

Cryptome

6 May 2015. The National Assembly debate of the bill April 13-May 5, 2015:
<http://cryptome.org/2015/05/fr-spy-bill-debate-en.pdf>

6 May 2015

A sends: Not totally passed yet. The French parliament approved the law, but the Senate will also vote it next month.

Original bill voted by National Assembly 5 May 2015 after discussion and amendments in French:

<http://www.assemblee-nationale.fr/14/dossiers/renseignement.asp>

Source in French: <http://www.assemblee-nationale.fr/14/projets/pl2669.asp>
Google translation.

No. 2669

NATIONAL ASSEMBLY

CONSTITUTION OF 4 October 1958

FOURTH PARLIAMENT

Recorded at the Presidency of the National Assembly on 19 March 2015.

BILL

relating to intelligence.

(Accelerated procedure)

(Referred to the Committee on Constitutional laws, legislation and general administration of the Republic, in the absence of formation of a special commission within the deadlines provided for in Articles 30 and 31 of the Regulations.)

PRESENTED

and on behalf of Mr. Manuel VALLS,
Prime Minister,

Ms. Christiane TAUBIRA,
Keeper of the Seals, Minister of Justice,
by Jean-Yves Le Drian,
Defence Minister,

and Mr Bernard CAZENEUVE,
Ministry of Interior
EXPLANATORY STATEMENT

Ladies And Gentlemen,

The information reveals and prevent risks and threats to our country and its people, and to better understand the major challenges they face. Thereby, he participated in the guarantee of citizens' rights, which depends in particular on public order to be fully assured. In the current context, international as well as interior, enhancing intelligence policy, with strict respect for individual freedoms, is required.

After the publication of the White Paper on Defence and National Security 2008, the organization and governance of information in France has changed considerably: the creation of the National Intelligence Council, which defines chaired by the President of the Republic's strategic directions and priorities for intelligence; the appointment to the President of the Republic a national intelligence coordinator, who coordinates the activities of specialized intelligence services and ensures their good cooperation; the establishment of an "intelligence community", which includes specialized services, the national coordinator and the Academy of the newly established information; the creation of the Directorate General of Internal Security (RPS), designed to provide our country with a domestic security service corresponding to its needs; finally, the creation of an inspection of the intelligence services in 2014. Meanwhile, the resources devoted to intelligence were greatly increased, not only in technological equipment but also through large scale recruitment plans, past and to come in terms of team building, which now make use of new skills, such as linguists, analysts, engineers or mathematicians.

The White Paper on Defence and National Security of 2013, meanwhile, reiterated that the "function of knowledge and anticipation" was a fundamental element of the national security strategy and the "condition of free and sovereign decisions" .

Yet reform remains unfinished. There is first of all to define in law, principles and purposes of public policy intelligence prerogative of the State to recognize its contribution to national security and defense of the fundamental interests of the Nation. But especially to supervise the use of intelligence gathering techniques to enhance the protection of individual freedoms while securing the specialist authorities. From this point of view, France is clearly lagging behind other major democracies.

It is also paradoxical that intelligence activities, while essential to national sovereignty as the protection of our citizens, are still lacking a comprehensive and coherent legal framework. If the legislature came gradually fill gaps, for example in terms of security interceptions in 1991, communication materials by the tax authorities in 2007 or administrative access to login information or consultation of administrative and judicial files in 2013, the legislative framework remains incomplete.

The fight against terrorism illustrates the shortcomings of the national legal framework. The effectiveness of French law enforcement system is certainly recognized: the creation in 1996 of the offense of criminal association in relation with a terrorist enterprise, as well as the most recent measures such as the extension of criminal association to field acts committed abroad or the creation of individual terrorist organization offense, aggravated penalties for these criminal projects. However, the intelligence tools, excluding legal proceedings, prove poorly adapted to the operational reality. Effective in neutralizing, France must now improve detection.

In a 2013 report presented information on the legal framework applicable to intelligence services, members Jean-Jacques and Patrice Urvoas Verchère identified gaps in our law and demonstrated the urgent need to address them: "While among the oldest of democratic nations, our country is also the last not to have established a normative framework suited. "

The activity report of the parliamentary delegation on intelligence for 2014 renews this observation: "France remains indeed the only Western democracy that does not have a legal framework, thereby leaving our services in the most perfect Legal indigence, exposing officials œ uvrent in this area and creating the conditions for possible breaches of fundamental freedoms for citizens. "

The disadvantages of this are numerous and serious. First, agents specialized intelligence services, including the protection of anonymity was however reinforced by the legislature in 2011 and 2013 remain exposed to unwarranted criminal risks. Second, the absence of clear rules approved by Parliament on intelligence favors unfounded suspicions about the activity of specialized services and weakens their action, lack of social consensus expressed by the national representation. Third, the inadequacy of the law limit the scope of control of the specialized services which has no legal basis has no

organized control, which is not acceptable in a democratic society committed to the protection of constitutionally guaranteed freedoms.

Therefore, breaking with the fragmented approach that has prevailed for a quarter of a century, this bill on intelligence aims, for the first time in France, to offer a general legal framework for the activities of intelligence services, combining determination of principles, defining the technical and capacity control. This framework brings together pre-existing provisions refurbished, particularly in terms of interceptions of correspondence and administrative access to connection data and the new provisions, notably regarding certain sound technical grounds, capture data or real-time location of objects or people. In parallel internal administrative controls and parliamentary control by the parliamentary delegation to intelligence, Bill entrusts an independent administrative authority and the State Council the task to exercise strict control over the setting of a piece of authorized techniques.

Finally, the prison administration, as part of its security mission, was an "office of the penitentiary intelligence" in 2003 dedicated to the security needs of prisons, to better identify and track sensitive profiles. Links have been forged with the intelligence services of the Interior Ministry in order to exchange information notably to anticipate detention outputs. Its resources have developed since 2012 for comments and listens centralization missions by personnel in the affected establishment, and exchange with the intelligence services. The anti-terrorism plan is to strengthen it by staff at all levels (prisons, interregion headquarters).

The Prison Act (Articles 39 and 40) permits the prison administration to carry out various controls for the security of the institution: opening of mail and listen to past conversations from authorized telephone booths on the gangway. A decree provides for control of computers that convicted prisoners may acquire (without internet access).

The bill includes provisions that allow prison officials to identify illegal phones used by the detainees and to control the use of computer equipment in their possession.

These controls are intended to prevent the risk of evasion and the commission of offenses within the institutions. As part of this control and the information it may collect, the prison administration may have to gather information warranting an alert to the judicial authorities or services of the Ministry of Interior.

Articles 1 to 3 of the bill introduced in the code for internal security VIII a book entitled "From information". This book replaces particularly

the provisions of the present Title IV of Book II of the Code, dealing with security interceptions, he resumes and complete.

Article¹ creates the first four titles of Book VIII.

Title¹ defines the principles and purposes of public intelligence policy.

Article L. 811-1 guarantees respect for private life, including its components, namely the secrecy of correspondence and inviolability of the home, providing that there can not be encroached upon only in cases of need for public interest provided for by law, in accordance with the principle of proportionality.

Article L. 811-2 sets out the missions of specialized intelligence services.

Article L. 811-3 exhaustively list the reasons of public interest which may be authorized for intelligence gathering by special techniques required by law. These reasons, strictly defined, especially concerning national security, the essential interests of foreign policy, economic or essential scientific, preventing terrorism, preventing the replenishment of dissolved or group maintenance, crime prevention organized and prevention of collective violence can seriously undermine the public peace. The reference to the concept of national security, mentioned by the European Convention for the Protection of Human Rights and Fundamental Freedoms and defined under domestic law, under Article L. 1111-1 of the Defence Code, includes the national independence, territorial integrity and national defense, and the prevention of any form of foreign interference and attacks on the republican form and institutional stability. The reference to the fulfillment of international commitments of France, constitutional requirement, allows to include in particular the prevention of proliferation of weapons of mass destruction. The authorization to collect information for the defense of public interests thus defined can also be delivered to intelligence services as a result of the missions assigned to them: thus, under the principle of proportionality, an authorization may be issued only if the purpose invoked by the service at the origin of the request is in line with the tasks hers.

Title II defines the procedure for recourse to the collection of technical intelligence provided by law.

In Chapter¹ Article L. 821-1 submits setting œ performing techniques on the national territory to an authorization of the Prime Minister granted except absolute urgency (Article L. 821-5), on the advice of an independent administrative authority, the National Control Commission technical intelligence (CNCTR).

Article L. 821-2 provides that the application for authorization is substantiated in writing. It can come from the defense minister, the interior minister or ministers responsible for the economy, budget or customs. The authorization of the Prime Minister, also written and reasoned, is granted for a renewable four months to specialized services for information or, under conditions fixed by decree in Council of State, other services within the same ministers, for example, police or gendarmerie (Article L. 821-4).

The prior opinion of the CNCTR traveled as provided for in Article L. 821-3. After issuance of the authorization, CNCTR may recommend the termination of the setting or conducting a technique that it considers irregular, the then Prime Minister to inform him of the outcome. If its recommendations are not implemented, the committee may decide by an absolute majority of its members, to enter the Council of State (Article L. 821-6).

In Chapter II, whose application is under the authority of the Prime Minister (Article L. 822-5), Article L. 822-1 requires to draw for each set or conducting a technique, a statement containing the start and end date and the nature of information collected. Kept by the services, records are accessible to CNCTR and Prime Minister. Thus organized by a service placed to the Prime Minister, centralization of knowledge of cases of recourse to the use of technical intelligence. This allows the Prime Minister informed of the action to the authority and to have independent administrative authority, at any time, of all the acts on which it can exercise control, either during execution or subsequently, in the case of extraction or transcription operations and conservation of information collected.

Pursuant to Article L. 822-2, the data must be destroyed after a maximum period of twelve months from their collection. This maximum is however reduced to one month, in the case of security intercepts, or up to five years, in the case of connection data. When the information collected is encrypted, the duration can be extended for the sole purpose of technical analysis encryption.

The collected data can not be retrieved and used for purposes other than those listed in Article L. 811-3. Extracts or farms must be destroyed when no longer needed to achieve these purposes (Article L. 822-3).

All destructions are the subject of surveys available to CNCTR (Article L. 822-4).

Title III is dedicated to the CNCTR, main organ of external administrative control over the implementation or piece intelligence

techniques, described by the independent administrative authority law (Article L. 831-1).

In Chapter ^I Article L. 831-1 determines the composition of the committee, which includes members of the State Council, the Court of Cassation and a qualified person for his knowledge of electronic communications, appointed for six years non renewable, as well as parliamentarians.

In Chapter II, Articles L. 832-1 and L. 832-2 set out the rules of ethics and incompatibility applicable to members of the CNCTR while Articles L. 832-3 to L. 832-5 provide rules operation of the commission, including the terms of validity of the deliberations and empowerment ex officio members to know the elements covered by the secrecy of national defense.

Chapter III defines the missions CNCTR, which are to control the regularity of setting œ performed on the national territory of intelligence gathering techniques (Article L. 833-1).

The CNCTR shall be the recipient of authorizations issued by the Prime Minister and can access records, tapes and transcripts produced during the commissioning œ conducting a technique. The Prime Minister may also communicate to the Commission in connection with its duties, or all of the reports on specialized services. The CNCTR establishes a public annual activity report (Article L. 833-2).

The CNCTR may receive an individual claim seeking to verify the regularity of setting œ conducting a technique. It can also act on its own initiative (Article L. 833-3).

Article L. 833-4 specifies the content of the public annual activity report of the CNCTR while Article L. 833-5 provides the possibility for the Commission to transmit to the Prime Minister and the parliamentary delegation on intelligence all comments it deems useful.

The Prime Minister and the presidents of the parliamentary assemblies and parliamentary intelligence delegation may address the CNCTR requests for opinions (Article L. 833-6).

Title IV empowers the Council of State to exercise judicial review of the enhanced implementation œ piece of intelligence techniques.

Article L. 841-1 specifies that the Council of State may be seized by any person demonstrating a direct and personal interest of a request relating to the implementation œ piece intelligence techniques, as well as the CNCTR when its opinions or recommendations have not been acted upon. Furthermore, the possibility of a preliminary reference to the Council of State is instituted in cases where the resolution of a dispute

before another court would depend on the regularity of the setting or conducting a technique.

Section 2 creates the Title V of Book VIII, which defines the special techniques of intelligence gathering whose implementation or piece is subject to authorization, and inserts his first two chapters.

Chapter ¹ concerns the administrative access to connection data; there are inserted the existing provisions. Requests for administrative access to connection data are now all subject to authorization of the Prime Minister after consulting the CNCTR.

Specific access are also set up to respond to specific purposes. Article L. 851-3 allows for the sole purpose of preventing terrorism, the immediate collection, on the networks of electronic communications operators, people connection data previously identified as posing a threat. For the same reason, Article L. 851-4 provides that the Prime Minister can order the electronic communications operators and service providers to detect, for automatic processing, a suspicious sequence of connection data, including anonymous only lifted in case of revelation of a terrorist threat.

Article L. 851-6 provides for the use of devices to locate in real time a vehicle or object.

Article L. 851-7 allows, during operations, the use of mobile devices for proximity sensing strictly connecting the data directly necessary for the identification of a terminal equipment or subscriber number of its user. Exceptionally, to prevent an act of terrorism, these devices can be used to capture matches. These devices are identified in records under the control of the CNCTR. They can not be set or piece than individually designated and duly authorized officials, authorized by the Prime Minister given after express opinions of the CNCTR. In emergencies linked to an imminent threat or a very high risk of being unable to perform the operation later, the device can be set or piece immediately, provided that the Prime Minister and the CNCTR are informed without delay; the Prime Minister may order its immediate cessation.

In Chapter II, Article L. 852-1 provides security interceptions. These intercepts the content of electronic communications, which follow the plan established by the Act of 10 July 1991 on the secrecy of correspondence transmitted through electronic communications, are subject to quotas by the Prime Minister.

Article 3 creates the last two chapters of Title V on intelligence gathering techniques require authorization.

In Chapter III, Article L. 853-1 provides for the use of cameras recording words or images of people or their computer data capturing software. The duration of the authorization in œ piece is limited to two months, given the more intrusive nature of this technique and there can be no process if no other legal way is possible to obtain the desired information.

Article L. 853-2 strictly limits the conditions under which the introduction in a vehicle, a private place or automated data processing system may be authorized for the sole purpose of asking, to œ piece capture or remove the devices provided for in Article L. 853-1: there can be no process if no other legal way is possible to obtain the desired information; specially reasoned authorization is required for the benefit of agents specially authorized after express opinions of the CNCTR, which can be made by a member from the Council of State or Court of Cassation, or the commission meeting. Possible remedies are widened: thus, the Committee takes the State Council as at least two of its members request it.

In Chapter IV, Article L. 854-1 provides a specific framework for electronic communications interceptions sent or received abroad. When they return to subscriber numbers or identifiers be traceable to the national territory or to persons monitored as part of a security interceptor, the collected papers are kept for one month after their first use and destroyed in ordinary conditions. The CNCTR controls the regularity of setting IMPLEMENTATIONGUIDE art.

Clause 4 amends the Code of Administrative Justice, adding a Chapter *IIIa* Title VII VII of his book, to set the rules for the litigation setting œ piece intelligence techniques within the jurisdiction of first and last resort by the State Council under the new Article L. 311-4-1.

Article L. 773-2 provides for the examination of cases by a panel of particular judgment of the State Council, subject to the possibility of referring to the section or to the assembly of litigation matters, the importance of the justified. The members of these formations of the court and the public rapporteur assists are allowed to know that capacity useful elements covered by the secrecy of national defense.

Articles L. 773-3 to L. 773-7 specify the applicable rules of procedure, which may involve, to preserve the secrecy of national defense, adjustments to adversarial debates, public hearings and the principle of reasons for decisions.

The CNCTR is informed of any request from an individual and invited to submit its observations. It is informed of all the evidence produced by the parties.

The Council of State may cancel an authorization deemed irregular, order the destruction of information collected and, where appropriate, compensate the applicant. Also, notify the prosecutor if an offense appears to him likely to constitute an offense.

Section 5 moves without change, the existing provisions in the new book VIII of the code of internal security. These include measures that governments can take to scan the radio spectrum or the prerogatives of the Minister responsible for electronic communications for ordering the physical operations necessary for the implementation of a piece of security interceptions. The same article creates, in addition, Article L. 861-4, which strengthens the protection of the anonymity of agents specialized intelligence services by providing that certain individual acts and regulations concerning the organization, management and operation of these services are binding, although not published, after registration in a special record kept by the Prime Minister.

Article 6 also moves, adapting in the new Book VIII of the Code of internal security, bonds already in charge of electronic communications operators and service providers, particularly for data decryption or transmission information and documents to prepare security interceptions.

It is also stated that operators and service providers will, if necessary, be able to observe the provisions governing the secrecy of national defense. Finally, Article L. 871-4 provides that CNCTR the members and agents can penetrate, for control purposes, on the premises of operators and service providers.

Article 7 also moves, adapting in the new Book VIII of the Code of internal security of existing criminal provisions, including the fact that repress reveal that technical intelligence is put in a piece or refusal to transmit connection data whose collection has been authorized.

Article 8 creates a Title IX in the new Book VIII of the Code of Homeland Security to process the application conditions overseas said book.

Section 9 amends the Monetary and Financial Code to allow the financial intelligence unit called "Tracfin" to collect from transport companies or operators of travel and subsistence data identifying their clients or on their benefits they they provided.

Section 10 amends the Criminal Code to exempt agents authorized certain specialized intelligence services to criminal prosecution when they infringe, on public interest grounds listed exhaustively in information systems outside the national territory.

Article 11 relates to the litigation indirect access to some interesting files the State security. It aims to preserve the confidentiality of the information in those files while ensuring the judge's powers of control and rights of applicants. Thus, the judge will obtain disclosure of relevant information contained in these files, except that they are covered by the secrecy of national defense. These elements, although not paid contradictory, can base the decision of the judge. If it appears that the file contains no erroneous mention of the applicant or does not contain information about it, the judge's decision may be whether or not it is in the treatment; Conversely, the applicant will be informed by the judge if information about the irregularly mentioned in treatment.

Article 12 relates to the monitoring of detainees. It introduces two new articles in the Code of Criminal Procedure.

Article 727-2 allows the prison administration to have the powers necessary for the detection, interference and interruption of illegal correspondence sent or received by means of electronic or radio communication by a detained person is -to say including telephone calls, text messages exchange and communication by walkie-talkie. The article also allows the prison administration to use a device to collect data connections or those relating to geolocation equipment used.

Article 727-3 provides the framework within which the computers of those detained can be controlled, including real-time to detect any illicit connection.

Setting œ work of these provisions is under the control of the prosecutor.

Article 13 contains transitional provisions and provides that the successor to the National CNCTR control of security interceptions Commission. It also provides that members of the parliamentary delegation intelligence can not be appointed members of the CNCTR.

Section 14 proceeds to repeals made necessary by the bill.

Article 15 extends the application of Articles 9 to 13 in French Polynesia, New Caledonia and Wallis and Futuna Islands.

Section 16 provides that, with the exception of Articles 9 to 12, the law comes into force on the date of publication in the *Official Journal* of the decree appointing the members of the CNCTR, whose constitution is a

prerequisite for the implementation of a piece of technical information required by law.

BILL

The Prime Minister,
Having regard to Article 39 of the Constitution,
Decreases:

This bill relating to intelligence, deliberation by the Cabinet on the advice of the State Council, will be presented to the National Assembly by the Prime Minister, who will be responsible for providing reasons and to support discussion and, as necessary, by the Minister of Justice, Minister of Justice, Minister of Defense and Minister of Interior.
Done at Paris on 19 March 2015.

Signed: Manuel VALLS

By the Prime Minister:

The Minister of Justice,
Minister of Justice
Signed: Christiane
TAUBIRA

The defense minister
Signed: Jean-Yves Le Drian

The interior minister

Signed: Bernard
CAZENEUVE

Article ¹

In the legislative part of the Code of internal security, it is added a book titled VIII " Intelligence " whose titles ¹ to IV shall read as follows:

" *Book VIII*

"From the information

"TITLE ¹

GENERAL PROVISIONS

"Art. L. 811-1. - The respect of privacy, including the privacy of correspondence and inviolability of the home is guaranteed by law. The public authority can undermine that only in cases of necessity in the

public interest provided for by law, within the limits fixed by it and in compliance with the principle of proportionality.

"Art. L. 811-2. - The specialized intelligence services appointed by decree under Article 6*h* of Ordinance No. 58-1100 of 17 November 1958 on the functioning of the parliamentary assemblies have a mission in France and abroad, research, collection, exploitation, and the availability of government information related to the geopolitical and strategic issues as well as threats and risks that may affect the life of the Nation. They contribute to the knowledge and anticipation of these issues and the prevention and obstruction of such risks and threats.

"They act in accordance with the law, instructions and directions of the Government determined the National Intelligence Council.

"Art. L. 811-3. - Specialised intelligence services may, in the exercise of their duties, be allowed to use techniques in Title V of this book to the collection of information relating to the following public interests:

"1. National security;

"2. The essential interests of foreign policy and the enforcement of European and international commitments of France;

"3. The essential economic and scientific interests of France;

"4. The prevention of terrorism;

"5. The prevention of reconstitution or group maintaining dissolved pursuant to Article L. 212-1;

"6 The prevention of crime and organized crime;

"7 Prevention of collective violence likely to cause serious harm to the public peace.

"Art. L. 811-4. - A decree in Council of State, issued after consultation with the National Control Commission intelligence techniques, means those services other than the specialized intelligence services, reporting to the Ministers of Defense and Interior and Ministers responsible for the economy, budget or customs, which can also be authorized to use the techniques mentioned in Title V under the conditions laid down in this book. It specifies in particular, for each service, those of the purposes mentioned in Article L. 811-3 and techniques that can be considered for authorization.

"TITLE II

"THE AUTHORIZATION OF TECHNICAL PROCEDURES

"INTELLIGENCE COLLECTION

"Chapter¹

"From the development permit α piece

"Art. L. 821-1. - Implementation œ performed on the national territory collection of technical intelligence referred to in Title V of this book is subject to prior approval of the Prime Minister.

"Licences are issued after consultation with the National Commission for the Control of Intelligence techniques, by the Prime Minister or one of six specially delegated by him.

"Art. L. 821-2. - Written and motivated request is made by the defense minister, the interior minister or ministers responsible for the economy, budget or customs, or one of three people each will have special delegated.

"The application shall specify:

"1 ° or techniques to be œ piece;

"2 ° or intended purposes;

"3. The actions or motives;

"4. The person, place or places or vehicles concerned.

"The demand indicates the service for the benefit which it is submitted.

"Art. L. 821-3. - The request is communicated to the president or, failing that, a member of the National Control Commission intelligence techniques designated by him, which gives an opinion to the Prime Minister within twenty-four hours, unless when it considers that the validity of the demand under the provisions of this book raises doubts and decides to convene the commission. The Prime Minister is immediately informed of the decision of the president or member designated by him to convene the committee, which then gives its opinion within three working days.

"The notices referred to in the preceding paragraph shall be communicated immediately to the prime minister. In the absence of an opinion by the president or the member of the commission appointed by him, within twenty-four hours or if it was seized by the Committee within three working days, the notice is deemed given.

"Art. L. 821-4. - The authorization for œ piece of intelligence gathering techniques is issued by reasoned written decision of the Prime Minister or persons delegated by him, for a maximum period of four months, and is renewable under the same conditions of form and duration as initial authorization.

"The authorization shall specify:

"1. The intelligence or the techniques used œ piece;

"2 ° or intended purposes;

"3. The period of validity;

"4. The person, place or places or vehicles concerned.

"The authorization indicates that specialized intelligence services, referred to in Article 6h of Ordinance No. 58-1100 of 17 November 1958 on the functioning of the parliamentary assemblies, or the services mentioned in Article L. 811-4, authorized to use the intelligence techniques.

"For the purposes of the sixth paragraph of Article L. 821-2 and this section, not specifically known but easily identifiable persons may be designated by their identifiers or quality.

"The decision of the Prime Minister shall be communicated immediately to the Commission.

"The demand and the authorization decision is recorded by the Prime Minister. Records are kept at the disposal of the national control Intelligence Technical Commission.

"Art. L. 821-5. - In case of absolute urgency and notwithstanding Articles L. 821-1 to L. 821-3, the Prime Minister may allow the service to be œ the relevant art piece without notice of the commission. He informs immediately by any means the National Control Commission intelligence techniques and the applicant.

"Art. L. 821-6. - If the Committee considers that a license has been granted in breach of the provisions of this book or that technical intelligence was set œ piece in breach of the same provisions, it shall address to the service concerned and the Prime Minister with a recommendation that the setting œ work of the technique concerned is disrupted and destroyed collected information.

"The Prime Minister promptly inform the Committee on action taken on its recommendations.

"When the prime minister does not act on its recommendations or if it considers that the follow data are insufficient, the Commission may, by an absolute majority of its members, decide to enter the Council of State.

"Chapter II

"Information collected

"Art. L. 822-1. - Prime Minister organizes the traceability of execution intelligence techniques authorized pursuant to Article L. 821-1 and sets the terms of the centralization of the collected information. It ensures compliance.

"Each of the services allowed to use an information technology establishes a record of its implementation œ work that mentions the date of setting œ piece, that of its completion and nature of data collected.

This report is made available to the National Control Commission intelligence techniques.

"Art. L. 822-2. - I. - The data collected as part of the setting œ conducting a technical intelligence authorized pursuant to this book are destroyed at the end of a fixed term for the technique used by decree of the State Council, within twelve months, or for the connection data , five years after their collection.

"If strictly necessary, for the sole purpose of technical analysis, those collected data that contain elements or cyberattack that are encrypted and decrypted the data associated with the latter, may be retained beyond the period mentioned in the preceding paragraph, to the exclusion of any use for the monitoring of data subjects.

"II. - Notwithstanding the provisions of I, the data collected in the form of recorded matches are destroyed on or before the expiry of a period of one month from the date of registration.

"To those matches that are encrypted, the period mentioned in the preceding paragraph shall run from their decryption.

"III. - If the national technical intelligence oversight Commission considers that the conservation of the collected data is performed in breach of the provisions of this Article shall be applied the provisions of Article L. 821-6.

"Art. L. 822-3. - Data can be collected, transcribed or extracted for purposes other than those mentioned in Article L. 811-3.

"The transcripts or extractions must be destroyed as soon as their retention is no longer necessary for achieving these aims.

"The operation mentioned in the previous paragraph is performed by individually designated and authorized agents.

"Art. L. 822-4. - The records of the destruction of collected data, transcripts or extractions referred to in Articles L. 822-2 and L. 822-3 are made available to the National Control Commission intelligence techniques.

"Art. L. 822-5. - The procedures laid down in Articles L. 822-1 to L. 822-4, with the exception of III of Article L. 822-3, are set œ out under the authority of the Prime Minister.

"Art. L. 822-6. - The provisions of this Chapter shall be without prejudice to the second paragraph of Article 40 of the Code of Criminal Procedure.

" TITLE III

"THE NATIONAL CONTROL COMMISSION

"INTELLIGENCE TECHNIQUES

"Chapter^I

"Composition

"Art. L. 831-1. - National technical intelligence oversight Commission is an independent administrative authority.

"It is composed of nine members:

"1 Two deputies and two senators, appointed respectively for the duration of the Parliament by the President of the National Assembly and after each partial renewal of the Senate by the Senate President to ensure pluralistic representation of Parliament;

"2. Two members or former members of the State Council, a grade at least equal to that of Councillor of State, appointed on the proposal of the Vice President of the State Council;

"3. Two judges or former judges outside the hierarchy of the Supreme Court, appointed on joint proposal by the First President and the Attorney General of the Court of Cassation;

"4. A qualified person for his knowledge in the field of electronic communications, appointed on the nomination of the President of the Regulatory Authority for electronic communications and postal services.

"The members are appointed by decree. This Order designates the president from among the members of the Council of State or Court of Cassation.

"The mandate of the members, except those provided for in 1, is six years. It is not renewable.

"The members from the Council of State or Court of Cassation are renewed by half every three years.

"Except resignation, it can be terminated the functions of member of the commission in case of impeachment by it or serious breach of its obligations under the terms established by its rules.

"The appointed members to replace those whose terms have ended before their normal expiry complete the mandate of those they replace. At the expiry of the mandate, they can be appointed as members of the commission they occupied such replacement office for less than two years.

"Chapter II

"Rules of conduct and operating

"Art. L. 832-1. - In the exercise of their duties, the members of the commission do not receive instructions from any authority.

"Art. L. 832-2. - The Chairman of the Committee may hold no elected office and can not engage in any other professional activity.

"The committee member is incompatible with any interest, direct or indirect in services can be allowed to set œ piece the techniques mentioned in Title V or the activity of a person referred to in Article L. 34-1 of the Postal Code and electronic communications as well as 1 and 2 of I of Article 6 of Law No. 2004-575 of 21 June 2004 on confidence in the digital economy.

"The compulsory retirement is imposed by decree on a proposal from the Commission, in case of breach of incompatibility rules mentioned in the preceding paragraphs.

" Art. L. 832-3. - National technical intelligence oversight Commission establishes its rules of procedure.

"It can not validly deliberate unless at least four members are present.

"In case of a tie, the chairman has the casting vote.

"Art. L. 832-4. - The president is spending authority of the commission. The law of 10 August 1922 on the organization of the control of expenditures is not applicable to him. Accounts control of the commission is made by the Court of Auditors.

"The general secretary of the Committee shall assist the President.

"Agents of the Commission's services are chosen especially because of their legal, economic and technical for electronic communications and personal data protection.

"Art. L. 832-5. - Members of the commission are allowed, in that capacity, to know of the information or of the evidence protected under Article 413-9 of the Criminal Code and relevant to the exercise of their mission.

"The members of the commission and the agents of its services are bound to respect secrets protected by Articles 413-10, 226-13 and 226-14 of the Penal Code to the facts, acts and information they may acquire in the exercise of their functions.

"Chapter III

"Missions

"Art. L. 833-1. - The National Intelligence Technical Control Board ensures that intelligence gathering techniques are put in œ performed on the national territory in accordance with the provisions of this book.

"Art. L. 833-2. - Ministers, public authorities, public officials shall take all necessary measures to facilitate the work of the commission. To fulfill its mission, the committee:

"1. Receives communication all authorizations issued by the Prime Minister and the persons whom he delegates;

"2. Has a right to access permissions, statements, records, data collected, transcripts and extractions mentioned in Title II of this Book;

"3. Be informed at any time at the request of the implementing rules of the current authorizations.

"The Prime Minister may disclose to the commission all or part of the reports of the inspection of the intelligence services as well as the reports of the general inspection services of ministries on services under their jurisdiction, in connection with missions the commission.

"The Commission shall establish each year a public report taking stock of its activity.

"Art. L. 833-3. - On receipt of a complaint from any person having a direct and personal interest, the Commission shall verify the technical or invoked in order to verify that they have been or are being œ piece in accordance with the legal provisions. It shall notify the person making the claim that it has carried out the necessary checks, without confirm or deny their application œ piece. It may also conduct such monitoring on its own initiative.

"Where it finds an irregularity, the Commission shall proceed in accordance with the provisions of Article L. 821-6.

"Art. L. 833-4. - The public report of the Committee reported that the number of complaints it has received, the number of cases in which it took the Prime Minister a recommendation to that setting œ conducting a technical interrupted and the number of times the Prime Minister has decided not to proceed with the interruption.

"Art. L. 833-5. - The Committee is addressing to the Prime Minister at any time, the observations it deems appropriate.

"These comments can be sent to the parliamentary delegation to information, subject to compliance with the third paragraph of 4 of the I and the first paragraph of Article IV of *6h* of Ordinance No. 58-1100 of November 17, 1958 on the functioning of parliamentary assemblies.

"Art. L. 833-6. - The committee may meet the Prime Minister advice available, the presidents of assemblies and the parliamentary delegation on intelligence.

" TITLE IV

"APPEALS RELATING TO THE IMPLEMENTATION IMPLEMENTATION

"INTELLIGENCE TECHNIQUES

" *Art. L. 841-1.* - The Council of State has jurisdiction, as provided by Chapter III of Title VII *bis* of Book VII of the Code of Administrative Justice, queries on the introduction œ piece of technical information referred to in Title V of this book.

"It can be entered by:

"1. Any person having a direct and personal interest and justifying the setting œ preliminary work of the procedure laid down in Article L. 833-3;

"2. The National Commission for Monitoring of Intelligence techniques, in accordance with the last paragraph of Article L. 821-6 and the penultimate paragraph of Article L. 853-2.

"When it questioned the secrecy of national defense, the State Council may also refer a preliminary basis, by any administrative tribunal or any judicial authority of a procedure or a dispute whose solution depends on reviewing the legality of intelligence techniques whose implementation œ piece is alleged by one party. It shall within a period of one month from the referral decision of the national court. "

Article 2

I. - Title V of Book VIII of the Code of Homeland Security is entitled "compendium of Technical Intelligence subject to authorization".

II. - Chapter ¹ entitled "Administrative access to connection data" includes Articles L. 851-1 to L. 851-9, as they result from 1 to 7 of the following:

1 ° Article L. 246-1 of the Code of internal security becomes Article L. 851-1 and the reference "L. 241-2" is replaced with the reference "L. 811-3" ;

2. In Section I of Article L. 246-2, which becomes Article L. 851-2, the words: 'I.' are replaced by the words: "Notwithstanding Article L. 821-2, the "and the reference" L. 241-2 "is replaced with the reference" L. 811-3 ";

3. Articles L. 851-3 and L. 851-4 read as follows:

"*Art. L. 851-3.* - For the sole purpose of preventing terrorism, collecting information and documents referred to in Article L. 851-1, relating to persons previously identified as posing a threat, can be made in real time on the operator networks and persons referred to in Article L. 851-1.

"These provisions are set œ piece on request individually designated agents and authorized specialized intelligence services, referred to in Article *6h* of Ordinance No. 58-1100 of 17 November 1958 on the functioning of the parliamentary assemblies, after consulting the

National Commission control intelligence techniques, as provided in Chapter ¹ of Title II of this book.

"Art. L. 851-4. - For the sole purpose of the prevention of terrorism, on request individually designated agents and authorized specialized intelligence services, referred to in Article 6*h* of Ordinance No. 58-1100 of 17 November 1958 on the functioning of Parliamentary Assemblies, the Prime Minister, or a person delegated by him may, after consulting the National Commission for Monitoring of Intelligence techniques, impose on operators and persons referred to in Article L. 851-1 setting œ performed on the information and documents handled by their networks of a device intended to reveal, on the sole basis of automated processing of anonymous elements, a terrorist threat.

"If such a threat is thus revealed, the Prime Minister or one of the persons delegated by him may decide to lift the anonymity of data, information and related documents in accordance with Chapter ¹ of Title II of this book. ";

4 ° Article L. 246-3 becomes Article L. 851-5; in this article, the reference "L. 241-2" is replaced by the reference "L. 811-3" and the last four paragraphs are replaced by the following paragraph:

"The authorization for collection of such information or documents is granted in accordance with Chapter ¹ of Title II for a period of thirty days. It may be renewed under the same conditions of form and duration. ";

5. Articles L. 851-6 and L. 851-7 read as follows:

"Art. L. 851-6. - For the prevention of harm to public interests mentioned in Article L. 811-3, may be allowed the use of a technical device enabling the real-time location of a person, a vehicle or a object.

"In an emergency related to an imminent threat or a very high risk of being unable to perform the operation later, the device mentioned in the first paragraph may be installed and operated, notwithstanding Articles L. 821-1 to L. 821-4, without prior authorization. The Prime Minister and the National Control Commission intelligence techniques are informed without delay. This measure is subject to an authorization within 48 hours following the opinion of the National Control Commission intelligence techniques. Otherwise, the Prime Minister ordered the immediate cessation of the installation of the device and operation of the collected information, and the destruction of the latter. He informed his decision to intelligence techniques Control Board immediately by any means.

"Art. L. 851-7. - I. - For the prevention of harm to public interests mentioned in Article L. 811-3, can be directly collected by means of a technical device proximity set & implemented by an authorized service detain him under the provisions of 1 of Article 226-3 of the Criminal Code:

"1 Technical data strictly necessary connection to the identification of a terminal equipment or its user subscription number;

"2. The technical data relating to the location of the terminal equipment used.

"The use of such a device is subject to the registration of it in a special register kept at the disposal of the Commission's oversight of intelligence techniques. It can be set only by a piece & individually appointed and duly authorized agent.

"The authorization is given under the conditions provided in chapter 1st of Title II of this Book.

"II. - Notwithstanding Article L. 821-4, the authorization of the Prime Minister to put in & performing the technical device mentioned in the first paragraph may be given the benefit of a service and focus on places and a determined period, a maximum of six months. In this case, authorization is specially reasoned decision and on the express advice of the National Control Commission intelligence techniques.

"III. - For the prevention of an act of terrorism, the technical device mentioned in the first paragraph may be used, for the time strictly necessary for the purpose of directly intercepting correspondence sent or received by a terminal equipment. Permission is granted in accordance with Chapter Ist of Title II of this book for places and period of time, within 72 hours. It is renewable under the same conditions of form and duration than the initial authorization.

"IV. - For the implementation implement measures planned in I and III of this article, it can be applied the provisions of the second paragraph of Article L. 851-6. ";

6. Article L. 246-5 becomes Article L. 851-8;

7. The second paragraph of Article L. 246-4 becomes Article L. 851-9. The word "article" is replaced by the word "chapter".

III. - Chapter II, entitled "Security Interception" includes an article L. 852-1 as follows:

" Art. L. 852-1. - May be authorized, in accordance with Chapter Ist of Title II of this Book, correspondence interception issued through electronic communications and may disclose information entering the aims mentioned in Article L. 811- 3. When one or more persons

belonging to the entourage of the person subject to the authorization are likely to play an intermediary role, voluntary or not, on behalf of the latter or to provide information in respect of the purpose subject to the authorization, it may also be given for them.

"The authorization shall constitute authorization to the collection of information or documents referred to in Article L. 851-1 required for the implementation of interception and exploitation.

"The transcripts are made by individually designated and authorized agents.

"The Prime Minister organizes the centralization of the conduct of the authorized interceptions. The Prime Minister establishes the statement referred to in Article L. 822-1 and at the disposal of the national intelligence oversight Technical Commission.

"The maximum number of licenses interceptions into force simultaneously is decided by the Prime Minister after consultation with the National Control Commission intelligence techniques. The decision fixing the quota and its distribution between the departments mentioned in Article L. 821-2 and the number of interception authorizations are brought to the attention of the National Commission for Monitoring of Intelligence techniques. "

Article 3

Chapters III and IV of Title V of Book VIII of the Code of Homeland Security provide as follows:

"Chapter III

"The location, the sound of certain premises and vehicles, the capture of images and computer data

"Art. L. 853-1. - May be authorized where information related to the purposes set out in Article L. 811-3 may be collected by another legally authorized means, the use of technical devices to:

"1. The capture, fixation, transmission and recording of words spoken privately or confidentially, or images in a private place;

"2. The capture, transmission and storage of computer data passing through an automated data system or contained in such a system.

'Notwithstanding Article L. 821-4, the license is issued for a maximum period of two months and is renewable under the same conditions of form and duration than the initial authorization.

"The operations mentioned in point 1 and 2 may be performed only by designated agents individually owned and authorized service mentioned in Articles L. 811-2 and L. 811-4 of which the list is fixed by decree Council of State.

"The provisions of Section II of Article L. 822-2 apply to words and captured.

"National technical intelligence oversight Commission may conduct all controls on the use of information techniques under this article.

"*Art. L. 853-2.* - When the information related to the purposes set out in Article L. 811-3 may be collected by another legally authorized means, may be expressly permitted:

"1. The introduction into a vehicle or in a private place for the sole purpose of setting up, using or removing technical devices mentioned in articles L. 851-6 and L. 853-1;

"2. For the purposes of paragraph 2 of Article L. 853-1, and when the computer data contained in the automated data processing system, the introduction in this system, directly or through the intermediary of an electronic communications network.

"The operations mentioned in point 1 and 2 may be performed only by designated agents individually owned and authorized service mentioned in Articles L. 811-2 and L. 811-4 of which the list is fixed by decree Council of State.

"Demand has all elements to justify the need for this modality. She mentions any indication identifying the location, use and, where known, the owner or any person with a right, and the nature of the proposed device.

"The authorization, specially reasoned, can only be granted on the express advice of the National Control Commission intelligence techniques. Where, pursuant to Article L. 821-3 is the opinion rendered by the president or the member designated by him, it can not be that one of the members of the Commission referred to in 2 and 3 Article L. 831-1. This review and approval of the Prime Minister are given and transmitted by any means in an absolute emergency.

"The authorization is granted for a maximum period of thirty days and is renewable under the same conditions of form and duration than the initial authorization.

"This method is carried out under œ control of the National Control Commission intelligence techniques. The authorized service will use reports to it on its implementation œ piece. The Commission may at any time request that this modality is interrupted and that the information collected be destroyed.

"When this mode is authorized following an adverse opinion from the National Control Commission or technical intelligence that the prime

minister did not respond to its recommendations, the State Council is seized at the request of at least two of Commission members.

'Notwithstanding the sixth paragraph of Article L. 821-5 is applicable when the authorization is not for a private place for residential use.

"Chapter IV

"International surveillance measures

" *Art. L. 854-1* . - I. - The measures taken by governments to ensure the sole purpose of protection of public interests mentioned in Article L. 811-3, monitoring and control of transmissions that are sent or received abroad are governed exclusively by this article.

"The interception of the communications concerned and subsequent operation of correspondence is subject to authorization of the Prime Minister or persons specifically delegated by him. A decree in Council of State, issued after consultation with the National Commission for Monitoring of Intelligence techniques, defines the operating conditions, conservation and destruction of the collected information and specifies the procedure for issuing operating permits correspondences .

"A decree unpublished Council of State, issued after consultation with the National Control Commission intelligence techniques and brought to the attention of the parliamentary delegation to intelligence, precise as the necessary implementation modalities œ work of monitoring under this section.

"II. - When communications refer to technical subscription numbers or identifiers traceable to national territory or persons supervised under the provisions of Article L. 852-1, they are stored and destroyed in accordance with Articles L. 822-2 to L. 822-4 under the control of the National Commission for Monitoring of Intelligence techniques. However, the correspondences of the retention period shall run from the date of first use.

"III. - On its own initiative or claim of any person having a direct and personal interest, the national intelligence oversight Technical Commission shall ensure that the measures put in œ piece under this Article comply with the conditions laid down in this article, by the decrees for its application and by the Prime Minister or authorization decisions of its delegates.

"She reported this to the Prime Minister controls as necessary, and at least every six months. Prime Minister meets within fifteen days by a reasoned decision the recommendations and observations that may contain this report. "

Article 4

The Administrative Justice Code is thus amended :

1. After Article L. 311-4, shall be inserted Article L. 311-4-1 as follows:
"*Art. L. 311-4-1.* - The Council of State has jurisdiction in first and final instance in accordance with the provisions of Article L. 841-1 of the Code of internal security, queries concerning the implementation of piece of intelligence techniques mentioned under V of Book VIII of the Code. ";
2. After the Chapter III of Title VII of Book VII, is inserted in Chapter III *bis* states:

"Chapter IIIa

"The litigation setting of piece of intelligence techniques

" *Art. L. 773-1.* - The manner in which the State Council examines the application submitted pursuant to Article L. 841-1 of the Code of Homeland Security follow the general rules of this Code, subject to the special provisions of this Chapter.

" *Art. L. 773-2.* - Subject to the registration to the role of the Meeting or the litigation section, business under this chapter shall be referred to special training. Members and the public are entitled ex officio rapporteur secrecy of national defense and are bound, as agents who assist them, to respect secrets protected by Articles 413-10, 226-13 and 226-14 of the Penal Code for facts, acts and information they may have knowledge in the exercise of their functions.

"As part of the investigation of the complaint, the members of the bench and the rapporteur public are allowed to know of all the documents in the possession of the National Control Commission technical intelligence or services concerned and useful for the performance of their office, including those protected under Article 413-9 of the Criminal Code.

" *Art. L. 773-3.* - The requirements of the contradiction mentioned in Article L. 5 are adapted to those of the secrecy of national defense.

"The formation of judgment can take any means of office.

" *Art. L. 773-4.* - The chairman of the bench ordered the closed session in cases concerning the secrecy of national defense.

"National technical intelligence oversight Commission is informed of any request and invited to present, if necessary, make written or oral observations. All the documents produced by the parties is communicated.

" *Art. L. 773-5.* - Training appraise hear the parties separately, in cases concerning the secrecy of national defense.

"Art. L. 773-6. - When the bench is an absence of illegality in setting or conducting a technical intelligence, or because the person concerned has been subject to any of these surveillance measures, either because that these measures have been regularly or piece, the decision indicates the applicant or the national court that no illegality has been committed, without confirm or deny setting or conducting a technique.

" Art. L. 773-7. - When the bench finds that technical intelligence is or has been in or piece or used illegally, it may cancel the authorization and order, if any, destruction of information collected irregularly.

"Without putting forward any element protected by the secrecy of national defense, it informs the applicant that an illegality has been committed and can, when input sought by condemn if any, the State to compensate it for the damage suffered.

"When the bench considers that the finding of illegality could constitute an offense, it shall notify the prosecutor and transmits all the facts of the matter in the light of which it held the Advisory Commission of the secrecy of national defense so that it gives the Prime Minister on the possibility to declassify part or all of these elements for transmission to the prosecutor. "

Article 5

The code for internal security is amended as follows:

1. After the title V of Book VIII of the legislative part, in the version of Article 1st of this Act, it is created a Title VI entitled "Powers of the competent authorities" with articles L. 861 -1 to L. 861-4 as those sections resulting from the provisions of this Article;
2. Articles L. 241-3 and L. 241-4 become Articles L. 861-1 and L. 861-2, respectively;
3. In Articles L. 861-1 and L. 861-2 as they result from the 2, the word "security" is replaced by the word "book";
- 4 ° Article L. 242-9 becomes Article L. 861-3;
5. After Article L. 861-3 as amended by the 4 °, added an article L. 861-4 as follows:

"Art. L. 861-4. - The regulatory and individual acts regarding the organization, management and operation of the services mentioned in Article 6 *nonies* of the order of 17 November 1958 and the situation of their agents are taken in conditions that ensure the lack of disclosure of any information that could lead, directly or indirectly, to discover the identity of their agents.

"Where, under the previous paragraph, a measure may not be published, its entry into force is subject to registration in a special record, exempt

from any publication or dissemination and held by the Prime Minister. Only public authorities and public officials establishing an interest may consult an act in this collection.

"Notwithstanding Article 4 of Law n^o 2000-321 of 12 April 2000 on the rights of citizens in their dealings with the authorities, decisions and other acts of the administrative authorities within the services mentioned in the first paragraph may include only addition to the signature, the ID number of the author, attributed with the delegation of signature and that replaces the mention of his name, surname and quality. The number of signatures by delegations of numbered service is determined by order of the competent minister.

"When in the course of a proceeding before an administrative or judicial court, the outcome of the case depends on a question relating to an unpublished act or subject to a numbered signature, it is communicated to his request to the court or the judge delegated by the latter, and not paid to contradictory. "

Article 6

The code for internal security is amended as follows:

1. Chapter IV of Title IV of Book II of the legislative part of the Code of Homeland Security entitled "Obligations of operators and service providers" becomes the Title VII of Book VIII as it results from the provisions of this Act and includes Articles L. 871-1 to L. 871-4, as those sections resulting from the provisions of this Article;
2. Articles L. 244-1 to L. 244-3 become Articles L. 871-1 to L. 871-3;
3. In Article L. 871-1 in its post 2, the reference "L. 242-1" is replaced by the reference "L. 821-4";
4. In Article L. 871-2 in its post 2, the reference "L. 241-3" is replaced by the reference "L. 861-1";
- 5^o In Article L. 871-3 in its post 2, the words "to ensure the application of the provisions of this Title" is replaced by the words "to ensure, in accordance with the secret national defense, the provisions of this Book";
6. After Article L. 871-3 in its post 2 is added to the following article:
" *Art. L. 871-4.* - Electronic communications operators mentioned in Article L. 34-1 of the code of postal and electronic communications as well as persons mentioned in 1 and 2 of I of Article 6 of Law No. 2004-575 of 21 June 2004 on confidence in the digital economy are obliged to allow, at the end of control, members and agents of the national intelligence oversight Technical Commission, duly authorized to that effect by the President, to enter the premises in which are set œ piece

collection of technical intelligence authorized under Title V of this book.

"They communicate in the same way all the information requested by the committee relating to these operations. "

Article 7

The code for internal security is amended as follows:

1. Chapter V of Title IV of Book II of the legislative part entitled "Criminal provisions" becomes Title VIII of Book VIII as follows from the provisions of this Act and includes Articles L. 881-1 to L. 881-3, as they result from this section;
2. Articles L. 245-1 to L. 245-3 become Articles L. 881-1 to L. 881-3;
3. In Article L. 881-1 in its post 2, the words "of a security interception decision to reveal the existence of interception" are replaced by the words " technical intelligence collection to reveal the existence of implementation œ practice of this technique ";
4. In Article L. 881-2 in its post 2, the reference "L. 244-1" is replaced by the reference "L. 871-1 and Article L. 871 -4 ";
- 5 ° In Article L. 881-3 in its post 2, the words "in violation of Articles L. 246-1 to L. 246-3 and the first paragraph of Article L. 244 -2 "are replaced by the words" in violation of the provisions of Chapter Ist of Title V of this book and the first paragraph of Article L. 871-2 ".

Article 8

In Book VIII of the legislative part of the Code of internal security, as it results from the provisions of this Act, is added a Title IX entitled "Provisions relating to overseas" as follows:

"TITLE IX

"PROVISIONS RELATING TO OVERSEAS

"Chapter Ist

"Specific provisions for Guadeloupe, Guyana,

"Martinique and Reunion

"This chapter does not include legislation.

"Chapter II

"Specific provisions for Mayotte

"This chapter does not include legislation.

"Chapter III

"Specific provisions for Saint-Barthélemy and Saint-Martin

"This chapter does not include legislation.

"Chapter IV

"Specific provisions for Saint Pierre and Miquelon

"This chapter does not include legislation.

"Chapter V

"Provisions applicable in French Polynesia

"Art. L. 895-1 . - Are applicable in French Polynesia, in the version resulting from Law No relative intelligence, the following provisions:

"1. Parts I to V;

"2 of Title VI: Articles L. 861-1, L. 861-3, L. 861-4, L. 861-5;

"3. In Title VII: Articles L. 871-1, L. 871-2, L. 871-4;

"4. Title VIII.

"Chapter VI

"Provisions applicable in New Caledonia

"Art. L. 896-1. - are applicable in New Caledonia, in the version resulting from Law No relative intelligence, the following provisions:

"1. Parts I to V;

"2 of Title VI: Articles L. 861-1, L. 861-3, L. 861-4, L. 861-5;

"3. In Title VII: Articles L. 871-1, L. 871-2, L. 871-4;

"4. Title VIII.

"Chapter VII

"Provisions applicable in Wallis and Futuna

" Art. L. 897-1 . - Are applicable in the Wallis and Futuna islands, in the version resulting from Law n ° relative to intelligence, Titles Ist to VIII.

"Chapter VIII

***"Provisions in the Southern Territories
and French Antarctic***

"Art. L. 898-1. - are applicable in the French Southern and Antarctic Lands, in the version resulting from the Act no information concerning the provisions of Titles I to VIII, with the following adaptations:

" 1. The first paragraph of Article L. 832-2 provides:

"The committee member is incompatible with any interest, direct or indirect, in the activity of one of the following persons:

"- Electronic communication operators;

"- People whose business is to provide access to public online communication services;

"- People who, under a main occupation or accessory, offer the public a connection for online communication through a network access;

'- The natural or legal persons who, even free of charge, for providing the public by communications services to the public online, the storage signals, writing, images, sounds or messages any kind provided by the recipients of those services. ";

" 2 ° Article L. 861-2 provides:

" *Art. L. 861-2.* - The essential requirements within the meaning of Item 12 of Article L. 32 of the Code of Postal and Electronic Communications and the confidentiality of correspondence to be met by the operators and their staff shall not be enforceable or the competent courts to order interceptions pursuant to Article 100 of the Code of Criminal Procedure or the Minister responsible for electronic communications in the exercise of the powers vested in them by this title. ";

"3. In Article L. 871-3, the words:" In the context of the powers conferred upon it by Book II of the Postal Code and electronic communications, "are deleted;

"4. The first paragraph of Article L. 871-4 provides:

"*Art. L. 871-4.* - The electronic communications operators and the persons mentioned in point 1 of Article L. 898-1 are required to authorize, to the end of control, members and agents of the National Commission Monitoring of Intelligence techniques, duly authorized to that effect by the President, to enter the premises in which are set œ piece collection of technical intelligence authorized under Title III of this book. "

Article 9

Article L. 561-26 of the Monetary and Financial Code is amended as follows:

1. The III becomes the IV;
2. In the first paragraph of IV, as it results from 1, after the words "persons mentioned" are added the words: "in this section and III";
3. It is a restored III as follows:

" *III.* - The service mentioned in Article L. 561-23 may require any ground transportation company, rail, sea or air operator or travel or stay the identification details of those who paid or received a benefit as well that elements of information concerning the nature of this benefit and, if applicable, the transported baggage and cargo. "

Article 10

In Chapter III of Title II of Book III of Part One of the Criminal Code is added the following article 323-8:

" *Art. 323-8 .* - The provisions of this chapter do not apply to measures taken to ensure œ piece outside the national territory the protection of public interests mentioned in Article L. 811-3 of the Code of internal security by agents authorized service the State designated by the Prime Minister from specialized intelligence services mentioned in Article 6

nonies of Ordinance No. 58-1100 of 17 November 1958 on the functioning of the parliamentary assemblies. "

Article 11

Article 41 of Law No. 78-17 of 6 January 1978 on computers, files and freedoms is supplemented by two paragraphs as follows:

"In case of disputes relating to the implementation piece œ the provisions of this Article, the requirements of adversarial proceedings are tailored to the specific nature of the treatments involved.

"For some treatments or parts of treatments involving the state security, the list is fixed by decree of the State Council, unless in cases concerning the secrecy of national defense, the trial court is based on the elements where appropriate in the treatment without revealing nor specify whether the applicant is or is not in treatment. However, if it finds that the treatment or processing portion subject of the dispute consists of personal data that is inaccurate, incomplete, misleading, outdated, or whose collection, use, disclosure or storage is prohibited, it may inform the applicant. "

Article 12

I. - The last paragraph of Article 39 of Law No 2009-1436 of 24 November 2009 prison reads:

"The control of telephone calls is performed in the conditions defined in Articles 727-1 and 727-2 of the Code of Criminal Procedure. "

II. - After Article 727-1 of the Code of Criminal Procedure, it is inserted two articles read as follows:

"*Art. 727-2.* - Under the control of the prosecutor of territorial jurisdiction and in order to prevent escape and to ensure security and good order of prisons or health facilities for accommodating prisoners, the correspondence sent or received by the way electronic or radio communication with a detainee using unauthorized materials, can give rise to any measure of detection, interference and interruption by the prison administration.

"Under the same conditions, the prison administration may, for the same purpose, directly collected by means of a technical device proximity whose detention is authorized under the provisions of Item 1 of Article 226-3 of the Code criminal, connection technical data terminal equipment used as well as those of their location. This device can be set only by a piece œ individually designated agent duly authorized by the Minister of Justice.

"*Art. 727-3.* - Under the control of the prosecutor's territorial jurisdiction, in order to prevent escape and to ensure security and good

order of the prison health facilities or facilities for accommodating prisoners, prison officials can access the data IT contained in automated data processing systems that have the detainees and detect any unauthorized connection to the network, under conditions and in ways that are specified by decree. "

Article 13

I. - In all the legislation, the words "national security interceptions Control Commission" are replaced by the words: "National Intelligence Technical Control Commission."

II. - The means and archives of national security interceptions Control Commission are vested in the National Control Commission intelligence techniques.

The decisions regularly taken by the Prime Minister pursuant to Title IV of Book II of the Code of internal security and the qualified person referred to in Article L. 246-2 of the Code remain applicable to the entry into force of the this Act, until the end of the period for which the authorizations were given. Requests for setting æ piece and renewal applications are submitted to the National Control Commission technical intelligence and educated by it taking into account the views and decisions previously taken before installation.

III. - Before the last sentence of the first paragraph of II of Article 6 *nonies* of Ordinance No. 58-1100 of 17 November 1958 on the functioning of the parliamentary assemblies, it is inserted a sentence as follows:

"The delegation of membership is incompatible with that of member of the National Control Commission intelligence techniques. "

IV. - Notwithstanding the eighth paragraph of Article L. 831-1 of the Code of internal security, at the first meeting of the National Commission for Monitoring of Intelligence techniques are drawn from one of the two members of the Board of State and that of two members from the Court of Cassation, which will serve for three years.

Article 14

I. - Title IV of Book II of the legislative part of the Code of Homeland Security is repealed.

II. - 4. The provisions of Articles L. 285-1, L. 286-1 and L. 287-1 of the Code of internal security are repealed.

III. - Article L. 2371-1 of the Defence Code becomes Article L. 861-5 of the Internal Security code.

IV. - Title VII of Book III of Part II of the Defence Code is repealed.

V. - In Articles L. 2441-1, L. 2451-1, L. 2461-1 and L. 2471-1 of the Defence Code, the words "and Article L. 2371-1" are deleted .

Article 15

Articles 9 to 13 are applicable in French Polynesia, New Caledonia and the Wallis and Futuna Islands.

Article 16

With the exception of Articles 9 to 12, this Act shall enter into force on the date of publication in the *Official Journal* of the French Republic's decree appointing the members of the National Commission for Monitoring of Intelligence techniques.