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## Law no. 2007-1545 of 30 October establishing a *Contrôleur général des lieux de privation de liberté*

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Consolidated version as on 24 December 2014

### **Article 1**

*Amended by Law no. 2014-528 dated 26 May 2014 - Art. 1*

The Contrôleur général of places of deprivation of liberty, an independent authority is hereby made responsible subject to the prerogatives granted by law to judicial or quasi-judicial bodies, for monitoring the conditions of management and transfer of persons in custody, so as to ensure that their fundamental rights are respected.

Within the limit of his powers, he shall not take instructions from any authority.

### **Article 2**

*Amended by Law no. 2010-838 dated 23 July 2010 - Art. 2*

The Contrôleur général of places of deprivation of liberty shall be appointed because of his expertise and professional knowledge by decree of the President of the Republic for a period of six years. This term may not be renewed.

He may not be prosecuted, investigated, arrested, detained or tried in respect of opinions expressed or action performed in the performance of his duties.

His appointment may not be terminated before the end of his office except in the case of resignation or inability to perform his duties.

The duties of the Contrôleur général of places of deprivation of liberty are incompatible with any other public employment, any professional activity and any elected office.

### **Article 3**

*Amended the following provisions:*

*Amends the Electoral Code - Art. L.194-1 (V)*

*Amends the Electoral Code - Art. L.230-1 (V)*

*Amends the Electoral Code - Art. L.340 (V)*

## **Article 4**

The Contrôleur général of places of deprivation of liberty shall be assisted by inspectors that he recruits because of their expertise in the areas related to his task.

The duties of inspectors are incompatible with the performance of activities related to the establishments visited.

In the performance of their tasks, the inspectors are under the exclusive authority of the Contrôleur général of places of deprivation of liberty.

## **Article 5**

The Contrôleur général of places of deprivation of liberty, his team members and the inspectors assisting him are bound by professional secrecy regarding the facts, action and information of which they have knowledge because of their duties, subject to the information required for drawing up reports, recommendations and opinions as provided in Articles 10 and 11.

They shall ensure that no information allowing persons subject to the visit to be identified is included in the documents published under the authority of the Contrôleur général of places of deprivation of liberty and in his public statements.

## **Article 6**

*Amended by Law no. 2014-528 dated 26 May 2014 - Art. 2*

Any natural person, and any legal person whose stated object is the respect of fundamental rights, may bring to the knowledge of the Contrôleur général of places of deprivation of liberty any facts or situations that may fall within his remit.

Matters shall be referred to the Contrôleur général of places of deprivation of liberty by the Prime Minister, members of the Government, Members of Parliament and the Defender of Rights. He may also take up matters on his own initiative..

### **Article 6-1**

*Created by Law no. 2014-528 dated 26 May 2014 - Art. 3*

Where a natural person or legal entity brings facts or situations to the attention of the Contrôleur général of places of deprivation of liberty, they shall state, having set out names and addresses, the grounds, as they see it for an infringement or risk of infringement of fundamental rights of persons deprived of their liberty.

Where the facts or the situation brought to his attention fall within his jurisdiction, the Contrôleur général of places of deprivation of liberty may carry out visits, where necessary, on-site.

When these visits have been completed and having received the observations of all interested parties, the Contrôleur général of places of deprivation of liberty may make recommendations in relation to the facts or situations in question to the person responsible for the place of deprivation of liberty. These observations and recommendations may be made public without prejudice to the provisions of Article 5.

## **Article 7**

*Amended the following provisions:*

*Amends Law no. 73-6 dated 3 January 1973 – Art. 6 (Ab)*

*Amends Law no. 2000-494 dated 6 June 2000 – Art. 4 (VT)*

## **Article 8**

*Amended by Law no. 2014-528 dated 26 May 2014 - Art. 3*

The Contrôleur général of places of deprivation of liberty may, at any time, within the Republic of France, visit any site where people are kept in custody by the decision of a public authority, and any healthcare facility authorised to admit patients hospitalised without their consent pursuant to Article L.3222-1 of the Public Health Code.

### **Article 8-1**

*Created by Law no. 2014-528 dated 26 May 2014 - Art. 3*

The authorities responsible for the custodial establishment may only object to the visit by the Contrôleur général of places of deprivation of liberty for serious, compelling reasons connected with national defence, public security, natural catastrophes or serious disturbance within the site visited, subject to providing the Contrôleur général of places of deprivation of liberty with justification for their objection. They shall then suggest a deferment. As soon as the exceptional circumstances causing the deferment have come to an end, they shall inform the Contrôleur général of places of deprivation of liberty of the fact.

The Contrôleur général of places of deprivation of liberty shall obtain from the authorities responsible for the custodial establishment any information or document necessary for the performance of his task. At the visits, he may interview any person whose contribution he considers necessary, under conditions ensuring the confidentiality of the conversation.

The secret nature of any information and documents requested by the Contrôleur général of places of deprivation of liberty may not be raised as an objection to him, except if their disclosure is likely to jeopardise national defence secrecy, State security, the secrecy of police work and pre-trial investigations, medical secrecy or professional secrecy applicable to the lawyer-client relationship.

Statements relating to conditions under which a person is or has been detained, on any grounds whatsoever, in police stations, gendarmeries or customs shall be provided to the Contrôleur général of places of deprivation of liberty, except where they relate to personal hearings.

The Contrôleur général of places of deprivation of liberty may delegate the powers mentioned in the first four paragraphs of this Article to the inspectors.

Information covered by medical confidentiality may be disclosed, with the agreement of the person concerned, to inspectors having the professional capacity of doctors. However, information covered by medical confidentiality may be disclosed to them without the consent of the person concerned where it relates to deprivation, abuse and physical violence, whether sexual or physical committed against a minor or a person not able to protect themselves because of their age or physical or psychiatric incapacity.

## **Article 8-2**

*Created by Law no. 2014-528 dated 26 May 2014 - Art. 4*

No penalty may be ordered and no prejudice may result solely because of links established with the Contrôleur général of places of deprivation of liberty or from information or documents provided to him in carrying out his work. This provision will not be a hindrance to possible application of Article 226-10 of the Penal Code.

## **Article 9**

*Amended by Law no. 2014-528 dated 26 May 2014 - Art. 5*

At the end of each visit, the Contrôleur général of places of deprivation of liberty shall inform the ministers concerned of his observations regarding, in particular, the state, organisation and operation of the site visited, and also the condition of the persons in custody, taking into account developments in the situation since his visit. Except for cases where the Contrôleur général of places of deprivation of liberty gives dispensation, ministers are to make observations in response within the time limit provided, which may not be less than one month. These comments in response shall then be attached to the visit report drawn up by the Contrôleur général.

If he observes a serious infringement of the fundamental rights of a person in custody, the Contrôleur général of places of deprivation of liberty shall promptly notify the competent authorities of his observations, shall give them a period within which to respond and, at the end of this period, shall determine whether the infringement notified has ceased. If he deems necessary, he shall then publish the contents of his observations and the responses received.

If the Contrôleur général becomes aware of facts suggesting the existence of a criminal offence, he shall promptly bring it to the attention of the Public Prosecutor, in accordance with Article 40 of the code of criminal procedure.

The Contrôleur général shall promptly bring to the attention of the authorities or persons having disciplinary powers any facts that might lead to disciplinary proceedings.

The Public Prosecutor and the authorities or persons invested with disciplinary powers shall inform the Contrôleur général of places of deprivation of liberty of the action taken in relation to his procedures.

## **Article 9-1**

*Created by Law no. 2014-528 dated 26 May 2014 - Art. 8*

Where requests for information, documents or comments made on the basis of Articles 6-1, 8-1 and 9 are not acted upon, the Contrôleur général of places of deprivation of liberty may serve notice on the parties concerned to respond within a time limit which he shall set.

## **Article 10**

*Amended by Law no. 2014-528 dated 26 May 2014 - Art. 6*

Within his field of competence, the Contrôleur général of places of deprivation of liberty shall issue opinions, make recommendations to the public authorities and propose to the Government any amendment to applicable legislative and regulatory provisions.

After having informed the authorities responsible, he may publish these opinions, recommendations or proposals, as well as any observations made by these authorities.

## **Article 10-1**

*Created by Law no. 2014-528 dated 26 May 2014 - Art. 7*

The Contrôleur général of places of deprivation of liberty may send to authorities having responsibility, advisory notices on construction, restructuring or rehabilitation proposals relating to any place of deprivation of liberty.

## **Article 11**

The Contrôleur général of places of deprivation of liberty shall submit an annual activity report to the President of the Republic and to Parliament. This report is published.

## **Article 12**

The Contrôleur général of places of deprivation of liberty shall cooperate with competent international bodies.

## **Article 13**

*Amended by Law no. 2008-1425 dated 27 December 2008 - Art. 152*

The Contrôleur général of places of deprivation of liberty shall manage the appropriations required for the performance of his task. These appropriations shall be recorded in the programme of the "Government action directorate" mission related to the protection of fundamental rights and freedoms. The provisions of the Law of 10 August 1922 on the organisation of auditing of expenses incurred do not apply to the management thereof.

The Contrôleur général of places of deprivation of liberty shall submit his accounts for audit by the auditor-general's department (*Cour des comptes*).

## **Article 13-1**

*Created by Law no. 2014-528 dated 26 May 2014 - Art. 9*

Hindering the Contrôleur général of places of deprivation of liberty in the course of his duties is punishable by a fine of €15,000.

1° By hindering the progress of checks on-site provided for by Article 6-1 and visits provided for by Article 8;

2° Or refusing to provide information or documents necessary to the checks provided for under Article 6-1 or visits provided for under Article 8, by hiding or making the said information or documents disappear or altering their content;

3° Or taking measures to hinder, by threat or illegal action relations that any person might have with the Contrôleur général of places of deprivation of liberty in application of this act;

4° Or ordering a penalty against a person solely because of links established with the Contrôleur général of places of deprivation of liberty or from information or documents provided to him in carrying out his work that this person may have provided.

## **Article 14**

The conditions of application of this law, including those under which the inspectors mentioned in Article 4 are called to participate in the task of the Contrôleur général of places of deprivation of liberty, are stated by decree in the Council of State (*Conseil d'État*).

## **Article 15**

*Amended the following provisions:*

*Amends the Code for Entry and Residence of Foreigners and Right of Asylum (Code de l'entrée et du séjour des étrangers et du droit d'asile) - Art. L111-10 (M)*

## **Article 16**

This act is applicable in Mayotte, the Wallis and Futuna Islands, the French Southern and Antarctic Lands, French Polynesia and New Caledonia.

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*(1) Preparatory work: Law no. 2007-1545.*

*French Senate: Bill no. 371 (2006-2007);*

*Report by Mr Jean-Jacques Hyst, on behalf of the Law Commission, no. 414 (2006-2007);*

*Discussion and adoption on 31 July 2007 (Adopted text no. 116, 2006-2007).*

*French National Assembly: Bill, adopted by the Senate, no. 114;*

*Report by Mr Philippe Goujon, on behalf of the Law Commission, no. 162;*

*Discussion and adoption on 25 September 2007 (Adopted text no. 27).*

*French Senate: Bill no. 471 (2006-2007);*

*Report by Mr Jean-Jacques Hyst, on behalf of the Law Commission, no. 26 (2007-2008);*

*Discussion and adoption on 18 October 2007 (Adopted text no. 10, 2007-2008).*