, notification of the supervisor or adviser designated by the employer;

second, if the admissibility of the report is not determined by that official within a reasonable amount of time, the judicial or administrative authority, or appropriate professional association, is notified; and, third, if it is not processed within three months, the report may be made public (article 8 (I) of the Transparency, Anti-Corruption and Economic Modernization Act).

Article 25 of Act No. 83-634 states that every head of department must ensure that the ethical principles of the civil servants under his authority are respected. He must take all measures to put an end to breaches of ethical obligations or conflicts of interest. While there are no general rules concerning gifts, some Ministries, departments and agencies have established their own regulations. Outside activities may be authorized under certain conditions laid down in article 25 septies of Act No. 83-634.

The independence of the judiciary is established under article 64 of the Constitution. At the time of the country visit, a constitutional bill reforming the Supreme Council of the Judiciary, which had been adopted by the National Assembly in 2016, had not yet been enacted. The reform was reintroduced in a new bill in 2018² and provides that the Government should follow the advice of the Council for the appointment of judges, as well as prosecutors, and should also decide on disciplinary sanctions for the latter. If the bill does not pass, the Ministry of Justice will maintain this power, while the Council will simply deliver an opinion.

The guarantees of judicial independence were strengthened by Organic Act No. 2016-1090 on statutory guarantees, ethical obligations and the recruitment of judges and members of the Supreme Council of the Judiciary, which requires judges and prosecutors to submit a declaration of interests to their superiors.

Prosecutors form part of the judiciary but do not enjoy the same status as judges. Act No. 2013-669 of 25 July 2013 on the powers of the Minister of Justice and the prosecutors of the Public Prosecution Service in matters of criminal justice policy and the implementation of State action aims to strengthen the independence of the judiciary. It provides that although the Minister of Justice may give general instructions to prosecutors relating to criminal justice policy (art. 1), the Minister can no longer issue instructions on individual cases, as was permitted previously.

Public procurement and management of public finances (art. 9)

Information on successful tenders and public contracts awarded is made public. Data on purchasers' profiles must be published whenever a public contract for any public authority exceeds a threshold of 40,000 euros. When the estimated value of a contract exceeds the European threshold (5,548,000 euros, excluding VAT, for public works contracts), one of the formalized procedures provided for in European directives must be applied: open or restricted tendering, a competitive procedure with negotiation or a competitive dialogue procedure. Procurement below 40,000 euros (excluding VAT) is not subject to any prior advertising or competitive bidding procedure.

Each year, a finance law is proposed by the Government providing for the resources and expenditures of the State budget for the following calendar year. The supreme audit institution is in charge of budgetary control and has discretion to conduct audits.

The preservation of the integrity of public archives is regulated by articles L.212-1 to L.212-5 of book II of the Cultural Heritage Code.

Public reporting; participation of society (arts. 10 and 13)

Act No. 78-753 of 17 July 1978 establishing various measures to improve relations between administrative authorities and the public and various administrative, social and fiscal provisions grants free access to public documents to all citizens. The Commission for Access to Public Records supports citizens in obtaining a public

² See the information on the constitutional bill (www.justice.gouv.fr/art_pix/dp_projet_loi_constitutionnelle.pdf).

document in the event of refusal by a government body. All government bodies are also required to designate a person responsible for ensuring such right of access.

In recent years, as a result of the Commission's evolving mandate and of new laws (including Act No. 2016-1321 of 7 October 2016 for a Digital Republic and Act No. 2015-1779 of 28 December 2015 relating to the free use and terms and conditions for the reuse of public sector information), the type of documents made available has expanded to include the source codes and algorithms that are essential to many administrative decisions and also documents in the private domain of government bodies. Since 2016, a paradigm shift – termed “open data by default” – has occurred whereby government bodies, rather than releasing documents only upon request, are now required to proactively publish important documents (art. L.312-1-1 of the Code Governing Relations between the Public and the Government).

The Directorate for Legal and Administrative Information has established a website that serves as an online reception desk where users can ask questions via the messenger service or by telephone and receive simple answers or find out where to acquire further information.

Article 2 of Act No. 2000-321 of 12 April 2000 on the rights of citizens in their dealings with administrative authorities also requires government authorities to publish and organize streamlined access to administrative rules (including instructions, circulars, ministerial notices) and case law (art. L. 312-2 of the Code Governing Relations between the Public and the Government). When a request is addressed to a government body that is not competent to respond, the body is obliged to transmit the request to the competent body and to notify the person concerned (art. L114-8 of the Code).

The measures to simplify administrative procedures include the reduction to the strict minimum of justificatory documentation required for certain services, such as the support programme for unemployed young people (*Garantie jeunes*) and the use of a single type of form for the validation of acquired experience.

HATVP and AFA publish annual activity reports and the Policy Committee to Combat Money-Laundering and Terrorist Financing has conducted and published risk assessments that provide threat and vulnerability ratings by economic and geographical sector.

Articles 6–16 of the Transparency, Anti-Corruption and Economic Modernization Act outline a general legal mechanism for the protection of whistle-blowers, allowing for anonymous reporting under certain conditions, strict confidentiality concerning the person's identity and protection against retaliation.

The Transparency in the Public Sector Act (No. 2013-907) provides that certain anti-corruption associations can refer to HATVP any acts that they consider might constitute a breach of a legal obligation (arts. 41 and 42 of the HATVP rules of procedure). The approval of such associations is decided upon by the HATVP Board and is issued for a period of three years (renewable). At the time of the country visit, three associations had been approved. The hearings of the AFA Sanctions Commission are public (art. 5 of the Decree of 14 March 2017 on AFA).

Private sector (art. 12)

The Transparency, Anti-Corruption and Economic Modernization Act requires economic actors to comply with the same measures to prevent and detect corruption as are applicable to public bodies, including the establishment of a code of conduct, disciplinary sanctions for violation of the code, an internal reporting system, risk mapping, accounting control procedures and an internal control and evaluation system for the implemented measures (art. 17).

Monitoring of compliance with this obligatory mechanism is entrusted to AFA (art. 3), with administrative sanctions including fines of up to 200,000 euros for

natural persons or 1 million euros for legal persons. Sanctions may also include publicly divulging the decision (art. 17).

Ordinance No. 2016-1635 of 1 December 2016 strengthening the system for combating money-laundering and terrorist financing requires companies, economic interest groups and other private entities to register their beneficial owners with the Trade and Companies Register. This new requirement applies to any company incorporated on or after 1 August 2017, while any previously existing company was to comply with it before 1 April 2018.

Articles R.123-172 to R.123-177 of the Commercial Code govern the obligations relating to accounting books, documents and records. In addition, articles 441-1 to 441-6 of the Criminal Code criminalize the use of false documents. The Commercial Code provides sanctions of five years' imprisonment and a fine of 375,000 euros for fraudulent accounting (art. L.241-3 for limited liability companies, and art. L.242-6 for public limited companies).

Article 39-2 bis of the General Tax Code prohibits the tax deductibility of expenses that constitute bribes.

For former members of the Government, presidents of local executive authorities and members of independent administrative authorities, HATVP decides on the compatibility of the private functions envisaged and the civil service position previously held. For a period of three years following the end of the person's public service, former officials are required to consult HATVP before engaging in any new private activity (see art. 23, para. I-2, of the Transparency in the Public Sector Act (No. 2013-907)). The Public Service Ethics Commission is responsible for monitoring the transition of public officials to the private sector.

Measures to prevent money-laundering (art. 14)

The anti-money-laundering (AML) legal regime consists principally of the Monetary and Financial Code and its implementing regulations and directives, sector-based regulations, and relevant European Union regulations and directives.

The Prudential Supervision and Resolution Authority (ACPR) is responsible for the licensing and supervision of the banking and insurance sector, including for AML requirements (art. L.612-1 of the Code). The Authority has administrative, investigative and enforcement powers and can order disciplinary sanctions in cases of non-compliance (art. L.561-36-1). The Financial Markets Authority (FMA) is charged with the same tasks for the financial markets sector, and also has powers of supervision, investigation and sanction (arts. L.621-1 and L.621-15 of the Monetary and Financial Code). In addition, all relevant authorities, including the National Sanctions Commission, have sanctioning powers in AML matters in respect of entities under their control.

Customer due diligence requirements applicable to financial institutions and designated non-financial businesses and professions subject to anti-money-laundering obligations are set out in the Code (arts. L.561-4-1 to L.561-22 and R.561-1 to D.561-32-1).

All reporting entities must have in place internal AML systems which include: customer and beneficial owner identification and verification of the identity; ongoing monitoring of transactions; enhanced due diligence with regard to high-risk customers, accounts and transactions; record-keeping; and reporting of suspicious transactions (see art. 52 of the Convention).

The Unit for Intelligence Processing and Action against Illicit Financial Networks (TRACFIN) was created in 1990 (see discussion under article 58 below).

AML supervisory and law enforcement authorities, including ACPR and FMA, cooperate and exchange information at both the domestic and international levels. Furthermore, France has established an advisory board for combating money-laundering and the financing of terrorism as the national coordination forum between

State services and supervisory authorities and promotes consultation with reporting entities. France conducted its first national risk analysis in 2010. The national risk analysis complements the finer sectoral analyses previously conducted by national competent authorities and reporting entities.

Requirements related to the electronic transfer of funds are implemented by European Union Regulation No. 2015/847 of 20 May 2015, in line with the Convention.

France has two central registers of the beneficial owners of companies which are accessible to reporting entities and competent authorities.

France has a declaration system for cross-border physical transportation (inbound and outbound) of currency or bearer negotiable instruments when the amount exceeds 10,000 euros. The system establishes penalties for non-declaration or false declarations and is based on two regulations. One is domestic and applies to cash movements between France and European Union member States (art. L.152-1 of the Monetary and Financial Code by reference to art. 464 of the Customs Code), while the other is a European Community regulation applicable to cash movements between France and non-European Union member States (European Community Regulation No. 1889/2005).

France actively contributes to the development and strengthening of regional and international cooperation in the fight against money-laundering, particularly through its active participation in the Financial Action Task Force, the Committee of Experts on the Evaluation of Anti-Money-Laundering Measures and the Financing of Terrorism (Moneyval) and the Egmont Group.

2.2. Successes and good practices

- The digital public register of lobbying activities (art. 7).
- The High Authority for Transparency in Public Life has created a research prize open to French-speaking contributors (art. 8, para. 1).
- The country's extensive measures to enable access to public documents, in particular with regard to open data (art. 13).

2.3. Challenges in implementation

It is recommended that France:

- Develop and implement a national anti-corruption strategy and institutionalize cooperation mechanisms between the relevant bodies to ensure that the strategy is coherent and coordinated (art. 5, para. 1, and art. 6, para. 1 (a)).
- Continue monitoring the effective implementation of its relevant legal instruments and ensure that they remain in line with the Convention (art. 5, para. 3).
- Ensure that AFA and HATVP have the resources necessary to carry out the broad mandates entrusted to them under the new laws; and consider providing AFA with the same institutional independence as HATVP (art. 6, para. 2).
- Ensure that the procedural approval of existing regulations concerning the funding of candidatures and political parties guarantees the adequate application of the law (art. 7, para. 3).
- Consider ways to ensure that also potential conflicts of interest can be detected, for instance by removing the cumulative requirement concerning the criteria for the conflict of interest declaration (art. 7, para. 4).
- Ensure the consistency and quality of the codes of conduct through the actors involved in professional ethics (ethics officers, the Ministry of the Civil Service, HATVP and AFA), such as in relation to the handling of gifts (art. 8, para. 2).

- Consider extending the obligation to submit an asset declaration to the spouses and children of public officials (art. 8, para. 5, and art. 52, para. 5).
- Ensure that public contracts below 25,000 euros are subject to advertising and a tendering procedure in accordance with article 9, paragraph 1, of the Convention.
- Carry out additional risk assessments in order to identify areas in which to address corruption risks in its public administration (art. 10 (c)).
- Ensure, as foreseen, that the appointment of and disciplinary sanctions for prosecutors be shifted to the Supreme Council of the Judiciary (art. 11).
- Continue to support small and medium-sized enterprises in their efforts to adopt the anti-corruption framework established under Act No. 2016-1691 of 2016 (art. 12, para. 1).
- Consider adopting centralized reporting procedures, also allowing for anonymous reporting to the anti-corruption bodies, in accordance with article 13, paragraph 2.

3. Chapter V: asset recovery

3.1. Observations on the implementation of the articles under review

General provision; special cooperation; bilateral and multilateral agreements and arrangements (arts. 51, 56 and 59)

Mutual legal assistance (MLA), including for asset recovery, is regulated by the Code of Criminal Procedure in the absence of an international convention.

France can cooperate in asset recovery whether or not a treaty exists.

France has established the Agency for the Management and Recovery of Seized and Confiscated Assets (AGRASC) as a public administrative body under the joint supervision of the Ministry of Justice and the Ministry of the Budget. AGRASC has been assigned various tasks intended to improve the seizure, management and subsequent confiscation and sale of crime-related assets, including those related to the execution of MLA requests. In this capacity, AGRASC was designated as an asset recovery office as required under Decision 2007/845/JHA of the Council of the European Union.

France has also developed and published an asset recovery guide, which is in the process of being updated, and the aforementioned Agency has a legal mandate to assist and train magistrates and investigators.

Notwithstanding the positive cooperation from France in response to many MLA requests in tracing, seizing and confiscating corruption-related assets, according to France, it has not received any request for the return of any of those assets to date, and related cases are still ongoing.

The French authorities, including police departments, prosecutors, investigating judges and the TRACFIN service, spontaneously transmit information. This is being done through different secure channels, such as the Egmont Group Secure Web and INTERPOL I-24/7 systems.

France has concluded numerous bilateral and multilateral international cooperation agreements in the areas of crime control and the tracing of criminals and the proceeds of crime.

Prevention and detection of transfers of proceeds of crime; financial intelligence unit (arts. 52 and 58)

The reporting entities are subject to AML requirements, in accordance with the provisions of the Monetary and Financial Code (book V, title VI) and its implementing regulations. These requirements cover the implementation of a risk identification and

assessment system, customer due diligence requirements, including those related to the “Know Your Customer” approach, beneficial owner identification, ongoing monitoring of transactions, periodic and continuous updating of data, record-keeping and reporting of suspicious transactions to the TRACFIN service.

The Code provides detailed requirements on money-laundering risk management systems, including with regard to persons, accounts and transactions that must be given particular attention (art. L.561-10). It also provides a list of politically exposed persons who should be subject to complementary due diligence measures (art. R.561-18).

The licensing procedures for banks stipulated in the Code prevent the establishment of shell banks (arts. L.511-9 to L.511-20). The Code also prohibits banks from entering into or continuing correspondent relationships with shell banks or with banks that provide correspondent services to shell banks (art. L.561-10-3).

The TRACFIN service was created pursuant to Act No. 90-614 of 12 July 1990 on the involvement of financial institutions in countering the laundering of the proceeds from drug trafficking. It was re-established pursuant to Decree No. 2006-1541 of 12 December 2006 as a “service with national competence”, under the dual administrative supervision of the Ministry of Economic Affairs and the Ministry of the Budget. Initially in charge of the fight against money-laundering, its mandates have evolved to include the fight against the financing of terrorism, as well as tax and social fraud. TRACFIN has also been a specialized intelligence service since 2008, and its mandates are set out in articles L.811-2 et seq. of the Internal Security Code.

The service collects and analyses suspicious transaction reports and disseminates its analyses to the judicial and law enforcement authorities as well as to other relevant government agencies, including the intelligence services (arts. L.561-30-1 to L.561-31 of the Monetary and Financial Code).

TRACFIN can exchange information with foreign counterparts, spontaneously and upon request, without the need for a memorandum of understanding (arts. L.561-29 to L.561-29-2 of the Monetary and Financial Code). On the basis of information from a foreign counterpart, TRACFIN can exercise the same powers as when investigating suspicious transaction reports submitted by a reporting entity.

The Organic Act on Transparency in the Public Sector (No. 2013-906) stipulates that a number of appointed and elected public officials are to submit two types of declaration to HATVP: a declaration of assets and a declaration of interests (art. 16). Around 15,800 public officials are subject to declaration requirements, including officials “whose hierarchical level or nature of duties so warrants” as listed in Decree No. 2016-1968 of 28 December 2016 and specified, where applicable, by ministerial order. Some officials, such as public prosecutors, are subject only to presenting a declaration of interests.

Declarations are made online at the beginning and at the end of the person’s employment or term in office. New declarations must be submitted in case of a “substantive change” in assets or interests (art. 4 of the Act), although the Act does not define the term “substantive change”.

The declaration of assets covers various elements, including movable property, real estate and accounts held abroad (art. 4 of the Act). The assets of children, including minors, and assets belonging solely to the spouse are not however subject to declaration.

Verification of the completeness and accuracy of declarations is done by HATVP in close cooperation with the tax authorities and using multiple databases and specialized software (Artemis). The Artemis software was designed primarily as an alert system that operates by scanning the list of declarants daily and collecting any new, relevant, publicly available information.

In-depth checks are carried out based on risks and other factors. In addition, the difference in a person's wealth between the start and the end of employment is calculated in order to detect any unexplained variations in assets.

Article 26 of the Transparency in the Public Sector Act provides for criminal penalties (three years of imprisonment and a fine of 45,000 euros, in addition to a ban on civil rights, a ban on holding public office and a mandatory penalty of ineligibility for election, unless a substantiated decision is taken) if the declaration is not submitted or incorrect data are submitted.

Declarations of interests are available online on the HATVP website, while declarations of assets are available for consultation at the various prefectures. This allows for the possibility of sharing relevant information with competent authorities, including foreign ones.

France does not require appropriate public officials having a signature or other authority over a financial account in a foreign country to report that relationship to appropriate authorities or to maintain appropriate records.

Measures for direct recovery of property; mechanisms for recovery of property through international cooperation in confiscation; international cooperation for purposes of confiscation (arts. 53, 54 and 55)

French legislation allows physical and legal persons, including States, to initiate action to establish ownership of property or a claim for compensation in French courts, either by participating in criminal proceedings as a civil party (arts. 85 et seq. of the Code of Criminal Procedure, at the judicial investigation stage; art. 536 of the Code of Criminal Procedure, before the police court; arts. 388, 418 et seq. of the Code of Criminal Procedure, before the correctional court) or by instituting separate civil proceedings (art. 2 of the Code of Criminal Procedure; art. 1240 of the Civil Code; arts. 30 and 31 of the Code of Civil Procedure). The person bringing a civil action on behalf of a State must establish, in accordance with the principles of international law governing inter-State relations, his or her capacity to represent that State before the French courts (Criminal Division of the Court of Cassation, judgment of 30 November 1999).

Confiscation covers all property that is the direct or indirect object or product of an offence, with the exception of property that may be returned to the victim (art. 131-21 of the Criminal Code). In addition, any natural or legal person, including a foreign State, as a civil party, and benefiting from a final decision granting him or her damages, may obtain from AGRASC that these sums be paid to him or her as a matter of priority from the confiscated property (art. 706-164 of the Code of Criminal Procedure). Furthermore, article 40-2 of the Code of Criminal Procedure requires the public prosecutor to ensure that victims are kept informed of the criminal proceedings or any decision on alternative measures taken following their complaint; this also applies to States.

Several foreign States had brought civil actions before the French courts, and proceedings were ongoing. Several of those actions were favourably received. These cases concern the acquisition of property through the laundering of embezzled public funds, aggravated breach of trust and concealment.

With regard to criminal proceedings conducted abroad that are the subject of requests for mutual legal assistance made to France, the Code of Criminal Procedure dedicates an entire section to the enforcement of confiscation orders issued by non-European Union foreign judicial authorities (arts. 713-36 to 713-41), which is applicable in the absence of an international convention providing otherwise.

The execution of a confiscation order issued by a foreign judicial authority should be authorized by a French criminal court, at the request of the public prosecutor, provided that the foreign decision is final and enforceable under the law of the requesting State. If considered useful, the correctional court should hear – where appropriate by letter rogatory – the owner of the seized property, the convicted person and any person

having rights in the property. The court is bound by the findings of fact of the foreign decision. If these findings are insufficient, the court may request the necessary additional information, by letter rogatory and within a time limit which it should set, from the foreign authority which issued the decision.

Confiscation should be refused in the absence of dual criminality.

The crime of money-laundering does not require that the predicate offence be committed in France. French courts can, where they have jurisdiction, order the confiscation of property of foreign origin by adjudication of a money-laundering offence (art. 324-1 of the Criminal Code, on money-laundering, read in conjunction with art. 131-21 of the same Code, on confiscation).

Law No. 2016-731 of 3 June 2016 introduced into French law a mechanism for non-restitution without prior conviction. This non-restitution has the material and legal effects of confiscation. Independently of its national system, France has, since the Court of Cassation's ruling of 13 November 2003 (the "Crisafulli" ruling), accepted requests for confiscation without prior conviction from foreign authorities, provided that they concern property liable to confiscation under the French Criminal Code.

French competent authorities can and have issued seizure orders on the strength of a foreign seizure order or a foreign request (art. 694-12 of the Code of Criminal Procedure). France may, in certain cases, initiate a parallel investigation with a view to issuing a French confiscation order pursuant to a foreign request.

Although French authorities can open domestic cases based on relevant information, French legislation does not provide for the issuance of a preservation order in the absence of an MLA request solely on the basis of a foreign arrest or criminal charge.

France has established a dedicated platform for the identification of criminal assets (PIAC) which has been designated as focal point in different international cooperation networks. France also has a centralized bank register (FICOBA) which facilitates the tracing of bank accounts and safes, as well as the FICOVIE file for life insurance contracts.

Return and disposal of assets (art. 57)

MLA requests, including for asset recovery, that are made on the basis of international conventions are executed in line with those conventions, which take precedence over French domestic law.

In the absence of an international convention providing otherwise, the return of confiscated assets is governed by the Code of Criminal Procedure (art. 713-36). In such cases, the execution of a confiscation order issued by a non-European Union foreign court entails the transfer to the French State of ownership of the confiscated property, unless otherwise agreed with the requesting State. The property thus confiscated can be sold. The sums of money recovered and the proceeds from the sale of confiscated property, after deduction of enforcement costs, devolve entirely to the French State – where this amount is less than 10,000 euros – and are equally shared with the requesting State in other cases (art. 713-40).

France has not returned any assets to date in corruption-related cases.

3.2. Successes and good practices

- The assignment of liaison magistrates in several countries to facilitate the processing of MLA requests, including for asset recovery (art. 51).
- The establishment of the dedicated Agency for the Management and Recovery of Seized and Confiscated Assets (art. 51).
 - The creation of seizure and confiscation referees in the public prosecutor's offices, who contribute, through their actions, to improving the efficiency of the asset seizure system (art. 51).

- The use of specialized software for the verification of declarations (art. 52, para. 5).
- The establishment of a dedicated platform for the identification of criminal assets (art. 55, para. 2).
- The establishment of a centralized bank register (art. 55, para. 2).

3.3. Challenges in implementation

It is recommended that France:

- Enhance the implementation of the asset recovery framework (arts. 51 and 57).
 - Continue efforts to enhance its data collection system to allow for the generation of consolidated and more accurate information on corruption-related mutual legal assistance and asset recovery (art. 51).
 - Consider including the assets of spouses and minor children among the assets subject to declaration requirements and to provide a legal definition for the term “substantive change” used in the Transparency in the Public Sector Act (No. 2013-907) (art. 52, para. 5).
 - Consider requiring appropriate public officials having a signature or other authority over a financial account in a foreign country to report that relationship to appropriate authorities and to maintain appropriate records related to such accounts (art. 52, para. 6).
 - Consider taking measures to permit its competent authorities to preserve property for confiscation, such as on the basis of a foreign arrest or criminal charge related to the acquisition of such property (art. 54, para. 2 (c)).
 - Take the necessary measures to ensure that confiscated property is returned in line with article 57 of the Convention, even in the absence of an agreement with the requesting State (art. 57, paras. 2 and 3).
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